**DATED**

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SaaS Reseller agreement

[between/among]

SAAS PROVIDER

and

RESELLER

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This agreement is dated [DATE]

Parties

[1] [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (SaaS Provider)

[2] [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (Reseller)

BACKGROUND

* 1. The SaaS Provider wishes to appoint the Reseller as its non-exclusive reseller to distribute the Services and the Software as part of the Resold Services.
  2. The Reseller agrees to distribute the Resold Services on and subject to the terms and conditions of this agreement.

Agreed terms

1. Interpretation
   1. The definitions and rules of interpretation in this clause apply in this agreement.
2. Authorised Users: those employees, agents and independent contractors of the Customer, its subsidiaries and affiliates, who are authorised by the Customer to use the Services, Software and Documents [and which are set out on an Order Form] [for the Customer's internal business purposes only].
3. Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
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, and **controls**, **controlled** and the expression **change of control** shall be interpreted accordingly.
5. Customer: each entity who signs an agreement with the Reseller for the Resold Services and a EULA with the SaaS Provider, and for whom the Reseller executes an Order Form and pays the corresponding Subscription Fees.
6. Customer Data: the data inputted by the Customer, Authorised Users, or the Reseller on the Customer's behalf for the purpose of using the Resold Services or facilitating the Customer's use of the Resold Services and any data generated by, or derived from the Customer's use of the Resold Services, whether hosted or stored within the Resold Services or elsewhere.
7. Cybersecurity Requirements: all laws, regulations, [codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, [industry schemes] and sanctions,] applicable to [the SaaS Provider **OR** the Reseller **OR** either party], relating to security of data or network and information systems and security breach and incident reporting requirements, including any applicable data protection legislation, the Cybersecurity Directive (*(EU) 2016/1148*), Commission Implementing Regulation (*(EU) 2018/151*), the NIS Regulations, all as amended or updated from time to time.
8. Data: either or both of the Customer Data or the Reseller Data.
9. Documents: the document(s) made available to the Reseller by the SaaS Provider online via [WEB ADDRESS] or such other web address notified by the SaaS Provider to the Reseller from time to time which sets out a description of the Services and the user instructions for the Services.
10. Effective Date: the date of this agreement.
11. EULA: the end user licence agreement between [the SaaS Provider and the Customer **OR** the Reseller and the Customer] in the form set out in Schedule 2 and any amendments to the same which are notified by the SaaS Provider to the Reseller from time to time.
12. Good Industry Practice: the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading supplier within the relevant industry or business sector.
13. **Incident**: any Vulnerability, Virus or security incident which:
    1. may affect the Software, the Services or Resold Services; or
    2. may affect either party's network and information systems, such that it could potentially affect the Software, Services or Resold Services.
14. Initial Term: the term described in clause 20.1.
15. Intellectual Property Rights: patents, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and rights in domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, [rights in computer software,] database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered, and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
16. Known Vulnerability: any Vulnerability that has either:
    1. been assigned a Common Vulnerabilities and Exposures (CVE) number;
    2. been disclosed on the National Vulnerability Database available at the website operated by the US National Institute of Standards and Technology (NIST) from time to time; or
    3. been disclosed on the internet, or any [open] public database, such that it would be revealed by reasonable searches conducted in accordance with Good Industry Practice.
17. Latent Vulnerability: any instances of typical classes of Vulnerability, including without limitation buffer overflows, cross-site scripting (XSS) and Structure Query Language (SQL) injection.
18. Legislation: any statute, statutory provision or subordinate legislation or any mandatory rules [or guidance] issued by any regulatory body having jurisdiction over the applicable party.
19. Mandatory Policies: the SaaS Provider's business policies [and codes] [attached **OR** listed] in paragraph 1[, as amended by notification to the Reseller from time to time].
20. Mitigate: the taking of such reasonable steps that would be taken a prudent supplier in accordance with Good Industry Practice to mitigate against the Incident in question, which may include (in the case of a Vulnerability) coding changes, but could also include specification changes (for example, removal of affected protocols or functionality in their entirety) [provided these are approved by the Reseller in writing in advance], and the terms Mitigated and Mitigation shall be interpreted accordingly.
21. NIS Regulations: the Network and Information Systems Regulations 2018 (*SI 2018/506*).
22. Normal Business Hours: [8.00 am to 6.00 pm] local UK time, each Business Day.
23. Order Form: a written order form, signed by both parties, detailing:
    1. the Services to be provided by the SaaS Provider;
    2. the Subscription Fees and any other amounts due and payable by the Reseller to the SaaS Provider;
    3. Customer name, registered office address and company number;
    4. the number of Authorised Users and the Subscription Term;
    5. any other commercial terms agreed by the parties relating to the Services and attaching Documents [and service level agreements]; [and]
    6. any other documents or terms applicable to the Services to be provided pursuant to that Order Form; [and]

g) [any amendments to this agreement agreed by the Reseller and the SaaS Provider].

