

LOOPIN TERMS AND CONDITIONS

These terms and conditions (the “Terms”) set out the basis on which Loopin SAAS Limited (trading as “Loopin”) (“**Supplier**”) will make available to you (“**Client**”), the Loopin software, and associated services.

The agreement between Supplier and Client (the “**Agreement**”) comprises these Terms, and the Special Terms agreed between Supplier and Client.

1. Interpretation

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

1. **Authorised Users:** those employees, agents and independent contractors of the Client (and its affiliated companies) who are authorised by the Client to use the Services and the Documentation.

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

3. **Confidential Information:** information that is either marked as confidential or which a reasonable person would consider to be of a proprietary or confidential nature, whether or not such information is marked as confidential, including without limitation information .

4. **Client:** the organisation agreeing to these terms and conditions

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

6. **Data Protection Laws:** all applicable data protection and privacy legislation in force from time to time including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (DPA 2018); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and such legislation that may be in force in the jurisdiction of each party.

7. **Derived Data:** data created by Supplier derived and/or generated from or based on Clients Data and, more generally, use of the Software and/or the Services whether alone or combined with other data obtained by Supplier from the Software and/or the Services;

8. **Documentation:** the document made available to the Clients by the Supplier online via www.letsloopin.com or such other web address notified by the Supplier to the Clients from time to time which sets out a description of the Services and the user instructions for the Services.

9. **Effective Date:** the date the Clients first accesses the Software and/or the Services
10. **Heightened Cybersecurity Requirements:** any laws, regulations, codes, guidance (whether mandatory or not), international and national standards, industry schemes and sanctions, which are applicable to either the Client 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.
11. **Initial Subscription Term:** either 12 months, or, if different such other term as agreed between Supplier and Client.
12. **Normal Business Hours:** 9.00 am to 5.00 pm local UK time, each Business Day.
13. **Party:** Supplier and Client
14. **Renewal Period:** the period described in clause 15.1.
15. **Services:** the subscription services provided by the Supplier to the Clients under these terms and conditions via www.letsloopin.com or any other website notified to the Client by the Supplier from time to time, as more particularly described in the Documentation from time to time.
16. **Services Terms:** the terms and conditions applicable to the Services, together with the privacy policy, acceptable use policy and such other applicable terms from time to time.
17. **Software:** the online software applications provided by the Supplier as part of the Services.
18. **Special Terms:** the terms agreed between Supplier and Client that qualify, modify and/or supplement these Terms.
19. **Subscription Fees:** the subscription fees payable by the Client to the Supplier for the User Subscriptions
20. **Subscription Term:** has the meaning given in clause 15.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).
21. **Support Services Policy:** the Supplier's policy (if any) for providing support in relation to the Services as made available at www.letsloopin.com or such other website address as may be notified to the Client from time to time.
22. **User Subscriptions:** the user subscriptions purchased by the Client from time to time pursuant to clause 10.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with these terms and conditions.
23. **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.

24. **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.
- 1.2. Clause, schedule and paragraph headings shall not affect the interpretation of these terms and conditions.
- 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. 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 these terms and conditions.
- 1.8. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of these terms and conditions under that statute or statutory provision.
- 1.9. A reference to writing or written includes e-mail but not faxes.
- 1.10. References to clauses and schedules are to the clauses and schedules of these terms and conditions; references to paragraphs are to paragraphs of the relevant schedule to these terms and conditions.

2. Order of Precedence

- 2.1. In the event of conflict between the Special Terms and these Terms, the Special Terms shall take precedence.

3. User subscriptions

- 3.1. Subject to the Client purchasing the User Subscriptions 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 terms and conditions, the Supplier hereby grants to the Client a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Clients internal business operations.

