

THREAT STATUS LIMITED – SOFTWARE AS A SERVICE (SAAS) TERMS AND CONDITIONS OF BUSINESS

1. Interpretation

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

Assets: the assets of a Customer to which the Services relate, as set out in the Quotation.

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services, as further described in clause 3.2(b).

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

Customer Portal: the portal accessible to Customers through <https://trillion.threatstatus.com>.

Conditions: these terms and conditions of business, as amended from time to time in accordance with clause 18 (Variation).

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 12.6 or clause 12.7.

Contract: the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

Customer: the firm who purchases the Services from the Supplier.

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 Legislation: any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK).

Effective Date: has the meaning given in clause 2.1.

Force Majeure Event: an event or circumstance beyond the Supplier's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil

commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, volcanic activity, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

Initial Subscription Term: the initial term of the Contract as set out in the Quotation.

Normal Business Hours: 9.00 am to 5.30 pm local UK time, each Business Day.

Order: the Customer's written acceptance of the Quotation.

Quotation: the Supplier's quotation for the provision of the Services as set out overleaf, to include (where applicable) the description of the Services (including details of the Assets to which the Services relate), the Subscription Fees and the Initial Subscription Term (or any other information which the Supplier deems necessary).

Renewal Period: the period described in clause 15.1.

Services: the subscription services provided by the Supplier to the Customer under these Conditions via the Customer Portal or any other website notified to the Customer by the Supplier from time to time, as more particularly described in the Quotation.

Software: the online software notification platform known as Trillion provided by the Supplier as part of the Services.

Subscription Fees: the subscription fees payable by the Customer to the Supplier for the User Subscription, as set out in the Quotation.

Subscription Term: has the meaning given in clause 15.1.

Supplier: THREAT STATUS LIMITED, registered in England and Wales with company number 10877044, whose registered office is at Fareham House, 69 High Street, Fareham, Hampshire, PO16 7BB.

Supplier Data: has the meaning given in clause 3.2(d).

User Subscription: the user subscription purchased by the Customer pursuant to clause 10.1 which entitle Authorised Users to access and use the Services in accordance with these Conditions.

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.

- 1.2 Clause headings shall not affect the interpretation of these Conditions.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- 1.6 A reference to writing or written excludes faxes but includes e-mail.
- 1.7 References to clauses are to the clauses of these Conditions.
- 1.8 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.

2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase the Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Effective Date**).
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 Any Quotation given by the Supplier is only valid for a period of 20 Business Days from its date of issue (unless otherwise stated in the Quotation) and shall be deemed withdrawn upon the expiry of such time period.

3. User Subscription

- 3.1 Subject to the Customer purchasing the User Subscription in accordance with clause 4.3 and clause 10.1, the restrictions set out in this clause 3 and the other terms and conditions of these Conditions, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right,

without the right to grant sublicences, to permit the Authorised Users to use the Services during the Subscription Term solely for the Customer's internal business operations.

3.2 In relation to the Authorised Users, the Customer undertakes that:

- (a) each Authorised User shall keep a secure password for his use of the Services, will enable two factor authentication and that each Authorised User shall keep his password confidential;
- (b) each Authorised User shall have their own named account, and shall not share their logon credentials, passwords or two factor authentication codes with any other person. Use of a shared account is strictly prohibited;
- (c) it shall maintain a list of Authorised Users in using the administrative interface of the Customer Portal, ensuring that access and privileges are appropriate. This includes removing accounts for Authorised Users that have left the Customer's business, or who no longer need access to the Customer Portal as part of their role;
- (d) it shall ensure that all Authorised Users are aware of their responsibilities for using the data provided by the Supplier on the Customer Portal (**Supplier Data**) in an appropriate manner, and that only staff with a valid business reason are given access to the Supplier Data; and
- (e) it shall take appropriate action against Authorised Users found to be misusing the Supplier Data, including promptly disabling such Authorised User accounts.