1. Relevant Policies: has the meaning set out in clause 12.1(c).
2. Relevant Requirements: has the meaning set out in clause 12.1(a).
3. Reseller Data: the data inputted by the Reseller for the purpose of developing, testing, distributing or using the Resold Services or facilitating the Customer's use of the Resold Services and any data generated by, or derived from the Reseller's use of the Resold Services, whether hosted or stored within the Resold Services or elsewhere.
4. Reseller Products: the products of the type and specification referred to in Part 2 of Schedule 1.
5. Reserved Customers: means both:
   1. the customers specified in Schedule 8 which comprise the customer groups in respect of which the SaaS Provider has appointed an exclusive distributor or has reserved to itself; and
   2. any updates thereto notified by the SaaS Provider to the Reseller in writing from time to time.
6. Reserved Territories: means
   1. the [countries **OR** areas] specified in Schedule 8 which comprise the [countries **OR** areas] in respect of which the SaaS Provider has appointed an exclusive distributor and the [country **OR** areas] which the SaaS Provider has reserved to itself; and
   2. any updates thereto notified by the SaaS Provider to the Reseller in writing from time to time.
7. Resold Services: the Services and the Reseller Products [as **OR** to be] developed, marketed and licensed by the Reseller to its customers as more particularly described in Part 3 of Schedule 1.
8. SaaS Provider Privacy Notice: the privacy notice included at Schedule 10.
9. Services: the Software and those associated services of the type and specification listed in Part 1 of Schedule 1 and the associated documents relating to each of them [together with any other services or products and related documents developed by the SaaS Provider which the SaaS Provider may permit the Reseller, by express notice in writing, to market pursuant to this agreement].
10. Software: the online software applications provided by the SaaS Provider as part of the Services.
11. Subscription Fees: the subscription fees listed in Schedule 6 and payable by the Reseller to the Service Provider for each User Subscription as set out in the relevant Order Form.
12. Subscription Term: means the term set out in each Order Form during which the [Reseller **OR** SaaS Provider] permits each Customer access to the Services subject to the EULA[, such term being no longer than the Initial Term or any Extended Term].
13. Support Services Policy: the SaaS Provider's policy for providing support in relation to the Services as made available at [WEB ADDRESS] or such other website address as may be notified to the Reseller from time to time.
14. Territory: the geographical area described in Schedule 4.
15. Trade Marks: the trade mark registrations and applications, together with any unregistered trade marks, identified in Schedule 5 [together with any further trade marks which the SaaS Provider may permit or procure permission for the Reseller by express notice in writing to use in respect of the Services].
16. User Subscriptions: the number [and type] of user subscriptions which entitle Authorised Users to access and use the Services, Software and Documents in accordance with the EULA, as specified in each Order Form.
17. VAT: value added tax [or any equivalent tax] chargeable in the UK [or elsewhere].
18. Virus: any thing or device (including any software, code, file or program) 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 program or data, including the reliability of any program or data (whether by re-arranging, altering or erasing the program 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.
19. Vulnerability: a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term Vulnerabilities shall be interpreted accordingly.
20. Year: the period of 12 months from the Effective Date and each consecutive period of 12 months thereafter during the term of this agreement.
    1. Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
    2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
    3. A reference to a company includes any company, corporation or other body corporate, wherever and however incorporated or established.
    4. Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
    5. Unless the context otherwise requires, a reference to one gender includes a reference to the other genders.
    6. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
    7. A reference to writing or written excludes faxes [and email **OR** but not email].
    8. References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
21. Appointment
    1. The SaaS Provider hereby:
       1. grants the Reseller the non-exclusive, non-transferable and revocable right to [customise or adapt the Services, or] [integrate, combine or redistribute the Services with the Reseller Products] or [redistribute the Services as is], in each case as more particularly described in Part 3 of Schedule 1 (Resold Services).
       2. appoints the Reseller to distribute and make available the Resold Services as its non-exclusive distributor in the Territory on the terms of this agreement.
    2. The Reseller undertakes not to:
       1. purchase the Services from any person other than the SaaS Provider [(or its authorised distributors for the Services)]; [or]
       2. [during the Term of this agreement or for the period of five years from the Effective Date (whichever shall be the shorter), distribute, create or offer (including as part of or in combination with any Reseller Products), any services which compete with the Services; [or]]
       3. [distribute the Services other than as combined with the Reseller Products.]
    3. The Reseller shall be entitled to describe itself as an "Authorised [Value Added] Reseller" of the Services but (save as set out in this agreement) shall not represent itself as an agent of the SaaS Provider for any purpose, nor pledge the SaaS Provider's credit or give any condition or warranty or make any representation on the SaaS Provider's behalf or commit the SaaS Provider to any contracts. Further, the Reseller shall not without the SaaS Provider's prior written consent make any representations, warranties, guarantees or other commitments with respect to the specifications, features or capabilities of Services which are inconsistent with those contained in the promotional material supplied by the SaaS Provider (including, without limitation, the EULA) or otherwise incur any liability on behalf of the SaaS Provider howsoever arising.
    4. The Reseller shall not sell any of the Resold Services through a sales agent or to a sub-distributor or reseller without the prior express written permission of the SaaS Provider[, which shall not be unreasonably withheld or delayed]. Where the SaaS Provider agrees to any such appointment, the Reseller shall ensure that it enters into a written contract with such sales agent, sub-distributor or reseller on terms which provide at least the same level of protection to the SaaS Provider as set out in this agreement. In particular, the Reseller shall ensure that the following provisions are flowed down with necessary changes having been made in such agreement: clauses [NUMBERS], and that the SaaS Provider is permitted to enforce the Reseller's agreement with such sub-distributor or reseller pursuant to the Contracts (Rights of Third Parties) Act 1999.
    5. The Reseller's appointment under this clause 2 only grants to the Reseller a right to distribute the Services as part of the Resold Services, and does not transfer any right, title, licence or interest to any such Services to the Reseller or its customers. Use of the terms "sell", "license", "purchase", "licence fees" and "price" will be interpreted in accordance with this clause.
    6. [The Reseller shall not make active sales of the Resold Services [to customers in the Reserved Territories] [and] [to Reserved Customers].]
    7. [For these purposes, active salesshall be understood to mean actively approaching or soliciting customers, including the following actions:
       1. visits;
       2. direct mail, including the sending of unsolicited emails;
       3. advertising in media, on the internet or other promotions, where such advertising or promotion is specifically targeted [at customers in Reserved Territories] [and] [at Reserved Customers];
       4. online advertisements addressed [to customers in Reserved Territories] [and] [to Reserved Customers] and other efforts to be found specifically by users [in Reserved Territories] [and] [belonging to the Reserved Customers], including the use of territory-based banners on third party websites and paying a search engine or online advertisement provider to have advertisements or higher search rankings displayed specifically to users [in Reserved Territories] [and] [belonging to the Reserved Customers]; and
       5. advertising or promotion in any form, or translation of the Reseller's website into a language other than an official language of any country forming part of the Territory, that the Reseller would not reasonably carry out but for the likelihood that it will reach [customers in Reserved Territories] [and] [Reserved Customers].]
    8. The SaaS Provider reserves the right to sell the Services directly to customers and other resellers inside or outside the Territory.
22. EULA
    1. The parties shall agree a written process for making Customers aware of, and to record the Customer's acceptance of, the EULA.
    2. The Reseller shall take reasonable steps in accordance with Good Industry Practice to ensure that Customers, and prospective customers of the Resold Services, are made aware of and accept the EULA prior to using the Resold Services. [The Reseller shall not request access to the Resold Services for Authorised Users unless the Customer has signed the EULA.]
    3. The Reseller shall:
       1. comply with the EULA with regard to any use of the Services by the Reseller, or its personnel;
       2. not authorise, facilitate, enable or knowingly permit any breach of the EULA by any third party, including any Customer or prospective customer;
       3. take reasonable steps in accordance with Good Industry Practice to:
          1. ensure that each Customer and its personnel complies with the EULA; and
          2. monitor [and record] compliance with the EULA by each Customer and its personnel; and
       4. provide reasonable assistance, at its own cost, to enable the SaaS Provider to manage and enforce the terms of the EULA, including, on a monthly basis and subject to clause 15, providing the SaaS Provider such information [including names and addresses] about the Customers and their personnel and the use of the Resold Services as is [reasonably] required by the SaaS Provider for these purposes.
23. Reseller's warranties, undertakings and obligations
    1. The Reseller undertakes and agrees with the SaaS Provider to:
       1. use its [best **OR** all reasonable] endeavours to promote the distribution and sale of the Resold Services in the Territory and to expand the sale of the Resold Services by all reasonable and proper means and not to do anything which may hinder or interfere with such sales and, without limitation;
          1. to demonstrate to Customers the features and capabilities of the Resold Services; and
          2. actively to solicit orders for the Resold Services from Customers and prospective customers;
       2. [combine or integrate the Services with the Reseller Products solely in accordance with the combination instructions supplied by the SaaS Provider from time to time in writing and subject to any testing requirements that the SaaS Provider may reasonably impose; ]
       3. [ensure that the Reseller Products comply with the minimum technical and performance requirements set out in the Documents;]
