



XERINI LIMITED

Software as a Service Terms and Conditions

Xerini Limited (the **Supplier**) is the provider of the Software (as defined below) that helps businesses visualise and organise their data.

The Customer (as defined below) wishes to use the Software in its business operations.

The Supplier has agreed to provide, and the Customer has agreed to use and pay for, the Software, subject to these terms.

The Software is highly customisable and the Supplier may create additional bespoke software code to be used by Customer together with the Software, which shall be governed by separate terms agreed between the parties in the Order (if applicable).

Agreed terms

1. Interpretation

1.1 In these Conditions the following definitions apply:

Applicable Data Protection Laws: means:

- a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.
- b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.

Authorised Users: those individuals who are authorised by the Customer to use the Services, as further described in clause 2.2(e).

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

Conditions: the Supplier's terms and conditions for the supply of Services as set out in this document.

Contract: means the agreement between the Supplier and the Customer for the provision of Services, incorporating these Conditions and the Order, and including all its schedules, attachments, annexures and any statement of work.

Engagement Letter: means the Supplier's engagement letter issued to the Customer detailing the Customer's Order for the Services.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.5.

Customer: means the organisation purchasing the User Subscriptions in accordance with condition 8.1, as set out in the Order.

Customer Personal Data: any personal data which the Supplier processes in connection with the Contract, in the capacity of a processor on behalf of the Customer, as more particularly described in condition 4.6.

EU GDPR: the General Data Protection Regulation ((EU) 2016/679).

Heightened Cybersecurity Requirements: any laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, industry schemes and sanctions, which are applicable to either the Customer or an Authorised User relating to security of network and information systems and security breach and incident reporting requirements, which may include the cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time.

Initial Subscription Term: is the term as set out in the Order.

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

Order: the Customer's order for a licence of the Software as set out in the order form attached to the Engagement Letter or as otherwise agreed between the parties.

Registration Date: the date on which the Customer registers an account on the Software.

Renewal Period: is as set out in the Order.

Public Information: means any information, data, documents or reports that the Customer uploads to the Software, to be displayed in the public domain.

Services: the services provided by the Supplier to the Customer under the Contract via the Software, as set out in the Order.

Site: the site(s) referred to in the Order.

Software: the online software application, provided by the Supplier to the Customer as part of the Services.

Subscription Fees: the subscription fees payable by the Customer to the Supplier for the User Subscriptions, as agreed between the Supplier and the Customer and set out in the Order.

Subscription Term: has the meaning given in clause 13.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

Support Services Policy: the Supplier's policy for providing support in relation to the Services as notified to the Customer from time to time, and as amended by the Supplier (at its absolute discretion) from time to time.

User Subscriptions: the user subscriptions purchased by the Customer pursuant to condition 8.1 which entitle the Customer and Authorised Users to access and use the Services in accordance with the Contract.

UK GDPR: has the meaning given to it in the Data Protection Act 2018.

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.

Vulnerability: a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

Supplier: means Xerini Limited.

Supplier Personal Data: any personal data which the Supplier processes in connection with the Contract, in the capacity of a controller.

- 1.2 Clause and paragraph headings shall not affect the interpretation of these Conditions.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).
- 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 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Contract.

- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision.
- 1.9 A reference to writing or written includes faxes but not e-mail.
- 1.10 References to clauses are to the clauses of these Conditions.

2. User subscriptions

- 2.1 Subject to the Customer purchasing the User Subscriptions in accordance with conditions 8.1, the restrictions set out in this clause 2 and the other terms and conditions of the Contract, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Customer and (if applicable) its Authorised Users to use the Services during the Subscription Term solely for the Customer's internal business operations.
- 2.2 In relation to Authorised Users of the Customer the Customer undertakes that:
- (a) the maximum number of Authorised Users that it authorises to access and use the Services is as set out in the Order;
 - (b) where a Site is referred to in the Order, access to the Software shall only be given to Authorised Users located on that Site;
 - (c) it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;
 - (d) each Authorised User shall keep a secure password for their use of the Services, and that each Authorised User shall keep their password confidential;
 - (e) it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times;
 - (f) it shall permit the Supplier or its designated auditor to audit the Services in order to establish the name and password of each Authorised User and the Customer's data processing facilities to audit compliance with the Contract. Each such audit may be conducted no more than once per quarter, at the Supplier's expense, and 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;
 - (g) if any of the audits referred to in clause 2.2(f) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and

- (h) if any of the audits referred to in clause 2.2(f) 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 within 10 Business Days of the date of the relevant audit.

2.3 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 condition.

2.4 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 the Contract:
 - (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 the Software;
- (c) use the Services to provide services to third parties; or
- (d) subject to clause 20.1, 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 2; or

- (f) introduce or permit the introduction of any Virus or Vulnerability into the Supplier's network and information systems.
- 2.5 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.
- 2.6 The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

3. Services

- 3.1 The Supplier shall, during the Subscription Term, provide the Services to the Customer on and subject to the terms of the Contract.
- 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 window of 10.00pm to 2.00am 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 6 Normal Business Hours' notice in advance.
- 3.3 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 in accordance with the Supplier's support services policy in effect at the time that the Services are provided. The Supplier may amend its support services policy in its sole and absolute discretion from time to time. The Customer may purchase enhanced support services separately (if available) at the Supplier's then current rates.

