Positive Purchasing Ltd
SaaS Agreement



Agreement between

Positive Purchasing Ltd *(The "Provider")*
and
[COMPANY]

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SaaS Agreement

DATE

[Date]

PARTIES

1. **Positive Purchasing Ltd**, a company incorporated in England with the registration number 4756992 having its registered office at Plym House, 3 Longbridge Road, Plymouth, PL9 8RG ("**the Provider**"); and

2. ***[COMPANY NAME],*** a company incorporated in *[jurisdiction]* (registration number *[registration number]*) having its registered office at *[address]* ("**the Customer**").

BACKGROUND

1. The Provider is an established and leading provider of specialist strategic procurement and negotiation software, training and other related services that equip and enable teams, and develop capability for procurement and negotiation.

2. The Customer is an *[Explain background from the Customer's perspective]* and wishes to appoint Provider to [equip and enable its procurement team and develop capability for procurement and negotiation] OR [explain what we will do in high level terms].

3. [The Provider and the Customer therefore wish to enter into a contract in accordance with the provisions of this Agreement.]

AGREEMENT

1. Definitions

1.1 In this Agreement:

"**Access Credentials**" means the usernames, passwords and other credentials enabling access to the Hosted Services, including both access credentials for the User Interface and access credentials for the API;

"**Agreement**" means this agreement including any Schedules, and any amendments as agreed by the parties in writing to this Agreement from time to time;

"**AI Output Data**" means data generated using AI Systems;

"**AI Systems**" means machine learning and other artificial intelligence systems, tools, applications, algorithms, agents, bots and/or models;

"**Anti-Corruption Laws**" means all applicable anti-bribery and anti-corruption laws (including the Bribery Act 2010);

"**Anti-Slavery Laws**" means all applicable anti-slavery and anti-human trafficking laws (including the Modern Slavery Act 2015);

"**Anti-Tax Evasion Laws**" means all applicable anti-tax evasion laws (including the Criminal Finances Act 2017);

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"**Annual Fees**" means the Fees payable annually by the Customer to the Provider for use of the Hosted Services;

"**API**" means any application programming interface for the Hosted Services defined by the Provider and made available by the Provider to the Customer;

"**Business Day**" means any weekday other than a bank or public holiday in England;

"**Business Hours**" means the hours of 08:30 to 17:30 GMT/BST on a Business Day;

"**Confidential Information**" means the Provider Confidential Information and the Customer Confidential Information;

"**Customer Confidential Information**" means:

(a) any information disclosed by or on behalf of the Customer to the Provider at any time before the termination of the Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure:

(i) was marked or described as "confidential"; or

(ii) should have been reasonably understood by the Provider to be confidential; and

(b) the Customer Data;

"**Customer Data**" means all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Platform; entered onto Downloadable Content Templates by the Customer or generated by the Customer using the Hosted Services (but excluding usage data relating to the Platform and Hosted Services, and excluding server log files);

"**Customer Indemnity Event**" has the meaning given to it in Clause 15.3;

"**Customer Personal Data**" means any Personal Data that is processed by the Provider on behalf of the Customer in relation to the Agreement;

"**Customer Representatives**" means the person or persons identified as such in Section 5 of Schedule 1 (Hosted Services particulars), and any additional or replacement persons that may be appointed by the Customer giving to the Provider written notice of the appointment;

"**Customisation**" means a customisation of the Hosted Services, whether made through the development, configuration or integration of software, or otherwise;

"**Data Protection Laws**" means the EU GDPR and the UK GDPR and all other applicable laws relating to the processing of Personal Data;

"**Documentation**" means any documentation for the Hosted Services produced by the Provider and delivered or made available by the Provider to the Customer;

"**Downloadable content**" means any Documentation and other documentation or content made available as part of the Hosted Services for download through the User Interface to Customer's computer systems and includes, but is not limited to; workbooks, quick reference guides, Templates, presentation slides, forms and other documentation or resources providing information.

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"**Effective Date**" means the date specified in Section 4 of Schedule 1 (Hosted Services Particulars);

"**EU GDPR**" means the General Data Protection Regulation (Regulation (EU) 2016/679) and all other EU laws regulating the processing of Personal Data, as such laws may be updated, amended and superseded from time to time;

"**Fees**" means:

(a) the fees and other payable amounts specified in Section 3 of Schedule 1 (Hosted Services Particulars) and elsewhere in this Agreement; and

(b) such charges and payable amounts as may be agreed in writing by the parties from time to time;

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected (which may include failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars);

"**Hosted Services**" means any of the Provider's standard or customised for the Customer online cloud based products or services, as specified in the Hosted Services Specification and as updated by the Provider from time to time subject to the restrictions set out in the Agreement;

"**Hosted Services Defect**" means a defect, error or bug in the Platform having a material adverse effect on the appearance, operation, functionality or performance of the Hosted Services, but excluding any defect, error or bug caused by or arising as a result of:

(a) any act or omission of the Customer or any person authorised by the Customer to use the Platform or Hosted Services;

(b) any use of the Platform or Hosted Services contrary to the Documentation, whether by the Customer or by any person authorised by the Customer;

(c) a failure of the Customer to perform or observe any of its obligations in the Agreement; and/or

(d) an incompatibility between the Platform or Hosted Services and any other system, network, application, program, hardware or software not specified as compatible in the Hosted Services Specification;

"**Hosted Services Specification**" means the specification for the Platform and Hosted Services set out in Section 2 of Schedule 1 (Hosted Services Particulars) and in the Documentation;

"**Incremental Fees**" means the additional Fees for additional Named Users exceeding the number of Named Users specified in section 2 of Schedule 1 (Hosted Services Particulars) to use the Hosted Services as requested by the Customer to the Provider anytime after the Effective Date;

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any

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application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, patents, and rights in designs);

"**Named User**" means named individuals who will use the Hosted Services as advised by the Customer in section 2 of Schedule 1 (Hosted Services Particulars) or by other means;

"**Personal Data**" means personal data under any of the Data Protection Laws;

"**Platform**" means the platform managed by the Provider and used by the Provider to provide the Hosted Services, including the application and database software for the Hosted Services, the system and server software used to provide the Hosted Services, and the computer hardware on which that application, database, system and server software is installed;

"**Provider Confidential Information**" means:

(a) any information disclosed by or on behalf of the Provider to the Customer during the Term OR at any time before the termination of this Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by the Customer (acting reasonably) to be confidential; and

(b) the terms of this Agreement;

"**Provider Indemnity Event**" has the meaning given to it in Clause 15.1;

"**Provider Representatives**" means the person or persons identified as such in Section 5 of Schedule 1 (Hosted Services particulars), and any additional or replacement persons that may be appointed by the Provider giving to the Customer written notice of the appointment;

"**Service Data**" means all data, works, materials, output reports, plans, strategies and Downloadable Content provided or made available to the Customer by means of the Hosted Services under this Agreement, excluding the Customer Data;

"**Services**" means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under this Agreement;

"**Set Up Services**" means the configuration, implementation and integration of the Hosted Services in accordance with Section 1 of Schedule 1 (Hosted Services particulars);

"**Support Services**" means support in relation to the use of, and the identification and resolution of errors in, the Hosted Services;

"**Supported Web Browser**" means the current release of Chromium based browsers recognized by general good practice as stable including, but not limited to, Microsoft Edge, Google Chrome, Firefox or Apple Safari;

"**Template**" means Service Data that is an online form or Downloadable Content in the form of an editable pdf, Microsoft Powerpoint, Word or Excel document that is designated or identified as a form or template to be completed by users or by virtue of having designated user editable fields, cells, boxes or sections to be completed, made available through the User Interface of the Hosted Services.

