

HUT 6 SECURITY LIMITED - SERVICE SUBSCRIPTION TERMS (‘TERMS’)

By placing an Order and checking the “I Accept” box, you and any entity that you represent (**Customer**) are unconditionally consenting to be bound by and are becoming party to these Terms as of the Effective Date. If you are executing these Terms on behalf of an organisation, you represent that you have the authority to do so.

AGREED TERMS

1. INTERPRETATION

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

Authorised Users: those employees, agents and independent contractors of the Customer who are allocated a Subscription, as further described in clause 2.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.4, or a reasonable person would recognise as confidential or proprietary considering the nature of the information and the circumstances of disclosure.

Customer Data: the data inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Data Protection Laws: all applicable laws and regulations from time to time in force relating to the protection of Personal Data, including the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the GDPR and any laws substituting, re-enacting or replacing any of the forgoing, as amended or updated from time to time. The terms “Controller”, “Data Subject”, “Personal Data”, and “Processor” shall have the meanings ascribed to them in the GDPR.

Documentation: the document(s) provided or made available by the Supplier from time to time, setting out a description of the Services and the user instructions for the Services.

Effective Date: the date on which the Customer is given access to the Services.

Evaluation Period: the limited period of access to the Services for evaluation purposes, as set out in clause 4.

Evaluation Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation for the purposes of evaluation, as further described in clause 4.3.

GDPR: means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

Multi-User Subscription: means a subscription to any or all of the Services for access and use by a designated number of Authorised Users, as set out in the Order.

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

Order: the order submitted by the Customer for the Services via the Website and confirmed by the Supplier in accordance with these Terms.

Service(s): the information security training and awareness service(s) purchased by the Customer and accessed via the Website, as set out in the Order.

Single User Subscription: means a subscription to any or all of the Services for access and use by a single Authorised User, as set out in the Order.

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

Subscription(s): means the Single User Subscription(s) and/or Multi-User Subscription(s) purchased by the Customer (as applicable).

Subscription Fees: the subscription fees payable by the Customer to the Supplier for the Services, as set out in the Order and payable pursuant to clause 8.

Subscription Term: means the duration of a Subscription (which shall exclude any Evaluation Period), as set out in the Order.

Supplier: Hut 6 Security Limited, incorporated and registered in England and Wales with company number 10447061 whose registered office is at Platform, Devon Place, Newport, Wales, NP20 4NW.

Supplier Materials: the Supplier's training, instructional, testing and other materials, documents and information accessible via the Services from time to time.

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

Website: hutsix.io (as updated from time to time).

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Terms.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of these Terms and shall include all subordinate legislation made as at the date of these Terms under that statute or statutory provision.
- 1.7 A reference to writing or written includes e-mail.
- 1.8 References to clauses are to the clauses of these Terms.

2. ORDERS AND SUBSCRIPTIONS

- 2.1 An Order submitted by the Customer constitutes an offer to purchase the Services subject to these Terms. No other terms, whether express or implied, including any terms the Customer may try to impose, shall have any effect.
- 2.2 An Order shall be deemed accepted by the Supplier on the earlier of (a) its written confirmation of acceptance of the Order; or (b) the Customer being granted access to the Services. The Supplier may, in its discretion, decline any Order placed by the Customer. Once an Order is accepted, a binding contract is formed subject to these Terms and such Order may not be withdrawn or varied, except in accordance with these Terms.
- 2.1 From time to time, the Customer may purchase additional Subscriptions. Unless otherwise stated, each Subscription shall constitute a separate contract, subject to these Terms and any additional terms agreed to at the time of purchase.
- 2.2 Each Subscription purchased by the Customer shall continue for its respective Subscription Term, as specified in the Order.
- 2.3 Subject to the restrictions set out in this clause 2, and the other provisions in these Terms, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to access and use the Services during the Subscription Term solely for the Customer's internal business operations. This licence is subject to the Customer purchasing the required number of Subscriptions in accordance with these Terms.
- 2.4 The Customer agrees and undertakes that:
- (a) in the case of a Single User Subscription, only a single designated individual may access and use that Subscription and it may not be used by any other person unless it is reassigned in its entirety to another individual with the Supplier's consent, in which case the prior individual shall no longer have any right to access or use the Subscription;
 - (b) in the case of a Multi-User Subscription, the maximum number of Authorised Users that it authorises to access and use the Services shall not exceed the number of individuals specified in the Order and no Subscription may be used by any other person unless it is reassigned in its entirety to another individual with the Supplier's consent, in which case the prior individual shall no longer have any right to access or use the Subscription;
 - (c) each Authorised User shall keep a secure password of adequate complexity for their use of the Services and Documentation, and that each Authorised User shall keep their password confidential;
 - (d) it shall provide to the Supplier a list of its Authorised User(s) within 5 Business Days of the Supplier's written request at any time;
 - (e) it shall permit the Supplier to audit the Services in order to establish the name and password of each Authorised User and to ensure that the Services are not being accessed by any unauthorised individuals. This right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;
 - (f) if any of the audits referred to in clause 2.4(e) reveal that any Subscription has been provided to any individual who is not an Authorised User, or used by multiple individuals, then without prejudice to the Supplier's other rights, the Supplier may disable such Subscriptions or suspend the Customer's access to the Services until the Customer purchases the requisite number of Subscriptions; and

