

CUBE END USER LICENCE AGREEMENT

These CUBE Terms and Conditions (“**Terms and Conditions**”) apply as between the Customer identified in the Order Form (“**Customer**”), and CUBE Content Governance Limited a company incorporated and registered in England and Wales with company number 03519663 whose registered office is at 130 Wood Street, London, United Kingdom, EC2V 6DL (“**CUBE**”). Capitalised terms used in these Terms and Conditions are defined in clause.

1. DEFINITIONS

1.1. The following definitions apply in this Agreement

1.1.1. **Affiliates:** means, in relation to either party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party with the terms “subsidiary” and “holding company” being given their meaning as set out in section 1159 of the Companies Act 2006.

1.1.2. **Agreed Maintenance Window:** means the time ranges set out in the Service Level Agreement during which CUBE may make the Services unavailable to the Customer where maintenance is required.

1.1.3. **Agreement:** means these Terms and Conditions together with the Order Form, the Documentation and any other document explicitly incorporated by reference.

1.1.4. **Applicable Laws:** means all applicable statutes, laws, regulations, orders and judgments of any relevant court of law and all regulations, in each case issued or approved by any relevant regulatory or governmental authority and in each case of any relevant jurisdiction and in force from time to time (which in the case of CUBE shall specifically refer to any of the foregoing that are only applicable to CUBE’s provision of any of the Service and Content to its customers generally, without regard for the Customer’s particular use of the Service and Content, or the regulatory regime (or otherwise) which the Customer is subject to).

1.1.5. **Authorised Users:** means those employees, agents and independent contractors of the Customer, up to the

maximum number set out on the Order Form.

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

1.1.7. **Business Hours:** means the hours set out as such in the Service Level Agreement.

1.1.8. **Confidential Information:** means, the terms and subject matter of the Agreement and in relation to a party, information (in any form) belonging or relating to it, its associated companies, Affiliates, its or their business, clients, employees, customers, plans, affairs or activities, including any information which the receiving party might reasonably expect would be confidential.

1.1.9. **Content:** means information obtained by CUBE from publicly available sources or its third party content providers and made available to Customer through the Service or pursuant to an Order Form, as more fully described in Schedule 1 (Target Guidance, Laws and Regulations) and the Documentation. To the extent Content obtained by CUBE from publicly available sources is displayed within the Services and Content in its original format as displayed by the provider of that Content, at the time such Content was obtained by CUBE, the Services are not designed to modify the display of that Content.

1.1.10. **Contract Year:** each successive 12-month period ending on an anniversary of the Effective Date.

1.1.11. **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Processing, Sub-Processor and appropriate technical and organisational measures:** shall each have the meanings as defined in the Data Protection Requirements.

1.1.12. **CUBE Materials:** has the meaning set out in clause 9.1.

1.1.13. **Customer Data:** means:

1.1.13.1. the data inputted by the Customer, Authorised Users or by third parties, in each case on behalf of the Customer, for the purpose of using the Services, facilitating the Customer’s use of the Services or otherwise

receiving the benefit of the Services; and

1.1.13.2. data generated by the Service specifically about the Customer and its business, excluding Service Usage Data.

1.1.14. **Data Protection Requirements:** means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

1.1.15. **Documentation:** the document(s) made available to the Customer via a website link or email attachment(s) sent by CUBE (and as amended from time to time) which sets out a detailed description of the Service (including user instructions and product technical specifications for the same).

1.1.16. **Effective Date:** means the date of the Customer's signature of the Order Form.

1.1.17. **Fees:** means the fees payable by the Customer to CUBE for the Service, the Support Services, and the Professional Services as set out on the Order Form.

1.1.18. **Hosting Provider:** means CUBE's subcontractor for the hosting of the Software and all data in respect of the Service (and its subcontractors) or any replacement subcontractor appointed by CUBE from time to time (and its subcontractors).

1.1.19. **Insolvent:** means, with respect to a party, (a) entering into a composition or arrangement with its creditors other than for the sole purpose of a solvent reconstruction; (b) an inability to pay its debts as they become due; (c) a person becoming entitled to appoint or appointing a receiver or an administrative receiver over that party's assets; (d) a creditor or encumbrancer attaches or takes possession of the whole or any part of that party's assets which is not discharged within 14 days; (e) where that party 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 as if the words "it is proved to the satisfaction of the court" did not appear in

sections 123(1)(e) or 123(2) of the Insolvency Act 1986; or (f) any event occurs, or proceeding is taken, in any jurisdiction that has an effect equivalent or similar to any of the events mentioned in (a) to (e) above.

1.1.20. **Intellectual Property Rights:** mean patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, goodwill and the right to sue for passing off or unfair competition, rights in designs, 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.

1.1.21. **Late Payment Notice:** has the meaning given in clause 7.2.

1.1.22. **Minimum Term:** means the period set out in the Order Form (if applicable).