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"**Term**" means the term of the Agreement defined in section 4 of Schedule 1 (Hosted Services Particulars), commencing in accordance with Clause 2.1;

"**Third Party Services**" means any hosted, cloud or software-based services provided by any third party that are or may be integrated with the Hosted Services by the Provider from time to time in circumstances where the Customer must, in order to activate the integration, have an account with the relevant services provider or obtain activation or access credentials from the relevant services provider;

"**UK GDPR**" means the EU GDPR as transposed into UK law (including by the Data Protection Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019) and all other UK laws regulating the processing of Personal Data, as such laws may be updated, amended and superseded from time to time; and

"**User Interface**" means the interface for the Hosted Services designed to allow individual human users to access and use the Hosted Services.

2. Term

2.1 The Agreement shall come into force upon the Effective Date.

2.2 The Agreement shall continue in force for the Term defined in section 4 of Schedule 1 (Hosted Services Particulars), or in the case where no Term is defined indefinitely, subject to termination in accordance with Clause 18 or any other provision of this Agreement.

3. Hosted Services

3.1 The Provider shall provide, or shall ensure that the Platform will provide, to the Customer upon or before the Effective Date the Access Credentials necessary to enable the Customer to access and use the Hosted Services.

3.2 The Provider hereby grants to the Customer a worldwide, non-exclusive licence to use the Hosted Services by means of the User Interface and the API for the [internal] business purposes of the Customer in accordance with the Documentation during the Term.

3.3 The licence granted by the Provider to the Customer under Clause 3.2 is subject to the following limitations:

(a) the User Interface may only be used through a Supported Web Browser;

(b) the User Interface may only be used by the officers, employees, agents and subcontractors of the Customer;

(c) the User Interface may only be used by the Named Users identified in Schedule 1 (Hosted Services Particulars) or advised by Customer to Provider, providing that the Customer may reasonably change, add or remove a designated Named User by submitting a request to the Provider's help desk or in accordance with any other user change procedure as published by the Provider;

(d) the User Interface must not be used at any point in time by more than the number of concurrent Named Users specified in the Services Order; and

(e) the API may only be used by an application or applications approved by the Provider in writing and controlled by the Customer;

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(f) Downloadable Content may only be saved on Customer IT systems and used by the Named Users for the Term save the provision defined in clause 19.6 or where extended licensing rights have been agreed separately in writing between Provider and Customer.

3.4 Except to the extent expressly permitted in this Agreement or required by law on a non-excludable basis, the licence granted by the Provider to the Customer under Clause 3.2 is subject to the following prohibitions:

(a) the Customer must not sub-license its right to access and use the Hosted Services;

(b) the Customer must not permit any unauthorised person or application to access or use the Hosted Services;

(c) the Customer must not use the Hosted Services to provide services to third parties;

(d) the Customer must not republish or redistribute any content or material from the Hosted Services;

(e) the Customer must not make any alteration to the Platform, except as permitted by the Documentation or otherwise agreed in writing with the Provider;

(f) the Customer must not conduct or request that any other person conduct any load testing or penetration testing on the Platform or Hosted Services without the prior written consent of the Provider;

3.5 The Customer shall implement and maintain reasonable security measures relating to the Access Credentials to ensure that no unauthorised person or application may gain access to the Hosted Services by means of the Access Credentials.

3.6 The Provider shall use reasonable endeavours to ensure that the uptime for the Hosted Services is at least **98.5%** during each calendar month.

3.7 For the avoidance of doubt, downtime caused directly or indirectly by any of the following shall not be considered a breach of the Agreement:

(a) a Force Majeure Event;

(b) a fault or failure of the internet or any public telecommunications network;

(c) a fault or failure of the Customer's computer systems or networks;

(d) any breach by the Customer of the Agreement; or

(e) scheduled maintenance carried out in accordance with the Agreement.

3.8 The Customer must comply with Schedule 2 (Acceptable Use Policy), and must ensure that all persons using the Hosted Services with the authority of the Customer or by means of the Access Credentials comply with Schedule 2 (Acceptable Use Policy).

3.9 The Customer must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.

3.10 The Customer must not use the Hosted Services in any way that uses excessive Platform resources and as a result is liable to cause a material degradation in the services provided by the Provider to its other customers using the Platform; and the Customer acknowledges

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that the Provider may use reasonable technical measures to limit the use of Platform resources by the Customer for the purpose of assuring services to its customers generally.

3.11 The Customer must not use the Hosted Services:

(a) in any way that is unlawful, illegal, fraudulent or harmful; or

(b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

3.12 For the avoidance of doubt, the Customer has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.

3.13 The Provider may suspend the provision of the Hosted Services if any amount due to be paid by the Customer to the Provider under the Agreement is overdue, and the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Hosted Services on this basis.

4. Scheduled maintenance

4.1 The Provider may from time to time suspend the Hosted Services for the purposes of scheduled maintenance to the Platform, providing that such scheduled maintenance must be carried out in accordance with this Clause 4.

4.2 The Provider shall where practicable give to the Customer at least 5 Business Days' prior written notice of scheduled maintenance that will, or is likely to, affect the availability of the Hosted Services or have a material negative impact upon the Hosted Services.

4.3 The Provider shall ensure where possible and practicable that scheduled maintenance is carried out outside Business Hours.

4.4 The Provider shall ensure that, during each calendar month, the aggregate period during which the Hosted Services are unavailable as a result of scheduled maintenance, or negatively affected by scheduled maintenance to a material degree, does not exceed 10 hours.

5. Support Services

5.1 The Provider shall provide the Support Services to the Customer during the Term.

5.2 The Provider shall provide the Support Services in accordance with the standards of skill and care reasonably expected from a leading service provider in the Provider's industry.

5.3 The Provider shall make available to the Customer a helpdesk which shall be accessible by telephone or email and available each Business Day between the hours of 08:30 to 17:30 UK time (the "**Helpdesk Hours**") and unless otherwise agreed or advised by the Provider.

5.4 The Customer may use the helpdesk for the purposes of requesting and, where applicable, receiving the Support Services; and the Customer must not use the helpdesk for any other purpose.

5.5 The Provider shall, acting reasonably, determine into which severity category an issue falls ("**Issue Severity Category**") and shall use reasonable endeavours to respond to and resolve requests for Support Services promptly, and in any case in accordance with the response time periods ("**Response Time**") and resolution time periods ("**Resolution Time**") specified in the following table:

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Issue Severity Category	Definition	Response Time	Resolution Time
Critical	The Hosted Services are inoperable or a core function of the Hosted Services is unavailable	*1 Business Hour*	*2 Business Hours*
Serious	A core function of the Hosted Services is significantly impaired	*4 Business Hours*	*8 Business Hours*
Moderate	A core function of the Hosted Services is impaired, where the impairment does not constitute a serious issue; or a non-core function of the Hosted Services is significantly impaired	*1 Business Day*	*4 Business Days*
Minor	Any impairment of the Hosted Services not falling into the above categories; and any cosmetic issue affecting the Hosted Services	*5 Business Days*	*10 Business Days*

5.6 The Provider shall have no obligation to provide Support Services:

(a) to the extent that the requested Support Services amount to general training in the use of the Hosted Services;

(b) in respect of any issue that could have been resolved by a competent person who had received general training in the use of the Hosted Services;

(c) in respect of any duplicate issues raised by or on behalf of the Customer;

(d) in respect of any issue caused by the public internet or telecommunications systems failure or by any error or fault of the Customer's equipment or services providers;

(e) in respect of any issue caused by the improper use of the Hosted Services by or on behalf of the Customer; or

(f) in respect of any issue caused by any alteration to the Hosted Services, or to the configuration of the Hosted Services, made without the prior written consent of the Provider.