3.3 The Customer shall 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.

3.4 The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under these Conditions:
 - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or
 - (ii) attempt to de-compile, 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 in order to build a product or service which competes with the Services; or
 - (c) use the Services to provide services to third parties; or
 - (d) subject to clause 23.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users; or
 - (e) attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 3; or
 - (f) attempt to circumvent security controls implemented on the Customer Portal including escalating privileges or attempting to access Supplier Data which is not delivered to them as part of the normal function of the Customer Portal; or
 - (g) (except with the Supplier's prior consent in writing) complete security testing of the Software.
- 3.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- 3.6 The rights provided under this clause 3 are granted to the Customer and any subsidiary or holding company of the Customer only.
- 4. Changes to User Subscription**
- 4.1 Subject to clause 4.2 and clause 4.3, the Customer may, from time to time during any Subscription Term, purchase additional services or assets in excess of the Services and Assets (**Additional Services**) and the Supplier shall provide the Additional Services in accordance with the provisions of these Conditions.
- 4.2 If the Customer wishes to purchase Additional Services, the Customer shall notify the Supplier in writing. The Supplier shall evaluate such request for Additional Services and respond to the

Customer with approval or rejection of the request (at the Supplier's entire discretion). Where the Supplier approves the request, the Supplier shall activate the Additional Services within 14 days of its approval of the Customer's request.

4.3 If the Supplier approves the Customer's request to purchase Additional Services, the Customer shall pay to the Supplier the relevant fees for such Additional Services either (at the Supplier's sole discretion):

(a) immediately on the date of the Supplier's invoice; or

(b) within 14 days of the date of the Supplier's invoice,

calculated by reference to the Subscription Fees and, if such Additional Services are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by the Supplier for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

5. Services

5.1 The Supplier shall, during the Subscription Term, provide the Services to the Customer on and subject to the terms of these Conditions.

5.2 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, for which the Supplier shall give a minimum of 24 hours notice in advance via the Customer Portal where such maintenance is expected to affect the Customer's use of the Services; and

(b) unscheduled emergency maintenance, provided that the Supplier has used reasonable endeavours to give the Customer at least 15 minutes notice in advance.

5.3 The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Supplier's standard customer support services during Normal Business Hours.

6. Customer Data

6.1 The Customer shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.

6.2 The Supplier shall follow its archiving procedures for Customer Data as set out in its archiving policy. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive

remedy against the Supplier 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 in accordance with the archiving procedure described in its archiving policy. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party.

- 6.3 The Supplier shall, in providing the Services, comply with its privacy policy relating to the privacy and security of the Customer Data available via the Customer Portal or such other website address as may be notified to the Customer from time to time, as such document may be amended from time to time by the Supplier in its sole discretion.
- 6.4 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 6 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 6.5 The parties acknowledge that:
- (a) if the Supplier processes any personal data on the Customer's behalf when performing its obligations under these Conditions, the Customer is the data controller and the Supplier is the data processor for the purposes of the Data Protection Legislation (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation); and
 - (b) the personal data (as defined in the Data Protection Legislation, **Personal Data**) may be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Services and the Supplier's other obligations under these Conditions.
- 6.6 Without prejudice to the generality of clause 6.4, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of these Conditions so that the Supplier may lawfully use, process and transfer the Personal Data in accordance with these Conditions on the Customer's behalf.
- 6.7 Without prejudice to the generality of clause 6.4, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under these Conditions:
- (a) process that Personal Data only on the written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (**Applicable Laws**). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall

promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

- (b) not transfer any Personal Data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject (as defined in the Data Protection Legislation, **Data Subject**) has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (c) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (d) notify the Customer without undue delay on becoming aware of a Personal Data breach;
- (e) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the Personal Data; and
- (f) maintain complete and accurate records and information to demonstrate its compliance with this clause 6.

6.8 Each party shall ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

- 6.9 The Customer does not consent to the Supplier appointing any third party processor of Personal Data under these Conditions.
- 6.10 Either party may, at any time on not less than 30 days' notice, revise this clause 6 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to these Conditions).