1.1.23. **Non-CUBE Application:** means a web-based, mobile, offline or other software application functionality that is provided by the Customer or a third party and inter-operates with a Service, including, for example, an application that is developed by or for the Customer.

1.1.24. **Office Holder:** means an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer appointed over all or any substantial part of the assets of the Customer.

1.1.25. **Order Form:** means the order form executed by CUBE and the Customer describing the Services being purchased and the fees to be paid under this Agreement, whether such order form is executed in hard copy or via CUBE's online ordering process.

1.1.26. **Professional Services:** means the professional services provided by CUBE, as set out in the Order Form.

1.1.27. **Regulatory Authority:** means any governmental, regulatory or other competent authority that relates to, and/or

supervises to the extent applicable: i) the Customer (for example the Financial Conduct Authority and/or the Prudential Regulation Authority); ii) CUBE; and/or iii) any of their activities relating to this Agreement.

1.1.28. **Relevant Terms:** means the terms and conditions of any publicly available sources or CUBE's third party content providers that are used to obtain the Content.

1.1.29. **Service:** means the service that CUBE provides to allow the Customer and its Authorised Users to access and use the Software via the internet which is remotely hosted by or on behalf of CUBE, as more particularly described in the Documentation and subject to the restrictions set out in the Order Form.

1.1.30. **Service Level Agreement:** means CUBE's policy for providing support in relation to the Software as appended to this Agreement at Schedule 2.

1.1.31. **Service Usage Data:** has the meaning set out in clause 8.1

1.1.32. **Software:** means the Purchased Modules (as detailed in the Order Form) of the CUBE online software applications provided by CUBE as part of the Service.

1.1.33. **Support Services:** means the support services provided by CUBE, as set out in the Service Level Agreement.

1.1.34. **Standard Contract Clauses:** means the European Commission's Standard Contractual Clauses for the transfer of Personal Data from the European Union to processors established in third countries (controller-to-processor transfers), as set out in the Agreement to Commission Decision 2010/87/EU.

1.1.35. **Term:** means the entire duration of this Agreement.

1.1.36. **UK Data Protection Legislation:** means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the UK GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended from time to time, including,

where applicable, the mandatory guidance and codes of practice issued by the United Kingdom's Information Commissioner's Office.

1.1.37. **UK GDPR:** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018.

1.1.38. **Virus:** means any program, routine, device or other feature, including a time bomb, automatic shut-down, virus, software lock, drop dead device, malicious logic, worm, Trojan horse or trap or back door, or other harmful code or device which (i) is designed to delete, disable, deactivate, provide unauthorised access to, interfere with or otherwise harm any software, program, data, device, system or service; (ii) is intended to provide unauthorised access or to produce unauthorised modifications; or (iii) causes data to be inaccessible, any part of the Service to become inoperable or otherwise incapable of being used in the full manner for which it is being provided.

2. SERVICE

2.1. CUBE shall, during the Term, make the Service and Content available to the Customer on and subject to the terms of this Agreement. CUBE grants to the Customer a non-exclusive, non-transferable, non-sublicensable right to permit the Authorised Users to use the Service and access the Content during the Term and in accordance with the Documentation solely for the Customer's internal business purposes and subject to the terms of this Agreement. Such access and licence are granted only in respect of the number of Authorised Users set out on the Order Form (and references to the Service are to be construed accordingly).

2.2. CUBE shall use reasonable endeavours to make the Service available during Business Hours, except during:

2.2.1. planned maintenance carried out during the Agreed Maintenance Window;

2.2.2. unscheduled maintenance performed outside the Agreed Maintenance Window

provided that CUBE has used reasonable endeavours to give the Customer at least 48 hours' notice in advance;

- 2.2.3. emergency maintenance required in order to protect the security, or integrity of the Services for which CUBE does not need to give any advance notice; and
 - 2.2.4. as otherwise set out in the Service Level Agreement.
- 2.3. CUBE will, as part of the Service, provide the Customer with CUBE's standard Support Services during Business Hours in accordance with CUBE's Service Level Agreement
- 2.4. The Customer grants to CUBE and its Affiliates a worldwide, perpetual, irrevocable, royalty-free licence to use and incorporate into its Services any suggestion, enhancement request, recommendation, correction or other feedback provided by the Customer or Users relating to the operation of CUBE's or its Affiliates' services and content.
- 2.5. Nothing in this Agreement shall grant the Customer a right to use any of CUBE's software solutions, products or modules which from time to time are publicly marketed and offered for purchase by CUBE in the course of its normal business not described in this Agreement, other than the Purchased Modules indicated in the Order Form.