5.7 The Provider may suspend the provision of the Support Services if any amount due to be paid by the Customer to the Provider under the Agreement is overdue, and the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Support Services on this basis.

6. Customer Data

6.1 The Customer hereby grants to the Provider a non-exclusive, worldwide licence to:

(a) copy, store and transmit the Customer Data;

(b) edit, translate and create derivative works of the Customer Data; and

(c) distribute and publish the Customer Data;

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to the extent reasonably required for the performance of the obligations of the Provider under the Agreement. The Customer also grants to the Provider the right to sub-license these rights to its hosting, connectivity, non-open AI systems and telecommunications service providers strictly for this purpose and subject to any express restrictions elsewhere in the Agreement.

6.2 The Customer hereby grants to the Provider a non-exclusive, sub-licensable and worldwide licence to use the Customer Data for the purposes of creating, generating, training, testing and verifying the AI Systems of the Provider, providing that;

(a) such use must not involve the processing of any Customer Personal Data;

(b) the Platform and AI Systems of the Provider are wall gardened so that all Customer Data remains segregated from any other customer data; and

(c) [the Customer Data is not incorporated into such AI Systems.] OR [to the extent that the Customer Data is incorporated into such AI Systems, the Customer also grants to the Provider a non-exclusive, sub-licensable and worldwide licence to use the Customer Data as part of the relevant AI Systems, including providing, selling and licensing the relevant AI Systems and/or their outputs to third parties.]

6.3 The Customer hereby grants to the Provider a non-exclusive, worldwide licence:

(a) to use the Customer Data to create aggregated datasets, providing that those aggregated datasets must not incorporate any Customer Personal Data, any other Personal Data supplied or made available by the Customer to the Provider, or any information contained in or derived from the Customer Data that identifies the Customer or that identifies any other organisation, business or person (legal or natural); and

(b) to make unrestricted use of those aggregated datasets, including sub-licensing all or any of the rights therein to any third party or third parties.

6.4 The Customer warrants to the Provider that the Customer Data when used by the Provider in accordance with the Agreement will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.

6.5 The Provider shall create a back-up copy of the Customer Data at least daily, shall ensure that each such copy is sufficient to enable the Provider to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days.

6.6 Within the period of 1 Business Day following receipt of a written request from the Customer, the Provider shall use all reasonable endeavours to restore to the Platform the Customer Data stored in any back-up copy created and stored by the Provider in accordance with Clause 6.5. The Customer acknowledges that this process will overwrite the Customer Data stored on the Platform prior to the restoration.

7. Service Data, Downloadable Content and Templates

7.1 The Provider grants to the Customer a non-exclusive, worldwide licence to;

(a) access, copy, transmit, store and otherwise use the Service Data and to distribute and publish the Service Data; and

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(b) edit and create derivative works of Templates and to distribute and publish edited versions and derivative works of Templates;

internally, in each case during the Term [and for the internal business purposes of the Customer], subject to the other provisions of this Clause 7.

7.2 Except to the extent required by law on a non-excludable basis, the Customer must not:

(a) publish or republish externally, sell, license, sub-license, rent, transfer, broadcast, distribute or redistribute the Service Data;

(b) edit, modify, adapt, alter or create derivative works of the Service Data;

(c) use the Service Data or any part of the Service Data in any way that is unlawful or in breach of any person's legal rights under any applicable law; or

(d) use the Service Data to upload to, create, generate, train, verify or test any AI System that does not form part of the Hosted Services unless expressly agreed by Provider in writing.

(e) publish, republish, transfer, broadcast, make available, distribute or redistribute Downloadable Content to any individual that is not a Named User save where extended licensing rights have been agreed separately in writing between Provider and Customer; and

(f) remove Provider's copyright designation on any Templates or derivative works of Templates.

7.3 The Customer shall implement and maintain reasonable security measures relating to the Service Data to ensure that no unauthorised application or person may gain access to the Service Data.

7.4 The Customer acknowledges that the Service Data may contains AI Output Data generated by AI Systems that were not developed or trained by or on behalf of the Provider.

7.5 Subject to Clause 16.1, to the extent that the Service Data is AI Output Data generated by AI Systems that were not developed or trained by or on behalf of the Provider, the Provider shall not be liable to the Customer with respect to that Service Data or the use of that Service Data. Without prejudice to the generality of the foregoing, the Provider shall not be liable to the Customer with respect to:

(a) any infringement of Intellectual Property Rights by that Service Data;

(b) any breach of applicable law arising out of the use by the Customer of that Service Data; or

(c) any legal claim or proceedings by any third party arising out of the use by the Customer of that Service Data.

8. No assignment of Intellectual Property Rights

8.1 Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from the Provider to the Customer, or from the Customer to the Provider.

9. Fees

9.1 The Customer shall pay the Fees to the Provider in accordance with this Agreement.

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9.2 All amounts stated in or in relation to this Agreement are, unless the context requires otherwise, stated exclusive of any applicable value added taxes or other such sales, territory or state taxes, which will be added to those amounts and payable by the Customer to the Provider.

9.3 Unless otherwise stated in section 3 of Schedule 1 (Hosted Services Particulars) the Provider may elect to vary any element of the Fees on the anniversary of the Effective Date during the Term by giving to the Customer not less than 30 days' written notice of the variation, providing that no such variation shall constitute a percentage increase in that exceeds 2% over the percentage increase, since the date of the most recent variation of the Fees (or, if no such variation has occurred, since the date of execution of the Agreement), in the Retail Prices Index (all items) published by the UK Office for National Statistics.

10. Payments

10.1 The Provider shall issue invoices for the Fees to the Customer for Hosted Services in advance of the period to which they relate unless stated otherwise in section 3 of Schedule 1 (Hosted Services Particulars); or

10.2 The Customer must pay the Fees to the Provider within the period of [30 days] following the issue of an invoice in accordance with this Clause 10, providing that the Fees for Hosted Services must in all cases be paid before the commencement of the period to which they relate.

10.3 The Customer must pay the Fees;

(a) by electronic bank or wire transfer; or

(b) by cheque/check with prior agreement with the Provider; or

(c) by debit card or credit card with prior agreement with the Provider;

(using such payment details as are notified by the Provider to the Customer from time to time).

10.4 If the Customer does not pay any amount properly due to the Provider under this Agreement, the Provider may:

(a) charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or

(b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

11. Confidentiality obligations

11.1 The Provider must:

(a) keep the Customer Confidential Information strictly confidential;

(b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality approved in writing by the Customer;

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(c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Provider uses to protect the Provider's own confidential information of a similar nature, being at least a reasonable degree of care;

(d) act in good faith at all times in relation to the Customer Confidential Information; and

(e) not use or allow the use of any of the Customer Confidential Information for any purpose other than provision of the Services.

11.2 The Customer must:

(a) keep the Provider Confidential Information strictly confidential;

(b) not disclose the Provider Confidential Information to any person without the Provider's prior written consent, and then only under conditions of confidentiality approved in writing by the Provider;

(c) use the same degree of care to protect the confidentiality of the Provider Confidential Information as the Customer uses to protect the Customer's own confidential information of a similar nature, being at least a reasonable degree of care;

(d) act in good faith at all times in relation to the Provider Confidential Information; and

(e) not use or allow the use of any of the Provider Confidential Information for any purpose other than the provision of the Services.

