The Customer as defined in the Subscription Form (the "*Customer*").
Payara Services Limited incorporated and registered in England and Wales with company number 09998946 whose registered office is at Malvern Hills Science Park, Geraldine Road, Malvern, United Kingdom, WR14 3SZ.

NOW IT IS AGREED as follows:

1. Definitions and Interpretation

1.1. In these Terms, unless the context otherwise requires, the following terms shall have the following meanings.

1.1.1. "*Acceptable Use Policy*": the acceptable use policy set out Schedule B or such other website address as may be notified to the Customer from time to time.

1.1.2. *"Agreement":* a contractual arrangement entered into by the Customer and Service Provider on the basis of these Terms, incorporating the Subscription Form and any other documents referenced in these Terms or the Subscription Form.

1.1.3. *"Application"*: any application developed by the Customer using the Services, including both source code and object code, but excluding any Customer Content.

1.1.4. *"Control":* the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company.

1.1.5. *"Customer Account"*: the Customer's account with the Service Provider in respect of the Services.

1.1.6. "*Customer Content*": all text, information, data, software, executable code, images, audio or video material, in whatever medium or form, inputted by the Customer for the purpose of using, developing or maintaining any Application or using the Services or facilitating the Customer's use of the Services, but excluding all authentication information provided in relation to the Customer Account.

1.1.7. *"Documentation":* the documents, including the documents describing the functionality and technical specification of each Services, made available to the Customer by the Service Provider online via a web address notified by the Service Provider to the Customer from time to time which sets out a description of the Services and the user instructions for the Services.

1.1.8. *"Effective Date":* the date of the Subscription Form.

1.1.9. "*End-User*": any person the Customer permits access to use any Application.

1.1.10. *"Group Company":* the Service Provider's ultimate holding company and any subsidiary of such holding company.

1.1.11. *"Initial Term":* the initial term of the Agreement as set out in the Subscription Form.

1.1.12. *"Intellectual Property Rights":* all vested contingent and future intellectual property rights including but not limited to copyright, trade marks, service marks, design rights, patents, know-how, trade secrets, inventions, get-up, goodwill, database rights (whether registered or unregistered) and any applications or registrations for the protection of these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created.

1.1.13. "*Platform*": the Service Provider's infrastructure and cloud computing platform and runtime environment, as described in the Documentation.

1.1.14. "*Security Event*": any unauthorised third party access to the Services or the Platform; or any use of the Service by the Customer or any End-User that is in breach of the Acceptable Use Policy and has the potential to materially impact the Platform, the Services or use of the Services by any other customer of the Service Provider or any of that customer's users; or any vulnerability or virus introduced into the Platform or the Services by (or facilitated through) the Customer or any End-User.

1.1.15. *"Services":* the subscription services provided by the Service Provider to the Customer under this Agreement via [WEB ADDRESS] or any other website notified to the Customer by the Service Provider from time to time, as more particularly described in the Documentation, including: the provision of the Platform and the Software; the hosting of any Applications on the Platform; and such other services as the Service Provider may decide, at its discretion, to integrate into the Platform from time to time.

1.1.16. *"Software":* the online software applications and tools provided by the Service Provider from time to time as part of the Services, including any updates the Service Provider may make to such applications and tools from time to time.

1.1.17. *"Subscription Form":* the online order form detailing the Services to be provided by the Service Provider, the Subscription Fees and any other amounts due and payable by the Customer, the Initial Term, Renewal Period and any other commercial terms agreed by the parties relating to the Services.

1.1.18. *"Subscription Term":* the term consisting of the Initial Term together with any subsequent Renewal Periods, in accordance with clause 13.1.

1.1.19. *"Terms"* These Services Terms and Conditions.

1.2. In the Agreement unless the context otherwise requires:

1.2.1. words importing any gender include every gender;

1.2.2. words importing the singular number include the plural number and vice versa;

1.2.3. words importing persons include firms, companies and corporations and vice versa;

1.2.4. references to numbered clauses and schedules are references to the relevant clause in or schedule to the Agreement;

1.2.5. reference in any schedule to the Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;

1.2.6. the headings to the clauses or schedules of the Agreement shall not affect the interpretation; and

1.2.7. any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment.