3. CUSTOMER DATA AND PERSONAL DATA

- 3.1. The Customer shall (i) own all right, title and interest in and to all of the Customer Data and (ii) have sole responsibility for the legality, reliability, integrity, accuracy, timeliness and quality of the Customer Data which is inputted by the Customer, Authorised Users or by third parties, in each case on behalf of the Customer. The Customer grants to CUBE, its Affiliates and subcontractors a non-exclusive royalty-free licence to use and store the Customer Data to the extent necessary to carry out its obligations under this Agreement, including the right to retain Customer Data following the termination of the Agreement and to make it available to an Office Holder in accordance with clauses 13.4.2 and 13.4.3.
- 3.2. The Customer must maintain full and regular back-ups of all Customer Data. CUBE will make back-up copies of the Customer Data on a daily basis during the Term and will retain only the latest back-up copy during the Term and (if applicable) the Additional Period. In the event of any loss or damage to Customer Data, the sole and exclusive remedy of the Customer shall be for CUBE to use reasonable

commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by CUBE. However, CUBE shall not be obliged to keep such back-ups, and shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party beyond CUBE's obligation to restore lost or damaged Customer Data from the latest back-up of such Customer Data as set out in this 3.2.

- 3.3. CUBE and the Customer each warrant that they will each duly observe all their obligations under the Data Protection Requirements which arise in connection with the Service, or the performance of their respective obligations under the Agreement, and that they shall not, in respect of Personal Data to be processed under or in connection with the Agreement, do any act or make any omission which puts the other party in breach of its obligations under the Data Protection Requirements.
- 3.4. In the event that CUBE processes any Personal Data on the Customer's behalf under or in connection with the Agreement, CUBE shall: (a) act and process Personal Data only on documented instructions from the Customer or the Office Holder as data controller or controller (as applicable); (and shall immediately inform the Customer or Office Holder, if in its opinion, an instruction infringes applicable law) (b) implement appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, any Personal Data including as appropriate pseudonymisation and encryption of Personal Data, the ability to ensure the ongoing confidentiality (including ensuring that any employees or sub-processors are subject to an appropriate statutory obligation of confidentiality) integrity, availability and resilience of processing systems and services, the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident and/or a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing; (c) notify the Customer without undue delay and not later than twenty four (24) hours after having become aware of any actual or suspected Personal Data breach; (d) not transfer any Personal Data from the EU to outside the European Economic Area ("EEA") unless there are appropriate safeguards in place (for example an adequacy decision, or the Standard Contract Clauses), without and only to the extent of any express written consent of

the Customer and, where such consent is given, (unless required to do so by applicable law, in such case CUBE shall inform the Customer, unless that law prohibits CUBE from doing so on important grounds of public interest), CUBE shall comply with the terms of clause 3.5; (e) ensure that persons authorised to process Personal Data have committed themselves to confidentiality; and (f) assist the Customer in complying with its obligations under the Data Protection Requirements, including without limitation making available to the Customer all information necessary to demonstrate compliance with the Data Protection Requirements and allowing for and contributing to audits and inspections conducted by the Customer or its representatives on reasonable notice and at reasonable intervals.

3.5. In respect of any transfer of Personal Data from the EU to outside the EEA on the Customer's behalf under or in connection with this Agreement and in respect of which Customer has given express written consent pursuant to clause 3.5 (other than in respect of any such transfer to a country which the European Commission has determined provides adequate protection), CUBE shall and, where applicable shall procure that its data processors shall, prior to any such transfer, execute with the Customer the EU's model contract for exporting Personal Data to a data processor located outside the EU, as such model contract is from time to time amended and updated.

3.6. The Customer shall ensure that:

3.6.1. the Customer is entitled to transfer the Personal Data it transfers to CUBE so that CUBE and its subcontractors (including the Hosting Provider) may lawfully use, process and transfer the Personal Data in accordance with the Agreement; and

3.6.2. the relevant third parties (including Authorised Users) have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable Data Protection Requirements.

3.7. Where subcontractors have access to Personal Data processed by CUBE on behalf of the Customer, CUBE shall obtain prior written authorisation from the Customer for the use of such subcontractors and CUBE shall impose substantially the same data protection obligations on such subcontractors as set out in the Agreement and in accordance with the Data Protection Requirements.

3.8. For the purposes of this clause 3:

3.8.1. the processing undertaken by CUBE related to the processing of the Customer's Personal Data only to be undertaken as required in order to fulfil the Services and comply with its obligations under this Agreement;

3.8.2. the types of personal data shall be any information contained in communications made using the Service by the Customer;

3.8.3. the categories of data subjects will include any individual and/or data subject who sends or receives communications or is the subject-matter of communications made using the Service; and

3.9. the duration of the processing undertaken shall be for the duration of this Agreement in accordance with clause 13.

4. CUBE'S OBLIGATIONS

4.1. CUBE undertakes that the Service will perform substantially in accordance with the Documentation and that CUBE will comply with the service levels set out in the Support Services.

4.2. The undertaking at clause 4.1 shall not apply to the extent of any non-conformance which is caused by: (i)

4.2.1. use of the Service contrary to CUBE's instructions;

4.2.2. any modification or alteration of the Service by any party other than CUBE or CUBE's duly authorised contractors or agents; or

4.2.3. any errors arising from incorrect or incomplete Customer Data. If the Service does not conform with the undertaking at clause 4.1, CUBE shall use all reasonable endeavours to correct any such non-conformance promptly in accordance with the Service Level Agreement.