4. Data protection

- 4.1 For the purposes of this condition 4, the terms **Commissioner, controller, data subject, personal data, personal data breach, processor and processing**, shall have the meaning given to them in the UK GDPR.
- 4.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This condition 4 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.
- 4.3 The parties have determined that, for the purposes of Applicable Data Protection Laws:
 - (a) The Supplier shall act as controller of Supplier Personal Data; and

- (b) The Supplier shall process the Customer Personal Data as a processor on behalf of the Customer.

4.4 Should the determination in condition 4.3 change, then each party shall work together in good faith to make any changes which are necessary to this condition 4.

4.5 **Supplier's Privacy Policy**

Without prejudice to the generality of condition 4.2, the Supplier shall process all Supplier Personal Data strictly in accordance with its privacy policy, available at: <https://xerini.co.uk/privacy-policy/>

4.6 **Customer Personal Data**

In the event that the Supplier processes Customer Personal Data under the Contract, the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject are:

Scope of processing:	To enable the Customer to access the Services.
Nature of processing:	Storing, analysing, transferring, copying, deleting.
Purpose of processing:	To enable the Supplier to deliver the Services.
Duration of processing:	Personal data shall be processed throughout the Subscription Term.
Types of personal data:	First name, surname, email address, telephone number
Categories of Data Subject:	The Customer, Authorised Users of the Customer and other individuals such as members of the public from time to time (depending on how the Customer uses the Software).

4.7 Without prejudice to the generality of condition 4.2, the Supplier shall, in relation to any Customer Personal Data:

- (a) process that Customer Personal Data only on the documented instructions of the Customer (which for the avoidance of doubt are set out in condition 4.6), unless the Supplier is required by Applicable Data Protection Laws to otherwise process that Customer Personal Data. Where the Supplier is relying on Applicable Data

Protection Laws as the basis for processing Customer Processor Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Data Protection Laws unless those Applicable Data Protection Laws prohibit the Supplier from so notifying the Customer on important grounds of public interest. The Supplier shall immediately inform the Customer if, in the opinion of the Supplier, the instructions of the Customer infringe Applicable Data Protection Legislation;

- (b) implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data and against its accidental loss, damage or destruction;
- (c) ensure, and procure, that any personnel engaged and authorised by the Supplier to process Customer Personal Data keep the Customer Personal Data confidential;
- (d) promptly assist the Customer in responding to any request from a data subject and in ensuring compliance with the Customer's obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with the Commissioner, supervisory authorities or other regulators and, in particular, the Supplier shall promptly notify the Customer if it receives any complaint, notice or communication (whether from the Commissioner, any data subject, supervisory authority or other third party) which relates to processing of Customer Personal Data;
- (e) not transfer any Personal Data outside 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 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;
- (f) notify the Customer without undue delay after becoming aware of a personal data breach;
- (g) at the written direction of the Customer, delete or return to the Customer all Customer Personal Data on termination or expiry of the Contract, unless the Supplier is required by Applicable Data Protection Laws to continue to process that Customer Personal Data, in which case the Supplier shall promptly notify the Customer, in writing, of what that Applicable Data Protection Laws is and shall

only be permitted to process that Customer Personal Data for the specific purpose so-notified; and

- (h) maintain adequate records, and, on the Customer's request, make available such information as the Customer may reasonably request, and allow for and submit its premises and operations to audits, including inspections, by the Customer or the Customer's designated auditor, to demonstrate its compliance with Applicable Data Protection Laws and this condition 4.

4.8 Either party may, upon written agreement, revise this condition 4 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 the Contract).

4.9 The Customer hereby indemnifies, and shall keep indemnified, the Supplier from and against any and all costs, damages and expenses of any kind arising from any claim or demand brought by any person, data subject, Commissioner or supervisory authority as a result of any breach or alleged breach by the Customer of any Applicable Data Protection Law or its obligations under this condition 4. This indemnity shall not be subject to any limits or exclusions of liability that may otherwise apply, or be imposed, under the Contract.

5. 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.

6. Supplier's obligations

6.1 The Supplier undertakes that the Services will be performed with reasonable skill and care.

6.2 The undertaking at clause 6.1 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 its duly authorised

contractors or agents. If the Services do not conform with the foregoing undertaking, the 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 clause 6.1.

6.3 The Supplier:

- (a) does not warrant that:
 - (i) the Customer's use of the Services will be uninterrupted or error-free;
 - (ii) the Services, and/or the information obtained by the Customer through the Services will meet the Customer's requirements;
 - (iii) the Software or the Services will be free from Vulnerabilities or Viruses; or
 - (iv) the Software or the Services will comply with any Heightened Cybersecurity Requirements;
- (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.