       4. employ a sufficient number of suitably qualified personnel to ensure the proper fulfilment of the Reseller's obligations under this agreement;
       5. no later than the fifth working day of each calendar month (the first such month being deemed to start on the Effective Date, the last such month being deemed to end on the date this agreement terminates for any reason) submit to the SaaS Provider by such means as the SaaS Provider may notify to the Reseller from time to time reports in the format stipulated by the SaaS Provider from time to time showing details of:
          1. the number of User Subscriptions for Services sold by the Reseller during the month concerned;
          2. all Order Forms signed during the month concerned;
          3. all anticipated orders over the next [two] month[s] based on current and future sales engagement; and
          4. any other information relating to the performance of its obligations under this agreement the SaaS Provider may reasonably require from time to time;
       6. within 14 days of a written request from the SaaS Provider at any time, and from time to time, provide such information as is reasonably requested by the SaaS Provider about the Reseller's processes and controls to support compliance with this agreement;
       7. keep full and proper books of account and records showing clearly all enquiries, quotations, transactions and proceedings relating to the Resold Services and allow the SaaS Provider [no more frequently than once a year in the case of physical audits] (or its nominee, including without limitation its designated accountants or auditors), on reasonable notice, access to all accounts and records relating to the Resold Services and Services for the purpose of inspection to audit compliance with this agreement. This audit may take place physically on the Reseller's premises or remotely, at the SaaS Provider's option, and the SaaS Provider may deploy reasonable online audit tools via the Services for these purposes. The SaaS Provider will bear the costs of such inspection unless the audit shows a shortfall exceeding 5% in respect of any period to which the inspection relates between the amount actually paid by the Reseller and the amount due to be paid by the Reseller, in which event (without affecting or prejudicing any other rights the SaaS Provider may have) the Reseller will pay in full the SaaS Provider's costs (which for the avoidance of doubt will include any reasonable costs of the SaaS Provider's nominee in carrying out the inspection) and the amount of the shortfall, within 14 days of the date of the SaaS Provider's invoice for such costs or shortfall;
       8. keep all keys or access permissions for the Services and the Resold Services in conditions appropriate for their storage and provide appropriate for their secure storage [in accordance with Good Industry Practice], at its own cost;
       9. during the term of this agreement, provide to Customers a pre and after-sale support service in respect of the Resold Services on terms at least as favourable as the pre and after-sale support service the Reseller provides in respect of any Reseller Products, including, without limitation, consultation on the use of Resold Services; timely responses to Customers' general questions concerning use of Resold Services; and assistance to customers in the diagnosis and correction of problems encountered in using Resold Services;
       10. inform the SaaS Provider immediately of any changes in ownership or Control of the Reseller and of any change in its organisation or method of doing business which might affect the performance of the Reseller's duties in this agreement; [and]
       11. [not resell the Resold Services at a price exceeding the maximum resale price from time to time specified by the SaaS Provider in writing.]
    2. The Reseller represents, warrants and undertakes that:
       1. it has full capacity and authority and all necessary consents to enter into and to perform this agreement and to grant the rights and licences referred to in this agreement and that this agreement is executed by its duly authorised representative and represents a binding commitment on it;
       2. without affecting its other obligations under this agreement it shall comply with all applicable Legislation in the performance of its obligations under this agreement; and
       3. in performing its obligations under this agreement the Reseller shall comply with the Mandatory Policies.
    3. The Reseller shall, in reselling the Services, comply with the SaaS Provider's information security, confidentiality and data protection policies relating to the privacy and security of the Data available at [WEB ADDRESS] or such other website address as may be notified by the SaaS Provider from time to time, as such document may be amended from time to time by the SaaS Provider in its sole discretion.
24. User subscriptions
    1. The SaaS Provider shall, during the Initial Term and any Extended Term, for each EULA provide the Services and make available the Software and Documents as requested by the Reseller in each Order Form.
    2. In relation to the Customer and each Authorised User, the Reseller undertakes, and shall procure that each Customer undertakes, that:
       1. the maximum number of Authorised Users with the right to access and use the Services, Software or the Documents shall not exceed the number of User Subscriptions it has purchased from time to time; and
       2. it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services, Software or Documents;
25. Access to services and data
    1. The SaaS Provider reserves the right in the event of:
       1. a breach [or suspected breach] of this agreement by the Reseller, [on no less than thirty (30) days' prior written notice to the Reseller, such notice specifying the breach of this clause and requiring it to be remedied within the thirty (30) day period **OR** immediately] to suspend the Reseller's right to resell the Services for the duration of time that the breach remains unremedied;
       2. a cyber or other security incident significantly affecting, or in the SaaS Provider's reasonable opinion, likely to significantly affect the provision of the Services or harm customers, to disable access to the Services, Software and Documents for such period required for the incident to be contained. [If the SaaS Provider suspends access to the Services as a result of a suspected incident which the Reseller is able to demonstrate was not a credible threat then no fees shall be payable by the Reseller in connection with this agreement for the period of time in which the Services were suspended.]
    2. Save as expressly permitted under this agreement, the Reseller shall not:
       1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:
          1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services, the Software or Documents (as applicable) in any form or media or by any means; or
          2. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or Services;
       2. access all or any part of the Services, Software and Documents to build a product or service which competes with the Services, Software or the Documents;
       3. use the Services, Software or Documents to provide services to third parties;
       4. subject to clause 27.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise make the Services, Software or Documents available to any third party; or
       5. attempt to obtain, or assist third parties in obtaining, access to the Services, Software or Documents.
    3. The Reseller shall take reasonable steps in accordance with Good Industry Practice to prevent any unauthorised access to, or use of, the Services, Software or the Documents and, if there is any such unauthorised access or use, promptly notify the SaaS Provider.
    4. The SaaS Provider is entitled on giving [NUMBER] months' written notice to the Reseller to vary Part 1 of Schedule 1 to exclude from this agreement one or more of the Services or Software if for any reason the provision of such Services or Software have been permanently discontinued.
    5. The SaaS Provider is entitled to make changes to the Services, Software or Documents provided such changes do not adversely affect the Resold Services [in any material respect], and shall give written notice of such changes to the Reseller as soon as reasonably practicable.
    6. The Reseller shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Reseller Data [and shall procure that the Customer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data]. The Reseller hereby licenses the SaaS Provider to use the Reseller Data [and shall procure that the Customer hereby licences the SaaS Provider to use the Customer Data] for:
       1. the proper performance of the Services, including the provision of the Software and the Documents;
       2. the purposes set out in the SaaS Provider Privacy Notice.
       3. [LIST ANY OTHER SPECIFIC PURPOSES WHICH ARE REQUIRED OR REQUESTED];
       4. all other purposes relevant to the proper exercise of the SaaS Provider's rights and obligations under this agreement or the EULA.
    7. [The SaaS provider shall develop a backup schedule [as set out in Schedule 9], perform scheduled backups, provide routine and emergency data recovery and manage the archiving process for the Customer Data [and Reseller Data]. The backup schedule shall include at least weekly full backups and daily incremental backups (Data Backups). In the event of data loss, the SaaS provider shall provide recovery services to try to restore the most recent backup.]
26. Service obligations
    1. The SaaS Provider shall use commercially reasonable efforts to make the Services available 24 hours a day, seven days a week, except for:
       1. planned maintenance carried out during the maintenance window of [10.00 pm to 2.00 am UK time **OR** [TIME FRAME]]; and
       2. unscheduled maintenance performed outside Normal Business Hours, provided that the SaaS Provider has used reasonable endeavours to give the Reseller at least [[six] Normal Business Hours' **OR** [PERIOD]] notice in advance.
    2. [If the Services availability drops below 99.5% per [month **OR** quarter], the SaaS Provider shall pay to the Reseller service credits in the amounts set out in Schedule 1. If the Services availability drops below 99.5% during three consecutive calendar months or quarters, Reseller may terminate this agreement on notice in writing to the SaaS Provider.]
    3. The SaaS Provider will, as part of the Services and at no additional cost to the Reseller, provide the Reseller with the SaaS Provider's standard support services during Normal Business Hours in accordance with the SaaS Provider's Support Services Policy in effect at the time that the Services are provided. The SaaS Provider may amend the Support Services Policy on no less than ninety (90) days' notice in writing to the Reseller and shall ensure that any amendment to the Support Services Policy does not materially adversely affect, reduce, or change the Support Services. [If the Reseller does not agree to the SaaS Provider's updated Support Services Policy, the Reseller may terminate this agreement on no less than thirty (30) days' prior written notice to the SaaS Provider.]
    4. The SaaS Provider undertakes:
       1. [to provide such information and support as may be reasonably requested by the Reseller to enable it properly and efficiently to discharge its duties under this agreement; and]
       2. to approve or reject any promotional information or material submitted by the Reseller within [28 **OR** 14] days of receipt.
27. SaaS Provider warranties, undertaking and obligations
    1. [The SaaS Provider undertakes that the Services will be performed in accordance with the Documents and with reasonable skill and care in accordance with Good Industry Practice.