7. Third party providers

The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. The Supplier makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not the Supplier. The Supplier recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Supplier does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

8. Supplier's obligations

- 8.1 The Supplier undertakes that the Services will be performed substantially in accordance with the Quotation and with reasonable skill and care.
- 8.2 The undertaking at clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use 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 clause 8.1. Notwithstanding the foregoing, the Supplier:
- (a) does not warrant that:
 - (i) the Customer's use of the Services will be uninterrupted or error-free; or
 - (ii) the Services, the Quotation 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 may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8.3 These Conditions shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under these Conditions.

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

9. Customer's obligations

The Customer shall:

- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to these Conditions; and
 - (ii) all necessary access to such information as may be required by the Supplier;in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
- (b) without affecting its other obligations under these Conditions, comply with all applicable laws and regulations with respect to its activities under these Conditions;
- (c) carry out all other Customer responsibilities set out in these Conditions 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 in accordance with the terms and conditions of these Conditions and shall be responsible for any Authorised User's breach of these Conditions;
- (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 Conditions, including without limitation the Services;
- (f) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and

- (g) be, to the extent permitted by law and except as otherwise expressly provided in these Conditions, solely responsible for procuring, maintaining and securing 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.

10. Charges and payment

- 10.1 The Customer shall pay the Subscription Fees to the Supplier for the User Subscription in accordance with this clause 10.
- 10.2 The Customer shall at the Supplier's sole discretion, and as stated in the Quotation, either:
 - (a) on the Effective Date:
 - (i) make payment of the Subscription Fees for the Initial Subscription Term by way of same day electronic bank transfer of immediately available funds to such account as nominated in writing by the Supplier; and
 - (ii) provide to the Supplier valid, up-to-date and complete credit or debit card details and any other relevant, valid, up-to-date and complete contact and billing details as may be required by the Supplier; or
 - (b) within 14 days of the date of an invoice raised by the Supplier on the Effective Date make payment of the Subscription Fees for the Initial Subscription Term.
- 10.3 If payment of the Subscription Fees for the Initial Subscription Term is required to be made by the Customer in accordance with clause 10.2(a), the Customer hereby authorises the Supplier to bill such credit or debit card as provided in accordance with clause 10.2(a)(ii), subject to clause 15.1, on each anniversary of the expiry of the Initial Subscription Term for the Subscription Fees payable in respect of the next Renewal Period.
- 10.4 If payment of the Subscription Fees for the Initial Subscription Term is required to be made by the Customer in accordance with clause 10.2(b), the Supplier shall invoice the Customer
 - subject to clause 15.1, no more than 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period, and the Customer shall pay each invoice within 14 days of the date of such invoice.
- 10.5 If the Supplier has not received payment within 14 days after the due date, 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 Subscription Fees 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.

10.6 All amounts and fees stated or referred to in these Conditions:

- (a) shall be payable in pounds sterling;
- (b) are, subject to clause 14.3(b), non-cancellable and non-refundable;
- (c) are exclusive of value added tax, which shall be added to such amounts and fees at the appropriate rate.

10.7 The Supplier shall be entitled to increase the Subscription Fees at the start of each Renewal Period upon 60 days' prior notice to the Customer.

11. Proprietary rights

11.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services. Except as expressly stated herein, these Conditions do not grant the Customer any rights to, under or in, any 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.

11.2 The Supplier confirms that it has all the rights in relation to the Services that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of these Conditions.

12. Confidentiality

12.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under these Conditions. 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; or

- (d) is independently developed by the receiving party, which independent development can be shown by written evidence.
- 12.2 Subject to clause 12.4, each party shall hold the other's Confidential Information in confidence and not make the other party's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these Conditions.
- 12.3 Each party shall take all reasonable steps to ensure that the other party'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 Conditions.
- 12.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 12.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 12.5 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 12.6 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.
- 12.7 The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.
- 12.8 No party shall make, or permit any person to make, any public announcement concerning this Contract without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 12.9 The above provisions of this clause 12 shall survive termination of this Contract, however arising.
- 13. Indemnity**
- 13.1 The Customer shall defend, indemnify and hold harmless 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, 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.

