TERMS AND CONDITIONS

These General Terms and Conditions form part of the MSA and apply to all Solutions and Services set out in an Order Form. Any Special Terms listed in an Order Form apply in addition in relation to the specific Solutions or Services referred to in the applicable Special Terms.

1. DEFINITIONS

1.1 All terms in capitals used herein shall have the meaning given to them below unless defined otherwise in the MSA.

"Authorised Users"	means employees, agents, consultants and independent contractors of the Customer who are authorised by the Customer to use the Solutions or Services;
"Business Day"	means Monday to Friday excluding any national holiday in the UK;
"Business Hours"	means 09:00 to 17:30 local UK time, each Business Day;
"Change of Control"	means 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, and **controls**, **controlled** and the expression **change of control** shall be construed accordingly;
"Commencement Date"	means the date on which the MSA begins set out in the Order Form;
"Company Materials"	means all materials, equipment, documents and other property of the Company;
"Company"	means company named in an Order Form;
"Confidential Information"	means any and all information in whatsoever form relating to the Company or the Customer, or the business, prospective business, finances, technical processes, computer software (both source code and object code), IPRs or finances of the Company or the Customer (as the case may be), or compilations of two or more items of such information, whether or not each individual item is in itself confidential, which comes into a party's Company's possession by virtue of its entry into the MSA or provision of the Solutions or Services, and which the party regards, or could reasonably be expected to regard, as confidential and any and all information which has been or may be derived or obtained from any such information;
"Consequential Loss"	means pure economic loss, special loss, losses incurred by any Authorised Users or other third party, losses arising from business interruption, loss of business revenue, goodwill or anticipated savings, losses whether or not occurring in the normal course of business, costs of procuring substitute goods or product(s) or wasted management or staff time;
"Customer Data"	means all data imported by the Customer, Authorised Users, or the Company on the Customer's behalf for the purpose of using the Solutions or Services or facilitating the Customer's use of the Solutions or Services;
"Customer"	means the customer purchasing the Solutions and Services, named in an Order Form;

"Documentation"	means the documents made available to the Customer by the Company or the Suppliers from time to time which sets out a description of the Solutions or Services and the user instructions for the Solutions and Services;
"DPA"	means the data processing agreement of the Company published at https://www.speakdigital.co.uk/legal, as amended from time to time;
"Effective Date"	means the effective date set out in each Order form for the provision of each Solution or Service;
"Feedback"	means any feedback, innovations or suggestions created by the Customer, Authorised Users or clients of the Customer regarding the attributes, performance or features of the Solutions or Services;
"Fees"	means the fees payable by the Customer to the Company for the purchase of Solutions and Services set out in each Order Form;
"Force Majeure"	means anything outside the reasonable control of the defaulting party, including but not limited to, acts of God, fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, war, rebellion, insurrection, sabotage, epidemic, pandemic, quarantine restriction, labour dispute, labour shortage, power shortage, including without limitation where Company ceases to be entitled to access the Internet for whatever reason, transportation embargo, failure or delay in transportation, any act or omission (including laws, regulations, disapprovals or failures to approve) of any government or government agency;
"General Terms and Conditions"	means these general terms and conditions that apply to all Services and Solutions;
"Hardware"	means any Hardware set out in an Order Form;
"Initial Term"	means the initial term of the MSA set out in the Order Form;
"IPRs"	means all copyrights, patents, utility models, trademarks, service marks, registered designs, moral rights, design rights (whether registered or unregistered), technical information, know-how, database rights, semiconductor topography rights, business names and logos, computer data, generic rights, proprietary information rights and all other similar proprietary rights (and all applications and rights to apply for registration or protection of any of the foregoing) as may exist anywhere in the world;
"IT Consultancy and Ad-Hoc Support"	means any IT Consultancy and Ad-Hoc Support set out in any Order Form;
"Managed IT Support"	means any Managed IT Support set out in an Order Form;
"MSA"	means these Terms and Conditions, the Order Form, the DPA, the SLA, the Privacy Policy and any Special Terms referenced in an Order Form;
"Order Form"	means each signed order form for the purchase of Solutions or Services and/or any email order from the Customer accepted by the Company after the Commencement Date for the provision of additional Services;