1.3. The provisions of any Schedules to the Agreement shall form part of the Agreement as if set out here.

2. Free Trial

2.1. If the Service Provider offers and the Customer accepts a free trial of the Services, the Service Provider will make the applicable Services available to the Customer on a trial basis free of charge until the earlier of the end of the free trial period or the Customer executing a Subscription Form for a paid version of the applicable Services. The Service Provider may notify the Customer of additional terms and conditions applicable to a free trial and the Customer accepts such terms and conditions shall be legally binding.

2.2. The Customer agrees and acknowledges that all Customer Content may be deleted at the end of a free trial unless the Customer purchases a paid version of the applicable Services. The Customer is solely responsible for exporting any Customer Content before the end of a free trial or such Customer Content may be permanently lost.

2.3. The Customer agrees and acknowledges during a free trial any Services are provided "as-is" and without any warranty and the Service Provider may at its sole discretion terminate a free trial at any time.

3. Services

3.1. The Service Provider shall, during the Subscription Term:

3.1.1. provide the Services and access to the Platform and make available the Documentation to the Customer on and subject to the terms of this Agreement;

3.1.2. permit the Customer to use the Services and the Documentation to develop, upload and run Applications on the Platform; and

3.1.3. enable End-Users to connect via the internet to any Application that the Customer has deployed on the Platform and to use in accordance with this Agreement such of the Services as have been integrated into that Application.

3.2. The Customer and its End Users shall comply with the Acceptable Use Policy in relation to all Applications and Customer Content. If the Customer becomes aware that any Application or Customer Content or an End-User's use of an Application or Customer Content breaches the Acceptable Use Policy, the Customer shall:

3.2.1. immediately suspend the relevant Application;

3.2.2. remove the relevant Customer Content; and

3.2.3. if relevant, suspend the relevant End-User account and that End-User's access to the relevant Application and Customer Content.

3.3. If the Customer is in breach of clause 3.2, the Service Provider may (but shall not be obliged to) without liability or prejudice to its other rights and without prior notice to the Customer or the relevant End-User:

3.3.1. remove the relevant Customer Content;

3.3.2. disable the Customer's or the relevant End-User's access to the relevant Application or any material that breaches the Acceptable Use Policy; and/or

3.3.3. disable the Customer Account and the relevant End-User Account.

3.4. Whenever the Service Provider reasonably suspects that there has been a breach of the Acceptable Use Policy, the Customer shall permit the Service Provider to audit all Applications and Customer Content to ensure compliance with the Acceptable Use Policy by the Customer and the End-Users. For clarity, the parties acknowledge that the Service Provider is not obliged to carry out any such audit.

3.5. Notwithstanding any other provision in this Agreement, if there is a Security Event, the Service Provider may, without liability or prejudice to its other rights and without prior notice to the Customer or any End-User, remove the relevant Customer Content and disable the Customer Account, any End-User Account and the relevant Application until the relevant Security Event has been resolved. The Service Provider shall give the Customer written notice as soon as is reasonably practicable of the nature of the relevant Security Event.

3.6. The Customer shall not, except to the extent expressly permitted or as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

3.6.1. 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

3.6.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;

3.6.3. 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;

3.6.4. 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, provided that the provision of Services to End-Users is permitted to the extent necessary to enable them to use the relevant Application;

3.6.5. 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

3.6.6. introduce, or permit the introduction of, any virus or vulnerability into the Platform or the Services.

3.7. The Customer shall:

3.7.1. 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 Service Provider; and

3.7.2. comply with any further obligations set out in the Documentation that govern use of the Services or development of Applications.

3.8. The rights provided under this clause 3 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

3.9. Any Open-Source Software provided by the Service Provider may be used according to the terms and conditions of the specific licence under which the relevant Open-Source Software is distributed, but is provided "as is. Such terms and conditions shall govern such use to the extent that they expressly supersede this Agreement.

3.10. The Customer shall procure at its cost, install and maintain all required enabling software and third-party software required to access and use the Services. The Customer acknowledges that a failure to do so may impact its use of the Services.