4.3. Notwithstanding the foregoing obligation contained in clause 4.2, CUBE:

4.3.1. uses all reasonable endeavours to provide the Service and Content in accordance with the Relevant Terms and Applicable Laws provided that CUBE will not be liable for a breach of this clause if the breach results from Customer's use of the Service and/or Content other than in accordance with this Agreement and Documentation;

- 4.3.2. does not warrant that the Customer's use of the Service will be uninterrupted or error-free; or that the Service, the Content, the Documentation and/or the information obtained by the Customer through the Service will meet the Customer's requirements, be fit for a specific purpose or be wholly accurate;
- 4.3.3. shall not be responsible for faults or delays caused by or relating to third party platforms, products or data;
- 4.3.4. 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 Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities;
- 4.3.5. is, under no circumstances, liable for the accuracy of the Content which CUBE obtains from its third party providers or publicly available sources; and
- 4.3.6. is not liable for any decisions made, actions or omissions (or anything analogous to the same) made or take by the Customer as a result of the Customer's receipt of the Services and Content under the terms of this Agreement.
- 4.4. CUBE undertakes that the Support Services and the Professional Services will be carried out with reasonable skill and care.
- 4.5. If CUBE is required by any third party rights holder to remove Content or receives information that Content provided to Customer may violate the Relevant Terms or Applicable Laws or third-party rights, CUBE may discontinue the Customer's access to such Content, and/or may notify the Customer that it must discontinue all use of such Content, and to the extent not prohibited by law the Customer will do so and promptly remove such Content from its systems. If CUBE receives information that a Non-CUBE Application used by the Customer in conjunction with the Service may violate the Relevant Terms or Applicable Laws or third- party rights, CUBE may so notify the Customer and in such event the Customer will promptly disable such Non-CUBE Application or modify the Non-CUBE Application to resolve the potential violation. If the Customer does not take the required action in accordance with the above, CUBE may disable the applicable

Content, Service and/or Non-CUBE Application until the potential violation is resolved. If requested by CUBE, the Customer shall use all reasonable endeavours to confirm such deletion and discontinuance of use in writing and CUBE shall be authorized to provide a copy of such confirmation to any such third party claimant or governmental authority, as applicable.

5. CUSTOMER'S OBLIGATIONS

5.1. The Customer shall:

- 5.1.1. provide CUBE with all necessary co-operation in relation to this Agreement, and all necessary access to such information as may reasonably be required by CUBE in order to provide the Service, the Support Services and the Professional Services;
- 5.1.2. carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner; in the event of any delays in the Customer's provision of such assistance, CUBE may adjust any agreed timetable or delivery schedule as reasonably necessary;
- 5.1.3. ensure that the Authorised Users use the Service and the Support Services in accordance with these Terms and Conditions and shall be responsible for any Authorised User's acts or omissions in connection with the Service or the Support Services, including any breach of this Agreement, as if the same were an act or omission of the Customer;
- 5.1.4. not access, store, distribute or transmit any Viruses or any material during the course of its use of the Service which is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing, facilitates illegal activity or causes damage or injury to any person or property; CUBE reserves the right, without liability or prejudice to its other obligations to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause 5.1.4;
- 5.1.5. comply with all Applicable Laws with respect to its activities under this Agreement and obtain and shall maintain all necessary licences, consents, and permissions necessary for CUBE, its contractors and agents to perform their obligations under this Agreement;