**OR**

The SaaS Provider warrants to the Reseller that the Services supplied or licensed by it under this agreement will operate substantially in accordance with, and perform, the material functions and features as set out in the applicable part(s) of the Documents.]

* 1. The undertaking at clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the SaaS Provider's instructions, or modification or alteration of the Services by any party other than the SaaS Provider or the SaaS Provider's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, the SaaS Provider will, at its expense, and as the Reseller's sole right and remedy, correct any such non-conformance promptly.
  2. This agreement shall not prevent the SaaS Provider from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documents, products or services which are similar to those provided under this agreement.
  3. [Save as expressly set out in this agreement, the SaaS Provider:
     1. [does not warrant that the Reseller's use of the Services will be uninterrupted or error-free; and]
     2. [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 Reseller acknowledges that the Services, Software and Documents may be subject to limitations, delays and other problems inherent in the use of such communications facilities.]
  4. The SaaS Provider warrants and undertakes that:
     1. it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement;
     2. it will comply with all applicable Legislation with respect to its obligations under this agreement [including the Cybersecurity Requirements];
     3. it has full capacity and authority and all necessary consents to enter into and to perform this agreement and to grant the rights and licences referred to in this agreement and that this agreement is executed by its duly authorised representative and represents a binding commitment on it;
     4. it will notify the Reseller in writing immediately on the occurrence of a change of control of the SaaS Provider;

1. Prices and payment
   1. The Reseller shall pay to the SaaS Provider the SaaS Provider's reseller list prices for the Services set out in Schedule 6, and as amended by the SaaS Provider from time to time on written notice to the Reseller.
   2. The SaaS Provider shall give the Reseller [14 **OR** 28] days' notice of any changes in the prices of the Services.
   3. Any and all expenses, costs and charges incurred by the Reseller in the performance of its obligations under this agreement shall be paid by the Reseller unless the SaaS Provider has expressly agreed beforehand in writing to pay such expenses, costs and charges.
   4. [The SaaS Provider undertakes not to grant to any third party any distribution rights in respect of the Services to allow the third party to distribute the Services [in combination with products which are at least equivalent to the technical [or functional] specifications of the Resold Services] on terms which are in any respect more favourable to such third party than the terms of this agreement are to the Reseller, unless it has first given the Reseller written notice of such proposed distribution arrangement (though not the identity of the third party) and the option, exercisable within [28 **OR** 14] days of such notice, to vary the terms of this agreement from the date of the grant of such third party arrangement insofar as, and only to the extent that, such terms are inconsistent with the terms of such third party arrangement.]
   5. The SaaS Provider will invoice the Reseller [monthly **OR** [FREQUENCY]] for the amount shown by [the report referred to in clause 4.1(e) as being due for the month concerned **OR** [OTHER MEANS OF DETERMINING FEE]].
   6. The Reseller shall pay the full amount invoiced to it by the SaaS Provider [in pounds sterling] within 30 days of the date of invoice.
   7. All amounts due under this agreement shall be paid by the Reseller to the SaaS Provider in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
   8. As between the SaaS Provider and the Reseller, the Reseller shall be responsible for the collection, remittance and payment of any or all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in respect of the purchase, importation, sale, lease or other distribution of the Services or Resold Services.
   9. If the Reseller fails to make any payment of any undisputed amounts due to the SaaS Provider under this agreement by the due date for payment, then[, without limiting the SaaS Provider's remedies under [clause 20](#a303974), the Reseller shall pay interest on the overdue amount at the rate of [4 **OR** PERCENTAGE]% a year above [FULL NAME OF BANK]'s base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Reseller shall pay the interest together with the overdue amount.
2. Advertising and promotion