11.3 Notwithstanding Clauses 11.1 and 11.2, the Provider may disclose the Customer Confidential Information to the Provider's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Customer Confidential Information for the performance of their work with respect to the Agreement and who are bound by a written agreement or professional obligation to protect the confidentiality of the Customer Confidential Information.

11.4 This Clause 11 imposes no obligations upon the Provider with respect to:

(a) Customer Confidential Information that is known to the Provider before disclosure under this Agreement and is not subject to any other obligation of confidentiality;

(b) Customer Confidential Information that is or becomes publicly known through no act or default of the Provider;

(c) Customer Confidential Information that is obtained by the Provider from a third party in circumstances where the Provider has no reason to believe that there has been a breach of an obligation of confidentiality; or

(d) information that is independently developed by the Provider without reliance upon or use of any Customer Confidential Information.

11.5 The restrictions in this Clause 11 do not apply to the extent that any Customer Confidential Information is required to be disclosed by any law or regulation, or by any judicial or governmental order or request. If the Provider makes a disclosure to which this Clause 11.5 applies then, to the extent permitted by applicable law, the Provider shall promptly notify the Customer of the fact of the disclosure, the identity of the disclosee, and the Customer Confidential Information disclosed.

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11.6 Upon the termination of this Agreement, each party must immediately cease to use the other party's Confidential Information.

11.7 Following the date of effective termination of this Agreement, and within 5 Business Days following the date of effective termination of this Agreement, the relevant party must:

(a) irreversibly delete from its media and computer systems all copies of the other party's Confidential Information (and ensure that the other party's Confidential Information is irreversibly deleted from the media and computer systems of all persons to whom the relevant party has directly or indirectly disclosed that Confidential Information);

(b) ensure that no other copies of the other party's Confidential Information remain in the relevant party's possession or control (or the possession or control of any person to whom the relevant party has directly or indirectly disclosed the other party's Confidential Information);

subject in each case to th any obligations that the relevant party has under this Agreement to supply or make available to the other party any data or information, and providing that the relevant party shall have no obligation under this Clause 11.7 to delete or to cease to possess or control any of the other party's Confidential Information to the extent that the relevant party is required by applicable law to retain that Confidential Information, or to the extent that the Confidential Information is contained in Downloadable Content Templates that were completed by Customer prior to the effective termination of the Agreement in accordance with Clause 19.6.

11.6 The provisions of this Clause 11 shall continue in force [indefinitely following the termination of the Agreement] OR [for a period of [5 years] following the termination of the Agreement, at the end of which period they will cease to have effect].

12. Data protection

12.1 Each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.

12.2 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with the Agreement.

12.3 The Customer shall only supply to the Provider, and the Provider shall only process, in each case under or in relation to the Agreement:

(a) the Personal Data of data subjects falling within the categories specified in Section 1 of Schedule 2 (Data processing information) (or such other categories as may be agreed by the parties in writing); and

(b) Personal Data of the types specified in Section 2 of Schedule 2 (Data processing information) (or such other types as may be agreed by the parties in writing).

12.4 The Provider shall only process the Customer Personal Data for the purposes specified in Section 3 of Schedule 2 (Data processing information).

12.5 The Provider shall only process the Customer Personal Data during the Term and for not more than 30 days following the end of the Term, subject to the other provisions of this Clause 12.

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12.6 The Provider shall only process the Customer Personal Data on the documented instructions of the Customer (including with regard to transfers of the Customer Personal Data to a third country under the Data Protection Laws), as set out in this Agreement or any other document agreed by the parties in writing.

12.7 The Customer hereby authorises the Provider to make the following transfers of Customer Personal Data:

(a) the Provider may transfer the Customer Personal Data internally to its own employees, offices and facilities in the UK, Europe and the US, providing that such transfers must be protected by appropriate safeguards, namely the arrangements of the Providers P5 Quality and Information Management System;

(b) the Provider may transfer the Customer Personal Data to its third party processors in the jurisdictions identified in Section 5 of Schedule 2 (Data processing information) and may permit its third party processors to make such transfers, providing that such transfers must be protected by any appropriate safeguards identified therein; and

12.8 The Provider shall promptly inform the Customer if, in the opinion of the Provider, an instruction of the Customer relating to the processing of the Customer Personal Data infringes the Data Protection Laws.

12.9 Notwithstanding any other provision of the Agreement, the Provider may process the Customer Personal Data if and to the extent that the Provider is required to do so by applicable law. In such a case, the Provider shall inform the Customer of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest.

12.10 The Provider shall ensure that persons authorised to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

12.11 The Provider shall implement appropriate technical and organisational measures to ensure an appropriate level of security for the Customer Personal Data, including those measures specified in Section 4 of Schedule 2 (Data processing information).

12.12 The Provider must not engage any third party to process the Customer Personal Data without the prior specific or general written authorisation of the Customer. In the case of a general written authorisation, the Provider shall inform the Customer at least 14 days in advance of any intended changes concerning the addition or replacement of any third party processor, and if the Customer objects to any such changes before their implementation, then the Customer may terminate the Agreement on 7 days' written notice to the Provider, providing that such notice must be given within the period of 7 days following the date that the Provider informed the Customer of the intended changes. The Provider shall ensure that each third party processor is subject to equivalent legal obligations as those imposed on the Provider by this Clause 12.

12.13 As at the Effective Date, the Provider is hereby authorised by the Customer to engage, as sub-processors with respect to Customer Personal Data, the third parties identified in Section 5 of Schedule 2 (Data processing information).

12.14 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Customer with the

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fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.

12.15 The Provider shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 12.15.

12.16 The Provider must notify the Customer of any Personal Data breach affecting the Customer Personal Data without undue delay and, in any case, not later than 72 hours after the Provider becomes aware of the breach].

12.17 The Provider shall make available to the Customer all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 12 and the Data Protection Laws. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 12.17, providing that no such charges shall be levied with respect to the completion by the Provider (at the reasonable request of the Customer, not more than once per calendar year) of the standard information security questionnaire of the Customer.

12.18 The Provider shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services relating to the processing, and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Data.

12.19 The Provider shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer in respect of the compliance of the Provider's processing of Customer Personal Data with the Data Protection Laws and this Clause 12. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 12.19, providing that no such charges shall be levied where the request to perform the work arises out of any breach by the Provider of the Agreement or any security breach affecting the systems of the Provider.

12.20 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under the Agreement, then the parties shall use their best endeavours promptly to agree such variations to the Agreement as may be necessary to remedy such non-compliance.

13. Warranties

13.1 The Provider warrants to the Customer that:

(a) the Provider has the legal right and authority to enter into the Agreement and to perform its obligations under this Agreement;

(b) the Provider will comply with all applicable legal and regulatory requirements applying to the exercise of the Provider's rights and the fulfilment of the Provider's obligations under this Agreement; and

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(c) the Provider has or has access to all necessary know-how, expertise and experience to perform its obligations under this Agreement.

13.2 The Provider warrants to the Customer that:

(a) the Platform and Hosted Services will conform in all material respects with the Hosted Services Specification;

(b) the Hosted Services will be free from Hosted Services Defects;

(c) the Platform will be free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs; and

(d) the Platform will incorporate security features reflecting the requirements of good industry practice.

13.3 The Provider warrants to the Customer that the Hosted Services, when used by the Customer in accordance with this Agreement, will not breach any laws, statutes or regulations applicable under English law.