- 3.2. In relation to the Authorised Users, the Client undertakes that:

- (a) the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;
- (b) 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 and/or Documentation;
- (c) each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed no less frequently than once every 6 months and that each Authorised User shall keep his password confidential;
- (d) each Authorised User shall agree to the Services Terms prior to accessing the Services;
- (e) it shall permit the Supplier or the Supplier's designated auditor to audit the Services in order to establish the name and password of each Authorised User and the Clients data processing facilities to audit compliance with these terms and conditions. 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 Clients normal conduct of business;
- (f) if any of the audits referred to in clause 3.2(e) 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 Client shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and

- (g) if any of the audits referred to in clause 3.2(e) reveal that the Client has underpaid Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Client shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the prices agreed between the Supplier and the Client within 10 Business Days of the date of the relevant audit.

3.3. The Client agrees to use reasonable endeavours (which will include commercially available tools) to reduce the risk of it or any Authorised User accessing, storing, distributing or transmitting any Viruses during the course of its use of the Services.

3.4. The Client agrees that it shall not and shall use reasonable endeavours to procure that each Authorised User shall not access, store, distribute or transmit 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 Client, to disable the Clients or any Authorised User's access to the Software and the Services or any part thereof on breach of this provision.

3.5. The Client agrees that it shall not and shall procure that each Authorised User 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 terms and 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 and/or Documentation (as applicable) 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 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 23.1, 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 3; or
- (f) introduce or permit the introduction of, any Virus or Vulnerability into the Supplier's network and information systems.

3.6. The Client 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.

3.7. Client shall be free to nominate employees, agents and subcontractors of any subsidiary or holding company of the Client as Authorised Users, provided that Client shall be responsible for procuring that such Authorised Users comply with these Terms.

4. Additional user subscriptions

4.1. Subject to clause 4.2 and clause 4.3, the Client may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number agreed between the Client and the Supplier, or otherwise subscribed for by Client, and the Supplier shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of these terms and conditions.

4.2. If the Client wishes to purchase additional User Subscriptions, the Client shall notify the Supplier in writing. The Supplier shall evaluate such request for additional User Subscriptions and respond to the Client with approval or rejection of the request (such approval not to be unreasonably withheld). Where the Supplier approves the request, the Supplier shall activate the additional User Subscriptions within 2 working days of its approval of the Clients request.

4.3. If the Supplier approves the Clients request to purchase additional User Subscriptions, the Client shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the relevant fees for such additional User Subscriptions as agreed between the Client and the Supplier, and, if such additional User Subscriptions are purchased by the Client 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 and make available the Documentation to the Client on and subject to the terms of these terms and conditions.
- 5.2. The Supplier will, as part of the Services and at no additional cost to the Client, provide the Client with the Supplier's standard Client 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 the Support Services Policy in its sole and absolute discretion from time to time.
- 5.3. Access to the Services, the Documentation and the Software by the Client and by each Authorised User is conditional upon the Client and the Authorised Users agreeing to the following additional documents:
 - (a) The privacy policy, which can be found at www.letsloopin.com;
 - (b) The acceptable use policy (if any), which can be found at www.letsloopin.com
- 5.4. The parties acknowledge and agree that, due to the nature of the Services, and the fact that the Services will naturally evolve over time according to use and demand, Supplier may change the functionality, and look and feel of the Services from time to time, as well as adding more functionality and removing some functions. Such changes shall not be a breach of these Terms, save that Supplier commits to maintaining the core functionality of the Services as a minimum.

6. Data protection

- 6.1. In this clause 6, the following definitions have the following meanings:
 - (a) **Applicable Laws:** means:
 - (i) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom.
 - (ii) To the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject.
 - (b) **Applicable Data Protection Laws:** means:
 - (i) 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.