6.4 The Contract 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 the Contract.

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

7. Customer's obligations

7.1 The Customer shall:

- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to the Contract; and
 - (ii) all necessary access to such information and documentation as may be required by Supplier;
- in order to provide the Services, including but not limited to any necessary Customer Personal Data, Supplier Personal Data, security access information and configuration services;

- (b) without affecting its other obligations under the Contract, comply with all applicable laws and regulations with respect to its activities under the Contract;
- (c) carry out all other Customer responsibilities set out in the Contract 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 the Contract and shall be responsible for any Authorised User's breach of the Contract;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under the Contract, 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 the Contract, 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.

7.2 The Customer acknowledges and agrees that:

- (a) The Supplier may publish the Customer's name in a list of the Supplier customers, on its website, or otherwise; and
- (b) The Supplier may refer to the Customer, orally or in writing, as a customer of the Services for promotional and marketing purposes.

7.3 The Customer acknowledges that it may from time to time upload Public Information to the Software, to be displayed in the public domain as part of the Services. In those circumstances, the Customer shall ensure that:

- (a) it has the necessary rights to:
 - (i) upload such Public Information to the Software, and to the public domain;
 - (ii) allow the Supplier to publish such Public Information in the public domain to deliver the services; and
- (b) it is not breaching any obligations of confidence over such Public Information.

8. Charges and payment

- 8.1 The Customer shall pay the Subscription Fees to the Supplier for the User Subscriptions in accordance with this condition, and in accordance with the payment terms set out in the Order.
- 8.2 If the Supplier does not receive any amount due by the Customer, 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.
- 8.3 All amounts and fees stated or referred to in the Contract:
- (a) shall be payable in pounds sterling;
 - (b) are, subject to clause 12.4(b), non-cancellable and non-refundable; and
 - (c) are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

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. Except as expressly stated herein, the Contract does 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.
- 9.2 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 the Contract.

10. Confidentiality

- 10.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Contract. 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.
- 10.2 Subject to clause 10.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Contract.
- 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 the Contract.
- 10.4 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 10.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 10.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.
- 10.6 The Customer shall not make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the Supplier, 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.
- 10.7 The above provisions of this clause 10 shall survive termination of the Contract, however arising.

11. Indemnity

- 11.1 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:
 - (a) any breach by the Customer of the terms of the Contract; or
 - (b) the Customer's use of the Services.

12. Limitation of liability

12.1 This condition 12 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer, and its Authorised Users:

- (a) arising under or in connection with the Contract;
- (b) in respect of any use made by the Customer or its Authorised Users of the Services or any part of them; and
- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

12.2 Except as expressly and specifically provided in the Contract:

- (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 the Contract; and
- (c) the Services are provided to the Customer on an "as is" basis.

12.3 Nothing in the Contract excludes the liability of the Supplier:

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

12.4 Subject to clause 12.1 and clause 12.3:

- (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 the Contract; 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 the Contract shall be limited to the total Subscription Fees paid or payable by the Customer during the 12 months immediately preceding the date on which the claim arose.

13. Term and termination

- 13.1 The Contract shall, unless otherwise terminated as provided herein, commence on the Registration Date and continue in force for the Initial Subscription Term and thereafter, the Contract shall automatically be renewed for successive Renewal Periods (as set out in the Order), unless:
- (a) either party notifies the other of termination, in writing, at least 1 month before the end of the Initial Subscription Term or any Renewal Period, in which case the Contract shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period (as the case may be); or
 - (b) otherwise terminated in accordance with the provisions of the Contract;
and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.
- 13.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
 - (b) the other party commits a material breach of any other term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 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; or
 - (d) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 13.3 On termination of the Contract for any reason:
- (a) all licences granted under the Contract 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; and
 - (c) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

14. Force majeure

The Supplier shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract, or from carrying on its business, 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, epidemic or pandemic, or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

15. Variation

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

16. Waiver

No failure or delay by a party to exercise any right or remedy provided under the Contract 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. Rights and remedies

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

18. Severance

- 18.1 If any provision or part-provision of the Contract 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 the Contract.
- 18.2 If any provision or part-provision of the Contract is deemed deleted under clause 18.1 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.

19. Entire agreement

- 19.1 The Contract, the schedules and the documents annexed as appendices to the Contract or otherwise referred to herein constitute 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.

- 19.2 Each party acknowledges that in entering into the 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 the Contract.
- 19.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 19.4 Nothing in this condition shall limit or exclude any liability for fraud.

20. Assignment

- 20.1 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 the Contract. Where the Supplier allows the Customer the right to sub-licence use of the Software to a third party, such right shall be subject to additional sub-licencing terms to be agreed between the parties in writing.
- 20.2 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 the Contract.

21. No partnership or agency

Nothing in the Contract 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).

22. Third party rights

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

23. Notices

- 23.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- (b) by email to the email addresses specified in the Order.

23.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address; or
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00am on the second Business Day after posting.
- (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause business hours means 9.00am to 5.30pm on a Business Day.

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

24. Governing law

The 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.

25. 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 the Contract or its subject matter or formation (including non-contractual disputes or claims).