13.4 The Provider warrants to the Customer that the Hosted Services, when used by the Customer in accordance with this Agreement, will not infringe the Intellectual Property Rights of any person in any jurisdiction and under any applicable law.

13.5 If the Provider reasonably determines, or any third party alleges, that the use of the Hosted Services by the Customer in accordance with this Agreement infringes any person's Intellectual Property Rights, the Provider may at its own cost and expense:

(a) modify the Hosted Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or

(b) procure for the Customer the right to use the Hosted Services in accordance with this Agreement.

13.6 The Customer warrants to the Provider that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

13.7 All of the parties' warranties and representations in respect of the subject matter of the Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.

14. Acknowledgements and warranty limitations

14.1 The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, the Provider gives no warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.

14.2 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Provider gives no warranty or representation that the Hosted Services will be entirely secure.

14.3 The Customer acknowledges that the Hosted Services are designed to be compatible only with that software and those systems specified as compatible in the Hosted Services

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Specification; and the Provider does not warrant or represent that the Hosted Services will be compatible with any other software or systems.

14.4 The Customer acknowledges that the Provider will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Hosted Services; and, except to the extent expressly provided otherwise in this Agreement, the Provider does not warrant or represent that the Hosted Services or the use of the Hosted Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.

14.5 The Customer acknowledges that the internet is not 100% secure or reliable and access to the Hosted Services and transmission of data to and from the Hosted Services will involve transmission through one or more inter-connectivity service providers. Accordingly the Provider does not warrant that the user of the Hosted Services will be uninterrupted or error free.

14.6 The Customer acknowledges that the Hosted Services may contain content created by AI Systems and that the output from the AI System is not always perfect and in some cases errors may occur due to the complexity of the system or data and whilst Provider will take all reasonable measures to ensure that content produced by its AI Systems is of the highest possible quality accuracy of AI System generated content cannot be guaranteed. Such content is provided for informational purposes only and should not be relied upon for any specific purpose without verification of its accuracy or completeness.

15. Indemnities

15.1 The Provider shall indemnify and shall keep indemnified the Customer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts paid in settlement of legal claims) suffered or incurred by the Customer pursuant to any action, penalty, legal dispute with or claim by a third party, and arising directly or indirectly as a result of any breach or alleged breach by the Provider of any third party's Intellectual Property Rights, any applicable law, or any provision of this Agreement (a "**Provider Indemnity Event**").

15.2 The Customer must:

(a) upon becoming aware of an actual or potential Provider Indemnity Event, notify the Provider;

(b) provide to the Provider all such assistance as may be reasonably requested by the Provider in relation to the Provider Indemnity Event;

(c) allow the Provider the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Provider Indemnity Event; and

(d) not admit liability to any third party in connection with the Provider Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Provider Indemnity Event without the prior written consent of the Provider,

and the Provider's obligation to indemnify the Customer under Clause 15.1 shall not apply unless the Customer complies with the requirements of this Clause 15.2.

15.3 The Customer shall indemnify and shall keep indemnified the Provider against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts paid in settlement of legal claims) suffered or incurred by the Provider pursuant to any action,

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penalty, legal dispute with or claim by a third party and arising directly or indirectly as a result of any breach or alleged breach by the Customer of any third party's Intellectual Property Rights, any applicable law, or any provision of this Agreement (a "**Customer Indemnity Event**").

15.4 The Provider must:

(a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;

(b) provide to the Customer all such assistance as may be reasonably requested by the Customer in relation to the Customer Indemnity Event;

(c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Customer Indemnity Event; and

(d) not admit liability to any third party in connection with the Customer Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Customer Indemnity Event without the prior written consent of the Customer,

and the Customer's obligation to indemnify the Provider under Clause 15.3 shall not apply unless the Provider complies with the requirements of this Clause 15.4].

15.5 The indemnity protection set out in this Clause 15 shall be subject to the limitations and exclusions of liability set out in this Agreement.

16. Limitations and exclusions of liability

16.1 Nothing in this Agreement will:

(a) limit or exclude any liability for death or personal injury resulting from negligence;

(b) limit or exclude any liability for fraud or fraudulent misrepresentation;

(c) limit any liabilities in any way that is not permitted under applicable law; or

(d) exclude any liabilities that may not be excluded under applicable law.

16.2 The limitations and exclusions of liability set out in this Clause 16 and elsewhere in this Agreement:

(a) are subject to Clause 16.1; and

(b) govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

16.3 Neither party shall be liable to the other party in respect of any losses arising out of a Force Majeure Event.

16.4 Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.

16.5 Neither party shall be liable to the other party in respect of any loss of revenue or income.

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16.6 Neither party shall be liable to the other party in respect of any loss of use or production.

16.7 Neither party shall be liable to the other party in respect of any loss of business, contracts or opportunities.

16.8 Neither party shall be liable to the other party in respect of any loss or corruption of any data, database or software; providing that this Clause 16.8 shall not protect the Provider unless the Provider has fully complied with its obligations under Clause 6.5 and Clause 6.6.

16.9 Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

16.10 Either party's total aggregate liability to the other party under the Agreement shall not exceed the level of Fees paid by the Customer to the Provider in the twelve (12) months preceding the date on which the most recent claim arose.

17. Force Majeure Event

17.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

17.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Agreement, must:

(a) promptly notify the other; and

(b) inform the other of the period for which it is estimated that such failure or delay will continue.

17.3 A party whose performance of its obligations under the Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

18. Termination

18.1 The Agreement will terminate at the end of the Term except where parties agree in writing to extend the Term

18.2 Either party may terminate the Agreement by giving to the other party [at least 30 days'] written notice of termination.

18.3 Either party may terminate the Agreement immediately by giving written notice of termination to the other party if the other party commits a material breach of this Agreement.

18.4 Subject to applicable law, either party may terminate the Agreement immediately by giving written notice of termination to the other party if:

(a) the other party:

(i) is dissolved;

(ii) ceases to conduct all (or substantially all) of its business;

(iii) is or becomes unable to pay its debts as they fall due;

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(iv) is or becomes insolvent or is declared insolvent; or

(v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or

(d) there is a breach by the other party which is not remedied within fourteen (14) days of being given notice to do so to the satisfaction of the other.

18.5 The Provider may terminate this Agreement immediately by giving written notice to the Customer if:

(a) any amount due to be paid by the Customer to the Provider under this Agreement is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and

(b) the Provider has given to the Customer at least 30 days' written notice, following the failure to pay, of its intention to terminate this Agreement in accordance with this Clause 18.5.

18.6 The rights of termination set out in this Agreement shall not exclude any rights of termination available at law.

19. Effects of termination

19.1 Upon the termination of the Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 3.12, 6.2, 6.3, 10.2, 10.4, 11, 12, 15, 16, 19, 28 and 29.

19.2 Except to the extent expressly provided otherwise in this Agreement, the termination of the Agreement shall not affect the accrued rights of either party.

19.3 Within 30 days following the termination of the Agreement for any reason the Customer must pay to the Provider any Fees in respect of Services provided to the Customer before the termination of the Agreement without prejudice to the parties' other legal rights.

19.4 Within 30 days following the termination of the Agreement by the Customer in accordance with clause 18.2 the Customer must pay to the Provider any Fees in respect of the Hosted Services for the Term remaining following termination of the Agreement as defined in section 4 of Schedule 1 (Hosted Services Particulars) or as otherwise extended by agreement with each party without prejudice to the parties' other legal rights.