"Privacy Policy"	means the privacy policy of the Company published at https://www.speakdigital.co.uk/legal, as amended from time to time;
"Renewal Term"	means the renewal period of the MSA, set out in the Order Form;
"Reseller Services, Software and Licensing"	means any Reseller Services, Software and Licensing set out in an Order Form;
"Services"	means the IT Consultancy and Ad-Hoc Support, Managed IT Support, Website Design Services, Reseller Services, Software and Licensing and Hardware, as applicable and as set out in an Order Form;
"SLA"	means the service level agreement of the Company published at https://www.speakdigital.co.uk/legal, as amended from time to time;
"Solutions"	means all solutions set out in an Order Form;
"SOW"	means any statement of work referenced in the Special Terms or an Order Form;
"Special Terms"	means any special terms included in an Order Form, namely: Special Terms — IT Consultancy and Ad-Hoc Support Special Terms — Managed IT Support Special Terms — Website Design Services Special Terms — Reseller Services, Software and Licensing Special Terms — Hardware
"Statistical Data"	means aggregated, anonymized data derived from the Customer's use of the Solutions or Services which does not include any personal data or Customer Confidential Information;
"Suppliers"	means the third party suppliers of Solutions or Services included in any Reseller Services, Software and Licensing set out in an Order Form;
"Term"	means the term of the MSA starting on the Commencement Date and ending on the date that either party terminates the MSA, and in relation to Solutions and Services the Term for each Solutions or Services as set out in an Order Form, as applicable;
"Time and Materials Basis"	means the Company's standard daily consultancy rates in force from time to time;
"Virus"	means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices;

"Website Design Services"	means any Website Design Services set out in an Order Form.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of the MSA.

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 writing or written includes e-mail, where this is specifically stated.

1.8 A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.9 References to clauses and schedules are to the clauses and schedules of the MSA; references to paragraphs are to paragraphs of the relevant schedule to the MSA.

2. THE SERVICES

2.1 The Customer engages the Company and the Company agrees to provide the Solutions and Services to the Customer in accordance with the terms of the MSA from the Commencement Date for the Term.

2.2 The Company shall provide:

2.2.1 IT Consultancy and Ad-Hoc Support in accordance with the Special Terms — IT Consultancy and Ad-Hoc Support;

2.2.2 Managed IT Support in accordance with the Special Terms — Managed IT Support;

2.2.3 Website Design Services in accordance with the Special Terms — Website Design Services:

2.2.4 Reseller Services, Software and Licensing in accordance with the Special Terms —Reseller Terms; and

2.2.5 Hardware in accordance with the Special Terms - Hardware.

2.3 The Company reserves the right to electronically monitor the Customer's use of the Solutions and Services.

2.4 If the Customer wishes to purchase additional Solutions or Services after the Commencement Date, such Solutions and Services shall be set out in one or more additional Order Forms, which once signed by both parties shall be incorporated into the MSA. For the avoidance of doubt this does not apply to any Solutions or Services which are charged for on the basis of actual usage and numbers of licences granted.

3. USER RESTRICTIONS

3.1 The Customer and Authorised Users shall not during the course of using the Solutions and Services access, store, distribute or transmit any Viruses, or any material that:

3.1.1 Is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

3.1.2 Facilitates illegal activity;

3.1.3 Depicts sexually explicit images;

3.1.4 Promotes unlawful violence;

3.1.5 Is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

3.1.6 In a manner that is otherwise illegal or causes damage or injury to any person or property;

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

4. TERM

4.1 This MSA shall commence on the Commencement Date and shall continue for the Initial Term. On expiry of the Initial Term the MSA shall automatically renew for successive Renewal Periods until terminated by either party in accordance with their rights under the MSA.

4.2 The provisions of all Solutions and Services shall commence on the respective Effective Date set out in the Order Form for each Solution or Service.

4.3 Where any Solutions or Services are provided on an ongoing or fixed term basis, such Solution or Services shall be provided for the Term stated in the Order Form in relation to each such Solution or Services.

4.4 No Solutions or Services can be ordered after the MSA has been terminated.

5. THIRD PARTY PROVIDERS

The Customer acknowledges that the Solutions and Services may enable or assist the Customer 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 Company makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not the Company. The Company recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Company does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Solutions and Services.