- (ii) 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.
 - (c) **Authorised User:** those employees, agents and independent contractors of the Client who are authorised by the Client to use the services.
 - (d) **Authorised User Personal Data:** any personal data which the Supplier processes in connection with these Special Terms, in the capacity of a processor on behalf of the Authorised User.
 - (e) **EU GDPR:** the General Data Protection Regulation ((EU) 2016/679).
 - (f) **Purpose:** the purposes for which the Authorised User Personal Data is processed, as set out in below.
 - (g) **UK GDPR:** has the meaning given to it in the Data Protection Act 2018.
- 6.2. For the purposes of this clause 6, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the UK GDPR.
- 6.3. Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.
- 6.4. The parties have determined that, for the purposes of Applicable Data Protection Laws, the Supplier shall process the following personal data as a processor on behalf of the Client – Authorised User's name, email address, profile picture, unique identifying reference number, location data, time zone, mood and emotion data.
- 6.5. Should the determination change, then the parties shall each work together in good faith to make any changes which are necessary to this section.
- 6.6. If applicable, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of Authorised User Personal Data to the Supplier and/or the lawful collection of the same by the Supplier for the duration and purposes as described in this clause.
- 6.7. By entering into the Agreement, the Client consents to all actions taken by the Supplier in connection with the processing of Authorised User Personal Data, provided these are in compliance with the then-current version of the Supplier's privacy policy available at <https://letsloopin.com/docs/privacy>. In the event of any inconsistency or conflict between the terms of the Privacy Policy and this Agreement, the Privacy Policy will take precedence.

- 6.8. In relation to the Authorised User Personal Data, The Supplier shall process the personal data for the following reasons:
- (a) The scope: To provide the services;
 - (b) Nature and purpose of processing by The Supplier: to analyse employee moods and emotions, create reports, comparisons and analytics;
 - (c) The duration of the processing: Whilst the services are being provided;
 - (d) The types of personal data: authorised user's name, email address, profile picture, unique identifying reference number, location data, time zone, mood and emotion data; and
 - (e) Categories of data subject: the Authorised User.
- 6.9. Without prejudice to the Clients obligations to comply with the Data Protection Legislation, The Supplier shall, in relation to Authorised User Personal Data:
- (a) process that Authorised User Personal Data only on the documented instructions of the Client, which shall be to process the Authorised User Personal Data for the purposes set out this section, unless The Supplier is required by Applicable Laws to otherwise process that Authorised User Personal Data. Where The Supplier is relying on Applicable Laws as the basis for processing Authorised User Processor Data, The Supplier shall notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Provider from so notifying the Client on important grounds of public interest. The Supplier shall inform the Client if, in the opinion of The Supplier, the instructions of the Client infringe Applicable Data Protection Legislation;
 - (b) implement the technical and organisational measures to protect against unauthorised or unlawful processing of Authorised User Personal Data and against accidental loss or destruction of, or damage to, Authorised User Personal Data, which the Client has reviewed and confirms are 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;
 - (c) ensure that any personnel engaged and authorised by The Supplier to process Authorised User Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
 - (d) assist the Client insofar as this is possible (taking into account the nature of the processing and the information available to The Supplier), and at the Clients cost and written request, in responding to any request from a data subject and in ensuring the Clients compliance with its obligations under Applicable Data

Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

- (e) notify the Client without undue delay on becoming aware of a personal data breach involving the Authorised User Personal Data;
- (f) at the written direction of the Client, delete or return Authorised User Personal Data and copies thereof to the Client on termination of these Special Terms unless The Supplier is required by Applicable Law to continue to process that Authorised User Personal Data. For the purposes of this section (f) Authorised User Personal Data shall be considered deleted where it is put beyond further use by the Supplier; and
- (g) maintain records to demonstrate its compliance with this section.

6.10. The Client hereby provides its prior, general authorisation for the Supplier to:

- (a) appoint processors to process the Authorised User Personal Data, provided that the Supplier:
 - a. shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this section;
 - b. shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and
 - c. shall inform the Client of any intended changes concerning the addition or replacement of the processors, thereby giving the Client the opportunity to object to such changes provided that if the Client objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Client shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.
- (b) transfer Authorised User Personal Data outside of the UK as required for the Purpose, provided that the Supplier shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Client shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).

6.11. 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 Special Terms). Client will provide Supplier with such information as Supplier will reasonably require to provide the services, including limited personal

data relating to the names, and email addresses of Authorised Users, to enable Supplier to set up user accounts for such Authorised Users.