The Reseller shall:

* + 1. be responsible for the advertising and promotion of the Resold Services provided that the use by the Reseller of any advertising materials and promotional literature containing the Trade Marks or other references to the Services shall be subject to the prior written consent of the SaaS Provider;
    2. observe all [reasonable] directions and instructions given to it by the SaaS Provider in relation to the promotion and advertisement of the Resold Services to the extent that such promotions or advertisements refer to the Services or otherwise use the Trade Marks, and shall not make any written statement as to the quality or manufacture of the Services without the prior written approval of the SaaS Provider;
    3. conduct its business in a manner that reflects favourably at all times on the SaaS Provider and the good name, goodwill and reputation of the SaaS Provider and not enter into any contract or engage in any practice that is or may be detrimental to the interests of the SaaS Provider in the Services; and
    4. avoid deceptive, misleading or unethical practices that are, or might be, detrimental to the SaaS Provider, the Services or the public and shall not publish or employ, or co-operate in the publication or employment of, any false, misleading or deceptive advertising material or other representations with regard to the SaaS Provider or the Services.

1. Compliance with laws and regulations
   1. The Reseller shall be responsible for obtaining any import licences or permits necessary for the entry of the Services or Resold Services into the Territory, or their delivery to the Reseller, and the Reseller shall be responsible for any and all customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the importation and delivery of the Services or Resold Services.
   2. The Reseller warrants to the SaaS Provider that it has informed the SaaS Provider of all Legislation affecting the manufacture and sale of the Services which are in force in the Territory [or any part of it] (Local Regulations) at the date of this agreement.
   3. The SaaS Provider warrants to the Reseller that the Services comply with the Local Regulations in force at the date of this agreement.
   4. The Reseller shall give the SaaS Provider as much advance notice as reasonably possible of any prospective changes in the Local Regulations.
   5. On receipt of notification from the Reseller under clause 11.4, the SaaS Provider shall [endeavour to] ensure that the Services comply with any change in the Local Regulations by the date of implementation of that change or as soon as is [reasonably] possible thereafter.
2. Anti-bribery
   1. The Reseller shall:
      1. comply with all applicable laws, regulations[, codes] and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
      2. [not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;]
      3. comply with the SaaS Provider's Ethics, Anti-bribery and Anti-corruption Policies (annexed to this agreement at Schedule [NUMBER]) and [RELEVANT INDUSTRY CODE ON ANTI-BRIBERY]] [annexed to this agreement at Schedule [NUMBER]], in each case as the SaaS Provider or the relevant industry body may update them from time to time (Relevant Policies);
      4. have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements[, the Relevant Policies] [and clause 12.1], and will enforce them where appropriate;
      5. [promptly report to the SaaS Provider any request or demand for any undue financial or other advantage of any kind received by the Reseller in connection with the performance of this agreement;]
      6. immediately notify the SaaS Provider (in writing) if a foreign public official [becomes an officer or employee of the reseller] [and] [acquires a direct or indirect interest in the Reseller] and the Reseller warrants that it has no foreign public officials as [officers or employees] [and] [direct or indirect owners] at the date of this agreement;
      7. within [NUMBER] months of the date of this agreement, and annually thereafter, certify to the SaaS Provider in writing signed by an officer of the Reseller, compliance with this clause 12 by the Reseller and all persons associated with it and all other persons for whom the Reseller is responsible under clause 12.1(d). The Reseller shall provide such supporting evidence of compliance as the SaaS Provider may reasonably request;
   2. Without prejudice to clause 27.1 the Reseller shall ensure that any person associated with the Reseller who is performing services [or providing goods] in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Reseller in this clause 12 (Relevant Terms). The Reseller shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms and shall in all circumstances be directly liable to the SaaS Provider for any breach by such persons of any of the Relevant Terms howsoever arising.
   3. Breach of this clause 12 shall be deemed a material breach, which is irredeemable, under clause 20.2(a).
   4. For the purpose of this clause 12, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and (6) of that Act and section 8 of that Act respectively. For the purposes of this clause 12 a person associated with the Reseller includes but is not limited to any subcontractor of the Reseller.
3. Intellectual Property Rights
   1. The Reseller acknowledges and agrees that the SaaS Provider or its licensors own all Intellectual Property Rights in the Services, Software and the Documents. Except as expressly stated in this agreement, this agreement does not grant the Reseller any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services, Software or the Documents.
   2. The SaaS Provider confirms that it has all the rights in relation to the Services, Software and Documents that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement and the EULA.
   3. The Reseller shall, at the expense of the SaaS Provider, take all such steps as the SaaS Provider may reasonably require to assist the SaaS Provider in maintaining the validity and enforceability of the Intellectual Property Rights of the SaaS Provider during the term of this agreement.
   4. Without prejudice to the right of the Reseller or any third party to challenge the validity of any Intellectual Property Rights of the SaaS Provider, the Reseller shall not do or authorise any third party to do any act which would or might invalidate or be inconsistent with any Intellectual Property Rights of the SaaS Provider and shall not omit or authorise any third party to omit to do any act which, by its omission, would have that effect or character.
   5. The SaaS Provider grants to the Reseller a non-exclusive, revocable, personal licence (subject to the terms and conditions of this agreement, and during its term and solely for the purposes of performing the Reseller's obligations under this agreement) to:
      1. use the Services in compliance with the Reseller's appointment in clause 2.1 [at the Reseller's premises] and for the purposes of demonstrating, marketing and selling the Resold Services to Customers and fulfilling its other obligations under this agreement;
      2. combine the Services with the Reseller Products (where applicable) and provide access to, or otherwise facilitate the use of the Resold Services by, each Customer who has signed the EULA during the Subscription Term set out in the relevant Order Form (and any extension thereof) for the Customer's internal business operations; and
      3. use the Trade Marks on or in relation to the Resold Services orServices for the purpose of the promotion, advertisement and sale of the Resold Services.
   6. [The Reseller acknowledges that it has received (whether as APIs (application programming interfaces) or otherwise) sufficient information to enable it to [combine the Services with the Reseller Products and] provide and market the Resold Services in the manner envisaged by this agreement. ]
   7. The Reseller shall ensure that each reference to, and use of, any of the Trade Marks by the Reseller is in a manner approved from time to time by the SaaS Provider and accompanied by an acknowledgement in a form approved by the SaaS Provider that the same is a trade mark (or registered trade mark) of the SaaS Provider.
   8. The Reseller shall not:
      1. use any of the Trade Marks in any way which might prejudice their distinctiveness or validity or the goodwill of the SaaS Provider therein;
      2. use in relation to the Services any trade marks other than the Trade Marks without obtaining the prior written consent of the SaaS Provider; or
      3. use any trade marks or trade names so resembling any trade mark or trade name of the SaaS Provider.
   9. The Reseller acknowledges that neither it, not any Customer, has a right to access to any Software in source code form.
4. Security of the services
   1. Each party:
      1. warrants that it is [ISO/IEC 27001 accredited **OR** SSAE [16][18] SOC 2 certified **OR** ISAE 3402 certified];
      2. shall, in relation to the Software and the Services, maintain such accreditation(s) and certifications throughout the term of this agreement
      3. shall provide the other party with a complete copy of each audit or other report received by it in connection with such accreditation(s) and certification(s) within ten Business Days after its receipt of such report; and
      4. shall [take all reasonable steps [in accordance with Good Industry Practice]] not [to] introduce any Viruses [or Known Vulnerabilities] [or Latent Vulnerabilities] into the network and information systems of the other party or any Customer, when exercising its rights or fulfilling any of its obligations under this agreement (including in respect of any interconnectivity or interoperability set up between the network and information systems of the SaaS provider, the Reseller or any Customer).
   2. Each party warrants that the information in Schedule 9 on the security of its network and information systems is up to date and accurate, and that it will update the other party immediately if there are any changes to such information.
   3. Each party shall notify the other immediately if it becomes aware of any Incident, and respond without delay to all queries and requests for information from the other party about any Incident, in particular bearing in mind the extent of any reporting obligations the other party may have under the NIS Regulations and applicable data protection legislation and that the other party may be required to comply with statutory or other regulatory timescales.
   4. The SaaS Provider will [use its best endeavours to] ensure the continuity of the Services at all times in accordance with the information on business continuity management set out in Schedule 9 and any relevant policies referred to in clause 14.6, with a view to ensuring the continuity of any services to be provided by the Reseller that rely on the Services or Software.
   5. Each party agrees to co-operate with the other party in relation to:
      1. all aspects of its compliance with the NIS Regulations (if applicable);
      2. any requests for information, or inspection, made by any data protection or cybersecurity regulator (including in connection with the NIS Regulations);
      3. any request for information made in respect of any of the information provided in Schedule 9 or any of the policies referred to in clause 14.6; and
      4. any Incident.
   6. Each party shall (and warrants and represents that it shall) at all times in accordance with Good Industry Practice:
      1. implement, operate, maintain, and adhere to, appropriate policies to cover the issues specified in Schedule 9, including an incident management process which shall enable the SaaS Provider, as a minimum, to discover and assess Incidents, and to prioritise those Incidents, sufficient to meet its reporting obligations under clause 14.3; and
      2. mitigate against all Incidents.
   7. Each party shall make available copies of the policies referred to in clause 14.6 promptly on request by the other party.
5. Confidentiality
   1. Each party undertakes that it shall not [at any time **OR** at any time during this agreement, and for a period of [two] years after termination [or expiry] of this agreement,] disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party [or of any member of the group of companies to which the other party belongs], except as permitted by clause 15.2.
   2. Each party may disclose the other party's confidential information:
      1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 15; and
      2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
   3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.
   4. This clause 15 shall survive termination of this agreement for any reason.
6. Data protection