- 5.1.6. be responsible for allocating passwords and permissions for access to different levels and areas of the Service and ensuring that such passwords are kept confidential and not provided to any third parties at any time;
 - 5.1.7. ensure that its network, hardware, web browsers and systems comply with the relevant specifications provided by CUBE from time to time including as set out in the Documentation; and
 - 5.1.8. be solely responsible for network connections or telecommunications links necessary to use the Service and the Support Services.
- 5.2. CUBE shall not be liable for failures or delays in providing the Service, the Support Services or the Professional Services, to the extent that such failures or delays are caused by the Customer's acts or omissions (including failures or delays by the Customer in carrying out its obligations under this Agreement), and CUBE shall be entitled to charge additional amounts in respect of additional work necessitated by the Customer's acts or omissions.
- 5.3. The Customer is entitled to request in writing to CUBE that the Service and Content to which the Agreement relates as at the Effective Date, is expanded in scope to accommodate one of, or a number of, the Additional Commercial Provisions as set out in the Order Form ("**Additional Service Scope**"). Customer shall make such request for the Additional Service Scope to CUBE in writing, CUBE shall respond to such request in writing either confirming or rejecting the Additional Service Scope and shall confirm the additional fees relating to the same (where applicable, such fees being calculated against any permitted increase in fees under clause 7.3) ("**Additional Fees**"). Upon acceptance and confirmation by CUBE to Customer of the Additional Service Scope, the provision of the Additional Service Scope shall be subject to the terms and conditions of this Agreement. The Additional Fees shall be invoiced to the Customer annually in advance on the date which CUBE agrees to provide the Additional Service Scope, however, will be pro-rated for the period calculated from the date of which the Additional Service Scope is agreed, to the next anniversary of the Effective Date.
- ## 6. AUTHORISED USERS
- 6.1. In relation to the Authorised Users, the Customer undertakes that:
- 6.1.1. each Authorised User shall keep a secure password for their use of the Service, regularly change their password, and not disclose their password to any other person;
 - 6.1.2. it will not allow or suffer any 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;
 - 6.1.3. no password or login shall be used by more than one person, or by anyone who is not an Authorised User;
 - 6.1.4. it shall maintain a written, up to date list of current Authorised Users and provide such list to CUBE within five (5) Business Days of CUBE's written request at any time; and
 - 6.1.5. it shall be at all times responsible and liable for the acts and omissions of each Authorised User in relation to this Agreement (whether or not such Authorised User is a member of staff of the Customer) as though they were the acts and omissions of the Customer itself.
- 6.2. The Customer shall not (and shall procure that its Authorised Users shall not):
- 6.2.1. except as may be allowed by any law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement, attempt to copy, modify, republish, display, transmit, or distribute all or any portion of the Service in any form or media or by any means or attempt to reverse compile, disassemble, or reverse engineer all or any part of the Service;
 - 6.2.2. access all or any part of the Service or the Content in order to build a product or service which competes with the Service;
 - 6.2.3. attempt to circumvent any security or access restriction features within the Service; or
 - 6.2.4. license, rent, lease, transfer, assign, disclose, or otherwise commercially exploit or make the Service available to any third party.
- 6.3. The Customer shall use all reasonable endeavours to prevent any unauthorised

access to, or use of, the Service and, in the event of any such unauthorised access or use, promptly notify CUBE of the same.

- 6.4. Customer shall ensure that the Authorised Users do not use the Content other than in accordance with the terms of applicable Order Forms, this Agreement and the Documentation.

7. CHARGES AND PAYMENT

- 7.1. The Customer shall pay to CUBE the Fees for the Service, the Support Services and the Professional Services in accordance with the Order Form. All amounts and fees stated or referred to in this Agreement are exclusive of value added tax, which shall be added to CUBE's invoice(s) at the appropriate rate.
- 7.2. CUBE shall issue an invoice the Customer in accordance with the payment terms specified in the Order Form. Each invoice for Fees is due and payable thirty (30) days of the date of the applicable invoice by the Customer (the "**Due Date**"). If the Customer disputes any portion of an invoice, it shall notify CUBE within seven (7) days of receipt of the disputed invoice and shall pay the undisputed portion of that invoice by the Due Date. If CUBE has not received payment of the undisputed amount of an invoice within fifteen (15) days after the Due Date, it shall send a notice to the Customer (a "**Late Payment Notice**"). If CUBE has not received payment of the undisputed amount within fifteen (15) days from the date of a Late Payment Notice and without prejudice to any other rights and remedies of CUBE, CUBE may, without liability to the Customer, disable the Customer's passwords, account and access to all or part of the Service and CUBE shall be under no obligation to provide access to any part of the Service or the Support Services or provide the Professional Services while the invoice(s) concerned remain overdue and unpaid.
- 7.3. CUBE shall be entitled to increase the Fees (including any Additional Fees agreed pursuant to clause 5.3) (i) at the beginning of each Contract Year by at least forty five (45) days' written notice, any such increase to be limited to the greater of five percent (5%) or the increase in RPI since the last increase; and (ii) at the commencement of any new Renewal Term by the provision of at least thirty (30) days' written notice.

8. SERVICE USAGE DATA AND AUDIT

- 8.1. CUBE shall have the right to collect and retain information about the Customer's and each

Authorised User's usage of the functionality within the Service ("**Service Usage Data**"). Such Service Usage Data may be used by CUBE for statistical analysis, for improvement of the Service and Support Services, for billing, and for monitoring of the Customer's and its Authorised Users' compliance with this Agreement. The Customer shall promptly provide full answers to such reasonable questions as CUBE may have about the Customer's usage of the Service and Support Services where CUBE is aware or reasonably suspects that the Customer and/or any of its Authorised Users is or are in breach of any term of this Agreement. CUBE may also collect and store such information about Authorised Users as is necessary for the administration of such Authorised Users' use of and access to the Service and/or Support Services (including Authorised Users' contact details) and such information shall be treated in accordance with clause 3.3.