3.11. Unless otherwise specified in a Subscription Form, the Services may be provided from any jurisdiction and from more than one jurisdiction at any one time.

4. Updates, upgrades, maintenance and support

4.1. The Service Provider may, from time to time, make changes to the Services to:

4.1.1. improve, update or upgrade existing functionality or services;

4.1.2. introduce new functionality or services;

4.1.3. reflect changes to technology or market practice; or

4.1.4. ensure that the Services remain compliant with all applicable laws, legal obligations or regulations.
Any such changes shall not result in a material degradation in the Services for the duration of the Initial Term.

4.2. The Service Provider does not provide maintenance and support services for the Services under this Agreement. The Customer may purchase maintenance and support services for the Services under a separate agreement.

5. Availability of the Services

5.1. The Services are designed to be available 24 hours a day, seven days a week, subject to any emergency or scheduled maintenance. The Service Provider shall use reasonable endeavours to give the Customer advance notice of any emergency maintenance. If the Services do not conform with the foregoing undertaking, Service Provider will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly. Such correction constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 5.1. Notwithstanding the foregoing, the Service Provider does not warrant that:

5.1.1. the Customer's use of the Services will be uninterrupted or error-free;

5.1.2. the Services, Documentation and/or the information obtained by the Customer or any End-User through the Services will meet the Customer's or any End-User's requirements; or

5.1.3. the Platform or the Services will be free from viruses or vulnerabilities.

5.2. The parties acknowledge and agree that:

5.2.1. the Service Provider is not responsible or liable for the deletion of or failure to store any of the Applications, the Customer Content, and other communications maintained or transmitted through use of the Services; and

5.2.2. the Customer is solely responsible for securing and backing up all Applications and Customer Content.

5.3. The Service Provider shall not be 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. The Services may be supported by and made available using third-party services and infrastructure, including but not limited to Microsoft Azure. The Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such third-party communications facilities.

5.4. The Customer acknowledges that the Service Provider may at its discretion limit the availability of the Services or ancillary services, including the Customer's (a) memory (RAM) usage, (b) CPU usage, (c) ephemeral storage and/or permanent storage space, (d) use of network bandwidth, and (e) log/analytics storage space.

6. Suspension

6.1. The Service Provider may, without prejudice to any other rights or remedies available to it, suspend the Customer's access to, or use of, the Services in whole or in part immediately on notice to the Customer if:

6.1.1. the Customer has failed to pay any amounts due to the Service Provider in accordance with clause 7;

6.1.2. the Customer is otherwise in breach of its obligations under the Agreement or any Subscription Form;

6.1.3. the Customer or any End User is in breach of the Service Provider's Acceptable Use Policy;

6.1.4. there is an attack on the Services used by Customer or if Customer Content is accessed or manipulated by a third party without the Customer's consent;

6.1.5. the Service Provider is required by applicable law to suspend the Customer's access to, or use of, the Services; or

6.1.6. the Service Provider reasonably believes that the suspension of the Services is necessary to protect its infrastructure, network or the use of the Services by other customers because of a threat to the security, integrity or use of the Services.

6.2. The Service Provider shall use reasonable endeavours to re-establish or permit access to the Services as soon as possible following the Service Provider's determination that the cause of the suspension has been resolved.

6.3. The Service Provider shall have no liability whether under the Agreement or at law to the Customer for any exercise of its rights pursuant to this clause 6.

7. Charges

7.1. The Customer will pay to the Service Provider the fees and charges set out in a Subscription Form. The fees include a monthly fixed subscription fee payable in advance and overage fees payable in the event the Customer exceeds the usage limits set out in a Subscription Form. The overage fees are payable monthly in arrears unless the overage fees accrued in any month exceed 50% of the monthly fixed subscription fee, whereupon the overage fees are payable immediately. The Customer acknowledges that the Service Provider may invoice for the Services each time the Customer:

7.1.1. purchases additional services; or

7.1.2. otherwise alters its use of the Services such that additional amounts may be payable to the Service Provider.

7.2. The Customer acknowledges that the Customer's payment card or bank account details will be taken at or after the time of completing the Subscription Form.