- (g) if any of the audits referred to in clause 2.4(e) reveal that the Customer has underpaid Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Customer shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the Supplier's then current pricing within 10 Business Days of the date of the relevant audit.

2.5 Neither party shall, and the Customer shall procure the Authorised Users do not, access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

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

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

2.6 The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by Terms between the parties:
 - (i) and except to the extent expressly permitted under these Terms, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
- (c) use the Services and/or Documentation to provide services to third parties; or
- (d) subject to clause 19, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2.

2.7 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.

3. SERVICES

- 3.1 The Supplier shall, during the Subscription Term, provide the Services to the Customer on and subject to these Terms.
- 3.2 The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
- (a) planned maintenance carried out during the maintenance windows of 8:00am to 10:00am Saturdays, Sundays and Mondays UK time; and
 - (b) unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 3 Normal Business Hours' notice in advance.

4. EVALUATION

- 4.1 The Supplier may, in its sole discretion, offer the Customer a limited free trial of some or all of the Services for internal evaluation of the Services only (**Evaluation**). Such Evaluation shall be limited to the Evaluation Period shown on the Website. Only one Evaluation is permitted per Customer.
- 4.2 Where the Customer is granted access to the Services for Evaluation, the Supplier shall, during the Evaluation Period, provide the Services and make available the Documentation to the Customer, subject to the terms of these Terms.
- 4.3 During the Evaluation Period the Supplier may, at its own discretion, assign Evaluation User licences to the Customer free of charge. The Customer undertakes to ensure that Evaluation User licences are used solely for the purposes of evaluating the Services and Documentation for future use.
- 4.4 Upon the elapse or termination of the Evaluation Period, any and all Evaluation User licences will immediately terminate.
- 4.5 The Customer may at any point in the Evaluation Period, with the Supplier's approval, opt to terminate the Evaluation Period and immediately begin the Subscription Term.

5. CUSTOMER DATA

- 5.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 5.2 In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up).
- 5.3 The Customer acknowledges and agrees that its Customer Data (non-confidential Authorised User answers and Authorised User progress) may be utilised by the Supplier for the proper performance of, and improvement of, the Services, including analysis and research, general metrics and analytics and general promotional uses.
- 5.4 To the extent that the Customer Data comprises Personal Data and the Supplier processes such Personal Data on the Customer's behalf when performing its obligations under these Terms (**Customer Personal Data**), the parties record their intention that the Customer shall be the

Controller and the Supplier shall be the Processor of such Customer Personal Data and the following provisions apply:

- (a) the type(s) of data subject, categories of personal data, the subject-matter and purposes of the processing, and the Sub-processors currently in use, shall be as set out in the Supplier's processing notice for the relevant Services, available at <https://hut6-eu-public.s3-eu-west-1.amazonaws.com/Legal/Hut+Six+-+Self+Serve+-+Data+Processing+Notice.pdf>;
- (b) both parties shall comply with the Data Protection Laws in the performance of these Terms;
- (c) the Supplier shall process the Customer Personal Data only in accordance with these Terms and any lawful instructions reasonably given by the customer from time to time (unless the Supplier is required by the Data Protection Laws or any other applicable laws to otherwise process the Customer Personal Data, in which case the Supplier shall promptly notify the Customer of this before performing the processing unless those Applicable Laws prohibit the Supplier from doing so;
- (d) unless otherwise agreed, the Customer Personal Data shall not be transferred outside of the United Kingdom or the European Economic Area (EEA);
- (e) the Customer shall be responsible for ensuring that it is lawfully entitled to transfer the Customer Personal Data to the Supplier, including by giving all necessary notices and/or obtaining necessary consents, so that the Supplier may use, process and transfer it in accordance with these Terms;
- (f) taking into account the state of technical development and the nature of processing, each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of Customer Personal Data or its accidental loss, alteration, disclosure, destruction or damage;
- (g) the Supplier shall ensure that all persons acting for it with access to Customer Personal Data are informed of the confidential nature of the Customer Personal Data and are subject to a suitable binding obligation to keep the same confidential;
- (h) the Customer acknowledges and agrees that the Supplier may use third party sub-Processors for the purposes of providing the Services, provided that the Supplier shall remain fully responsible for the acts and omissions of such third parties. The Supplier shall inform the Customer of any intended changes concerning the addition or replacement of sub-Processors involved the processing of Customer Personal Data, thereby giving the Customer the opportunity to object to such changes;
- (i) the Supplier shall assist the Customer in providing Data Subject access and allowing Data Subjects to exercise their rights under the GDPR;
- (j) the Supplier shall notify the Customer without delay and in any case within seventy-two (72) hours on becoming aware of any breach of Customer Personal Data;
- (k) the Supplier must assist the Customer in meeting its GDPR obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments; and
- (l) the Supplier shall maintain complete and accurate records to demonstrate its compliance with this clause 5.4 and allow for audits by the Customer to verify the Supplier's compliance with this clause 5.4.

5.5 If the parties are required to enter into any additional or alternative data processing terms as a result of the United Kingdom's exit from the European Union, they shall (acting reasonably) negotiate and agree an amendment or supplement to this clause 5 of the Terms.

5.6 All Customer Data will be handled in accordance with the privacy policy available on the Website. The Customer acknowledges and agrees that, as Controller, it has primary responsibility for the terms of the privacy policy and compliance with it. Whilst the Supplier provides the privacy policy for convenience, it makes no warranty or guarantees concerning the terms of the privacy policy.

6. SUPPLIER'S OBLIGATIONS

6.1 The Supplier undertakes that the Services will be performed substantially in accordance with the Documentation, with reasonable skill and care, and in accordance with all applicable laws and regulations. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in this clause 6.1.

6.2 The Supplier shall not be responsible for any non-conformance of the Services with clause 6.1, which is caused by use of the Services contrary to the Documentation, not in accordance with these Terms, or any modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. In addition, the Supplier:

- (a) does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and
- (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.3 The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these Terms.

7. CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to these Terms; and
 - (ii) all necessary access to such information as may be required by the Supplier;

in order to enable the Supplier to provide the Services, including but not limited to Customer Data, security access information and configuration services;

- (b) comply with all applicable laws and regulations with respect to its activities under these Terms;
- (c) carry out all other Customer responsibilities set out in these Terms in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

- (d) ensure that the Authorised Users use the Services and the Documentation in accordance with the terms of these Terms and shall be responsible for any acts or omissions of its Authorised Users;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under these Terms, including without limitation the Services;
- (f) ensure that its network and systems comply with any relevant specifications provided by the Supplier from time to time; and
- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