- 8.2. The Customer shall permit CUBE and/or its advisors, on reasonable written notice from CUBE to access such systems and information as is reasonably necessary for CUBE to verify the Customer's compliance with the terms of this Agreement. In the event that any non-compliance is discovered, either through the Audit or the Service Usage Data, the Customer shall rectify such non-compliance (including any underpayment of Fees) within fifteen (15) days of notice from CUBE requiring the same.
- 8.3. CUBE shall in a timely manner upon Customer's written request cooperate, with Customer's internal auditor or a mutually acceptable independent certified public accountant in order to audit CUBE's compliance with the provisions of this Agreement. In conducting such audit Customer shall be entitled to inspect, examine and audit the systems, records, data, service locations, practices and procedures of CUBE that are used in rendering the Services to verify: i) CUBE's compliance with the terms of this Agreement; and ii) the accuracy of CUBE's invoices.
- 8.4. Customer shall not be entitled to audit CUBE any more frequently than once in any twelve (12) month period (save for where compelled by a Regulatory Authority to do so), and any such audit shall be on no less than thirty (30) days prior notice, such audit being conducted during Business Hours.
- 8.5. Notwithstanding the foregoing, nothing shall limit or restrict any audit required by a Regulatory Authority under this Agreement, and each party shall comply with and cooperate

with any audit, or request for information, by a Regulatory Authority.

- 8.6. Each party shall bear their own costs when exercising their respective audit rights under this clause 8.

9. PROPRIETARY RIGHTS

- 9.1. The Customer acknowledges and agrees that CUBE and/or its licensors own all Intellectual Property Rights in the Service, and anything developed or delivered by or on behalf of CUBE to the Customer under this Agreement, including any modifications, improvements, developments and/or derivative works of the aforementioned (together the “**CUBE Materials**”). Except as expressly stated herein, this Agreement does not grant the Customer any Intellectual Property Rights in respect of the CUBE Materials or the Content. For the avoidance of doubt and without limitation, the structures of databases, APIs, user interface designs, and graphic designs used within the Software, as well as the Service Usage Data and the Documentation, shall constitute CUBE Materials. However, the Customer and its licensors shall own all Intellectual Property Rights in the Customer Data.

10. CONFIDENTIALITY

- 10.1. Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the performance of this Agreement.

- 10.2. A party's Confidential Information shall be deemed not to include information that:

10.2.1. is or becomes publicly known other than through any act or omission of the receiving party;

10.2.2. was in the other party's lawful possession before the disclosure;

10.2.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

10.2.4. is independently developed by the receiving party, which independent development can be shown by written evidence.

- 10.3. A party shall be permitted to disclose the Confidential Information solely to the extent it is ordered by a competent court or Regulatory

Authority to be disclosed. In such a case, the disclosing party shall (i) to the extent it is able to do so inform the other party in writing before any disclosure thereof so that the other party may seek an appropriate protective order, (ii) strictly limit the content of such disclosure to that portion of Confidential Information that it is strictly compelled to disclose.

- 10.4. The Customer acknowledges that the CUBE Materials and details of the Service constitute CUBE's Confidential Information. CUBE acknowledges that the Customer Data is the Confidential Information of the Customer.

11. INDEMNITIES

- 11.1. The Customer shall defend, indemnify and hold harmless CUBE and its Affiliates, officers, directors and employees against claims, actions, proceedings, losses, damages, penalties, fines, expenses and costs (including court costs and reasonable legal fees) and liabilities arising out of any claim, demand, proceeding or allegation by a third party (including any regulator) against CUBE in relation to: i) any breach by the Customer and/or its Affiliates of any regulatory obligations; ii) any loss or destruction of Customer Data; iii) any breach by the Customer of clause 3.6; (iv) any claim that CUBE's use of any Customer Data in accordance with the terms of this Agreement infringes the Intellectual Property Rights of any such third party.

- 11.2. CUBE shall defend and indemnify the Customer and its officers, directors and employees against claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) and liabilities arising out of any claim from a third party relating to: i) CUBE's failure to comply with Applicable Laws with respect to its obligations under this Agreement; and ii) subject to clause 11.4 and 11.5, any claim from a third party that the Service, when used in accordance with the terms of this Agreement, infringes the Intellectual Property Rights of such third party.

- 11.3. The foregoing indemnities provided by a party (the “**Indemnifying Party**”) for the benefit of the other party (the “**Indemnified Party**”) contained in this clause 11 are on the basis that:

11.3.1. the Indemnifying Party is given prompt notice of any such claim;

11.3.2. the Indemnified Party provides reasonable co-operation to the Indemnifying Party in the defence and