19.5 Within 30 days following termination of the Agreement by the Customer in accordance with clauses 18.3 or 18.4 the Provider must refund to the Customer any Fees paid by the Customer to the Provider in respect of Services that were to be provided to the Customer after the termination of the Agreement without prejudice to the parties' other legal rights.

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19.6 Within 7 Business Days following termination of the Agreement for any reason Customer must cease to use and delete all Downloadable Content from its computer systems, and must procure that all its Named Users do likewise, except for Downloadable Content Templates that were completed with Customer Data prior to termination which may be retained, stored and distributed internally by Customer provided that any Provider's copyright designation for the Template is preserved and Customer does not modify, adapt or reverse engineer the completed Template so as to create a blank template or use for another project or purpose to that to which the existing completed Template relates.

20. Set Up Services and Customisations

20.1 The Provider shall provide the Set Up Services to the Customer.

20.2 The Provider shall use all reasonable endeavours to ensure that the Set Up Services are provided in accordance with the timetable set out in Section 1 of Schedule 1 (Hosted Services Particulars).

20.3 The Customer acknowledges that a delay in the Customer performing its obligations in this Agreement may result in a delay in the performance of the Set Up Services; and subject to Clause 16.1 the Provider will not be liable to the Customer in respect of any failure to meet the Set Up Services timetable to the extent that that failure arises out of a delay in the Customer performing its obligations under this Agreement.

20.4 Subject to any written agreement of the parties to the contrary, any Intellectual Property Rights that may arise out of the performance of the Set Up Services by the Provider shall be the exclusive property of the Provider.

20.5 The Provider shall design, develop and implement the Customisation as defined in Section 2 of Schedule 1 (Hosted Services Particulars), or any other Customisations as may be agreed between parties from time-to-time, in accordance with recognized good practice or, where specifically requested by the Customer, a specification and project plan for the Customisation that shall be agreed by parties in advance.

20.6 All Intellectual Property Rights in the Customisations shall, as between the parties, be the exclusive property of the Provider (unless the parties agree otherwise in writing).

20.7 From the time and date when a Customisation is first delivered or made available by the Provider to the Customer, the Customisation shall form part of the Platform, and accordingly from that time and date the Customer's rights to use the Customisation shall be governed by Clause 5.

20.8 Save for the provisions elsewhere within this Agreement the Customer acknowledges that the Provider may make any Customisation available to any of its other customers or any other third party at any time after the end of the period of 90 days following the making available of the Customisation to the Customer.

21. Integrations with Third Party Services

21.1 The Hosted Services are integrated with the Third Party Services as defined in Section 2 of Schedule 1 (Hosted Services Particulars); and the Provider may integrate the Hosted Services with additional Third Party Services at any time.

21.2 Notwithstanding the presence of any Third Party Services integration, particular Third Party Services shall only be activated with respect to the Hosted Services account of the Customer by:

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(a) the Customer; or

(b) the Provider with the prior written agreement of the Customer.

21.3 The Provider shall use reasonable endeavours to maintain any integration with Third Party Services that has been activated with respect to the Hosted Services account of the Customer. Subject to this, the Provider may remove, suspend, deactivate or limit any Third Party Services integration at any time in its sole discretion.

21.4 The supply of Third Party Services shall be under a separate contract or arrangement between the Customer and the relevant third party. The Provider does not contract to supply the Third Party Services and is not a party to any contract for, or otherwise responsible in respect of, the provision of any Third Party Services. Fees may be payable by the Customer to the relevant third party in respect of the use of Third Party Services.

21.5 The Customer acknowledges and agrees that:

(a) the activation of Third Party Services with respect to the Hosted Services account of the Customer may result in the transfer of Customer Data and/or Customer Personal Data from the Hosted Services to the relevant Third Party Services and vice versa;

(b) the Provider has no control over, or responsibility for, any disclosure, modification, deletion or other use of Customer Data and/or Customer Personal Data by any provider of Third Party Services;

(c) the Customer must ensure that it has in place the necessary contractual safeguards to ensure that the transfer of Customer Personal Data to, and use of Customer Personal Data by, a provider of Third Party Services is lawful; and

(d) the Customer shall ensure that the transfer of Customer Data to a provider of Third Party Services does not infringe any person's Intellectual Property Rights or other legal rights and will not put the Provider in breach of any applicable laws.

21.6 Additional Charges may be payable by the Customer to the Provider in respect of the activation and/or use of a Third Party Services integration, [as set out in Schedule 1 (Hosted Services Particulars) OR as advised XXXX]

21.7 Subject to Clause 16.1:

(a) the Provider gives no guarantees, warranties or representations in respect of any Third Party Services; and

(b) the Provider shall not be liable to the Customer in respect of any loss or damage that may be caused by Third Party Services or any provider of Third Party Services.

22. Publicity

22.1 Neither party may make any public disclosures relating to this Agreement or the subject matter of this Agreement (including disclosures in press releases, public announcements and marketing materials) without the prior written consent of the other party, [and providing that the following public disclosures may be made without consent:

(a) Provider may display the Customer's name, logo and trademark on Provider's list of its high-profile clients provided to its clients and prospective clients, temporarily and without providing a permanent copy and in so doing shall not state any endorsement by Customer;

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(b) Provider may display the Customer's name, logo and trademark on any of Provider's public websites within its list of high-profile clients and in so doing shall not state any endorsement by Customer; and

(c) Provider may develop and publish publicly a case study, including the Customer's name logo and trademark, about the engagement between Provider and Customer.]

22.2 Nothing in this Clause 22 shall be construed as limiting the obligations of the parties under Clause 11.

23. Anti-corruption

23.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Corruption Laws in relation to this Agreement.

23.2 Save to the extent that applicable law requires otherwise, each party must promptly notify the other if it becomes aware of any events or circumstances relating to this Agreement that will or may constitute a breach of the Anti-Corruption Laws (irrespective of the identity of the person in breach).

23.3 The Provider shall use all reasonable endeavours to ensure that all persons that:

(a) provide services to the Provider (including employees, agents and subsidiaries of the Provider); and

(b) are involved in the performance of the obligations of the Provider under this Agreement,

will comply with the Anti-Corruption Laws.

23.4 Each party shall create and maintain proper books and records of all payments and other material benefits given by one party to the other, and each party shall promptly following receipt of a written request from the other party supply copies of the relevant parts of those books and records to the other party.

23.5 The Provider must comply with [the supply chain anti-corruption and anti-bribery policy] of the Customer supplied[or made available] by the Customer to the Provider before the Effective Date[, as it may be updated by the Customer acting reasonably from time to time].

23.6 The Provider warrants that it has in place its own policies and procedures designed to ensure the compliance of the Provider with the Anti-Corruption Laws; and the Provider undertakes to:

(a) acting reasonably, maintain and enforce those policies and procedures during the Term;

(b) promptly following receipt of a written request for the same from the Customer, provide copies of the documentation embodying those policies and procedures to the Customer.

23.7 Each party shall provide reasonable co-operation to the other party, at its own expense, in relation to any due diligence exercises, risk assessments, monitoring programmes and reviews conducted by the other party for the purpose of ensuring or promoting compliance with the Anti-Corruption Laws.

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23.8 Nothing in this Agreement shall prevent either party from reporting a breach of the Anti-Corruption Laws to the relevant governmental authorities.

23.9 Any breach of this Clause 23 shall be deemed to constitute a material breach of this Agreement.

24. Anti-slavery

24.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Slavery Laws.

24.2 The Provider shall ensure that all persons that provide services or supply products to the Provider, where such services or products are used in the performance of the obligations of the Provider under this Agreement, will comply with the Anti-Slavery Laws.