8. CHARGES AND PAYMENT

- 8.1 The Customer shall pay the Subscription Fees to the Supplier in accordance with this clause 8.
- 8.2 Unless otherwise agreed, the Subscription Fees are due in full in advance and shall be payable by credit or debit card on submission of the Order. Payments shall be made through the Supplier's designated third party payment processor(s), as shown on the Website.
- 8.3 The Supplier may, in its sole discretion, permit the Customer to pay via other means (including bank transfer), in which case the Supplier shall submit an invoice to the Customer and the Customer agrees to pay such invoice in full and cleared funds within 30 days of the invoice date.
- 8.4 Upon the purchase of a Subscription, the Customer may indicate that they wish for the Subscription to automatically renew unless and until cancelled. In this case:
- (a) the Customer agrees to purchase the same number and type of Subscription(s) upon expiry of the initial Subscription(s) purchased and on each renewal date thereafter;
 - (b) the Customer shall be entitled to revoke automatic renewal for future purchases at any point. This does not affect Subscription(s) that have already been renewed, which shall continue for the respective Subscription Terms;
 - (c) the Supplier shall be entitled to charge the Customer for the total sum due for renewal of the Subscription(s) up to 14 days in advance of the renewal date;
 - (d) the Customer shall only be permitted to access and use the renewed Subscription(s) upon successful payment of the total amount due;
 - (e) the Supplier shall be entitled to revise the Subscription Fees payable up to 30 days in advance of the automatic renewal; and
 - (f) the Supplier shall be entitled to cancel the automatic renewal of any Subscription at any point, in which case the relevant Subscription shall expire at the end of the relevant Subscription Term.
- 8.1 The Supplier shall be entitled to require a minimum purchase value or minimum number of Subscriptions. Unless otherwise agreed, the minimum number of Subscriptions required shall be five (5), which must be maintained by the Customer at all times.
- 8.2 The Supplier shall be entitled to revise the Subscription Fees at any time. Any change to the Subscription Fees will only take effect for future purchases, including any renewed Subscriptions in accordance with clause 8.4.

- 8.3 If the Customer fails to pay the applicable fees or if the Supplier has not received payment within 30 days after the due date of an invoice, and without prejudice to any other rights and remedies of the Supplier:
- (a) the Supplier may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 8.4 All amounts and fees stated or referred to in these Terms:
- (a) are, subject to clause 12.4(b), non-cancellable and non-refundable;
 - (b) are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate and shall be payable by the Customer with all such amounts and fees.

9. PROPRIETARY RIGHTS

- 9.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services (including the Software, Documentation, Supplier Materials and Authorised User metrics). Except as expressly stated herein, these Terms do not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services
- 9.2 The Customer shall remain the owner of any and all Customer Data. The Customer hereby grants the Supplier a non-exclusive, royalty free licence to use the Customer Data to the extent necessary to perform the Services and for the purpose of clause 5.3.
- 9.3 The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, these Terms.

10. CONFIDENTIALITY

- 10.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under these Terms. A party's Confidential Information shall not be deemed to include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving party;
 - (b) was in the other party's lawful possession before the disclosure;
 - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body (to the extent applicable to that disclosure only).
- 10.2 Each party shall hold the other's Confidential Information in confidence and, unless and to the extent required by law, not make the other's Confidential Information available to any third

party other than to any officers, employees or consultants of affiliates of the parties who need to know the Confidential Information in connection with this Agreement, or use the other's Confidential Information for any purpose other than the implementation of these Terms.

10.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of these Terms.

10.4 The Customer acknowledges that details of the Services, the Supplier Materials and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.

11. INDEMNITY

11.1 The Customer shall indemnify and keep indemnified the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation, provided that:

- (a) the Customer is given prompt notice of any such claim;
- (b) the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
- (c) the Customer is given sole authority to defend or settle the claim.

11.2 The Supplier shall indemnify and keep indemnified the Customer against any claim that the Services infringe any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- (a) the Supplier is given prompt notice of any such claim;
- (b) the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
- (c) the Supplier is given sole authority to defend or settle the claim.