6. WARRANTIES

6.1 Each party warrants and represents that:

6.1.1 It has full corporate power and authority to enter into the MSA and to perform the obligations required hereunder;

6.1.2 The execution and performance of its obligations under the MSA does not violate or conflict with the terms of any other agreement to which it is a party and is in accordance with any applicable laws; and

6.1.3 It shall respect all applicable laws and regulations, governmental orders and court orders, which relate to the MSA.

6.2 The Company warrants and represents to the Customer that:

6.2.1 It has the right to licence the Solutions and Services to the Customer;

6.2.2 The Services shall be performed with reasonable skill and care, in a professional manner, in accordance with good industry practice.

6.3 No warranty is made:

6.3.1 Regarding the results that the Customer can achieve from using the Solutions or Services; or

6.3.2 That the Customer's use of the Solutions or Services will be uninterrupted or error-free; or

6.3.3 That the Solutions, Services, Documentation and/or the information obtained by the Customer through use of the Solutions, Services or Documentation will meet the Customer's requirements; and

the Customer acknowledges that the Company is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the Internet, and the Customer acknowledges that the Solutions and Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.4 The Customer warrants and represents to the Company that is shall:

6.4.1 Provide the Company with all necessary co-operation in relation to the MSA;

6.4.2 Provide all necessary access to such information as may be required by the Company; in order to provide the Solutions and Services, including but not limited to Customer Data, security access information, physical access to premises, hardware, software, staff and configuration services;

6.4.3 Carry out all other Customer responsibilities set out in the MSA in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance, the Company may adjust any agreed timetable or delivery schedule as reasonably necessary;

6.4.4 Ensure that Authorised Users use the Solutions and Services in accordance with the terms of the MSA and shall be responsible for any Authorised User's breach of the MSA;

6.4.5 Own the necessary user rights, copyrights and ancillary copyrights and permits required for it to fulfil its obligations under the MSA and necessary for the Company, its contractors and agents to perform their obligations under the MSA, including without limitation the Solutions and Services;

6.4.6 Ensure that its network and systems comply with the relevant specifications provided by the Company from time to time; and

6.4.7 Be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Company's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

6.5 The parties agree that all third party content or information provided by the Company via the Solutions or Services, for example prices, is provided "as is". The Company provides no warranties in relation to such content or information and shall have no liability whatsoever to the Customer for its use or reliance upon such content or information.

6.6 The Customer acknowledges that Solutions and Services should not be used for high risk applications where precise locations or features on maps are essential to the Customer, for example use of the Solutions or Services by the emergency services.

6.7 Except as expressly stated in the MSA, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to satisfactory quality and fitness for purpose) are excluded to the fullest extent permitted by law. In particular, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the MSA.

7. FEES AND INVOICING

7.1 The Fees payable for the Solutions and Services are set out in each Order Form.

7.2 All Fees are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the MSA by the Company to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Company, pay VAT in addition.

7.3 The Company may increase the Fees on giving notice to the Customer at any time before delivery of any Solutions or Services, to reflect any increase in the cost of the Solutions or Services to the Company that is due to:

7.3.1 Any factor beyond the control of the Company (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

7.3.2 Any request by the Customer to change the delivery date(s), quantities or types of Solutions or Services ordered, or the specification; or

7.3.3 Any delay caused by any instructions of the Customer in respect of the Solutions or Services or failure of the Customer to give the Company adequate or accurate information or instructions in respect of the Solutions or Services.

7.4 The Customer shall pay all amounts due under the MSA in full without deduction or withholding except as required by law and shall not be entitled to assert any credit, set off or counterclaim against the Company in order to justify withholding payment or any such amount in whole or in part. The Company may without limiting its other rights or remedies set off any amount owing to the Company by the Customer against any amount payable by the Customer to the Company.

7.5 The Company may increase the Fees for each Service annually on the anniversary of the order for each Service.

7.6 All Fees shall be invoiced as set out in the Order Form. Recurring Fees shall be invoiced monthly in advance on the first working day of each calendar month.

7.7 Invoices shall be issued and paid in pounds Sterling unless stated otherwise in an Order Form.

7.8 Travel Fees, incidental costs and other expenses shall be invoiced in addition to the Fees in arrears, as and when they arise.

7.9 Where Solutions or Services are subject to a usage limit, if the Customer exceeds the permitted monthly usage limit, the Company shall invoice the monthly excess usage in arrears, as set out the Order Form in addition.