7.3. The Customer authorises the Service Provider to charge the Customer's payment card or bank account for all fees incurred and/or payable in each month, as well as for all other fees due. The Customer further authorises the Service Provider to use a third party to process payments.

7.4. If the Customer fails to pay any amount due under the Agreement (including if the payment fails to be completed for a reason demonstrably attributable to the Customer, such as due to insufficient financial resources available on the Customer's payment card or in their bank account), the Service Provider may charge the Customer interest on the overdue amount, payable by the Customer immediately on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 8% a year above the base rate for the time being of the Bank of England. Such interest shall accrue on a daily basis and be compounded quarterly.

7.5. All amounts payable under the Agreement shall be exclusive of VAT or relevant local sales taxes (if any) which shall be paid at the rate and in the manner for the time being prescribed by law.

7.6. The Customer may not withhold payment of any sum by reason of any set-off of any claim or dispute with the Service Provider whether relating to the quality or performance of the Services or otherwise.

8. Intellectual property rights

8.1. To enable the Service Provider to provide the Services, the Customer grants to the Service Provider a non-exclusive right and licence to copy, exploit, process, store, transmit and use the Customer Content and software to the extent necessary to provide the Services.

8.2. Except as provided in clause 8.1, neither party is granted any right, title or licence to, or interest in the other party's Intellectual Property Rights, provided however that one party may refer to the Software by the other party's Intellectual Property Rights so long as such references are truthful and not misleading.

8.3. Each party acknowledges the other party's rights in such other party's Intellectual Property Rights and agrees that any and all use by it of such Intellectual Property Rights shall inure to the sole benefit of the other party.

8.4. Neither party shall take any action inconsistent with the other party's ownership of its Intellectual Property Rights and agrees not to challenge the other party's ownership or use of such Intellectual Property Rights and further agrees not to attempt to register any such Intellectual Property Rights, owned or used by the other party or any other names or marks confusingly similar thereto.

8.5. If at any time a party acquires any rights in, or any registration or application for any of the other party's Intellectual Property Rights by operation of law or otherwise it shall immediately upon request by the other party and at no expense to the other party assign such rights, registration or applications to the other party, along with any associated goodwill.

9. Limitation of liability

9.1. The Service Provider does not exclude liability for:

9.1.1. death, personal injury or damage to tangible property caused by the negligence of the Service Provider, its officers, employees, contractors or agents;

9.1.2. fraud or fraudulent misrepresentation; or

9.1.3. any other liability which cannot be excluded by law.

9.2. Except as expressly and specifically provided in the Agreement:

9.2.1. The Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Service Provider shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Service Provider by the Customer in connection with the Services, or any actions taken by the Service Provider at the Customer's direction.

9.2.2. All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the greatest extent permitted by applicable law, excluded from the Agreement.

9.2.3. The Services and the Documentation are provided to the Customer on an "as is" basis.

9.3. Subject to clause 9.1, in no event shall the Service Provider be liable for any damages resulting from loss of data or use, lost profits, loss of anticipated savings, nor for any damages that are an indirect or secondary consequence of any act or omission of the Service Provider whether such damages were reasonably foreseeable or actually foreseen.

9.4. Subject to clause 9.1, in no event shall the Service Provider be liable for any damages or loss arising from any delay by the Customer to provide its instructions to the Service Provider, including but not limited to any delay to provide any written obligation as required under the terms of the Agreement.

9.5. Subject to clause 9.1, the Service Provider's maximum liability to the Customer for any cause whatsoever (whether in the form of a refund, the additional cost of remedial services, or otherwise) shall be for direct costs and damages only, and shall be limited to a sum equivalent to the price paid to the Service Provider under the Agreement for the Services that are the subject of the Customer's claim over the preceding 12 months.

9.6. In no event shall the Service Provider be liable to the Customer for any losses whatsoever (whether lost future revenues, lost future profits, expenditure incurred to no benefit, or otherwise) suffered or incurred by the Customer solely or substantially because the Agreement has been terminated.