11.3 In the defence or settlement of any claim referred to in clause 11.2, the Supplier may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, the Supplier may terminate these Terms on written notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

11.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that any alleged infringement referred to in clause 11.2 is based on:

- (a) a modification of any of the Services or Documentation by anyone other than the Supplier;
- (b) the Customer's use of the Services or Documentation in a manner contrary to these Terms or any of the instructions given to the Customer by the Supplier; or
- (c) the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

12. LIMITATION OF LIABILITY

12.1 The Customer acknowledges and agrees that the Services and Supplier Materials may provide good industry practice guidance and support, to assist the Customer in compliance with laws, regulations and industry practices, but that these are not intended to constitute professional advice or be solely relied upon as means of complying with the Customer's legal, regulatory

and other obligations. The Customer shall remain fully responsible for its own compliance, including its internal policies and procedures and its enforcement of the same, and the Supplier disclaims any liability for the same.

12.2 Except as expressly and specifically provided in these Terms:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Services by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, including Customer Data, or any actions taken by the Supplier at the Customer's direction; and
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms.

12.3 Nothing in these Terms excludes the liability of either party:

- (a) for death or personal injury caused by its negligence;
- (b) for fraud or fraudulent misrepresentation; or
- (c) any other liability that cannot lawfully be excluded or limited.

12.4 Subject to the foregoing provisions of this clause 12:

- (a) neither party shall be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss (in each case whether direct or indirect), or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Terms; and
- (b) the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Terms shall be limited to the total Subscription Fees paid during the 12 months immediately preceding the date on which the claim arose.

13. TERM AND TERMINATION

13.1 These Terms shall commence on the Effective Date and, unless terminated as provided in this clause 13 or pursuant to any other terms of these Terms, shall continue for the duration of the Evaluation Period and each applicable Subscription Term unless and until all valid Subscription(s) held by the Customer terminate or expire.

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

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

unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

- (d) the other party makes any voluntary arrangement with its creditors or becomes subject to an administration order or serves notice of administration, or has a receiver, manager or administrative receiver appointed over its assets or shall have a winding-up order made against it or shall go into liquidation (except for the purposes of a solvent amalgamation or reconstruction and in such manner that the resulting company effectively agrees to be bound by or assume the obligations imposed on the predecessor company under this Agreement);
- (e) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (f) the Customer is using the Services for Evaluation.

13.3 On termination or expiry of any Subscription(s) for any reason:

- (a) all licences granted under these Terms in relation to such Subscription(s) shall immediately terminate and, unless otherwise agreed, the Customer shall cease to access and use the Services;
- (b) the Customer shall have no further right to access and use any of the Supplier Materials and shall promptly destroy any copies of the same;
- (c) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- (d) the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession unless the Supplier receives, no later than ten days after the effective date of the termination of these Terms, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Customer Data;
- (e) 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 Terms which existed at or before the date of termination shall not be affected or prejudiced; and
- (f) clauses 8, 9, 10, 11, 12, 13, 17, 23, and 24 shall survive termination or expiry of these Terms.

14. FORCE MAJEURE

Neither party shall be liable for any delay or non-performance of its obligations under these Terms (save for any obligation to pay amounts to the other party), to the extent caused by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors (**Force Majeure Event**). The affected party shall use reasonable endeavours to minimise the duration and impact of a Force

Majeure Event. If a Force Majeure Event continues for more than 30 days, the innocent party may terminate these Terms by giving 14 days' written notice to the other.

15. VARIATION

The Supplier may vary these Terms from time to time, provided that it shall give the Customer reasonable prior notice of any changes via the Services or via communication to the Customer's designated email address.

16. WAIVER

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

17. SEVERANCE

17.1 If any provision (or part of a provision) of these Terms is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

17.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

18. ENTIRE TERMS

These Terms, and any documents referred to in them, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

19. ASSIGNMENT

The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms. The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms.

20. NO PARTNERSHIP OR AGENCY

Nothing in these Terms is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

21. THIRD PARTY RIGHTS

These Terms does not confer any rights on any person or party (other than the parties to these Terms and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

22. NOTICES

22.1 Any notice required to be given under these Terms shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in these Terms, or such other address as may have been notified by that party for such purposes, or sent by fax or email to the other party's designated fax number or email address.

22.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax or email shall be deemed to have been received an hour after the time of transmission, given no receipt of error message.

23. GOVERNING LAW

These Terms and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

24. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms or their subject matter or formation (including non-contractual disputes or claims).