settlement of such claim, at the Indemnifying Party's expense

- 11.3.3. the Indemnifying Party does not make any statements of admission or agree any settlement of any claim without the prior written consent of the Indemnifying Party ; and
- 11.3.4. the Indemnifying Party is given sole authority to defend or settle the claim.
- 11.4. In the defence or settlement of any such claim under clause 11.2 (ii), CUBE may, at CUBE's sole discretion and option:
 - 11.4.1. procure the right for the Customer to continue using the Service; or
 - 11.4.2. replace or modify the Service so that it becomes non-infringing; or
 - 11.4.3. if such remedies are not reasonably available, terminate this Agreement on five (5) Business Days' notice to the Customer without any additional liability or obligation to pay damages or other additional costs to the Customer except a pro rata refund of Fees paid and not used at the date of termination.
- 11.5. In no event shall CUBE, its Affiliates, officers, employees, agents and subcontractors be liable to the Customer under clause 11.2(ii) to the extent that the alleged infringement is based on:
 - 11.5.1. a modification of the Service by anyone other than CUBE;
 - 11.5.2. the Customer's use of the Service in a manner contrary to the instructions given to the Customer by CUBE including that set out in the Documentation;
 - 11.5.3. the use of the Service by the Customer in combination with a Non-CUBE Application contrary to the terms and conditions of this Agreement; or
 - 11.5.4. the Customer's use of the Service after notice of the alleged or actual infringement from CUBE.
- 11.6. Clauses 11.2 and 11.4 state the Customer's sole and exclusive rights and remedies, and CUBE's (including CUBE's Affiliates', employees', agents' and subcontractors') entire obligations and liability, for infringement of any Intellectual Property Rights.

12. LIMITATION OF LIABILITY

12.1. Except as expressly and specifically provided in this Agreement and subject at all times to clause 12.2:

- 12.1.1. all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are excluded from this Agreement; and
- 12.1.2. the Service, the Support Services and the Professional Services are provided to the Customer on an "as is" and "as available" basis.

Subject to clause 11.2, CUBE expressly disclaims all liability (whether in contract, tort (including negligence) or otherwise) for loss or damage caused to the Customer, its Authorised Users, its Affiliates and its or their agents or subcontractors by: (i) the acts or omissions of the Hosting Provider; (ii) third party applications or platforms licensed by or controlled by the Customer which may interface with the Service; or (iii) subject to clause 12.5, Viruses.

12.2. Nothing in this Agreement limits or excludes the liability of either party for death or personal injury caused by a party's negligence, for fraud or fraudulent misrepresentation or to the extent that such liability may not be limited or excluded as a matter of applicable law.

12.3. Nothing in this Agreement limits or excludes the Customer's liability for:

- 12.3.1. payment of the Fees due under this Agreement;
- 12.3.2. breach of the license to the Services and/or Content granted under this Agreement; or
- 12.3.3. infringement of any Intellectual Property Rights in the Services and/or Content.

12.4. Subject to clauses 12.1 and 12.2:

- 12.4.1. CUBE shall not be liable whether in contract, tort (including negligence), breach of statutory duty or otherwise for any loss of profits, loss of business, loss of revenue, loss of opportunity, depletion of goodwill and/or similar losses or (subject to clause 3.2) loss or corruption of data or information, or pure economic loss (in each case whether direct or indirect), nor for any indirect or consequential loss or damages however arising in connection with this Agreement; and

12.4.2. subject to clauses 12.2 and 12.4.1, CUBE's total aggregate liability in contract, tort (including negligence) breach of statutory duty, misrepresentation, restitution or otherwise, arising out of or in connection with this Agreement shall in respect of all events occurring in any Contract Year be limited to the total Fees paid or payable by the Customer during such Contract Year.

12.5. Subject to clauses 12.2 and 12.3, the Customer's total aggregate liability in contract, tort (including negligence) breach of statutory duty, misrepresentation, restitution or otherwise, arising out of or in connection with this Agreement shall in respect of all events occurring in any Contract Year be limited to the total Fees paid or payable by the Customer during such Contract Year.

12.6. CUBE uses anti-Virus software in accordance with good industry practice but does not guarantee that the Service is entirely free from Viruses. The Customer is responsible for the proper implementation and maintenance of its own anti-Virus software and other relevant security measures.

13. TERM AND TERMINATION

13.1. This Agreement shall, unless otherwise terminated as provided in clause 11.4.3 or this clause 13, commence on the Effective Date, shall continue for the Minimum Term and shall then renew for successive periods equal in duration to the Minimum Term (each a "Renewal Term") unless:

13.1.1. it is terminated at the end of the then current Minimum Term or any Renewal Term (as applicable) by either party for convenience by at least three (3) month's prior notice in writing to the other party; or

13.1.2. it is otherwise terminated in accordance with the provisions of this Agreement.

13.2. 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 during or after the Minimum Term if:

13.2.1. the other party otherwise commits a material breach of this Agreement which is irremediable or, if such breach is remediable, fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so; or

13.2.2. the other party becomes Insolvent.

13.3. CUBE may terminate this Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay the undisputed amount of any invoice not less than fifteen (15) days after the date of a Late Payment Notice issued by CUBE.