[APPROPRIATE DATA PROTECTION CLAUSES.]

1. No partnership or agency
   1. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party except as expressly provided in clause 2.
   2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
2. Indemnity
   1. The SaaS Provider shall, subject always to the Reseller's compliance with clause 18.2 below, defend the Reseller, its affiliates and subsidiaries and its and their officers, directors and employees against any and all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred or paid by the Reseller arising out of or in connection with any claim brought against the Reseller for actual or alleged infringement of a third party's intellectual property rights in any jurisdiction.
   2. If the SaaS Provider is required to indemnify the Reseller under this clause 18, the Reseller shall:
      1. notify the SaaS Provider in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 18.1 (IPRs Claim);
      2. allow the SaaS Provider, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the SaaS Provider shall obtain the Reseller's prior approval of any settlement terms, such approval not to be unreasonably withheld;
      3. provide the SaaS Provider with such reasonable assistance regarding the IPRs Claim as is required by the SaaS Provider, subject to reimbursement by the SaaS Provider of the Reseller's reasonable costs so incurred; and
      4. not, without prior consultation with the SaaS Provider, make any admission relating to the IPRs Claim or attempt to settle it, provided that the SaaS Provider considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Reseller into disrepute.
   3. In the defence or settlement of any claim, the SaaS Provider may procure the right for the Reseller to continue using the Services, replace or modify the Services without a reduction or alteration in functionality so that they become non-infringing.
   4. In no event shall the SaaS Provider, its employees, agents and subcontractors be liable to the Reseller to the extent that the alleged infringement is based on:
      1. a modification of the Services, Software or Documents by anyone other than the SaaS Provider or its agents, subcontractors or partners or with the SaaS Provider's consent or approval;
      2. the Reseller's use of the Services, Software or Documents otherwise than in accordance with the Documents or the terms of this agreement; or
      3. the Reseller's use of the Services, Software or Documents after notice of the alleged or actual infringement from the SaaS Provider or any appropriate authority.
   5. In the defence or settlement of the claim, the SaaS Provider may obtain for the Reseller the right to continue distributing the Services in the manner contemplated by this agreement, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement immediately by notice in writing and without liability to the Reseller. The SaaS Provider shall not in any circumstances have any liability if the alleged infringement is based on:
      1. the Reseller Products[, whether in whole or in part];
      2. a modification of the Services by anyone other than the SaaS Provider;
      3. the Reseller's marketing, advertising, distribution or use of the Services in a manner contrary to the instructions given to the Reseller by the SaaS Provider;
      4. the Reseller's marketing, advertising, distribution or use of the Services after notice of the alleged or actual infringement from the SaaS Provider or any appropriate authority; or
      5. use or combination of the Services with the Reseller Products in circumstances where, but for such combination, no infringement would have occurred.