8. PAYMENT

8.1 The Customer shall pay all Fees to the Company in accordance with the Order Form.

8.2 Unless stated otherwise in the Order Form, payment of all Fees is due within 7 days of the date of properly rendered, undisputed invoices and shall be without prejudice to any claims or rights which the Customer may have against the Company. If the Customer believes that any invoice is incorrect, it must notify the Company in writing within 7 days of receipt of the invoice.

8.3 Where payment of any Fee is not received when due for payment, the Company may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Solutions or Services and the Company shall be under no obligation to provide any or all of the Solutions or Services while the invoice(s) concerned remains unpaid. The Company shall be entitled to charge interest on overdue Fees at the applicable statutory rate.

8.4 The Company reserves the right to recover any costs and reasonable legal fees it incurs in recovering overdue payments.

8.5 All Fees are unless expressly stated otherwise in the MSA, non-cancellable and non-refundable.

8.6 The Customer agrees and accepts that in the event of non-payment of any invoice and without limiting other remedies available to the Company, the Company may suspend access to and use of the Solutions and Services and withhold delivery or refuse to supply Solutions and Services until such time as all outstanding amounts are paid in full.

8.7 Each Party shall pay all other taxes, duties, levies imposed by all foreign, federal, state and local authorities (including without limitation, export, sales, use, excise and withholding taxes) based on any amounts paid or payable by such party under the MSA. However, no party will be responsible for taxes based on the net income of any other party. Any applicable withholding taxes will be added to the Fees to be paid to the Company if, and as far as, the Company is obliged to pay withholding taxes according to local applicable tax laws.

9. DELIVERY

9.1 The Company reserves the right to refuse any orders placed by the Customer or to delay delivery of any Solutions or Services, if the Customer:

9.1.1 Fails to make any payment due under the MSA;

9.1.2 Fails to meet the credit or financial requirements established by the Company, including any limitation on allowable credit;

9.1.3 Materially breaches any of its obligations under the MSA.

9.2 The Company reserves the right to discontinue the manufacture, license or sale of any or all Solutions or Services at any time, and to refuse any orders for such discontinued Solutions or Services without any liability whatsoever

to the Customer or any other third party. The Company shall give the Customer at least ninety (90) days advance notice of any intention to discontinue Solutions or Services. No such refusal or delay in delivery will be deemed a termination or breach of the MSA.

9.3 If the Company's performance of any of its obligations in respect of provision of the Solutions or Services is prevented or delayed by any act or omission of the Customer or failure by the Customer to perform any relevant obligation ("**Default**"):

9.3.1 The Company shall without limiting its other rights or remedies have the right to suspend performance of the affected Solutions or Services until the Customer remedies the Default, and may rely upon the Default to relieve the Company from performance of any of its obligations to the extent the Default prevents or delays the Company's performance of any of its obligations;

9.3.2 The Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay in performing any of its obligations as a result of a Default; and

9.3.3 The Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Default.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 Subject to the provisions of the Special Terms, all IPRs and title to the Solutions, Services and Company Materials (save to the extent these incorporate any Customer Data, Customer IPR or third party owned item) shall remain with the Company and/or its licensors and subcontractors. No interest or ownership in the Solutions, Services, Company Materials, IPRs or otherwise is transferred to the Customer under the MSA.

10.2 The Customer is not allowed to remove any proprietary marks or copyright notices from the Solutions or Services.

10.3 The Customer shall retain sole ownership of all rights, title and interest in and to Customer Data and its pre-existing IPRs and shall have the sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data. The Customer grants the Company a non-exclusive, worldwide licence to use Customer Data, Customer IPRs and any third party owned item from the Commencement Date for the Term to the extent required for the provision of the Solutions and Services.

10.4 The Customer grants the Company a non-exclusive, non-transferable, revocable licence to display the Customer's name, logo and trademarks, as designated and/or amended by the Customer from time to time and as required in the creation of correspondence, documentation and website front ends in the provision of the Solutions and Services.

10.5 The Customer acknowledges that all rights, title and interest in any Feedback is owned exclusively by the Company. If for any reason such assignment is ineffective, the Customer shall grant the Company a non-exclusive, perpetual, irrevocable, royalty free, worldwide right and licence to use, reproduce, disclose, sub-licence, distribute, modify and exploit such Feedback without restriction.

10.6 The Customer grants the Company a perpetual right to use Statistical Data and nothing in the MSA shall be construed as prohibiting the Company from using the Statistical Data for business and/or operating purposes, provided that the Company does not share with any third party Statistical Data which reveals the identity of the Customer, Authorised Users or Customer's Confidential Information.

10.7 The Company may take and maintain technical precautions to protect the Solutions and Services from improper or unauthorised use, distribution or copying.

11. CONFIDENTIALITY

11.1 Each party may use the Confidential Information of the other party only for the purposes of the MSA. Each party must keep confidential all Confidential Information disclosed to it, except where the recipient of Confidential Information is required to disclose the Confidential Information by law to any regulatory, governmental or other authority with relevant powers to which either party is subject.

11.2 Each party may disclose the Confidential Information of the other party to those of its employees and agents who need to know the Confidential Information for the purposes of the MSA, but only if the employee or agent is bound by confidentiality undertakings equivalent to those set out in the MSA.

11.3 Both parties agree to return (or destroy) all documents, materials or data containing Confidential Information to the disclosing party without delay upon completion of the Services or termination or expiry of the MSA.

11.4 The obligations of confidentiality under the MSA do not extend to information that:

11.4.1 Was in the other party's lawful possession before the negotiations leading to the MSA; or

11.4.2 Is, or after the Commencement Date, becomes publicly known other than through any act or omission of the receiving party; or

11.4.3 Is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

11.4.4 Is independently developed by the receiving party, which independent development can be shown by written evidence; or

11.4.5 Is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

11.5 If either party is required to disclose any Confidential Information pursuant to clause 11.4.5 such party shall, where lawfully permitted to do so:

11.5.1 Promptly consult with and take into account any comments from the other party prior to making any disclosure; and

11.5.2 Work with the other party to ensure that any exemptions or other legitimate means of preventing disclosure or limiting disclosure are used to the fullest extent possible.

11.6 The parties acknowledge and agree that without prejudice to the general confidentiality provisions in this clause 11 and without limitation, all information falling within the definition of Confidential Information as set out in clause 1 of the MSA and any information which is supplied by the disclosing party to the receiving party pursuant to the MSA or the negotiation thereof is:

11.6.1 Confidential Information the disclosure of which by the receiving party would be an actionable breach of confidence; or

11.6.2 A trade secret of the disclosing party; and

11.6.3 Information, the disclosure of which would be likely to prejudice the commercial interests of the disclosing party or of any other person.

11.7 The Company understands that data may be valuable however data loss during provision of the Solutions and Services is always a possibility, and in some cases, data may be unrecoverable, erased, or reformatted. It is therefore the Customer's responsibility to back up all existing data, software, and/or programmes, and to decide whether to erase any such data, prior to entering into the MSA.

11.8 This clause 11 shall survive termination of the MSA, however arising.

12. DATA PROTECTION

12.1 Each party undertakes to comply with its obligations under relevant applicable data protection laws, principles and agreements.

12.2 To the extent that personal data is processed when the Customer, Authorised Users or clients of the Customer use the Solutions or Services, the parties acknowledge that the Company is a data processor and the Customer is a data controller and the parties shall comply with their respective obligations under applicable data protection law and the terms of the DPA.

12.3 Where the Company collects and processes personal data of the Customer, as a data controller, when providing the Solutions or Services to the Customer or Authorised User, such collection and processing shall be in accordance with the Privacy Policy.

12.4 If a third party alleges infringement of its data protection rights, the Company shall be entitled to take measures necessary to prevent the infringement of a third party's rights from continuing.

13. LIABILITY

13.1 Nothing in the MSA excludes the liability of either party for:

13.1.1 Death or personal injury caused by their negligence; or

13.1.2 Fraud or fraudulent misrepresentation; or

13.1.3 Wilful misconduct; or

13.1.4 Any liability that cannot lawfully be excluded or limited.

13.2 Neither party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any Consequential Loss arising out of or related to the MSA, even if a party was advised of the possibility of such damages.

13.3 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 (whether categorised as direct or indirect) arising out of or related to the MSA, even if a party was advised of the possibility of such damages

13.4 Subject to clauses 13.1 to 13.3 inclusive, the total liability of the Company to the Customer in aggregate (whether in contract, tort or otherwise) for any and all claims relating to or arising under the MSA or based upon any claim for indemnity or contribution shall not exceed the total amounts (excluding all taxes) paid by the Customer to the Company for the applicable Solutions or Services during the 12 month period prior to the date on which any such claim arose. If the duration of the MSA has been less than 12 months, such shorter period shall apply.