13.4. On termination of this Agreement:

13.4.1. subject to clause 13.4.5, the Customer's and its Authorised Users' licence and access to the Service shall immediately terminate;

13.4.2. subject to clauses 13.4.3 and 13.4.5 each party shall return and make no further use of any information, materials, Documentation and other items (and all copies of them) belonging to the other party;

13.4.3. CUBE shall, at the Customer's option, delete or return to the Customer (in a format reasonably requested by Customer) all Personal Data processed by CUBE pursuant to this Agreement which is not included within Customer Data, except to the extent necessary to comply with legal or regulatory obligations of CUBE;

13.4.4. all sums due to CUBE (whether or not demanded from the Customer) shall become immediately due and payable;

13.4.5. the Customer shall be entitled to retain any information, materials, Documentation and other items (or copies of them) belonging to CUBE solely for its own internal business purposes and to comply with any applicable law or regulations;

13.4.6. any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced; and

13.4.7. clauses 1, 2.4, 3.1, 5.1, 7 to 14 (inclusive) shall continue in full force and effect.

13.5. Wherever CUBE has a right to terminate this Agreement, it shall also have the right to suspend one or more Authorised Users' access to the Service.

14. GENERAL

- 14.1. Interpretation. Clause and paragraph headings shall not affect the interpretation of this Agreement. A person includes an individual, corporate or unincorporated body and that person's legal and personal representatives, successors or permitted assigns. The words "include" and "including" are deemed to be followed by the words "without limitation".
- 14.2. Conflict. If there is any inconsistency between these Terms and Conditions and the Order Form, the Order Form shall prevail.
- 14.3. Force Majeure. Neither Party shall in any circumstances be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, beyond its reasonable control, including, without limitation, strikes, acts of God, war, terrorism, riot, denial of service attacks, epidemic, pandemic or compliance with any law or governmental order ("Force Majeure Event"). In such circumstances the affected Party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for three (3) months, the Party not affected may terminate this Agreement by giving thirty (30) days' written notice to the other Party.
- 14.4. Variation and Waiver. CUBE may make changes to the Service, the Support Service, the Documentation and/or the Service Level Agreement from time to time, provided that except in emergencies it gives at least fifteen (15) days' prior written notice of any such change and that no such change shall materially detrimentally alter the usability or effectiveness of Services. Otherwise, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives). No failure or delay by a party to exercise any right or remedy provided under this Agreement 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.
- 14.5. Publicity. Other than as set out in this clause, neither party shall make any public statement about the other party or in connection with this Agreement, or use the other party's trade marks or logos in publicity materials, without the prior written consent of the other party. The Customer hereby grants to CUBE a non-exclusive, irrevocable, non-sublicensable, non-transferable, perpetual, worldwide licence to use the Customer's logo on CUBE's website to detail them as a customer of CUBE and for the purposes of the press releases set out below. The parties agree that CUBE shall be entitled (i) upon the signing of this Agreement and (ii) once the Customer starts using the Services in a live environment to make a press release to publicise the relationship between the parties. CUBE agree that prior to making any such press release, the wording of the release shall be agreed in good faith with the Customer in advance (Customer's agreement to any such wording shall not be unreasonably withheld, delayed or conditioned). The Customer also agrees that upon request by CUBE, it shall undertake a reasonable number of reference calls with prospective customers of CUBE.
- 14.6. Rights and Remedies. Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 14.7. Severance. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. 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.
- 14.8. Entire Agreement. This Agreement, 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. Each of the parties acknowledges and agrees that in entering into this Agreement 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 this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement. Each Party agrees that its only remedies in respect of any undertaking, promise, assurance, statement, representation, or warranty that is set out in this Agreement shall be for breach of contract in accordance with the terms of this Agreement. However, neither Party limits or excludes its liability under or in connection with this Agreement in respect of fraud or fraudulent misrepresentation.

14.9. Partnership and Agency. Nothing in this Agreement constitute a partnership, agency or joint venture between the parties. Neither party shall have any authority or power to bind the other or to contract in the name of or create a liability against the other.

14.10. Assignment. Neither party shall assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).

14.11. Third Party Rights. This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, subject to clause 13.4.3 the Office Holder) pursuant to the Contracts (Rights of Third Parties) Act 1999.

14.12. Notices. Any notice required to be given under this Agreement shall be in writing (in writing shall include email) and shall be delivered by hand or sent by pre-paid first class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in Business Hours, at 0900 on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received two (2) Business Days after posting. An email on the following Business Day after it is sent to the correct email address provided that no undeliverable, bounce back or error message has been received in respect of such email transmission.

14.13. Dispute Resolution.

14.13.1. Before initiating legal action against the other party relating to a dispute herein, the parties agree to work in good faith to resolve disputes and claims arising out of this Agreement in accordance with and subject to this clause 14.13. To that end, either party may request that each party designate an officer or other management employee with authority to bind such Party.

14.13.2. If the dispute is not resolved within thirty (30) days of the commencement of informal efforts under this clause, which for the avoidance of doubt shall include escalation to senior management and/or the CEO's of each party, either party may

pursue formal legal or other dispute resolution action.

14.13.3. Nothing in this Agreement shall prevent either Party from taking such action as it deems appropriate (including any application to a relevant court) for injunctive or other emergency or interim relief as is necessary.

14.14. Governing Law and Jurisdiction. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. 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 this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Customer's Approval Signature:
Signed
Date:
Name:
Title: