

STANDARD TERMS AND CONDITIONS

Thank you for choosing Keywords! You may place an order for products and/or services with us by agreeing to a "Statement of Work" or "SOW" (as defined below and which may also be referred to as an "Order Form", "Quote" or a "Work Order" or another document that contains details of the products and/or services to be provided by us and the amount to be paid by you), either separately with us or pursuant to a "Master Services Agreement" that you may have agreed with us. Each SOW shall form a separate contract once signed by each party, whether or not it has been entered into pursuant to a Master Services Agreement.

1. ABOUT THESE STANDARD TERMS

- 1.1 Once a SOW or Order Form has been signed by each of Customer and Keywords, a legally-binding agreement shall be formed that incorporates these Standard Terms and the terms of the relevant SOW (each, an "**Agreement**"). These Standard Terms together with the terms of the relevant SOW shall apply to the entire business relationship between you and us in relation to an Agreement and to the exclusion of all other terms, unless different terms have been expressly agreed to and signed by a duly authorized representative of Keywords in writing. By signing the SOW or Order Form, or confirming your acceptance in writing, you accept these Standard Terms.
- 1.2 In the absence of a signed SOW or Order Form, you shall be deemed to have accepted and agreed to these Standard Terms if you accept the provision of products and/or services from us or provide us with a purchase order number or otherwise indicate in any way that you wish to receive products and/or services from us. Any other terms or conditions that differ from these Standard Terms (or the terms of the relevant SOW or Order Form) shall not be binding on us, even if we continue to provide products and/or services to you.
- 1.3 A SOW or Order Form may contain specific terms that override or supersede these Standard Terms, including in the body of the SOW or Order Form or in a schedule to it. In the event of any inconsistency between these Standard Terms and a SOW, the terms of the SOW shall take precedence.
- 1.4 In these Standard Terms and each SOW or Order Form, the words and expressions set out in Clause 25 shall have the meanings given in that Clause.

2. KEYWORDS SERVICES

- 2.1 Services and Deliverables. Where the SOW specifies that Keywords shall provide Services to Customer under an Agreement, this Clause 2 shall apply and Keywords shall provide those Services agreed in that SOW (including the delivery of any agreed Deliverables) to Customer in accordance with these Standard Terms and the provisions agreed in that SOW.
- 2.2 Delivery times. Keywords shall use all reasonable endeavours to meet any agreed delivery times for the provision of Services and Deliverables that may be set out in the relevant SOW.
- 2.3 Delays. If Keywords becomes aware of any circumstances that are likely to prevent it from meeting the time for performance of Services agreed in the SOW, it shall notify Customer of the delay, the reasons for the delay, the consequences of the delay and, subject to Clause 4.3, how it proposes to mitigate the delay.
- 2.4 Acceptance testing. Keywords and Customer shall each follow any specific process for the acceptance testing of Deliverables set out in the SOW.
- 2.5 Location of Services provision. Keywords may provide the Services from any location in its sole discretion, save as otherwise expressly agreed in the SOW.

3. KEYWORDS LICENSED PRODUCTS

- 3.1 Keywords Licensed Products. Where an Order Form or SOW specifies that Keywords shall provide to Customer one or more Keywords Licensed Products, this Clause 3 shall apply and Keywords shall make available the Keywords Licensed Products to Customer in accordance with the terms of the Agreement.
- 3.2 Licence grant. Keywords hereby grants to Customer (and not any Affiliate of Customer) a non-exclusive, worldwide, revocable and non-transferable licence to permit the Authorized Users to access and use the Keywords Licensed Products identified in the Order Form or SOW for the Term (or such other period identified in the Order Form or SOW) and solely for the Permitted Use, subject to Customer complying with the terms of the Agreement, in particular, Clauses 3.3 and 3.4 of these Standard Terms).
- 3.3 Licence restrictions. Customer shall not, and shall procure that each Authorised User shall not, as a condition of the licence granted by Clause 3.2:
 - (a) access, store, distribute or transmit any viruses, malware or any other material during the course of use of a Keywords Licensed Product that: (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or offensive; (ii) facilitates illegal activity; (iii) depicts sexually explicit images; (iv) promotes unlawful violence; (v) is discriminatory based on race, sex, gender, colour, religious belief, sexual orientation, disability; or (vi) is otherwise illegal or causes damage or injury to any person or property;
 - (b) during the Term of the Agreement and for twelve (12) months afterwards, create or assist any third party to create, directly or indirectly, a product and/or service that competes with a Keywords Licensed Product or, where applicable, any software application containing functionality the same as or similar to the functionality of a Keywords Licensed Product;
 - (c) except to the extent expressly permitted under the Order Form or SOW or to the extent incapable of exclusion or restriction under Applicable Law:
 - (i) use a Keywords Licensed Product to provide services to any third parties or otherwise demonstrate a Keywords Licensed Product to third parties,
 - (ii) sub-license the Keywords Licensed Product to an Affiliate or any other third party, or
 - (iii) maintain, develop, modify or adapt any part of the Keywords Licensed Product,
 - (iv) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Keywords Licensed Product in any form or media or by any means, or

- (v) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Keywords Licensed Product;
 - (d) license, sell, rent, lease, transfer, assign, distribute, display, disclose or otherwise exploit, or otherwise make available, a Keywords Licensed Product to any third party except to the Authorised Users on the basis set out in the Agreement;
 - (e) attempt to obtain, or assist third parties in obtaining, access to a Keywords Licensed Product, except as provided under this Clause 3; or
 - (f) use the Keywords Licensed Products otherwise than strictly in accordance with the Permitted Use, any Acceptable Use Policy and any express restrictions contained in the Order Form or SOW.
- 3.4 **Authorized Users.** Customer shall at all times in relation to its use of a Keywords Licensed Product:
- (a) procure that each Authorized User shall keep a secure password for their respective use of the Keywords Licensed Product, that such password is changed at least monthly and that each Authorized User keeps their password confidential;
 - (b) without prejudice to its other obligations, use all reasonable endeavours to prevent any unauthorised access to, or use of, the Keywords Licensed Product and, in the event of any such unauthorised access or use, promptly notify Keywords in writing; and
 - (c) be liable for all acts and omissions of each Authorized User.
- 3.5 **Discontinuation of Keywords Licensed Products.** Keywords may discontinue a Keywords Licensed Product (in whole or in part) at any time during the Term on not less than thirty (30) days' prior written notice to Customer, provided that Keywords shall refund to Customer any Charges already paid in respect of that Keywords Licensed Product for the discontinued future period of the Term as Customer's sole remedy.
- 3.6 **Monitoring.** Keywords may monitor and audit Customer's use of a Keywords Licensed Product, including its compliance with this Clause 3. Keywords reserves the right to suspend Customer's access to a Keywords Licensed Product at any time if Keywords has reasonable cause to believe that Customer is not acting in compliance with Clause 3.3.
- 3.7 **M&A Events.** Customer shall promptly notify Keywords in writing if an M&A Event has occurred or is likely to occur. Following such notification, Keywords may make Customer an offer in writing to increase the number of Authorized Users with respect to the relevant Keywords Licensed Product in order to accommodate the use of the Licensed Product by new employees, contractors and/or other personnel of Customer or its Affiliates who may use the relevant Keywords Licensed Product as a consequence of the M&A Event ("**New Users**"), subject to the payment of increased subscription Charges with respect to the relevant Licensed Product (a "**New Licensed Products Offer**"). Following receipt of the New Licensed Products Offer, may either:
- (a) accept the New Licensed Products Offer within fourteen (14) days, in which case Customer shall pay the revised Charges in place of the original Charges set out in the Order Form or SOW and the specified New Users in the New Licensed Products Offer shall be deemed to be Authorized Users under that Order Form or SOW; or
 - (b) reject the New Licensed Products Offer or not respond to the New Licensed Products Offer within fourteen (14) days, in which case New Users shall not be deemed to be Authorized Users under the Order Form or SOW and shall have no right to use the relevant Keywords Licensed Product for any purpose.
- #### 4. CUSTOMER'S OBLIGATIONS
- 4.1 **Co-operation.** Customer shall co-operate with Keywords in all matters relating to the Services and Keywords Licensed Products, including compliance with all specific requirements of the Customer and completion of all Customer dependencies that may be identified in a SOW or Order Form in accordance with any specified time periods.
- 4.2 **Customer Materials.** Customer shall deliver to Keywords all Customer Materials agreed in the SOW or Order Form (in accordance with any specified delivery times) or otherwise required for the provision by Keywords of the Services or Keywords Licensed Products and the performance of the Agreement by Keywords or where reasonably requested by Keywords from time to time.
- 4.3 **Relief Events.** Notwithstanding anything else in an Agreement:
- (a) Keywords shall not be liable for any delay or failure to the extent caused or exacerbated by a Relief Event;
 - (b) any date, deadline, milestone or other timeframe that is adversely affected by a Relief Event shall be extended by the same period as the length of the Relief Event (or such longer period as the Parties may agree), and each of Keywords and Customer shall use its respective reasonable endeavours to mitigate such delay;
 - (c) Keywords may charge Customer on a time-and-materials basis at the rate specified in the relevant SOW (or otherwise on its standard rates) for Keywords Personnel that it has made available to provide the Services and whom have been prevented from performing the agreed Services at the agreed time by a Relief Event; and
 - (d) Keywords shall be entitled to charge Customer any additional costs and expenses that it incurs arising as a result of the Relief Event (and Keywords shall use its reasonable endeavours to mitigate any such charges and expenses).
- 4.4 **Customer information.** Keywords shall be entitled to rely on all information and instructions provided by Customer as being complete, accurate and up to date.
- 4.5 **Payment.** Customer shall pay all Charges and such other agreed charges, disbursements, and other expenditures in accordance with Clause 6.
- #### 5. CHANGE ORDERS
- 5.1 **Written request.** At any time during the Term, a Party may request an amendment to a SOW or Order Form by serving on the other Party a written request with the proposed amendments to the relevant SOW (a "**Change Order**").
- 5.2 **Negotiations.** Following the service of a Change Order in accordance with Clause 5.1, the Keywords project manager and the Customer project manager shall negotiate the proposed amendments to the SOW or Order Form in good faith. At any time during those negotiations, the Party that served the Change Order may withdraw that Change Order and the Parties shall each bear their own costs of the negotiation.

5.3 Signature. If the Parties agree to amend a SOW or Order Form following the service of a Change Order, the Parties shall record the amendments in a written document that shall be signed by duly authorized representatives of each Party and the amendments to the SOW or Order Form shall take effect from the signature of that document.

6. CHARGES

6.1 Payment. In consideration of the provision of the Services or Keywords Licensed Products by Keywords (as set out in the applicable SOW), Customer shall pay the Charges in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of Applicable Tax as may be required by Applicable Law), together with any expenses set out in the SOW or Order Form and any Applicable Tax due on the Charges and agreed expenses.

6.2 Invoices. Keywords shall submit invoices for the Charges and any agreed expenses to Customer in accordance with the provisions of a SOW or Order Form, or as otherwise agreed. Keywords shall send invoices to Customer in electronic or paper form using the contact details given by Customer to Keywords from time to time.

6.3 Payment terms. Customer shall pay the Charges, agreed expenses and any Applicable Tax set out in an invoice submitted by Keywords under Clause 6.2 no later than 30 days from the date of receipt, unless otherwise expressly agreed by the Parties in the SOW or Order Form.

6.4 Disputes. If, within 14 days of the date of an invoice received from Keywords, Customer has not notified Keywords that it disputes that any amounts contained in that invoice are properly due, then Customer shall be deemed to have accepted that the sums stated in the invoice as payable are properly due and to have waived its rights to subsequently dispute whether those sums are due.

6.5 Undisputed sums. If Customer disputes that certain sums contained in an invoice are properly due in accordance with Clause 6.4, but does not dispute other sums contained in the invoice, Customer shall settle the sums not in dispute in accordance with this Clause 6, notwithstanding that it is disputing the other sums contained in the invoice.

6.6 Late payment. Without prejudice to the provisions of Clause 15, if an invoice is unpaid by the due date, then Keywords may, at its option and without prejudice to any other remedy at any time after payment has become due:

- (a) suspend the provision of Services and/or Keywords Licensed Products to Customer until the relevant invoice has been paid in full; and/or
- (b) charge interest on any overdue amounts from the due date until and including the date of actual payment, after as well as before judgement, accruing on a daily compound basis, at the rate of 3% per annum above the base rate for the time being of Barclays Bank plc.

6.7 Taxes. Customer shall be solely liable for all Applicable Tax on the Charges. If any Applicable Tax is payable on any amount payable to Keywords under the Agreement, the amount payable shall be increased by such amount as ensures that, after payment of any Applicable Tax, Keywords receives an amount equal to that which would otherwise be payable.

7. AUDIT

7.1 Audit rights. During the Term and for 1 year after the Term has ended, each Party shall:

- (a) keep at its principal place of business, books of accounts and records, together with supporting documentation relating to its compliance with the Agreement; and
- (b) procure that the other Party or its professional representatives have, upon reasonable prior written notice, reasonable access to that Party's principal place of business to inspect and audit that Party's records kept in accordance with Clause 7.1(a).

7.2 Audit conditions. All audits and inspections under Clause 7.1 shall be conducted strictly as follows:

- (a) the audit may only take place during normal business hours and in a manner designed to minimize any disruption of the audited Party;
- (b) the audit may only be conducted by an internationally recognised, reputable, independent, certified public accountant who has not been retained on a contingent fee basis and has been previously approved by the audited Party in writing (which approval shall not be unreasonably withheld) and is engaged by the auditing Party at the auditing Party's sole expense;
- (c) an audit may not be made more frequently than once during each 12-month period commencing with the completion date and must be completed within 30 days of the date on which it begins;
- (d) before the audit begins, the auditor must agree in writing with the audited Party to maintain in confidence all information disclosed by or received from the audited Party during such audit;
- (e) the auditor shall provide an identical copy of the audit report to both Parties at the same time; and
- (f) the expenses of an audit shall be borne by the auditing Party.

8. INTELLECTUAL PROPERTY

8.1 Assignment. Keywords hereby assigns and transfers to Customer to the extent permitted under Applicable Law all its right, title and interest in and to its Intellectual Property Rights in the Deliverables (the "**Assigned Rights**") absolutely, solely and exclusively, with effect from the date of full payment in accordance with Clause 6 of all the Charges that relate to such Deliverables, including:

- (a) all goodwill, statutory, common law and equivalent rights around the world attaching to the Assigned Rights;
- (b) the right to bring, make, oppose, defend, appeal proceedings, claims or actions and to obtain relief (and to retain any and all damages, account of profits or other financial sums recovered) in respect of any infringement, or any other cause of action arising from ownership, of any of the Assigned Rights, whether occurring at any time before, on, or after the effective date of the assignment;
- (c) the right to license the Assigned Rights to third parties;
- (d) the right to combine the Assigned Rights with other works; and

- (e) the right to reproduce and adapt the Assigned Rights by any means and in any media, whether now known or created in the future.
- 8.2 Further assurance. Keywords shall, and shall use reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents that may reasonably be required for the purpose of giving effect to Clause 8.1, including registration of Customer as proprietor, registrant or applicant (as applicable) of the Assigned Rights.
- 8.3 Keywords Background Rights licence. Keywords hereby grants to Customer a non-exclusive, perpetual, fully-paid, worldwide licence to use any Keywords Background Materials identified in a SOW or Order Form and any Keywords Background Rights that are embodied in any Deliverables, with all the rights to use, reproduce, modify, develop, host, distribute (directly or indirectly), sell, rent and carry out all other acts that may be required for Customer to enjoy its rights under the Agreement, except in each case to the extent expressly agreed otherwise in the SOW or Order Form. Customer may sub-license, assign or otherwise transfer the licence granted by this Clause 8.3 to third parties, except in each case to the extent expressly agreed otherwise in the SOW or Order Form. For the avoidance of doubt, the licence granted by this Clause 8.3 only relates to Keywords Background Materials and Keywords Background Rights and not to any Keywords Licensed Products.
- 8.4 Customer Materials licence. Customer hereby grants to Keywords a non-exclusive, fully-paid, worldwide licence to use the Customer Materials and any Customer Background Rights that are contained in any Customer Materials provided by Customer to Keywords, with all the rights to use, reproduce, modify, develop, host, distribute (directly or indirectly) publicly perform, broadcast, stream, communicate to the public, sell, rent and carry out all other acts: (a) during the Term, to enable Keywords to provide the Services, Deliverables and Keywords Licensed Products; and (b) during and following termination or expiry of this Agreement, to enable Keywords to research, develop, enhance and improve its products and services including by using the Customer Materials for its internal business purposes including for the purpose of training or otherwise enhancing the predictive capabilities of machine learning algorithms and other artificial intelligence models. Keywords may sub-license the licence granted by this Clause 8.4 to any of its Affiliates, Keywords Personnel or any other third parties where required in the course of providing the Services or Keywords Licensed Products, but Keywords may not otherwise sub-license, assign or transfer such licence.
- 8.5 Moral rights. Keywords shall procure that the authors of any works that are the subject of the Assigned Rights waive any and all moral rights that may arise in such works under Part I, Chapter IV of the Copyright, Designs and Patents Act 1988 (and any and all equivalent rights arising under similar legislation in jurisdictions outside the United Kingdom) to the maximum extent possible under Applicable Law.
- 8.6 Feedback. Customer may, in its discretion, provide Feedback to Keywords in relation to the Keywords Licensed Products or otherwise, but Keywords shall not be obliged to take any action in response to the Feedback. If Customer provides Feedback to Keywords:
- (a) Feedback, even if marked confidential, shall not create any confidentiality obligations on Keywords unless Keywords has otherwise agreed in writing, signed by an authorized signatory of Keywords;
- (b) without prejudice to its other rights and remedies, Keywords shall be free to use, disclose, reproduce, distribute, and otherwise commercialise all Feedback provided by Customer without obligation or restriction of any kind, and Customer hereby waives all rights to be compensated or seek compensation for the Feedback and will ensure that any relevant moral rights are waived; and
- (c) all right, title and interest in any Feedback shall vest in Keywords on creation and Customer hereby assigns to Keywords absolutely all right, title and interest in and to the Intellectual Property Rights in the Feedback, in each case for the whole term including any renewals, reversions, revivals and extensions and together with all related rights and powers arising or accrued, including the right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief (and to retain any damages recovered) in respect of any infringement, or any other cause of action arising from ownership, of any of these assigned rights, whether occurring before, on, or after the date of assignment.
- 8.7 Copyright transparency requirements under Applicable Law. Customer shall cooperate with Keywords in complying with any of its obligations to Keywords Personnel under Part 2 of the Copyrights, Designs and Patents Act 1988, Articles 18 to 23 of Directive (EU) 2019/790 (and any implementing legislation) and any similar legislation anywhere in the world, including the provision to Keywords Personnel at least once a year up-to-date, relevant and comprehensive information on the exploitation of the Assigned Rights, in particular as regards modes of exploitation, all revenues generated and remuneration due. Customer shall further indemnify Keywords against all and any costs (including dismissal and severance costs), claims, demands, expenses (including legal and other professional expenses), losses, damages, compensation, penalties and other liabilities (including in relation to taxation and social security contributions) arising out of or in connection with the Agreement in relation to any actual or alleged claims by Keywords Personnel for additional remuneration under Part 2 of the Copyrights, Designs and Patents Act 1988, Articles 18 to 23 of Directive (EU) 2019/790 (and any implementing legislation) and any similar legislation anywhere in the world.
- 8.8 Reservation of rights. All rights not expressly granted by a Party in the Agreement are expressly reserved. Notwithstanding any other provision of the Agreement:
- (a) any and all Keywords Background Rights, including all Intellectual Property Rights in the Keywords Background Materials and the Keywords Licensed Products, shall remain the property of Keywords, its Affiliates or its third-party licensors as the case may be; and
- (b) any and all Customer Background Rights, including all Intellectual Property Rights in the Customer Materials, shall remain the property of Customer, its Affiliates or their third-party licensors as the case may be.
- 9. MARKETING AND CREDITS**
- 9.1 Marketing rights. Subject to the confidentiality provisions of Clause 17 at all times, Keywords and its Affiliates may:
- (a) use the name and logo of Customer on its website and in marketing materials that it produces from time to time (such as brochures or pitch documents);
- (b) may confirm that Customer is, or has been, its customer and may state what type of Services and/or Keywords

Licensed Products have been provided to Customer or its Affiliates, provided that (for the avoidance of doubt) Keywords may not provide details of any product or title of Customer that has not yet been publicly announced; and

- (c) promote their part of in the relevant project in case studies, on social media, or on their website (unless explicitly requested otherwise by Customer).

9.2 Game credits. Keywords shall be entitled to a credit in any product (including any interactive entertainment product) published by, for or on behalf of Customer in relation to which Services and/or Keywords Licensed Products have been provided under the Agreement. In particular, unless expressly agreed otherwise in the relevant SOW or Order Form:

- (a) each Keywords studio that has provided Services and/or Keywords Licensed Products shall be entitled to a reasonably prominent credit as a studio;
- (b) each Keywords Personnel who has provided Services to Customer shall be entitled to a fair and proportionate credit reflecting the Services provided by that individual and the overall importance of those Services to the relevant product; and
- (c) details of the exact form and content of the credits for Keywords and the Keywords Personnel shall be set out in the SOW or Order Form or otherwise agreed by the Parties before the commercial release of the relevant product.

10. WARRANTIES

10.1 Keywords general warranties. Keywords warrants in relation to each Agreement that:

- (a) the receipt and use of the Deliverables and Keywords Licensed Products by Customer in accordance with the Agreement shall not infringe the Intellectual Property Rights of any third party to the extent that infringement results from unlawful copying, but excluding any infringement arising out of or in connection with Customer Materials or the inclusion of third-party works and materials at the specific instructions of Customer;
- (b) it has full capacity and authority, and all necessary licences, permits and consents to enter into and perform the Agreement and that those individuals signing the SOW or Order Form are duly authorised to bind the Party legally for whom they sign;
- (c) the Services shall be performed with reasonable care and skill; and
- (d) it has all the rights necessary to grant the licence granted under Clause 8.4.

10.2 Keywords Deliverables warranty. Keywords warrants that the Deliverables shall be substantially free from any material errors and defects not arising out of any errors, defects and compatibility issues with the Customer Materials (and Customer specifically agrees that Deliverables may not be entirely free from non-material errors or defects). Customer may only make a claim against Keywords for breach of this Clause 10.2 within a 60-day period from delivery of the relevant Deliverable to Customer (the "**Deliverables Warranty Period**") on the condition that it follows the following process:

- (a) Customer shall give notice in writing to Keywords on or before the last day of the Deliverables Warranty Period;

(b) the notice in writing from Customer must give full details of the material errors or defects identified by Customer and, if relevant, how the Deliverable does not meet with any agreed specification set out in the relevant SOW;

(c) within ten (10) days of receiving the notice in writing from Customer, Keywords shall give notice in writing to Customer that states either:

- (i) that Customer's warranty claim is accepted, in which case the written notice shall further provide an estimate for the time required for Keywords to provide a corrected Deliverable to Customer and Keywords shall use all reasonable endeavours to provide the corrected Deliverable by such time at no additional charge to Customer, or
- (ii) that Customer's warranty claim is rejected (together with reasons for the rejection), in which case Keywords shall take no further action, but if Customer does not agree, then Customer may either negotiate with Keywords for Keywords to carry out further work for a reasonable charge or follow the dispute resolution process set out in Clause 21.

10.3 Keywords Licensed Products warranty. Keywords warrants that each Keywords Licensed Product will conform in all material respects to any specification supplied with it for a period of 90 days from the Commencement Date ("**Licensed Product Warranty Period**"). If, within the Licensed Product Warranty Period Customer notifies Keywords in writing of any defect or fault in a Keywords Licensed Product, in consequence of which it fails to conform in all material respects to the agreed specification, and such defect or fault does not result from Customer (or anyone acting with the authority of the Customer) having altered the Keywords Licensed Product or used it outside the terms of the Agreement for a purpose or in a context other than the purpose or context for which it was designed or in combination with any other software or work not provided by Keywords, or it has not been loaded onto Keywords-specified or suitably configured equipment, Keywords shall, at Keywords' option, do one of the following:

- (a) repair the Keywords Licensed Product,
- (b) replace the Keywords Licensed Product, or
- (c) terminate the relevant Agreement immediately by notice in writing to Customer and refund any of the Charges paid by the Customer as at the date of termination that are in respect of the Keywords Licensed Product (less a reasonable sum in respect of the Customer's use of the Keywords Licensed Product to the date of termination) on return of the Keywords Licensed Product and all copies thereof,

provided Customer provides all the information that may be necessary to assist Keywords in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable Keywords to re-create the defect or fault. Keywords does not warrant that the use of the Keywords Licensed Product will be uninterrupted or error-free and Customer accepts responsibility for the selection of the Keywords Licensed Product to achieve its intended results and acknowledges that the Keywords Licensed Product has not been developed to meet the individual requirements of Customer.

10.4 Customer warranties. Customer warrants that:

- (a) the receipt and use of Customer Materials in the performance of the Agreement by Keywords, its Affiliates and Keywords Personnel shall not infringe the Intellectual Property Rights of any third party;
- (b) the Customer Materials shall not contain any material that is illegal under the Applicable Law of the jurisdiction or jurisdictions where Keywords shall provide the Services;
- (c) it has full capacity and authority, and all necessary licences, permits, funds and consents to enter into and perform the relevant Agreement and that those individuals signing the SOW or Order Form are duly authorised to bind Customer legally;
- (d) it has all the rights necessary to grant the licence granted under Clause 8.3; and
- (e) it shall comply with all Applicable Laws that are applicable to the Customer.
- 10.5 Implied warranties. Any and all warranties not contained in this Clause 10 that may be implied by Applicable Law or otherwise are excluded to the maximum extent permitted by Applicable Law.
- 11. INDEMNITY**
- 11.1 Indemnification. Without prejudice to any other rights or remedies set out in the Agreement, each Party (the “**Indemnifying Party**”) hereby agrees to defend, indemnify and hold harmless the other Party, its directors, officers, and employees (the “**Indemnified Party**”) from and against any and all direct losses (provided that the Indemnified Party fully mitigates such losses) that arise out of or in connection with a claim made or alleged by a third-party that arises out of or in connection with a breach of a warranty made by the Indemnifying Party under Clause 10 (“**Indemnity Claim**”).
- 11.2 Conduct of indemnity claims. Liability for an Indemnity Claim under Clause 11.1 is conditional on the Indemnified Party discharging the following obligations:
- (a) give written notice of the Indemnity Claim, together with reasonable particulars of it, to the Indemnifying Party within seven (7) days of the Indemnity Claim first being made or alleged by the relevant third party;
- (b) promptly give the Indemnifying Party all reasonable co-operation, assistance and information that may be relevant to the Indemnity Claim, including access to the Indemnified Party’s officers, directors, employees, agents, representatives or advisors, and to any relevant assets, accounts, documents and records within the power or control of the Indemnified Party, so as to enable the Indemnifying Party and its professional advisors to examine them and to take copies (at the Indemnifying Party’s expense) for the purpose of assessing the Indemnity Claim;
- (c) not admit, defend, compromise, negotiate or settle the Indemnity Claim without the prior written consent of Indemnifying Party (in its sole discretion) and be deemed to have given to the Indemnifying Party the sole authority to avoid, dispute, compromise or defend the Indemnity Claim; and
- (d) suspend use of any Deliverables, Keywords Licensed Products, Keywords Background Materials or Customer Materials, or the relevant part of them that are the subject of an Indemnity Claim for a period of not less than sixty (60) days to allow the Indemnifying Party to, at the Indemnifying Party’s option and, by way of exclusive remedy for the Indemnified Party, the Indemnifying Party may—
- (i) procure a right for the Indemnified Party to continue to use the Deliverables, Keywords Licensed Products, Keywords Background Materials or Customer Materials,
- (ii) modify the Deliverables, Keywords Licensed Products, Keywords Background Materials or Customer Materials so that they are non-infringing, or
- (iii) replace the relevant Deliverables, Keywords Licensed Products, Keywords Background Materials or Customer Materials with other non-infringing materials.
- 11.3 Exclusions. This Clause 11 shall not apply to any third-party claim in respect of:
- (a) any use by, for, or on behalf of, Customer of the Deliverables or Keywords Licensed Product in combination with any item, works or materials not supplied pursuant to the Agreement; or
- (b) any modification carried out by, for, or on behalf of, Customer to any Deliverables or Licensed Product provided by Keywords, if such modification is not authorised by Keywords in writing.
- 12. LIMITATION OF LIABILITY**
- 12.1 Liability that cannot be excluded. Nothing in this Clause 12 shall exclude or limit any liability for death or personal injury caused by negligence, or for fraud, or any matter for which it would be unlawful to exclude liability under Applicable Law.
- 12.2 Excluded liability. Subject to Clause 12.1, a Party shall not be liable under or in relation to the Agreement in contract, tort (including negligence and breach of statutory duty), misrepresentation, restitution or in any other cause of action for the following types of loss, which are wholly excluded:
- (a) loss of profits, loss of agreements or contracts, loss of sales or business, loss of anticipated savings, loss arising out of actual or alleged patent infringement, loss of use or corruption of software, data or information, loss of goodwill or reputation, and/or punitive, special or flagrant damages; or
- (b) any special or indirect or consequential losses in any case, whether or not such losses were within the contemplation of the Parties at the date of signature of the relevant SOW or Order Form or were suffered or incurred in connection with the performance of the Agreement.
- 12.3 Included liability. The following types of loss are not excluded from the Agreement:
- (a) sums paid by Customer to Keywords under the Agreement, in respect of any Services or Keywords Licensed Products not provided in accordance with the Agreement;
- (b) additional costs of procuring and implementing reasonable replacements for, or reasonable alternatives to, Services or Keywords Licensed Products not provided in accordance with the Agreement, including consultancy costs, additional costs of management time and other

personnel costs, and costs of equipment and materials;
and

- (c) sums owed by Customer to Keywords under the Agreement.

12.4 Liability caps for specific losses. Subject to Clause 12.1, the aggregate liability of each Party under or in relation to the Agreement in contract, tort (including negligence and breach of statutory duty), misrepresentation, restitution or in any other cause of action for any and all liabilities, costs, expenses, damages and losses (including fines, awards all legal and other professional costs and expenses) (“**Losses**”) incurred by the other Party in relation to the Agreement which arise out of, or in connection with, one or more breaches by that Party of the following Clauses of these Standard Terms shall not exceed the following amounts (including in relation to any Indemnity Claim):

- (a) breach of Clauses 10.1(a) or 10.4(a) (*Intellectual property infringement*): €3,000,000;
(b) breach of Clause 17 (*Confidentiality*): €2,000,000; and
(c) breach of Clause 18 (*Data protection*): €1,000,000.

12.5 Liability cap for other losses. Subject to Clauses 12.1, 12.2 and 12.4, the aggregate liability of each Party during a Contract Year to the other Party for any Losses incurred by the other Party in relation to the Agreement shall be limited to a sum equal to 125% of the total Charges paid by Customer to Keywords under that Agreement during that Contract Year.

13. INSURANCE

13.1 Minimum insurance cover. Keywords shall maintain in force with reputable insurers:

- (a) all insurance policies that Keywords is required to maintain under Applicable Law; and
(b) for the duration of the Term and for a period of not less than 1 year after the Term, a professional indemnity insurance policy, an employer’s liability insurance policy and a general liability insurance policy, each with a limit of not less than €5 million in the aggregate, to cover its relevant potential liabilities arising in connection with the Agreement.

13.2 Insurance certificates. Upon written request by Customer during the Term, Keywords shall provide Customer with a copy of a certificate of insurance for the insurance policy held in accordance with Clause 13.1 within fourteen (14) days of receiving the written request.

14. TRANSFER OF EMPLOYMENT

14.1 Application of the Transfer Regulations. The Parties do not intend that the Transfer Regulations will apply on, or as a result of, the commencement or termination of the Agreement.

14.2 Employee claims. Customer shall indemnify Keywords against all and any costs (including dismissal and severance costs), claims, demands, expenses (including legal and other professional expenses), losses, damages, compensation, penalties and other liabilities (including in relation to taxation and social security contributions) arising out of or in connection with the Agreement in relation to:

- (a) any persons whose employment or engagement actually transfers, or is alleged to transfer to Keywords, in accordance with, or by virtue of, the Transfer Regulations; and

- (b) any claims in respect of which Keywords incurs liability as a result of the actual or alleged operation of the Transfer Regulations.

15. TERM AND TERMINATION

15.1 Term of each Agreement. Each Agreement shall commence on its Commencement Date (or, if the agreed Commencement Date has already passed before the signature of the relevant SOW or Order Form by each Party, it shall be deemed to have commenced on the Commencement Date) and, unless terminated earlier in accordance with this Clause 15, it shall continue until either Party gives written notice to the other Party to terminate it in accordance with Clause 15.2 (the “**Term**”).

15.2 Termination without cause. Either Party may terminate the Agreement by giving prior notice in writing to the other Party of not less than 30 days or such longer notice period as may be stated in the SOW or Order Form, save that, if a minimum initial term has been agreed in the SOW or Order Form, neither Party may terminate that Agreement before the expiry of that minimum initial term.

15.3 Termination for breach and insolvency. Either Party may terminate the Agreement with immediate effect by giving notice in writing to the other Party to terminate it:

- (a) if the other Party commits any material breach of any of the provisions of the Agreement and, in the case of a breach capable of remedy, fails to remedy such breach within 30 days of receipt of a written notice from the Party giving full particulars of the breach and requiring it to be remedied (and failure by Customer to pay any Charges on the due date shall be deemed a material breach of the Agreement);
(b) if the other Party experiences an Insolvency Event; or
(c) as described in Clause 20.3.

15.4 Suspension of Services. Without limiting its other rights or remedies, Keywords may suspend provision of the Services and/or Keywords Licensed Products under the Agreement:

- (a) if Keywords reasonably believes that Customer will become subject to an Insolvency Event within the next 4 weeks; or
(b) as described in Clause 6.6(a).

16. CONSEQUENCES OF TERMINATION

16.1 Return of materials. At any time after the expiry or termination of the Agreement, within a reasonable time following receipt of a written request from Customer:

- (a) Keywords shall deliver up or destroy (at Customer’s option) any and all copies of Customer Materials, Deliverables and Customer’s Confidential Information in its possession or control to the extent reasonably practicable, subject to prior payment in full of all Charges that may be due; and
(b) Customer shall deliver up or destroy (at Keywords’ option) any and all copies of Keywords’ Confidential Information and Keywords Licensed Products in its possession or control to the extent reasonably practicable.

16.2 Retention of materials. Notwithstanding Clause 16.1, each Party may retain any materials that it is obliged to retain by Applicable Law or in the case of Keywords, for internal use in the manner contemplated by Clause 8.4(b).

- 16.3 Unpaid Charges. Unless and to the extent otherwise specified in the SOW or Order Form, on the expiry or earlier termination of the Agreement for any reason, Customer shall pay within 14 days all unpaid Charges and any other charges, expenses or sums that may have arisen under that Agreement.
- 16.4 Survival. The following Clauses of these Standard Terms shall survive any termination or expiration of each Agreement, together with any payment obligations and provisions that by their nature shall survive: 6, 7, 8 (other than Clause 8.4(a)), 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 21, 22, 23 and 24.
- 17. CONFIDENTIALITY**
- 17.1 Confidentiality obligations. During the Term and for 5 years after the termination of an Agreement for any reason, each Party shall:
- keep all Confidential Information disclosed by the other Party under the Agreement confidential and not disclose such Confidential Information to any person other than its employees, directors, officers, representatives, contractors, subcontractors, professional advisors and its Affiliates; and
 - not use any Confidential Information for any purpose other than to exercise its rights and perform its obligations under the Agreement and/or a SOW or Order Form; and
 - ensure that any person to whom the Party discloses Confidential Information under Clause 17.1(a) shall comply with this Clause 17.1 and such Party shall be liable for any breaches by such persons.
- 17.2 Confidentiality exceptions. The provisions of Clause 17.1 shall not apply to:
- any information that is in the public domain other than by breach of the Agreement;
 - information lawfully in the possession of the receiving Party before disclosure thereof by the disclosing Party;
 - information obtained without an obligation of confidentiality from a third party or created independently; and
 - information required to be disclosed by a court of competent jurisdiction, governmental body or other competent authority.
- 18. DATA PROTECTION**
- 18.1 Definitions. In this Clause 18 and the Data Processing Addendum, references to “**controller**”, “**data subject**”, “**personal data**”, “**personal data breach**”, “**process**”, “**processed**”, “**processing**”, “**processor**” and “**supervisory authority**” have the same meanings as defined in the GDPR.
- 18.2 Interpretation. References to the GDPR and/or an Article or Chapter of the GDPR shall, where the context so requires and insofar as the Data Protection Laws is that of the UK, be construed as a reference to the equivalent Data Protection Laws of the UK and/or the corresponding provision of such Data Protection Laws.
- 18.3 Data Protection Laws. Each Party shall comply with obligations applicable to it under the Data Protection Laws.
- 18.4 Customer personal data. Keywords shall not process, and the Customer shall not provide or otherwise make available to Keywords or its Affiliates, any Customer Personal Data unless agreed in a SOW.
- 18.5 Processing documentation. If and to the extent that Keywords processes Customer Personal Data in accordance with Clause 18.4, the Parties shall document the scope of such processing in the relevant SOW in accordance with Paragraph 3.2 of the Data Processing Addendum and each Party shall comply with their respective obligations set out in the Data Processing Addendum.
- 18.6 Administrative personal data. The parties acknowledge and agree that with respect to Customer Account Data and Customer Usage Data, Keywords is an independent controller, not a joint controller with Customer. Keywords will process Customer Account Data and Customer Usage Data as a controller (i) to manage the relationship with Customer; (ii) to carry out Keywords’ core business operations, such as accounting, audits, tax preparation and filing and compliance purposes; (iii) to monitor, investigate, prevent and detect fraud, security incidents and other misuse of the Services, and to prevent harm to Customer; (iv) for identity verification purposes; (v) to comply with legal or regulatory obligations applicable to the processing and retention of personal data to which Keywords is subject; and (vi) as otherwise permitted under Data Protection Laws and in accordance with this Agreement. Keywords may also process Customer Usage Data as a controller to provide, optimize, and maintain the Services, to the extent permitted by Data Protection Laws. Any processing by Keywords as a controller shall be in accordance with Keywords privacy policy set forth at <https://www.keywordsstudios.com/privacy-policy/>.
- 18.7 Data losses where no processing agreed. Customer shall indemnify Keywords from and against any and all Losses (including regulatory fines) that arise out of or in connection with a claim or action that is made, alleged or brought by a third-party (including any supervisory authority) against Keywords or its Affiliates arising out of or in connection with Customer providing or otherwise making available to Keywords any Customer Personal Data in circumstances where the Parties have not agreed and documented the scope of such processing in accordance with Clause 18.4.
- 19. NON-SOLICITATION**
- 19.1 Non-solicitation obligation. For the duration of the Term of an Agreement and a period of 6 months after its termination for any reason, neither Party to that Agreement shall employ or otherwise offer employment to, either directly or indirectly (including through an Affiliate or third party) any person employed by or acting for and on behalf of the other Party to the SOW without the prior written consent of the other Party. If either Party is in breach of this Clause 19.1 it shall immediately cease solicitation and withdraw any employment offer made.
- 19.2 General advertisements. Nothing in Clause 19.1 shall prohibit a Party (or the Party’s Affiliates) from employing any person who was not solicited, but who applied for employment in response to a general advertisement for employment put out by the Party.
- 20. FORCE MAJEURE**
- 20.1 Force Majeure events. No Party shall be liable for a failure to perform or delay in performing any obligation under an Agreement if the failure or delay is caused by any event of Force Majeure.

20.2 Force Majeure obligations. Any Party which suffers an event of Force Majeure must notify the other Party as soon as is reasonably practicable and describe in reasonable detail the nature of the event of Force Majeure and its likely effect on that Party's ability to perform its obligations under the Agreement. Any Party subject to an event of Force Majeure shall use reasonable endeavours to resume performance of its obligations as soon as reasonably practicable.

20.3 Force Majeure termination. Either Party may terminate an Agreement with immediate effect by giving written notice to the other Party if any event of Force Majeure lasts for more than 30 days, or recurs more than twice in any single 60-day period.

21. DISPUTE RESOLUTION

21.1 Dispute resolution process. In the event that a dispute arises between the Parties out of, or in connection with, an Agreement (a "**Dispute**"), the Parties shall follow the dispute resolution procedure set out in this Clause 21.1:

- (a) either Party may give written notice to the other Party of the Dispute, setting out the nature and full particulars of the Dispute, together with any relevant supporting documents (a "**Dispute Notice**");
- (b) upon receipt of the Dispute Notice, the Keywords project manager and the Customer project manager shall promptly attempt in good faith to resolve the Dispute;
- (c) if a Dispute has not been resolved within 14 days of the receipt of the Dispute Notice, the Dispute shall be referred to the Chief Executive Officer (or Managing Director or other person of equivalent seniority) of each of the Parties, or their duly authorized designate, who shall attempt in good faith to resolve the Dispute; and
- (d) if the Chief Executive Officers (or their duly authorized designates) of the Parties are, for any reason, unable to resolve the Dispute within 30 days of it being referred to them, the Parties shall enter into mediation in good faith to attempt to settle the Dispute in accordance with Clause 21.2.

21.2 Mediation. If the Parties are required to enter into mediation in accordance with Clause 21.1(d):

- (a) the Parties shall attempt to resolve the Dispute using the Centre for Effective Dispute Resolution ("**CEDR**") Model Mediation Procedure;
- (b) to initiate the mediation process, a Party must serve notice in writing ("**Mediation Notice**") to the other Party to the Dispute, referring the Dispute to mediation;
- (c) unless otherwise agreed between the Parties within 14 days of service of the Mediation Notice—
 - (i) the mediator shall be nominated by CEDR and a copy of the ADR notice should be sent to CEDR,
 - (ii) the mediation will take place in London, England, and the language of the mediation shall be English,
 - (iii) the Mediation Agreement referred to in the CEDR Model Mediation Procedure shall be governed by and construed in accordance with the substantive law of England and Wales, and
 - (iv) the mediation shall start not later than 30 days after the date of service of the Mediation Notice.

21.3 If a Dispute is not resolved within 60 days after service of the Mediation Notice in accordance with Clause 21.2, or either Party fails to participate or ceases to participate in the mediation before the expiry of that 60-day period, or the mediation terminates before the expiry of that 60-day period, the Dispute shall be finally resolved in accordance with Clause **Error! Reference source not found.**

22. NOTICES

22.1 All notices under an Agreement shall be in writing and given by hand, registered post or email to a Party at the postal address and/or email address set out in the SOW or Order Form (or such addresses as otherwise notified in writing from time to time in accordance with this Clause 22), except for a notice given to a Party under Clause 15 of these Standard Terms, which may not be given by email and may only be given by hand or registered post (with a copy by email).

22.2 This Clause 22.2 sets out the delivery methods for sending a notice to a Party under an Agreement and the date and time when the notice is deemed to have been received or given (provided that all other requirements of this Clause 22 have been satisfied and subject to the provision in Clause 22.3):

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address;
- (b) if sent by registered post, at 9.00am on the second business day in the destination territory after posting; or
- (c) if sent by email, at the time of transmission.

22.3 If deemed receipt under Clause 22.2 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this Clause 22.3, business hours means 9.00am to 6.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

22.4 This Clause 22 does not apply to the service of any legal proceedings or other documents in any legal action.

23. GENERAL

23.1 Assignment. Neither Party may assign nor otherwise transfer the benefit of an Agreement to any third party without the prior written consent of the other Party (not to be unreasonably withheld or delayed). Each Party shall be entitled to subcontract the performance of any or all of its obligations under an Agreement to any of its Affiliates without the other Party's prior consent, provided that such Party shall be liable to the other Party for the acts and omissions of such Affiliates.

23.2 Waiver. No failure or delay by a party to exercise any right or remedy provided under an 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.

23.3 Severance. If at any time any one or more of the provisions of an Agreement or any part of it is or becomes invalid, illegal or unenforceable under any law, the validity, legality and enforceability of the remaining provisions of the Agreement shall not in any way be affected or impaired.

23.4 Variation. The Parties may only vary the terms of a SOW or Order Form in accordance with Clause 5. These Standard Terms and the other terms of an Agreement may not be varied, except by

an instrument in writing signed by a duly authorized representative of each of the Parties.

- 23.5 **Entire agreement.** These Standard Terms, together with the other terms of an Agreement, apply to the exclusion of all other terms, including any terms and conditions or other legal terms sent by you to Keywords in respect of the Services, Deliverables and Keywords Licensed Products, and constitute the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party acknowledges that it has not relied upon or been induced to enter into an Agreement by a representation, statement, warranty or understanding (whether negligently or innocently made). Nothing in this Clause 23.5 shall exclude liability for fraudulent misrepresentation.
- 23.6 **No partnership.** Nothing in an Agreement shall create a partnership or relationship of employer and employee or a joint venture between the Parties.
- 23.7 **Third-party rights.** Each Agreement does not create any right enforceable by any person not a party to it, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 23.8 **Counterparts.** A SOW or Order Form may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all the counterparts shall constitute the same instrument. Both Parties consent that a SOW or Order Form may be signed electronically, and such electronic signature shall be deemed valid.

24. GOVERNING LAW AND JURISDICTION

- 24.1 **Governing law.** Each Agreement and any Dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English law.
- 24.2 **Jurisdiction.** Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any Dispute or claim (including non-contractual disputes or claims) arising out of or in connection with an Agreement or its subject matter or formation.

25. DEFINITIONS

- 25.1 In these Standard Terms and each SOW or Order Form, the following words and expressions set out in this Clause 25 shall have the following meanings:

Acceptable Use Policy means Keywords' policy concerning the acceptable use of the Keywords Licensed Products, as may be attached to the Order Form or SOW or otherwise notified by Keywords to Customer from time to time.

Affiliate means, in relation to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time and where control means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company (and controls and controlled shall be construed accordingly).

Agreement has the meaning given to it in Clause 1.1.

Applicable Law means any applicable laws, regulations, orders or directions issued from time to time by any court, government or other competent regulatory authority.

Applicable Tax means any taxation, duties or other levies paid or payable to any competent authority under Applicable Law, including value added tax, sales tax, excise tax, use tax, goods and services tax, consumption tax, income tax, corporation tax, withholding tax and any others of equivalent effect.

Assigned Rights has the meaning given to it in Clause 8.1.

Authorized Users means those employees and other individuals authorized by Customer to use the Keywords Licensed Product up to the maximum number of Authorized Users set out in the relevant Order Form or SOW (if any), excluding any New Users except to the extent that a New Licensed Products Offer is agreed pursuant to Clause 3.7.

CEDR has the meaning given to it in Clause 21.2(a).

Change Order has the meaning given to it in Clause 5.1.

Charges means the sums payable by Customer to Keywords for the Services and Keywords Licensed Products under an Agreement in accordance with the terms of Clause 6.

Commencement Date means the date identified as such in a SOW or Order Form or, in the event no such date is identified in a SOW or Order Form, the date when Keywords first started providing the Services or Keywords Licensed Products.

Confidential Information means any private, secret and/or confidential information which is disclosed by either Party under or in connection with an Agreement (whether orally or in writing and whether or not such information is expressly stated to be confidential or marked as such).

Contract Year means a consecutive twelve-month period commencing on the Commencement Date of this Agreement.

Customer means the party identified as "Customer" in the SOW or Order Form to an Agreement.

Customer Account Data means personal data that relates to: (i) Customer's relationship with Keywords, including the names or contact information of individuals authorized by Customer to access Customer's account and billing information of individuals that Customer has associated with its account; and (ii) any data Keywords may need to collect for the purpose of managing its relationship with Customer, identity verification, or as otherwise required by applicable laws and regulations.

Customer Background Rights means any and all Intellectual Property Rights that:

- a) are licensed from a third party to Customer or its Affiliates;
- b) were created by, for or on behalf of Customer or its Affiliates before the Commencement Date;
- c) are created on or after the Commencement Date and arise in relation to Customer Materials; or
- d) are specified in a SOW.

Customer Personal Data means personal data:

- a) supplied to Keywords or its Affiliates by or on behalf of Customer; and/or
- b) obtained by, or created by, Keywords or its Affiliates on behalf of Customer in the course of performance of the Agreement,

and in each case where such personal data is processed by Keywords for and on behalf of Customer in the performance of the Agreement.

Customer Materials means any works, information, data or other materials provided by Customer to Keywords under an Agreement, including any accompanying documentation.

Customer Usage Data means service usage data collected and processed by Keywords in connection with the provision of the Services, including without limitation data used to identify the source and destination of a communication, activity logs, and data used to optimize and maintain performance of the Services, and to investigate and prevent system abuse.

Data Protection Laws means all applicable laws relating to the processing of personal data, as amended, extended, re-enacted or replaced from time to time, including the following:

- a) the UK's Data Protection Act 2018 and the UK GDPR;
- b) the GDPR;
- c) EC Directive 2002/58/EC on Privacy and Electronic Communications; and
- d) all local laws or regulations implementing or supplementing the EU legislation mentioned in (b)-(c) above (including the UK Privacy and Electronic Communications Regulations 2003).

Data Processing Addendum means the data processing agreement attached to these Standard Terms.

Deliverables means any works or materials specified in a SOW or Order Form that are to be provided by Keywords to Customer as part of the Services.

Deliverables Warranty Period has the meaning given to it in Clause 10.2.

Dispute has the meaning given to it in Clause 21.1.

Dispute Notice has the meaning given to it in Clause 21.1(a).

Feedback means all current and future suggestions, comments or other feedback regarding the Keywords Licensed Products provided by or on behalf of Customer.

Force Majeure means any circumstance beyond a Party's or any of its subcontractor's reasonable control, which shall be deemed to include (for the avoidance of doubt) any and all acts of God, flood, drought, earthquake or other natural disaster, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions on any person, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination, any law or any action taken by a government, regulatory, public or other competent authority (including imposing an export or import restriction, quota or prohibition and including any restrictions imposed or action taken in relation to a pandemic), collapse of buildings, fire, explosion or accident, interruption or failure of utility service, supply chain disruption, and any pandemic or epidemic or other outbreak of disease (including any further outbreak or incidence of SARS-CoV-2) or compliance with government or other competent authority's measures to control any such pandemic, epidemic or other outbreak of disease.

GDPR means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and **UK GDPR** has the meaning given in the Data Protection Act 2018.

Indemnified Party has the meaning given to it in Clause 11.1.

Indemnifying Party has the meaning given to it in Clause 11.1.

Indemnity Claim has the meaning given to it in Clause 11.1.

Insolvency Event means the occurrence of any of the following events or circumstances (or any analogous event or circumstance in a jurisdiction other than England and Wales) in relation to the other Party: (a) being deemed unable to pay its debts as defined in section 123 Insolvency Act 1986 without any requirement to prove any matter stated in that section to a court, (b) proposing a voluntary arrangement; (c) steps being taken for a receiver, administrator or manager to be appointed over the whole or a material part of its business or assets; (d) an order being made, a resolution passed or other steps being taken for its winding-up (except for the purposes of a bona fide solvent reorganisation), bankruptcy or dissolution; (e) otherwise proposing or entering into any composition or arrangement with its creditors or any class of them; or (f) ceasing to carry on business or claiming the benefit of any statutory moratorium.

Intellectual Property Rights means patents (including any supplementary protection certificates or other extensions thereof), utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, know-how, trade secret, rights in business names and domain names, rights in get up and trade dress, goodwill and the right to sue for passing off and unfair competition, rights in designs, rights in computer software, database rights and all other intellectual property rights, in each case whether in whole or in part, whether registered or unregistered, and for the whole legal term of protection of such rights 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 that subsist now or will subsist in the future in any part of the world.

Keywords means Keywords International Limited, a company incorporated under the laws of the Ireland with company number 286266, or such other Party that may be identified as "Keywords" in the SOW or Order Form to an Agreement.

Keywords Background Materials means any works and materials provided by Keywords to Customer under an Agreement in which Keywords is the owner or licensee of the Keywords Background Rights and which are not: (a) Deliverables; or (b) Keywords Licensed Products.

Keywords Background Rights means any and all Intellectual Property Rights that:

- a) are licensed from a third party to Keywords or its Affiliates;
- b) were created by, for or on behalf of Keywords or its Affiliates before the Commencement Date;
- c) are created on or after the Commencement Date and do not arise in relation to a Deliverable or are created other than in the course of providing the Services including as a result of the use of Customer Materials pursuant to Clause 8.4(b); or
- d) arise in any works and materials may be listed in a SOW or Order Form as Keywords Background Materials.

Keywords Licensed Products means the software, hardware, audio-visual assets, documentation or other works and materials that may be identified in the Order Form or SOW and in which Keywords is the owner or licensee of the Intellectual Property Rights.

Keywords Personnel means any and all employees, directors, officers, agents, contractors and consultants of Keywords and its Affiliates from time to time.

Licensed Product Warranty Period has the meaning given to it in Clause 10.3.

Losses has the meaning given in Clause 12.4.

M&A Event means that Customer or any other entity that licenses one or more Keywords Licensed Product under an Agreement is a party to, or is the subject of, a corporate transaction or event that has the effect of increasing the potential number of Authorized Users of the Keywords Licensed Product, including by way of a merger, acquisition or assignment.

Mediation Notice has the meaning given to it in Clause 21.2(b).

New Licensed Products Offer has the meaning given in Clause 3.7.

New Users has the meaning given in Clause 3.7.

Party means a party to an Agreement, being Keywords or Customer, and "**Parties**" shall mean Keywords and Customer together.

Permitted Use means the use identified in the SOW or Order Form to an Agreement.

Relief Event means:

- a) a failure or delay by Customer to perform its obligations under an Agreement, including a failure or delay to provide Customer Materials by the agreed date or meet any dependencies specified in the SOW or Order Form;
- b) a failure or delay by Customer to act on a concern or disagreement raised by Keywords at the appropriate time;
- c) compliance by Keywords with instructions issued by Customer in relation to which Keywords has raised a concern; and/or
- d) Keywords is adversely affected by an act or omission of Customer or those for whom it is responsible.

Services means any services that are provided by Keywords to Customer under a SOW or Order Form.

Standard Terms means these Standard Terms and Conditions, which govern each and every Agreement.

Statement of Work, SOW or Order Form means a document that describes the Services or Keywords Licensed Products to be provided by Keywords to Customer under an Agreement, whether or not entered into under a Master Services Agreement or other framework agreement, and including (for the avoidance of doubt) any such documents entitled "Quotes", "Purchase Orders" or "Work Orders" or similar.

Term has the meaning given to it in Clause 15.1.

Transfer Regulations means any national legislation implementing the provisions of the Transfers of Undertakings Directive 2001/23/EC of 12 March 2001 (including any legislation amending, modifying, extending, varying, superseding, replacing, substituting or consolidating it from time to time), including for the avoidance of doubt as amended or replaced or any other equivalent or analogous legislation in any other jurisdiction.

- 25.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 25.3 Use of the singular includes the plural and vice versa. A reference to one gender shall include a reference to the other genders. A reference to a Clause is a reference to a clause of these Standard Terms. Headings to Clauses are for the purpose of information and identification only and do not affect the interpretation of these Standard Terms. A reference to "writing" or "written" includes email, but not fax.
- 25.4 Any phrase introduced by the words "**including**", "**include**", "**in particular**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those words.

DATA PROCESSING ADDENDUM

1. DEFINITIONS AND INTERPRETATION

1.1 In this Data Processing Addendum the following words shall have the following meanings:

CCPA means the California Consumer Privacy Act.

EEA means the European Economic Area and **UK** means the United Kingdom of Great Britain and Northern Ireland.

European Law means any law in force in the EEA or the United Kingdom, including the Data Protection Laws.

International Transfer Requirements means the requirements of Chapter V of the GDPR (Transfers of Personal Data to third countries or international organisations).

Restricted Country means a country, territory or jurisdiction which is not considered by the EU Commission (or in respect of personal data transfers caught by the requirements of UK Data Protection Laws, the relevant UK governmental or regulatory body as applicable) to offer an adequate level of protection in respect of the processing of personal data pursuant to Article 45(1) of the GDPR.

Restricted Transfer means a transfer of personal data from an entity whose processing of personal data under the Standard Terms is caught by the requirements of the GDPR and/or UK Data Protection Laws (as applicable), to an entity that processes the relevant personal data in a Restricted Country.

Sub-processors means further processors that are appointed by Keywords to process the Customer Personal Data.

1.2 References to “controller”, “data subject”, “personal data”, “personal data breach”, “process”, “processed”, “processing”, “processor” and “supervisory authority” shall have the same meanings given in the GDPR.

1.3 In this Data Processing Addendum:

(a) a reference to the GDPR and/or an Article or Chapter of the GDPR shall, where the context so requires and insofar as the Data Protection Laws is that of the UK, be construed as a reference to the equivalent Data Protection Laws of the UK and/or the corresponding provision of such Data Protection Laws; and

(b) a reference to a Paragraph is a reference to a Paragraph of this Data Processing Addendum.

2. ROLES OF THE PARTIES AND PROCESSING ACTIVITIES

2.1 The Parties acknowledge and agree that, to the extent that Keywords processes Customer Personal Data on behalf of Customer in connection with the provision of Services and Keywords Licensed Products, Keywords shall be the processor and Customer shall be the controller in respect of such processing.

2.2 Each of the Parties acknowledges and agrees that the subject matter and duration of the processing carried out by Keywords on behalf of Customer, the nature and purpose of the processing, the type of personal data and categories of data subjects shall be documented in a SOW or Order Form.

2.3 If at any time either Party considers that the relationship between the Parties and/or the scope of processing carried out by Keywords no longer corresponds to the intention of the Parties stated in Paragraph 2.1 or 2.2, that Party shall promptly notify the other and the Parties shall discuss and agree in good faith such steps that may be required to reflect the true status and/or scope of processing undertaken by Keywords.

2.4 CCPA. Except with respect to Customer Account Data and Customer Usage Data, the parties acknowledge and agree that Keywords is a service provider for the purposes of the CCPA (to the extent it applies) and is receiving personal information from Customer in order to provide the Services pursuant to the Agreement, which constitutes a business purpose. Keywords shall not sell any such personal information. Keywords shall not retain, use or disclose any personal information provided by Customer pursuant to the Agreement except as necessary for the

specific purpose of performing the Services for Customer pursuant to the Agreement, or otherwise as set forth in the Agreement or as permitted by the CCPA. The terms “personal information,” “service provider,” “sale,” and “sell” are as defined in Section 1798.140 of the CCPA. Keywords certifies that it understands the restrictions of this Section 2.4.

3. OBLIGATIONS OF THE PARTIES

3.1 Throughout the term of an Agreement, Customer shall:

(a) ensure that all personal data which it transmits to Keywords is transmitted in accordance with Applicable Law; and

(b) it has and shall maintain all appropriate, lawful bases to use such personal data in accordance with the Agreement, including ensuring the provision of appropriate privacy notices that comply with the Data Protection Laws (in particular Articles 13 and/or 14 of the GDPR) to any relevant data subjects covering the processing of such personal data by Keywords under the Agreement.

3.2 Keywords shall only process personal data for the purpose of providing the Services and Keywords Licensed Products in accordance with the documented written instructions that Customer shall provide to Keywords from time to time concerning such processing, unless required to do so by European Law to which Keywords is subject, in which event Keywords shall inform Customer of such legal requirement unless prohibited from doing so by European Law on important grounds of public interest. Customer shall ensure that any such instructions comply with Applicable Law. Customer shall ensure that the processing of personal data in accordance with Customer’s instructions will not cause Keywords to be in breach of the Data Protection Laws. Keywords shall notify Customer if, in Keywords’ opinion, any instruction given by or on behalf of Customer breaches Data Protection Laws and may refuse to comply with any such instruction. For the avoidance of doubt, Customer acknowledges that no special categories of personal data or sensitive personal data, as such or similar terms are described by applicable Data Protection Laws, shall be shared with or made available to Keywords.

3.3 Taking into account the nature of the processing and the information available to Keywords, Keywords shall assist Customer with regard to Customer’s compliance with its obligations under the following Articles of the GDPR:

(a) Article 32 (Security of Processing);

(b) Articles 33 and 34 (Notification and communication of a Personal Data Breach);

(c) Article 35 (Data protection impact assessment); and

(d) Article 36 (Prior consultation by Customer with the supervisory authority).

4. SECURITY MEASURES

4.1 Keywords shall maintain appropriate technical and organisational security measures in accordance with Article 32 of the GDPR, including as appropriate the following measures:

(a) encryption of the personal data (where appropriate);

(b) pseudonymisation of the personal data (where appropriate);

(c) measures which ensure the confidentiality, integrity, availability and resilience of the systems processing that personal data;

(d) measures which enable Keywords to restore the availability of and access to the personal data in a timely manner in the event of an incident which affects such availability and/or access; and

(e) a process for regularly testing, assessing and evaluating the effectiveness of such technical and organisational measures for ensuring the security of the processing.

4.2 Keywords shall ensure that the measures to be taken in accordance with Paragraph 4.1 of this Data Processing Addendum are appropriate having regard to:

- (a) the nature of the personal data and the scope, context and purposes of the processing and the likelihood and severity of the risks to data subjects that are presented by the processing of such personal data, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed; and
- (b) the state of technological development and the cost of implementing such measures.

5. RECORDS, DATA RETENTION AND AUDIT

5.1 Keywords shall:

- (a) maintain a record of its processing activities which relate to an Agreement as required by Article 30(2) of the GDPR; and
- (b) at any time upon request, and in any event upon termination of an Agreement, (unless Customer agrees otherwise in writing in each case) deliver up all personal data processed in accordance with the Agreement.

5.2 Following such delivery up and in the event of termination of an Agreement, Keywords shall promptly and securely delete or destroy all such personal data except for any personal data that is necessary to enable Keywords to comply with any continuing obligations that Keywords may have under European Law following termination of the Agreement.

5.3 Each Party shall provide the other Party with such information as the other Party reasonably requests from time to time to enable such other Party to satisfy itself that the Party providing the information is complying with its obligations under this Data Processing Addendum.

5.4 Keywords shall permit Customer, its third-party representatives or a supervisory authority access to inspect, and take copies of records of its processing activities and any other relevant information held at any premises or on systems used in connection with the processing of the Customer Personal Data, for the purpose of auditing compliance with Keyword's obligations under this Data Processing Addendum. Keywords shall give any and all necessary assistance in respect of the conduct of such audits. Such audits shall be subject to the following:

- (a) audits may be performed no more than once a year, except in the event of a reasonably suspected breach;
- (b) Customer shall procure that any third-party auditor enters into a confidentiality agreement in a form satisfactory to Keywords (acting reasonably);
- (c) audits must be conducted during regular business hours (i.e. 9am to 5pm local time) on reasonable notice and must not unreasonably interfere with Keywords' business;
- (d) Customer must provide Keywords with any audit reports generated pursuant to any audit at no charge, unless prohibited by applicable law. Customer shall keep the audit reports confidential and may use the audit reports only for the purposes of meeting its audit requirements under Data Protection Laws and/or confirming compliance with the requirements of this Paragraph 5; and
- (e) notwithstanding anything else in this Data Processing Addendum and/or the Standard Terms, all audits are at Customer's sole cost and expense.

6. SUB-PROCESSORS

6.1 Notwithstanding any other provision of the Standard Terms (including this Data Processing Addendum), Keywords shall be entitled to appoint Sub-processors. The following provisions shall apply in respect of the appointment of Sub-processors:

- (a) Customer approves the appointment of Sub-processors that are disclosed prior to the commencement of the provision of the Services or Keywords Licensed Products and, for the avoidance of doubt, also approves any Affiliate that is also a Sub-processor and the authorized Sub-processors identified at <https://www.helpshift.com/legal/subprocessors/> (the "Helpshift List") with respect to Services provided by Helpshift, Inc.;

- (b) Keywords shall notify Customer in writing of its intention to engage any additional Sub-processor, and such notice shall give details of the identity of such Sub-processor and the services to be supplied by it. With respect to the Helpshift List, it may be updated from time to time. Keywords may provide a mechanism to subscribe to notifications of new authorized Sub-processors and Customer agrees to subscribe to such notifications where available. At least five (5) days before enabling any third party other than existing authorized Sub-processors to access or participate in the processing of Personal Data, Keywords will add such third party to the Helpshift List and notify Customer via email. Customer may object to such an engagement in accordance with Paragraph 6.1(e);
- (c) Keywords shall only use a Sub-processor that has provided sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the Data Protection Laws and ensures the protection of the rights of data subjects;
- (d) Keywords shall impose, through a legally binding contract between Keywords and the Sub-processor, data protection obligations on the Sub-processor that are in all material respects equivalent to those set out in this Data Processing Addendum and which in any event meet the requirements set out in the Data Protection Laws;
- (e) Customer shall be entitled to object to the appointment of additional Sub-processors notified under Paragraph 6.1(b) in writing where it considers that such appointment will not comply with the requirements of this Paragraph 6.1(e) and is based on reasonable grounds relating to data protection. Customer shall be deemed to have approved the engagement of the Sub-processor if it has not served a notice in writing on Keywords objecting (in accordance with this Paragraph 6.1(e)) to such appointment within 5 days of the date that the notice is deemed to be received by Customer in accordance with Paragraph 6.1(b);
- (f) where Customer objects to the proposed appointment, Keywords will use commercially reasonable efforts to provide the Services and Keywords Licensed Products without the use of the relevant Sub-processor. Where Keywords is unable to provide the Services notwithstanding its use of such commercially reasonable efforts, Keywords shall have no liability for any failure to provide the relevant Services and Keywords Licensed Products in accordance with the terms of the Agreement; and
- (g) Keywords shall remain fully liable for all acts or omissions of the Sub-processors as if they were acts or omissions of Keywords.

Between the Parties

6.2 The Parties acknowledge and agree that the transfer from Customer to Keywords of Customer Personal Data does not constitute a Restricted Transfer. If and to the extent that such a transfer or processing of Customer Personal Data becomes a Restricted Transfer, the Parties shall enter into a separate addendum to implement a transfer mechanism to ensure that the Restricted Transfer complies with the International Transfer Requirements.

By Keywords

6.3 Customer acknowledges and agrees that Customer Personal Data may be transferred by Keywords to Sub-processors located in a Restricted Country, which may be considered a Restricted Transfer. In the event of the transfer being considered a Restricted Transfer, Keywords shall enter into a transfer mechanism to ensure that the Restricted Transfer meets the International Transfer Requirements.

Failure of transfer mechanisms

6.4 The Parties acknowledge and agree that to the extent either Party considers (acting reasonably) that the use of the relevant lawful transfer mechanism relied on in respect of a Restricted Transfer under Paragraph 6.3 is no longer an appropriate lawful transfer mechanism to legitimise the relevant Restricted Transfer pursuant to the International Transfer Requirements, the Restricted Transfer shall be suspended and the Parties shall work together in good faith to agree and put in place an alternative lawful transfer mechanism or such other supplementary

measures to enable the Restricted Transfer to continue, and Keywords shall provide details of the relevant transfer mechanism on request.

6.5 In addition to Paragraph 6.4, the Parties will each use commercially reasonable efforts to ensure that the Services and Keywords Licensed Products can continue to be provided in all material respects in accordance with the Agreement despite the suspension of the Restricted Transfer.

6.6 Without prejudice to Keyword's obligations under Paragraphs 6.4 and 6.5, Keywords shall have no liability under the Standard Terms for any inability to provide the relevant Services or Keywords Licensed Products in accordance with the terms of the Agreement as a result of the suspension of a Restricted Transfer pursuant to Paragraph 6.4

7. COSTS

7.1 Customer will pay Keywords in respect of any costs that are reasonably incurred by Keywords to the extent that this falls outside the ordinary course of Keywords' business in respect of the performance by Keywords of its obligations in this Data Processing Addendum, except where such performance is required as a result of a breach by Keywords of its obligations under this Data Processing Addendum. Where practicable to do so, Keywords will seek Customers' written approval prior to incurring such costs.

8. LIABILITY FOR LOSSES

8.1 Where, in accordance with the provisions under Article 82(3) of the GDPR, both Parties are responsible for the act, or omission to act, resulting in the payment of Losses by a Party or both Parties then a Party shall only be liable for that part of such Losses which is in proportion to its respective responsibility.

8.2 Each Party's liability under or in connection with this Data Processing Addendum shall be limited in accordance with the liability and limitation provisions of the Standard Terms.

9. KEYWORDS PERSONNEL

9.1 Keywords shall ensure that Keywords Personnel, to the extent that they are involved in the processing of personal data in connection with the Agreement, shall be subject to appropriate binding obligations to protect the confidentiality of such personal data.

9.2 Keywords' obligations under this Data Processing Addendum exclude any personal data relating to its personnel engaged in the performance of Keywords' obligations under the Agreement generated by Keywords solely for the purposes of its internal human resources procedures and records.

10. DATA SUBJECT RIGHTS AND BREACHES

10.1 Keywords shall, to the extent permitted by law, notify Customer upon receipt of a request by a data subject to exercise the data subject's right

of access, rectification, erasure, data portability, restriction or cessation of processing, withdrawal of consent to processing, and/or objection to being subject to processing that constitutes automated decision-making (such requests individually and collectively "Data Subject Request(s)"). If Keywords receives a Data Subject Request in relation to Customer's data, Keywords will advise the data subject to submit their request to Customer and Customer will be responsible for responding to such request, including, where necessary, by using the functionality of the Services. Customer is solely responsible for ensuring that Data Subject Requests for erasure, restriction or cessation of processing, or withdrawal of consent to processing of any Personal Data are communicated to Keywords, and, if applicable, for ensuring that a record of consent to processing is maintained with respect to each data subject.

10.2 Keywords shall, at the request of the Customer, and taking into account the nature of the processing applicable to any Data Subject Request, apply appropriate technical and organizational measures to assist Customer in complying with Customer's obligation to respond to such Data Subject Request and/or in demonstrating such compliance, where possible, provided that (i) Customer is itself unable to respond without Keywords' assistance and (ii) Keywords is able to do so in accordance with all applicable laws, rules, and regulations. Customer shall be responsible to the extent legally permitted for any costs and expenses arising from any such assistance by Keywords.

10.3 Keywords shall provide Customer with the following information in respect of any personal data breach (insofar as it is possible, at the time of notifying Customer of the relevant personal data breach, or where such information is not available at the point of notification as soon as such information is available):

- (a) the nature of the Customer Personal Data, including where possible the categories and approximate number of data subjects concerned and the categories and number of personal data records concerned;
- (b) the likely consequences of the personal data breach;
- (c) the measures taken or proposed to be taken by Keywords to address the personal data breach, including where appropriate measures to mitigate the possible adverse effects; and
- (d) the details of a contact point where more information concerning the personal data breach can be obtained.

10.4 The obligations described in Paragraphs 3.3 and 10.3 in respect of personal data breaches shall not apply in the event that a personal data breach results from the actions or omissions of Customer. Keywords' obligation to report or respond to a personal data breach under Paragraph 10.3 will not be construed as an acknowledgement by Keywords of any fault or liability with respect to the personal data breach.