24.3 The Provider must comply with [the supply chain anti-slavery and anti-human trafficking policy] of the Customer supplied[or made available] by the Customer to the Provider before the Effective Date[, as it may be updated by the Customer acting reasonably from time to time].

24.4 The Provider warrants that it has in place its own policies and procedures designed to ensure the compliance of the Provider with the Anti-Slavery Laws; and the Provider undertakes to:

(a) acting reasonably, maintain and enforce those policies and procedures during the Term;

(b) promptly following receipt of a written request for the same from the Customer, provide copies of the documentation embodying those policies and procedures to the Customer.

24.5 Any breach of this Clause 24 shall be deemed to constitute a material breach of this Agreement.

25. Anti-tax evasion

25.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Tax Evasion Laws.

25.2 The Provider shall ensure that all employees, agents and persons that provide services to the Provider, when acting in such capacity in connection with this Agreement, will comply with the Anti-Tax Evasion Laws.

25.3 The Provider must comply with [the supply chain anti-tax evasion policy] of the Customer supplied[or made available] by the Customer to the Provider before the Effective Date[, as it may be updated by the Customer acting reasonably from time to time].

25.4 The Provider warrants that it has in place its own policies and procedures designed to ensure the compliance of the Provider with the Anti-Tax Evasion Laws; and the Provider undertakes to:

(a) acting reasonably, maintain and enforce those policies and procedures during the Term;

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(b) promptly following receipt of a written request for the same from the Customer, provide copies of the documentation embodying those policies and procedures to the Customer.

25.5 Any breach of this Clause 25 shall be deemed to constitute a material breach of this Agreement.

26. Notices

26.1 Any notice from one party to the other party under this Agreement must be given by one of the following methods (using the relevant contact details set out in Section 6 of Schedule 1 (Hosted Services Particulars)):

(a) delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery; or

(b) sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting, or

(c) send by email with a request for acknowledgement, in which case the notice shall be deemed to be received 30 minutes after the email was sent provided that an acknowledgement of receipt is provided within one Business Day;

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

26.2 The addressee and contact details set out in Section 6 of Schedule 1 (Hosted Services Particulars) may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 26.

27. Subcontracting

27.1 Subject to any express restrictions elsewhere in this Agreement, the Provider may subcontract to any reputable third party any of the following of its obligations under the Agreement;

(a) hosting of Platform;

(b) telecommunication and internet services in relating to the Platform;

(c) AI Services that support its AI Systems;

(d) video streaming services relating to the Platform;

(e) delivery of training services relating to Hosted Services;

(f) software development and testing relating to the Platform; and

(g) the provision of services in relation to IT, network, maintenance and support elements of the Platform;

providing that the Provider shall take due care in the appointment and management of any subcontractor and shall take appropriate steps to verify they are competent and meet their subcontracted obligations ongoing and providing that the Provider must give to the Customer, promptly upon request by the Customer, a written notice specifying the subcontracted obligations and identifying the subcontractor(s) in question.

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27.2 Subject to any express restrictions elsewhere in this Agreement, the Provider may subcontract to any reputable third party any of its obligations not listed in clause 27.1 under the Agreement providing that the Provider must give to the Customer, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question.

27.3 The Provider shall remain responsible to the Customer for the performance of any subcontracted obligations.

28. General

28.1 No breach of any provision of the Agreement shall be waived except with the express written consent of the party not in breach.

28.2 If any provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

28.3 The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

28.4 The Customer hereby agrees that the Provider may assign the Provider's contractual rights and obligations under the Agreement to any successor to all or a substantial part of the business of the Provider from time to time. Save to the extent expressly permitted by applicable law, the Customer must not without the prior written consent of the Provider assign, transfer or otherwise deal with any of the Customer's contractual rights or obligations under the Agreement without the prior written consent of the Provider, such consent not to be unreasonably withheld or delayed, providing that the Customer may assign the entirety of its rights and obligations under this Agreement to any Affiliate of the Customer or to any successor to all or a substantial part of the business of the Customer from time to time.

28.5 The Agreement is made for the benefit of the parties and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.

28.6 Subject to Clause 16.1, the main body of this Agreement and the Schedules shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

28.7 The Agreement shall be governed by and construed in accordance with [English law].

28.8 The courts of [England] shall have exclusive jurisdiction to adjudicate any dispute (including contractual disputes of claims) arising under or in connection with the Agreement.

29. Interpretation

29.1 In this Agreement, a reference to a statute or statutory provision includes a reference to:

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(a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b) any subordinate legislation made under that statute or statutory provision.

29.2 The Clause headings do not affect the interpretation of this Agreement.

29.3 References in this Agreement to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

29.4 In this Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

EXECUTION

The parties have indicated their acceptance of this Agreement by executing it below.

SIGNED BY [*[individual name]* on [.....], the Provider] OR [*[individual name]* on [.....], duly authorised for and on behalf of the Provider]:

.....

SIGNED BY [*[individual name]* on [.....], the Customer] OR [*[individual name]* on [.....], duly authorised for and on behalf of the Customer]:

.....

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SCHEDULE 1 - HOSTED SERVICES PARTICULARS

1. Set Up Services

Specification	Details
Details of Set Up Services	*[NONE] OR [Specify each element of Set Up that is being included]*
Timetable for Set Up Services	*[List each set up activity, eg Customisation, user set up, integration with XXX, user training etc]* *Activity #1 – Due by XXXX* *Activity #2 – Due by XXXX* *Activity #3 – Due by XXXX* *Activity #3 – Due by XXXX*

2. Specification of Hosted Services

Specification	Details
Configuration	*[Specify what eg "Procleus with Capella and Ruby" or "Customized version of Procleus branded for XXX"]*
Number of Named Users	*X*
Named Users	*[As defined by the Customer to the Provider] OR if a small number of named users list here*
Customizations	*[None – as standard]' OR [specify]*
Integrations with Third Party Services	*[None – as standard]' OR [specify]*
Usage limitations	*[As defined in this Agreement] OR [Specify]*
URLs for access to the Hosted Services	*[Specify the URLs the Customer will use to access the Services, even if these will not be published]*
Other	*[If any, insert here, otherwise delete this row]*

3. Fees and Financial provisions for Hosted Services

Details	Fees
Set-up,	*£XXXX one time fee*
Annual Fees	*£XXXX per annum*
When Fees are due	*In advance at the Effective Date and subsequent anniversaries of the Effective Date for the Term*
Incremental Fees for additional Named Users	*£XXX per named user per annum [in minimum blocks of X additional named users] invoiced pro-rata for the remaining part of the current year of the Term and as an increase to the Annual Fees for any subsequent years of the Term remaining.*
Fee increases during Term	*[Fees are fixed for the Term] OR [Annually on the anniversary of the Effective Date during the term as per section 9.3]*

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Fees for Third Party Services	*[If any, insert here, otherwise delete this row]*
Other financial provisions	*[If any, insert here, otherwise delete this row]*

4. Effective Date and Term for Hosted Services

Definition	Details
Effective Date	*[Date of go live, or when contract agreed here]*
Term	*X years*

5 Provider and Customer Representatives

Provider Representatives		Customer Representatives	
Provider lead name	*[Name]*	*Customer lead name*	*[Name]*
Email	*[Email]*	*Email*	*[Email]*
Phone	*[Phone]*	*Phone*	*[Phone]*
Address	Positive Purchasing Ltd, Plym House, 3 Longbridge Road, Plymouth, PL9 8RG, UK.	*Address*	*[Address]*

6 Address and email details for Contractual Notices

Provider		Customer	
Email	*team@positivepurchasing.com*	*Email*	*[Email]*
Address	Positive Purchasing Ltd, Plym House, 3 Longbridge Road, Plymouth, PL9 8RG, UK.	*Address*	*[Address]*

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SCHEDULE 2 (ACCEPTABLE USE POLICY)

1. Introduction

1.1 This acceptable use policy (the "**Policy**") sets out the rules governing:

(a) the use of any of the websites at URLs procleus.com, positivepurchasing.com, redsheetnegotiation.com, buyerstoolkit.co.uk, [Other or Customer specific URL], any successor website, and the services available on that website or any successor website (the "**Services**"); and

(b) the transmission, storage and processing of content by you, or by any person on your behalf, using the Services ("**Content**").