13.5 The Customer shall be liable for any breaches of the MSA caused by the acts, omissions or negligence of any Authorised Users who access the Solutions or Services as if such acts, omissions or negligence had been committed by the Customer itself.

13.6 The parties acknowledge and agree that in entering into the MSA, each had recourse to its own skill and judgement and have not relied on any representation made by the other, their employees or agents.

14. INDEMNITIES

14.1 The Customer shall defend, indemnify and hold harmless the Company, its employees, officers, subcontractors or agents against claims, actions, proceedings, losses, damages, fines, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with:

14.1.1 Any infringement or breach by the Customer, an Authorised User or a client of the Customer of any IPRs with respect to use of the Solutions or Services outside of the scope of the MSA;

14.1.2 Any third party claim relating to use by the Company of any Customer Data or Customer or Authorised User provided item in the provision of the Solutions or Services;

14.1.3 Breaches of data protection law or regulations or the terms of the DPA by the Customer, an Authorised User or client of the Customer;

14.1.4 Any breach of the terms of the MSA by an Authorised User, or client of the Customer; and the Company shall be entitled to take reasonable measures in order to prevent such breach from continuing.

14.2 The Company shall at its own expense, defend or at its own option settle any claim brought against the Customer by a third party on the basis of an infringement of any IPRs by the Solutions or Services (excluding any claim deriving from any Customer Data or Customer or Authorised User provided item) and pay any final judgment entered against the Customer on such issue or any settlement thereof, provided that:

14.2.1 The Customer notifies the Company promptly of each such claim;

14.2.2 The Company is given sole control of the defence and/or settlement; and

14.2.3 The Customer fully co-operates and provides all reasonable assistance to the Company in the defence or settlement.

14.3 If all or part of the Solutions or Services becomes, or in the opinion of the Company may become, the subject of a claim or suit of infringement, the Company shall at its own expense and sole discretion:

14.3.1 Procure for the Customer the right to continue to use the Software or Services or the affected part thereof; or

14.3.2 Replace the Solutions or Services or affected part with another suitable non-infringing service or software.

14.4 The Company and the Company's employees, agents and sub-contractors, shall have no obligations under clauses 14.3.1 and 14.3.3 above to the extent that a claim is based on:

14.4.1 A modification of the Solutions or Services by anyone other than the Company or its licensors;

14.4.2 The combination, operation or use of the Solutions or Services with other services or software not provided by the Company if such infringement would have been avoided in the absence of such combination, operation or use; or

14.4.3 The use of the Solutions or Services in any manner inconsistent with the terms of the MSA; or

14.4.4 The negligence or wilful misconduct of the Customer.

14.5 Clauses 14.1 to 14.4 above state the Customer's sole and exclusive rights and remedies and the Company's (including the Company's employees', agents' and sub-contractors') entire obligations and liability for any claims made under these clauses.

15. TERMINATION

15.1 Either party may terminate the MSA without cause upon giving the other written notice of termination at least 60 days before the end of the Initial Term or any Renewal Period and the MSA shall terminate at the end of the Initial Term or current Renewal Period.

15.2 A party may terminate the MSA with immediate effect by giving written notice to the other party if:

15.2.1 The other party fails to pay any amount due under the MSA on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment; or

15.2.2 The other party commits a material breach of any other term of the MSA which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so; or

15.2.3 The other party repeatedly breaches any of the terms of the MSA in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these General Terms and Conditions; or

15.2.4 The other party ceases or threatens to cease or carry on business; or

15.2.5 The other party is unable to pay its debts or enters into compulsory insolvency or voluntary liquidation; or

15.2.6 The other party convenes a meeting of its creditors or has a receiver, manager or similar official appointed in respect of its assets; or

15.2.7 The other party has an administrator, receiver, manager or similar official appointed; or

15.2.8 The other Party is affected by a similar event under the law of any other jurisdiction; or

15.2.9 A Force Majeure event lasts for more than 28 days.

15.3 The Company may terminate the MSA or the provision of any Solutions or Services with immediate effect if:

15.3.1 The Customer has used or permitted use of Solutions or Services other than in accordance with the MSA; or

15.3.2 The Company is prohibited under applicable law, or otherwise from providing the Solutions or Services.

15.4 On termination of the MSA for any reason:

15.4.1 The Customer shall promptly pay the Company all unpaid Fees due under the MSA; In the event that the Customer has pre-paid any amounts in respect of the Solutions or Services, the Company will only credit the Customer for any unearned portion of the pre-paid amounts in the event that the Company terminates the MSA early without cause or the Customer terminates early with cause. In all other circumstances the Company will not provide credit for any unearned portion of any pre-paid amounts.