9.7. The Customer agrees that, in entering into the Agreement, either it did not rely on any representations (whether written or oral) of any kind or of any person other that those expressly set out in the Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in the Agreement) that it shall have no remedy in respect of such representations and (in either case) the Service Provider shall have no liability otherwise than in accordance with the express terms of the Agreement.

9.8. All liability that is not expressly assumed in the Agreement is hereby excluded. These limitations shall apply regardless of the form of action, whether under statute, in contract, tort, including negligence, or any other form of action. For the purposes of this clause 'the Service Provider' includes its employees, sub-contractors and Service Providers. The Customer acknowledges that the Service Provider's employees, sub-contractors and Service Providers shall have the benefit of the limits and exclusions of liability set out in this clause in terms of the Contracts (Rights of Third Parties) Act 1999.

9.9. Both parties acknowledge and agree that the limitations and exclusions of liability set out in this clause are proportionate and reasonable and have been agreed taking into account the commercial value of the Agreement to each party and the commercial standing of each party.

9.10. No claim or action, regardless of form, arising out of the Agreement may be brought by either party more than two years after the cause of action has accrued.

10. Confidentiality

10.1. For the term of the Agreement and thereafter, all information of a technical or business nature disclosed by one party to the other either before or after the date of the Agreement in connection with any Software or Services or business dealings between the parties shall be regarded as confidential ('Confidential Information') and shall only be disclosed as is strictly necessary and each party shall procure that its personnel and third parties to which Confidential Information is disclosed treat such information as confidential. Such information shall be used only for the purpose for which it was disclosed and for carrying out the purposes of the Agreement and shall not without prior written consent of the disclosing party be disclosed to any third party provided that either party may disclose without consent any Confidential Information:

10.1.1. to its sub-contractors for the provision of the Software or Services provided that such disclosures is on a 'need to know' basis only and the sub-contractor undertakes to keep such Confidential Information confidential; or

10.1.2. as required to be disclosed to any governmental and/or regulatory authority; or

10.1.3. to any Group Company.

10.2. Information shall not be deemed to be Confidential Information where it:

10.2.1. is authorised to be disclosed by the disclosing party to the extent of the authority given; or

10.2.2. is made public by the disclosing party or is or becomes part of the public domain other than by the default of the receiving party; or

10.2.3. is in the possession of or is known by the receiving party without any obligation to keep it confidential prior to its receipt from the disclosing party; or

10.2.4. is subsequently rightfully obtained by the receiving party from a third party; or

10.2.5. is independently developed by the receiving party.

10.3. Any Confidential Information referred to in clause 10.1 shall remain the property of the disclosing party and shall be returned by the receiving party to the disclosing party if so requested.

10.4. The terms of the Agreement may not be disclosed by the Customer (other than to its legal advisors) without the prior written consent of the Service Provider.

10.5. The Service Provider may cite the Customer's name and the general nature of the services performed to its other clients or prospective clients as an indication of its experience, and may also include such information and any identifying mark or logo of the Customer on its website.

11. Data Protection

Where the Service Provider, or any of its sub-contractors, as part of the fulfilment of its obligations under the Agreement, processes personal data as a data processors on behalf of the Customer, the parties agree to comply with the data processing terms set out in Schedule A.

12. Non solicitation

Each party agrees that, during the life of the Agreement and for a period of 12 months thereafter, neither it by itself, its officers, employees or agents or otherwise howsoever and whether as a consultant, principal, partner, director, employee or otherwise, shall employ or solicit the services of any employee, officer, agent or consultant of the other party (or, as the case may be, of any Group Company) who was engaged and/or involved in providing or receiving the Services.

13. Term and Termination

13.1. The Agreement shall, unless otherwise terminated as provided in this clause 13, commence on the Effective Date and shall continue for the Initial Term set out on the Subscription Form. Thereafter it shall be automatically renewed for successive periods as set out on the Subscription Form (each a **Renewal Period**), unless:

13.1.1. either party notifies the other party of termination, via the Customer Account before the end of the Initial Term or any Renewal Period, in which case the Agreement shall terminate on the expiry of the applicable Initial Term or Renewal Period; or

13.1.2. otherwise terminated in accordance with the provisions of the Agreement;
and the Initial Term together with any subsequent Renewal Periods shall constitute the Subscription Term.

13.2. Either party shall be entitled to immediately terminate the Agreement without liability to the other party by giving notice to the other party at any time if:

13.2.1. that other party is in material breach of the Agreement, provided that if the breach is capable of remedy the innocent party shall not be entitled to terminate the Agreement unless and until the breaching party shall have failed to remedy the breach within fourteen days of such notice;

13.2.2. that other party makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or becomes subject to an administration order or goes into liquidation otherwise than for the purpose of amalgamation or reconstruction; or

13.2.3. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of that other party; or

13.2.4. that other party ceases, or threatens to cease, to carry on business; or

13.2.5. the Customer or the Service Provider reasonably apprehends that any of the events mentioned above is about to occur in relation to the other party and notifies the other party accordingly.

13.3. The Service Provider may, without prejudice to its other rights or remedies, terminate the Agreement immediately by notice to the Customer if the Customer undergoes a change of Control which does not result in Control passing to a company that, immediately before the change in question, was an affiliate of the Customer.

13.4. The Service Provider may, on no less than 2 months' notice in writing to the Customer terminate the Agreement or any Service.

13.5. On termination of the Agreement for any reason the Customer's right to receive the Services shall cease automatically;

13.5.1. the Customer shall immediately pay any outstanding unpaid fees and charges and interest due to the Service Provider;

13.5.2. the Customer shall immediately cease all use of the Services and the Documentation; and

13.5.3. the Service Provider may destroy or otherwise dispose of any of the Customer Content in its possession.

13.6. Termination of the Agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

13.7. Notwithstanding its obligations in this clause 13, if a party is required by any law, regulation, or government or regulatory body to retain any documents or materials containing the other party's Confidential Information, it shall notify the other party in writing of such retention, giving details of the documents and/or materials that it must retain.

14. Force Majeure

14.1. Neither party shall have any liability to the other party under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control (provided that the other party is notified of such an event and its expected duration), including, without limitation the Service Provider shall have no liability to the Customer under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control (provided that the Customer is notified of such an event and its expected duration), including, without limitation strikes, lock-outs or other industrial disputes (whether involving the workforce of the Service Provider or any other party); failure of a utility service or transport or telecommunications network; act of God, war, riot, civil commotion or malicious damage; compliance with any law or governmental order, rule, regulation or direction; accident; breakdown of plant or machinery; fire, flood, storm; default of Service Providers or subcontractors; or epidemic or pandemic.

14.2. If the circumstances set out in clause 14.1 continue for a continuous period of more than 6 months, either party may terminate the Agreement by written notice to the other party.

15. Miscellaneous

15.1. The Agreement together with any subsequent amendments supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the subject matter of the Agreement. The parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement.

15.2. The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in the Agreement.

15.3. The Agreement may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties.

15.4. The Agreement is personal to the parties and may not be assigned by either party without the prior written approval of the other party. Notwithstanding the foregoing, the Service Provider may assign the Agreement to any acquirer of all or of substantially all of such party's enquiry securities, assets or business relating to the subject matter of the Agreement or to any entity Controlled by, that Controls, or is under common Control with the Service Provider.

15.5. If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement. If any invalid, unenforceable or illegal provision of the Agreement would be valid, enforceable and legal if some part of it were deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

15.6. No delay, neglect or forebearance on the part of either party in enforcing against the other party any term or condition of the Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Agreement.

15.7. The parties confirm their intent (subject to any provisions in the Agreement to the contrary) not to confer any rights on any third parties by virtue of the Agreement and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement.

15.8. This Agreement may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

15.9. All notices under the Agreement shall be in writing.

16. Governing law and jurisdiction

16.1. This Agreement 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.

16.2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).

16.3. For the avoidance of doubt nothing in this clause 16 shall limit the right of either party to take any action or proceedings in any other jurisdiction to the extent permitted by law, nor shall the taking of proceedings in any jurisdiction preclude either of the parties from taking proceedings in any other jurisdiction.

Schedule A:

DATA PROCESSING TERMS

Interpretation

1.1 The following definitions apply in this Schedule A:

Access Requests: requests made by a Data Subject to exercise any rights of Data Subjects under the Applicable Data Protection Legislation in relation to Disclosed Data.

Applicable Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the European Union or United Kingdom.

Appropriate Safeguards: such legally enforceable mechanism(s) for transfers of Disclosed Data as may be permitted under the Applicable Data Protection Legislation from time to time.

Controller: has the meaning given to that term (or the term 'data controller') under the Applicable Data Protection Legislation.

Data Breach: any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Disclosed Data.

Data Subject: an identified or identifiable natural person.

Disclosed Data: any information relating to a Data Subject received by the Service Provider from or on behalf of the Customer in connection with the performance of the Service Provider's obligations under the Agreement.

Processor: has the meaning given to that term (or the term 'data processor') under the Applicable Data Protection Legislation.

Sub-Processor: another Processor engaged by the Service Provider for carrying out processing activities in respect of Disclosed Data on behalf of the Customer.

Controller and Processor

2.1 The parties acknowledge that the Customer is the Controller and the Service Provider is the Processor in respect of any Disclosed Data.

2.2 The Service Provider shall process the Disclosed Data:

2.2.1 in compliance with the obligations of Processors under the Applicable Data Protection Legislation;

2.2.2 in accordance with the terms of the Agreement.

2.3 The Customer warrants that:

2.3.1 it shall comply with all Applicable Data Protection Legislation in connection with the processing of Disclosed Data and the exercise and performance of its rights and obligations under the Agreement;

2.3.2 all Disclosed Data to be used in connection with the Services, prior to such data being provided to the Service Provider, shall comply in all respects with the Applicable Data Protection Legislation;

2.3.3 all instructions given by the Customer to the Service Provider in respect of the Disclosed Data shall be in accordance with the Applicable Data Protection Legislation; and

2.3.4 it is satisfied that the Service Provider's processing operations are suitable to enable the Service Provider to process Disclosed Data, and the Service Provider has sufficient expertise, reliability and resources to implement technical and organisational measures that meet the requirements of the Applicable Data Protection Legislation.

Instructions and details of processing

3.1 Where the Service Provider processes Disclosed Data on the Customer's behalf, the Service Provider shall:

3.1.1 process the Disclosed Data only in accordance with the Customer's documented instructions (unless required by law to do otherwise)

3.1.2 notify the Customer if the Applicable Data Protection Legislation or other law requires the Service Provider to process Disclosed Data other than in accordance with the Customer's documented instructions; and

3.1.3 notify the Customer if the Service Provider believes that an instruction infringes the Applicable Data Protection Legislation.

3.2 The Service Provider's processing of Disclosed Data shall consist of:

3.2.1 Subject Matter: Service Provider's provision of the Services to Customer.

3.2.2 Duration: the Subscription Term plus the period from expiry of the Subscription Term until deletion of all Disclosed Data by the Service Provider.

3.2.3 Nature and Purpose: Service Provider will process Disclosed Data for the purposes of providing the Services to Customer.

3.2.4 Categories: data relating to individuals provided to Service Provider via the Services by Customer or End Users.

3.2.5 Data Subjects: individual about who data is provided to Service Provider via the Services by Customer or End Users.

Technical and organisational measures

4 The Service Provider shall implement and maintain appropriate technical and organisational measures in relation to the processing of Disclosed Data by the Service Provider including protecting against unauthorised and unlawful processing and against accidental loss, destruction or damage to the Disclosed Data.

Using staff and other processors

5.1 The Service Provider shall:

5.1.1 not engage any Sub-Processor for carrying out any processing of Disclosed Data without the Customer's authorisation;

5.1.2 appoint Sub-Processors only under a written contract containing provisions compatible with Schedule A; and

5.1.3 ensure that all personnel of the Service Provider authorised to process Disclosed Data are subject to binding written contractual obligations to keep the Disclosed Data confidential (except where disclosure is required in accordance with the Applicable Data Protection Legislation).

5.1.4 will notify the Customer of any intended changes concerning the addition or replacement of Sub-Processors, allowing the Customer the opportunity to reasonably object to those changes.

5.2 The Customer authorises as the current sub-processors Microsoft and the Service Provider's affiliates.

Assistance with Customer's compliance and data subject rights

6.1 The Service Provider shall refer all Access Requests it receives to the Customer without undue delay.

6.2 The Service Provider shall provide such reasonable assistance as the Customer reasonably requires (taking into account the nature of processing and the information available to the Service Provider) to the Customer in ensuring compliance with the Customer's obligations under Applicable Data Protection Legislation with respect to:

6.2.1 security of processing;

6.2.2 dealing with Data Subject rights;

6.2.3 data protection impact assessments;

6.2.4 prior consultation with a supervisory authority regarding high-risk processing; and

6.2.5 notification to the supervisory authority and/or communications to data subjects by the Customer in response to a Data Breach;

provided the Customer shall pay the Service Provider for providing the assistance on a time and materials basis in accordance with the Service Provider's then-current standard hourly rates.

International data transfers

7 The Customer agrees that the Service Provider may transfer Disclosed Data: as described in the support order provided all such transfers shall (to the extent required by Applicable Data Protection Legislation) be protected by way of Appropriate Safeguards and be in accordance with Applicable Data Protection Legislation. The provisions of Schedule A shall be the Customer's documented instructions.

Records, information and audit

8 The Service Provider shall, in accordance with the Applicable Data Protection Legislation:

8.1 maintain written records of all categories of processing activities carried out on behalf of the Customer; and

8.2 make available to the Customer such information as is reasonably necessary to demonstrate the Service Provider's compliance with the obligations of Processors under the Applicable Data Protection Legislation, and allow for and contribute to audits, including inspections, by the Customer for this purpose, subject to the Customer:

8.2.1 giving the Service Provider reasonable prior notice of such information request, audit and/or inspection being required by the Customer;

8.2.2 ensuring that all information obtained or generated by the Customer in connection with such information requests, inspections and audits is kept strictly confidential (save for disclosure to the supervisory authority or as otherwise required by applicable laws);

8.2.3 ensuring that such audit or inspection is undertaken during the Service Provider's normal business hours with minimal disruption to the Service Provider or any Sub-Processor's business; and

8.2.4 paying the Service Provider for assisting with the provision of information and allowing for and contributing to inspections and audits on a time and materials basis in accordance with the Service Provider's then-current standard hourly rates.

Breach notification

9 In respect of any Data Breach involving Disclosed Data, the Service Provider shall notify the Customer without undue delay, and provide the Customer with details, of the Data Breach.

Deletion or return of Disclosed Data

10.1 The Service Provider shall, at the Customer's written request, either delete or return all the Disclosed Data to the Customer in such form as the Customer reasonably requests within a reasonable time after the earlier of:

10.1.1 the end of the performance of the relevant services; or

10.1.2 once processing by the Service Provider of any Disclosed Data is no longer required for the purposes of the Agreement; and the Service Provider shall delete existing copies (unless storage of any data is required by applicable laws, or unless the Service Provider is a Controller in relation to that data at the relevant time).

10.2 The Service Provider acknowledges that the Disclosed Data is the confidential information of the Customer.

Schedule B:

Acceptable Use Policy

Customer agrees not to, and not to allow third parties to use the Services:

- to violate, or encourage the violation of, the legal rights of others (for example, this may include allowing Customer End Users to infringe or misappropriate the intellectual property rights of others);
- to engage in, promote or encourage illegal activity;
- for any unlawful, invasive, infringing, defamatory or fraudulent purpose (for example, this may include phishing, creating a pyramid scheme or mirroring a website);
- to generate, distribute or publish content which is pornographic, discriminatory, abusive or hateful;
- to intentionally distribute viruses, worms, Trojan horses, corrupted files, hoaxes, or other items of a destructive or deceptive nature;
- to interfere with the use of the Services, or the equipment used to provide the Services, by customers or other authorized users;
- to disable, interfere with or circumvent any aspect of the Services;
- to generate, distribute, publish or facilitate unsolicited mass email, promotions, advertisings or other solicitations ("spam"); or
- to use the Services, or any interfaces provided with the Services, to access any other product or service in a manner that violates the terms of service of such other product or service.