- 6.12. Client warrants that it has all rights, authorities and consents to provide to Supplier any data, including any personal data for the purposes of enabling the Supplier to provide the Services.

7. Third party providers

The Client 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 Client, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Client and the relevant third party, and not the Supplier. The Supplier recommends that the Client 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 Documentation and with reasonable skill and care. The parties acknowledge and agree that due to the nature of the Services, they will evolve over time, with some aspects of functionality being amended or added, whilst others are removed. This is a natural aspect of such services, and the modification of the Services by the Supplier in line with the development of the business of the Supplier and the needs and desires of its clients will not constitute a breach of the Agreement. Furthermore, the Client acknowledges and agrees that there may be occasions when the Supplier may need to suspend access to the Services in order to remedy any defects or to make changes, improvements and modifications to the Services. Where reasonably practicable, Supplier will endeavour to provide Client with notice prior to any such suspension, to the extent such suspension is scheduled.
- 8.2. Without affecting its other obligations under these terms and conditions, the Supplier shall comply with all applicable laws and regulations with respect to its activities under these terms and conditions.
- 8.3. 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 all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Clients sole and exclusive remedy for any breach of the undertaking set out in clause 8.1.

8.4. The Supplier:

- (a) Excludes all liability arising out of an expectation and, specifically does not warrant that:
 - (i) the Clients use of the Services will be uninterrupted or error-free; or
 - (ii) that the Services, Documentation and/or the information obtained by the Client through the Services will meet the Clients requirements; or
 - (iii) the Software or the Services will be free from Vulnerabilities or Viruses, although the Supplier agrees to use reasonable endeavours (which will include commercially available tools) to reduce the risk of such things; or
 - (iv) the Software, Documentation or 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 Client acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8.5. These terms and 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 terms and conditions.

8.6. 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 and conditions.

8.7. The Supplier shall use reasonable endeavours to protect the operational data of Client by regularly backing up and archiving data using good commercial practices. In the event of any loss or damage to Client Data, the Clients sole and exclusive remedy against the Supplier shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Client Data from the latest back-up of such Client Data maintained by the Supplier. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Client Data caused by any third party (except

those third parties sub-contracted by the Supplier to perform services related to Client Data maintenance and back-up for which it shall remain fully liable).

9. Clients obligations

9.1. The Client shall :

(a) provide the Supplier with:

- (i) all necessary co-operation in relation to these terms and conditions; and
- (ii) all necessary access to such information as may be reasonably required by the Supplier;

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

- (b) without affecting its other obligations under these terms and conditions, comply with all applicable laws and regulations with respect to its activities under these terms and conditions;
- (c) carry out all other Client responsibilities set out in these terms and conditions in a timely and efficient manner. In the event of any delays in the Clients 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 and conditions of these terms and conditions and shall be responsible for any Authorised User's breach of these terms and conditions;
- (e) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and
- (f) be, to the extent permitted by law and except as otherwise expressly provided in these terms and 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 Clients network connections or telecommunications links or caused by the internet.

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

10. Charges and payment

- 10.1. The Client shall pay the Subscription Fees to the Supplier for the User Subscriptions in accordance with this clause 10 and as agreed between the Client and the Supplier from time to time.
- 10.2. The Client shall on the Effective Date provide to the Supplier valid, up-to-date and complete credit card details or approved purchase order information acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and, if the Client provides:
- (a) its credit card details to the Supplier, the Client hereby authorises the Supplier to bill such credit card:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to clause 15.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period;
 - (b) its approved purchase order information to the Supplier, the Supplier shall invoice the Client:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to clause 15.1, at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period,
- and the Client shall pay each invoice within 30 days after the date of such invoice.
- 10.3. If the Supplier has not received payment within 30 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 Client, disable the Client'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 3% over the then current base lending rate of the Supplier's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 10.4. The Supplier will not exercise any rights to suspend Services, accelerate payments, impose late charges or change payment terms with respect to any overdue amount that

is disputed by the in good faith, provided that the Client uses reasonable endeavours to reach an agreement in good faith to resolve such dispute.

- 10.5. All amounts and fees stated or referred to in these terms and 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 the Supplier's invoice(s) at the appropriate rate.
- 10.6. The Supplier shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to clause 4.3, the support fees payable pursuant to clause 5.2 at the start of each Renewal Period upon 90 days' prior notice to the Client and the Special Terms shall be deemed to have been amended accordingly.

11. Proprietary rights

- 11.1. The Client acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, these terms and conditions does not grant the Client 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 or the Documentation.
- 11.2. 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, the terms of these terms and conditions.
- 11.3. Supplier shall retain all ownership of all intellectual property rights in the Derived Data and shall be free to use it as it wishes, including without limitation, the right to sell, transfer, licence, publish, further analyse it, whether alone or with other data sets, provided that in all cases, such use:
- (a) does not in any way permit Client to be identified as being the source of any Derived Data; and
 - (b) does not permit any person to be identified from the Derived Data.
- 11.4. Where either (a) Client creates its own sets of data derived from the Data, or (b) Supplier creates a set of Derived Data from the Data for Client, which may include the provision of a dashboard or other results or data indicator, Supplier grants to Client a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use such Derived Data for its internal business purposes.

- 11.5. The Client acknowledges and agrees that any feedback that the Client or any Authorised User provides, and any resulting invention, modification, improvement in the Services ("Improvement"), shall be exclusively the property of the Supplier. The Client hereby assigns all existing and future rights in any Improvement to the Supplier, free from all encumbrances and with full title guarantee. The Client agrees to do all other things necessary, at no additional cost to the Supplier, to confirm the assignment to the Supplier of all Intellectual Property Rights in any Improvement.
- 11.6. The Supplier has the right to reference the Client in marketing collateral and to use and reference any logos and other trade marks of the Client for marketing and fundraising purposes.

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 terms and 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's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these terms and conditions.
- 12.3. 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 and 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. The Client acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.
- 12.6. The Supplier acknowledges that the Client Data is the Confidential Information of the Client.
- 12.7. No party shall make, or permit any person to make, any public announcement concerning these terms and conditions without the prior written consent of the other parties (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.
- 12.8. The above provisions of this clause 12 shall survive termination of these terms and conditions, however arising.

13. Indemnity

- 13.1. The Client shall defend, indemnify and hold harmless the Supplier against all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with claims by any third parties relating to the Clients and/or the Authorised Users' use of the Services and/or Documentation other than in accordance with these terms and conditions, provided that:
 - (a) the Client is given prompt notice of any such claim;
 - (b) the Supplier provides reasonable co-operation to the Client in the defence and settlement of such claim, at the Clients expense; and
 - (c) the Client is given sole authority to defend or settle the claim.
- 13.2. The Supplier shall defend the Client, its officers, directors and employees against any claim that the Clients use of the Services or Documentation in accordance with these terms and conditions infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Client for any amounts awarded against the Client in judgment or settlement of such claims, provided that:
 - (a) the Supplier is given prompt notice of any such claim;
 - (b) the Client 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 Client 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 these terms and conditions on 2 Business Days' notice to the Client without any additional liability or obligation to pay liquidated damages or other additional costs to the Client.

- 13.4. In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Client to the extent that the alleged infringement is based on:
- (a) a modification of the Services or Documentation other than by or on behalf of the Supplier; or
 - (b) the Clients use of the Services or Documentation in a manner contrary to the instructions given to the Client by the Supplier; or
 - (c) the Clients use of the Services or Documentation 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 Clients and each Authorised User'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

WARNING: you are strongly advised to read the limitations on liability in this clause.