The foregoing states the Reseller's sole and exclusive rights and remedies, and the SaaS Provider's entire obligations and liability, in the case of any matter falling under clause 18.

* 1. Each party shall, at the request and expense of the other, provide all reasonable assistance to the other (including, but not limited to, the use of its name in, or being joined as a party to, proceedings) in connection with any action to be taken by the other party, provided that that party is given such indemnity as it may reasonably require against any damage to its name.

1. Limitation of liability
   1. Except as expressly and specifically provided in this agreement, all warranties, conditions and other terms implied by statute, common law or otherwise are, to the fullest extent permitted by law, excluded from this agreement.
   2. Nothing in this agreement excludes the liability of each party:
      1. for death or personal injury caused by its negligence; or
      2. for fraud or fraudulent misrepresentation.
   3. [Subject to clause 19.2 the SaaS Provider shall have no liability for:
      1. loss of profits;
      2. loss of business;
      3. depletion of goodwill or similar losses;
      4. loss of anticipated savings;
      5. loss of goods;
      6. loss of use;
      7. loss or corruption of data or information; or
      8. wasted expenditure;
      9. any special, indirect, or consequential loss, costs, damages, charges or expenses.]
   4. [Other than in relation to any liability under clause 19.1:
      1. the SaaS Provider's total aggregate liability to the Reseller in respect of all breaches of duty occurring within any contract year shall not exceed the cap. [If breaches committed in more than one contract year give rise to a single claim or a series of connected claims, the SaaS Provider's total liability for those claims shall not exceed the single highest annual cap for those contract years.]
      2. [In clause 19.4(a):
         1. [cap] The cap is the greater of £[MINIMUM AMOUNT] and [NUMBER IN WORDS] per cent ([PERCENTAGE]%) of the amount actually paid by the Reseller to the SaaS Provider under this agreement in the contract year in which the breaches occurred. [For a worked example, see [Schedule [NUMBER]];
         2. [contract year.] A contract year means a 12 month period commencing on the Effective Date or any anniversary of it.]]
   5. The Reseller accepts responsibility for selecting the Services as part of the Resold Services [and for combination with the Reseller Products] and acknowledges that the Services, Software and Documents have not been developed or designed to meet or support any individual requirements of the Reseller or any Customer, including [any particular cybersecurity requirements the Reseller might be subject to, or] any regulated activity that the Reseller may be engaged in, including the provision of an online intermediation service, an online search engine or service that facilitates online interaction between users (such as, but not limited to, a social media platform) (each a Regulated Activity). If the Reseller uses, or makes available, the Services for any Regulated Activity the Reseller shall comply with any requirements that apply to such Regulated Activity from time to time (including in any jurisdiction in which the Reseller operates or where the Regulated Activity is undertaken), and the Reseller shall defend, indemnify and hold the SaaS Provider harmless against any loss or damage (including regulatory fines or penalties) costs (including [reasonable] legal fees) and expenses which the SaaS Provider may suffer or incur as a result of the Reseller's breach of this clause 19.5.
   6. References to liability in this clause 19 include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
2. Term and termination
   1. This agreement shall commence on the Effective Date. Unless terminated earlier in accordance with this clause 20.1, clause 20.2 or clause 20.3, this agreement shall continue [until [DATE] **OR** for [PERIOD]] (Initial Term) and shall automatically extend for 12-monthly periods (Extended Term) at the end of the Initial Term and at the end of each Extended Term. Either party may give written notice to the other party, not later than 90 days before the end of the Initial Term or the relevant Extended Term, to terminate this agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.
   2. Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
      1. the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than [NUMBER] days after being notified in writing to make such payment;
      2. the other party commits a material breach of any [other] term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [NUMBER] days after being notified in writing to do so;
      3. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
      4. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
      5. the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
      6. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;
      7. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);
      8. the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
      9. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
      10. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within [14 **OR** [NUMBER]] days;
      11. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 20.2(b) to clause 20.2(i) (inclusive); [or]
      12. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; [or]
      13. [the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.]
   3. [Without prejudice to any other rights or remedies to which the SaaS Provider may be entitled, the SaaS Provider may terminate the agreement without liability to the Reseller if:
      1. [if the Reseller commits a breach of its obligation in clause 8.5(c);]
      2. there is a change of control of the Reseller; or
      3. the Reseller purports to assign any of its rights or obligations under this agreement.]
   4. [For the purposes of clause 20.2(b), a material breach means:
      1. a breach of any of any of the obligations set out in clauses [NUMBERS]; or
      2. a breach that has a serious effect on the benefit the terminating party would otherwise derive from this agreement [over any [NUMBER]-month period during its term].]
3. Effects of termination
   1. On termination or expiry of this agreement for any reason:
      1. [without prejudice to each EULA between the SaaS Provider and Customer] all outstanding Orders placed by the Reseller shall be cancelled and the Reseller shall (at its sole cost) return (or at the SaaS Provider's option, destroy or delete) all media (subject to clause 21.1(b)) on which the Services, Software or Documents are held [and the Reseller shall stop combining the SaaS Services and Software with the Reseller Products, cease all marketing and sales activity and transfer all live opportunities to the SaaS Provider, or their nominee];
      2. for no more than [NUMBER] months following termination of this agreement the Reseller shall provide all assistance and information requested by the SaaS Provider and shall co-operate with the SaaS Provider and any replacement reseller to facilitate a smooth transition from the Reseller. [Any continued sale or distribution of the SaaS Services post termination shall be subject to the terms of this agreement and the continued payment of the Subscription Fees];
      3. on the expiry of the [NUMBER]-month period under clause 21.1(b), the Reseller shall promptly return to the SaaS Provider, or otherwise delete or dispose of as the SaaS Provider may instruct, any Software, Documents and other items relating to the SaaS Provider's business (and copies of them) (other than correspondence which has passed between the parties) which the Reseller may have in its possession or under its control and, in the case of destruction or deletion, the Reseller shall certify the same to the SaaS Provider;
      4. the accrued rights of the parties as at termination or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination shall not be affected or prejudiced; and
      5. [where requested by the Reseller, the SaaS Provider shall provide guidance [at its own cost] to assist with any download of Data before the termination of the Services and if no request is made] within [14 days **OR** [PERIOD]] of termination the SaaS provider shall, in accordance with its data deletion policy and subject to clause 15 destroy (and in the case of electronic data, delete from any network and information systems under its control) all Reseller Data and Customer Data [and any electronic data shall be considered deleted, for the purpose of this clause where it has been put beyond use by the SaaS Provider];]
      6. subject to the foregoing provisions of this clause 21.1, all rights and licences of the Reseller under this agreement shall terminate.
   2. The termination of this agreement shall not of itself give rise to any liability on the part of the SaaS Provider to pay any compensation to the Reseller for loss of profits or goodwill, to reimburse the Reseller for any costs relating to or resulting from such termination, or for any other loss or damage.
4. Force majeure
   1. Subject to clause 22.2, neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for [NUMBER] [days], the party not affected may terminate this agreement by giving [not less than [NUMBER] days'] written notice to the affected party.
   2. The SaaS Provider shall have in place an appropriate business continuity plan to ensure that it is able to comply with its obligations under this agreement and shall maintain, update and test such business continuity plan and notify full details of its then current business continuity plan to the Reseller no less frequently than every 12 months. [If such business continuity plan is invoked, the cost and expense of invoking and executing such business continuity plan shall be borne by the SaaS Provider.]
5. Waiver
   1. A waiver of any right or remedy is only effective if given in writing [and shall not be deemed a waiver of any subsequent right or remedy].
   2. A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.
6. Severance
   1. If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
   2. If any provision or part-provision of this agreement is deemed deleted under clause 24.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
7. Entire agreement
   1. This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.
   2. Each party acknowledges that in entering into this agreement it does not rely on[, and shall have no remedies in respect of,] any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
   3. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.
   4. [Nothing in this clause shall limit or exclude any liability for fraud.]
8. Variation