13.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Services infringe any patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for 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.

13.3 In the defence or settlement of any claim, 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, terminate this Contract on two Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

13.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

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

13.5 The foregoing and clause 14.3(b) state the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

14. Limitation of liability

14.1 Except as expressly and specifically provided in these Conditions:

- (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, or any actions taken by the Supplier at the Customer's direction;
- (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 Conditions; and
- (c) the Services are provided to the Customer on an "as is" basis.

14.2 Nothing in these Conditions excludes the liability of the Supplier:

- (a) for death or personal injury caused by the Supplier's negligence; or
- (b) for fraud or fraudulent misrepresentation.

14.3 Subject to clause 14.1 and clause 14.2:

- (a) the Supplier shall not 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, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Contract; and
- (b) the Supplier's total aggregate liability in contract (including in respect of the indemnity at clause 13.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the total Subscription Fees paid for the User Subscription during the 12 months immediately preceding the date on which the claim arose.

15. Term and termination

15.1 This Contract shall, unless otherwise terminated as provided in this clause 15, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Contract shall be automatically renewed for successive periods of 12 months (each a **Renewal Period**), unless:

- (a) either party notifies the other party of termination, in writing, at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Contract shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of these Conditions,

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.

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

- (a) the other party commits a material breach of any other term of these Conditions 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;
- (b) the other party repeatedly breaches any of the terms of these Conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these Conditions;
- (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, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- (g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.2(c) to clause 15.2(i) (inclusive); or
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

15.3 The Supplier may terminate the Contract immediately if the Customer fails to pay any amount due under these Conditions on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment.

15.4 On termination of this Contract for any reason:

- (a) all licences granted under these Conditions shall immediately terminate and the Customer shall immediately cease all use of the Services;
- (b) each party shall return and make no further use of any equipment, property and other items (and all copies of them) belonging to the other party;
- (c) the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with clause 6.7(e), unless the Supplier receives, no later than 10 days after the effective date of the termination of this Contract, 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; and
- (d) 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 this Contract which existed at or before the date of termination shall not be affected or prejudiced.

16. Force Majeure Events

The Supplier shall have no liability to the Customer under these Conditions if it is prevented from or delayed in performing its obligations under these Conditions, or from carrying on its business, by a Force Majeure Event, provided that the Customer is notified of such an event and its expected duration.

17. Conflict

If there is an inconsistency between any of the provisions in these Conditions and the Quotation, the provisions in these Conditions shall prevail.

18. Variation

No variation of these Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19. Waiver

No failure or delay by a party to exercise any right or remedy provided under these Conditions 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.

20. Rights and remedies

Except as expressly provided in these Conditions, the rights and remedies provided under these Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

21. Severance

21.1 If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Conditions.

21.2 If any provision or part-provision of these Conditions are deemed deleted under clause 21.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

22. Entire agreement

- 22.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 22.2 Each party acknowledges that in entering into this Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Conditions.
- 22.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.
- 22.4 Nothing in this clause shall limit or exclude any liability for fraud.

23. Assignment

- 23.1 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 Conditions.
- 23.2 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 Conditions.

24. No partnership or agency

Nothing in these Conditions 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).

25. Third party rights

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

26. Notices

- 26.1 Any notice required to be given under these Conditions 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 the Quotation or these Conditions, or such other address as may have been notified by that party for such purposes, or sent by email to the other party's email address as set out in the Quotation.

- 26.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in Normal Business Hours, at 9.00 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 email shall be deemed to have been received at the time of transmission (as shown by the delivery receipt obtained by the sender).

27. Governing law

This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

28. 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 this Contract or its subject matter or formation (including non-contractual disputes or claims).