- 14.1. Except as expressly and specifically provided in these terms and conditions:
- (a) the Client assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Client, 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 Client in connection with the Services, or any actions taken by the Supplier at the Clients 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 terms and conditions; and
 - (c) the Services and the Documentation are provided to the Client and each Authorised User on an "as is" basis.
- 14.2. Nothing in these terms and conditions excludes the liability of either party:
- (a) for death or personal injury caused by negligence; or
 - (b) for fraud or fraudulent misrepresentation.
- 14.3. Subject to clause 14.1 and clause 14.2:

- (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, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these terms and conditions; and
- (b) each party's total aggregate liability in contract (including in respect of the indemnities 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 these terms and conditions shall be limited to the total Subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the first claim arose, save that in the event of an indemnity claim under clauses 13.1 or 13.2, and for breaches of clauses 3.5 or 6 the maximum aggregate liability of the relevant party shall be limited to £500,000.

14.4. Save to the extent prohibited by law, Supplier's duties hereunder are to the Client and not to each Authorised User, and it shall be for the Client to raise any dispute with the Supplier in relation to any breach hereunder. Client therefore agrees to procure that each Authorised User shall raise any concerns and/or any potential breach of these Terms and Conditions by Supplier with Client and not with Supplier directly.

15. Term and termination

15.1. These terms and conditions 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, these terms and conditions 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 60 days before the end of the Initial Subscription Term or any Renewal Period, in which case these terms and conditions 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 terms and 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 these terms and conditions 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 and 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;
- (b) the other party commits a material breach of any other term of these terms and conditions 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;
- (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) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- (f) 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;
- (g) 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 (being a company, partnership or limited liability partnership);
- (h) the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- (i) 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;
- (j) 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;
- (k) 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(j) (inclusive);

- (l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (m) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of these terms and conditions is in jeopardy.

15.3. On termination of these terms and conditions for any reason:

- (a) all licences granted under these terms and conditions shall immediately terminate and the Client shall immediately cease all use of the Services and/or the Documentation;
- (b) 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;
- (c) the Supplier may destroy or otherwise dispose of any of the Client Data in its possession unless the Supplier receives, no later than ten days after the effective date of the termination of these terms and conditions, a written request for the delivery to the Client of the then most recent back-up of the Client Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Client within 30 days of its receipt of such a written request, provided that the Client 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 Client shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Client 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 the agreement which existed at or before the date of termination shall not be affected or prejudiced.

16. Force majeure

The Supplier shall have no liability to the Client under these terms and conditions if it is prevented from or delayed in performing its obligations under these terms and conditions, 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 or default of suppliers or sub-contractors, provided that the Client is notified of such an event and its expected duration.

17. Conflict

If there is an inconsistency between any of the provisions in the main body of these terms and conditions and the Schedules, the provisions in the main body of these terms and conditions shall prevail.

18. Variation

No variation of these terms and 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 terms and 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 terms and conditions, the rights and remedies provided under these terms and 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 terms and 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 terms and conditions.

21.2. If any provision or part-provision of these terms and conditions is 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. The Agreement 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. Without limitation to the foregoing, the parties specifically exclude any other terms that the Client seeks to impose or incorporate (for example by purchase order, or on email exchange), or which are implied by trade, custom, practice or course of dealing.
- 22.3. Each party acknowledges that in entering into these terms and conditions 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 terms and conditions.
- 22.4. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in these terms and conditions.

23. Assignment

- 23.1. Neither party shall, without the prior written consent of the other party (not to be unreasonably conditioned, delayed or withheld), assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these terms and conditions.

24. No partnership or agency

Nothing in these terms and 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

These terms and conditions does not confer any rights on any person or party (other than the parties to these terms and conditions 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 terms and 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 these terms and 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 notified from time to time.
- 26.2. 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 email shall be deemed to have been received two business hours after transmission.

27. Governing law

These terms and conditions 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 these terms and conditions or its subject matter or formation (including non-contractual disputes or claims).

29. Counterparts

29.1. The Agreement can be executed in counterparts all of which taken together shall constitute one and the same agreement and each party can enter into this Agreement by executing a counterpart.

29.2. This Agreement shall not come into effect until each party has executed a counterpart. The transmission by email by one party to the other of a PDF version of a counterpart (but not the signature page only) duly executed by the sending party shall constitute sufficient evidence of execution by that party of a counterpart