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

1. Assignment
   1. The SaaS Provider may at any time assign, mortgage, charge, delegate, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement[, provided that it gives prior written notice of such dealing to the Reseller].
   2. The Reseller shall not, without the prior written consent of the SaaS Provider (such consent not to be unreasonably withheld), assign, transfer, mortgage, charge, delegate, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
2. Third party rights
   1. [Unless it expressly states otherwise, this **OR** This] agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
   2. The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.
3. Rights and remedies

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

1. Notices
   1. Any notice given to a party under or in connection with this contract shall be in writing and shall be:
      1. delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
      2. sent by email to the following addresses (or an address substituted in writing by the party to be served):
         1. SaaS Provider: [ADDRESS].
         2. Reseller: [ADDRESS].
   2. Any notice shall be deemed to have been received:
      1. if delivered by hand, at the time the notice is left at the proper address;
      2. if sent by pre-paid first-class post or other next working day delivery service, at [9.00 am] on the [second] Business Day after posting.
      3. if sent by email, at the time of transmission, or, if this time falls outside Normal Business Hours in the place of receipt, when Normal Business Hours resume.
   3. This clause 30 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
2. Governing law

This agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and interpreted in accordance with the laws of England and Wales.

1. Jurisdiction

The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any disputes or claims arising out of or in connection with this agreement, its subject matter or its formation (including non-contractual disputes or claims).

1. Services, Resold Services [and Reseller Products]
2. Services
3. [Reseller Products]
4. Resold Services
5. EULA
6. Order Form
7. Territory
8. Trade Marks
9. Prices
10. Subscription Fees

The SaaS Provider's Subscription Fees are set out below:

[DETAILS OF SUBSCRIPTION FEES]

1. Service credits

[DETAILS OF SERVICE CREDITS]]

1. Mandatory Policies

[LIST [AND ATTACH] THE MANDATORY POLICIES HERE]

The Mandatory Policies are:

* [Modern Slavery and Human Trafficking Policy]
* [Corporate and Social Responsibility Policy]
* [Data and Privacy Policy]
* [Ethics and Anti-Bribery Policy]
* [Expenses Policy]
* [Cybersecurity Policy]
* [Business continuity and disaster recovery]

1. [Reserved Territories and Reserved Customers]
2. [Network and information systems security]

Security of systems and facilities

[A description or mapping of a party's network and information system insofar as it relates to and could have an impact on the security of the other party's network and information system, including any policies the relevant party has in place for managing information security, including risk analysis, human resources, security of operations, security architecture, secure data and system life cycle management and, where applicable, encryption and its management.

Its measures to protect the security of such network and information systems from damage using an all-hazards risk-based approach, addressing, for instance, system failure, human error, malicious action or natural phenomena.

Its measures including any policies to ensure the accessibility and traceability of critical supplies used in the provision of the Services (in the case of the SaaS Provider) or Resold Services (in the case of the Reseller).

Any measures to ensure that the physical and logical access to network and information systems, including administrative security of the network and information systems, is authorised and restricted based on business and security requirements.]

Incident handling

[Its detection processes and procedures for ensuring timely and adequate awareness of anomalous events and details of the ways in which it maintains and tests these processes and procedures.

Its processes and policies on reporting incidents and identifying weaknesses and vulnerabilities in its information systems.

Its procedures for assessing the severity of a security incident, documenting knowledge from incident analysis which may serve as evidence and support a continuous improvement process.]

Business continuity management

[Its contingency procedures for ensuring business continuity for the websites, its suppliers and details of the ways in which it regularly assesses and tests these.

Its disaster recovery capabilities and details of the ways in which these are regularly assessed and tested.

Its data backup and restoration procedures, including: recovery time objective (RTO) setting out the time required to bring the SaaS services on line after an outage; and the recovery point objective (RPO) indicating the amount of data (updated or created) that will be lost or need to be re-entered after an outage.]

Monitoring, auditing and testing

[Its policies and the maintenance of such policies on:

Conducting planned sequences of observations or measurements to assess whether network and information systems are operating as intended.

Inspection and verification to check whether a standard or set of guidelines is being followed, records are accurate, and efficiency and effectiveness targets are being met.

A process (including technical processes and personnel involved in the operation flow) intended to reveal flaws in the security mechanisms of a network and information system that protect data and maintain functionality as intended.]

International standards

[Any information or policies on compliance with international standards.]

1. SaaS Provider privacy notice

|  |  |  |
| --- | --- | --- |
| Signed by [NAME OF DIRECTOR] |  | ……………….………….…….…. |
| for and on behalf of [NAME OF **SaaS Provider**] |  | Director |
| Signed by [NAME OF DIRECTOR] |  | ……………….………….…….…. |
| for and on behalf of [NAME OF **Reseller**] |  | Director |