15.4.2 The Company shall cease providing the Solutions and Services to the Customer and all licences granted under the MSA shall immediately terminate, unless explicitly stated otherwise in the Special Terms;

15.4.3 The Customer shall return all Company Materials and any physical goods which have not been fully paid for. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the MSA;

15.4.4 At the option of the Customer, following receipt of a request from the Customer delete (in accordance with the terms of the DPA) or return all Customer Data stored in the Company's databases in a common machine readable format, free of charge, provided that such request is made within 30 days of termination If the Customer requires any Customer Data to be returned in a different format the Company reserves the right to charge for this additional service on a time and materials basis.

15.5 Termination of the MSA for any reason shall not affect the accrued rights of the parties arising under the MSA. All 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 MSA which existed at or before the date of termination shall not be affected or prejudiced and all clauses which by their nature should survive the expiry or termination of the MSA shall remain in force and effect.

16. FORCE MAJEURE

Except with respect to the Customer's obligation to pay the Fees, if a party is wholly or partially unable to comply with its obligations under the MSA due to Force Majeure, then that party's obligation to perform in accordance with the MSA will be suspended for the duration of the Force Majeure. As soon as practicable after an event of Force Majeure arises, the party affected by the Force Majeure must notify the other party of the extent to which the notifying party is unable to perform its obligations under the MSA.

17. ENTIRE AGREEMENT

The MSA and its schedules, annexes and appendices constitute the entire agreement and understanding between the parties and supersede all prior agreements, negotiations and discussions between the parties relating to the subject matter of the MSA.

18. CONFLICT

In the event of any inconsistency between the provisions of the General Terms and Conditions and the other terms of the MSA, the provisions of the Order Form shall prevail, followed by the Special Terms, the General Terms, and Conditions, the

DPA, the SLA and then the Privacy Policy. Where more than one Special Terms applies to the MSA, the Special Terms applicable to each Service included in the Order Form shall only prevail over the General Terms and Conditions in relation to the Services specified in each Special Terms.

19. AMENDMENTS

Amendments to, the MSA and notices to be given, shall be in writing and shall be deemed to have been duly given if sent by registered post to a party at the address given for that party in the MSA. Notwithstanding the aforesaid, the Company may change or modify the terms of the MSA in order to comply with a change in applicable law, upon giving the Customer 30 days prior notice via email. All changes shall be deemed to have been accepted by the Customer unless the Customer terminates the MSA prior to the expiry of the 30 day period. No amendment to the Fees, Minimum Term or Renewal Term can be made to the Agreement when a Customer orders additional Services via email. Such changes to the Agreement must be made in a written Order Form signed by the parties, which explicitly excludes email.

20. WAIVER

No failure or delay by a party to exercise any right or remedy provided under the MSA 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.

21. RIGHTS AND REMEDIES

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

22. SEVERANCE

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

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

23. ENTIRE AGREEMENT

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

23.2 Each of the parties acknowledges and agrees that in entering into the MSA it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the MSA or not) relating to the subject matter of the MSA, other than as expressly set out in the MSA.

24. ASSIGNMENT

24.1 The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the MSA.

24.2 The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the MSA.

25. RELATIONSHIP BETWEEN THE PARTIES

The parties to the MSA are independent contractors and nothing in the MSA will be construed as creating an employer-employee relationship. The Customer shall not have, and shall not represent that it has, any power, right or authority to bind the Company, or to assume or create any obligation or responsibility, express or implied, on behalf of the Company.

26. NO THIRD PARTY RIGHTS

Nothing contained in the MSA is intended to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999, or any similar legislation in any applicable jurisdiction.

27. NO EXCLUSIVITY

This MSA shall not prevent the Company from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the MSA.

28. GOVERNING LAW

This MSA 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 laws of England and Wales.

29. JURISDICTION

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

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