1.2 References in this Policy to "you" are to any customer for the Services and any individual user of the Services (and "your" should be construed accordingly); and references in this Policy to "us" are to Positive Purchasing Ltd (and "we" and "our" should be construed accordingly).

1.3 By using the Services, you agree to the rules set out in this Policy.

1.4 We will ask for your express agreement to the terms of this Policy before you upload or submit any Content or otherwise use the Services.

2. General usage rules

2.1 You must not use the Services in any way that causes, or may cause, damage to the Services or impairment of the availability or accessibility of the Services.

2.2 You must not use the Services:

(a) in any way that is unlawful, illegal, fraudulent, deceptive or harmful; or

(b) in connection with any unlawful, illegal, fraudulent, deceptive or harmful purpose or activity.

2.3 You must ensure that all Content complies with the provisions of this Policy.

3. Unlawful Content

3.1 Content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).

3.2 Content, and the use of Content by us in any manner licensed or otherwise authorised by you, must not:

(a) be libellous or maliciously false;

(b) be obscene or indecent;

(c) infringe any copyright, moral right, database right, trade mark right, design right, right in passing off, or other intellectual property right;

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(d) infringe any right of confidence, right of privacy or right under data protection legislation;

(e) constitute negligent advice or contain any negligent statement;

(f) constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;

(g) be in contempt of any court, or in breach of any court order;

(h) constitute a breach of racial or religious hatred or discrimination legislation;

(i) constitute a breach of official secrets legislation; or

(j) constitute a breach of any contractual obligation owed to any person.

3.3 You must ensure that Content is not and has never been the subject of any threatened or actual legal proceedings or other similar complaint.

4. Graphic material

4.1 Content must be appropriate for all persons who have access to or are likely to access the Content in question.

4.2 Content must not depict violence (including violence against humans and animals), self-harm or suicide in an explicit, graphic or gratuitous manner.

4.3 Content must not encourage, promote, glamourise or glorify violence (including violence against humans and animals), self-harm or suicide.

4.4 Content must not be pornographic or sexually explicit.

5. Factual accuracy

5.1 Content must not be untrue, false, inaccurate or misleading.

5.2 Statements of fact contained in Content and relating to persons (legal or natural) must be true; and statements of opinion contained in Content and relating to persons (legal or natural) must be reasonable, be honestly held and indicate the basis of the opinion.

6. Negligent advice

6.1 Content must not consist of or contain any legal, financial, investment, taxation, accountancy, medical or other professional advice, and you must not use the Services to provide any legal, financial, investment, taxation, accountancy, medical or other professional advisory services.

6.2 Content must not consist of or contain any advice, instructions or other information that may be acted upon and could, if acted upon, cause death, illness or personal injury, damage to property, or any other loss or damage.

7. Etiquette

7.1 Content must be appropriate, civil and tasteful, and accord with generally accepted standards of etiquette and behaviour on the internet.

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7.2 Content must not be offensive, deceptive, threatening, abusive, harassing, menacing, hateful, discriminatory or inflammatory.

7.3 Content must not be liable to cause annoyance, inconvenience or needless anxiety.

7.4 You must not use the Services to send any hostile communication or any communication intended to insult, including such communications directed at a particular person or group of people.

7.5 You must not use the Services for the purpose of deliberately upsetting or offending others.

7.6 You must not unnecessarily flood the Services with material relating to a particular subject or subject area, whether alone or in conjunction with others.

7.7 You must ensure that Content does not duplicate other content available through the Services.

7.8 You must ensure that Content is appropriately categorised.

7.9 You should use appropriate and informative titles for all Content.

7.10 You must at all times be courteous and polite to other users of the Services.

8. Marketing and spam

8.1 You must not use the Services for any purpose relating to the marketing, advertising, promotion, sale or supply of any product, service or commercial offering.

8.2 Content must not constitute or contain spam, and you must not use the Services to store or transmit spam - which for these purposes shall include all unlawful marketing communications and unsolicited commercial communications.

8.3 You must not send any spam or other marketing communications to any person using any email address or other contact details made available through the Services or that you find using the Services.

8.4 You must not use the Services to promote, host or operate any chain letters, Ponzi schemes, pyramid schemes, matrix programs, multi-level marketing schemes, "get rich quick" schemes or similar letters, schemes or programs.

8.5 You must not use the Services in any way which is liable to result in the blacklisting of any of our IP addresses.

9. Regulated businesses

9.1 You must not use the Services for any purpose relating to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.

9.2 You must not use the Services for any purpose relating to the offering for sale, sale or distribution of drugs or pharmaceuticals.

9.3 You must not use the Services for any purpose relating to the offering for sale, sale or distribution of knives, guns or other weapons.

10. Monitoring

10.1 You acknowledge that we may actively monitor the Content and the use of the Services.

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11. Data mining

11.1 You must not conduct any systematic or automated data scraping, data mining, data extraction or data harvesting, or other systematic or automated data collection activity, by means of or in relation to the Services.

12. Hyperlinks

12.1 You must not link to any material using or by means of the Services that would, if it were made available through the Services, breach the provisions of this Policy.

13. Harmful software

13.1 The Content must not contain or consist of, and you must not promote, distribute or execute by means of the Services, any viruses, worms, spyware, adware or other harmful or malicious software, programs, routines, applications or technologies.

13.2 The Content must not contain or consist of, and you must not promote, distribute or execute by means of the Services, any software, programs, routines, applications or technologies that will or may have a material negative effect upon the performance of a computer or introduce material security risks to a computer.

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SCHEDULE 3 (DATA PROCESSING INFORMATION)

1. Categories of data subject:

- procurement category data including but not limited to category name, information about goods and services supplied, spend breakdowns, supplier details, supplier pricing information, market data, information about supply chains results from business engagement activities; and
- negotiation planning data including but not limited to supplier information, supplier pricing data, market data, event planning and tactics information, results from business and supplier engagement activities.

2. Types of Personal Data:

- name (first name, last name);
- email addresses;
- phone number;
- job title;
- grades and evaluation reports;
- personality profiles.

3. Purposes of processing

For the operation and administration of Users of the Hosted Services.

4. Security measures for Personal Data

All data is held in compliance with the Data Protection Act 2018. Data is encrypted at rest on our servers. All required compliances as identified by the client will be assessed and implemented whenever feasible. We are ISO/IEC 27001 and 9001 certified

5. Sub-processors of Personal Data

Sub processor	Nature of processing	Location/Country
Rackspace	Hosting of data on colocation server	Rackspace Ashburn VA USA
Talent LMS (Epignosis)	Hosting of data on cloud	AWS Virginia USA
Microsoft Azure	Hosting of data on cloud and use of Azure ChatGPT	Germany EU and/or UK

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