HighCohesion - TERMS AND CONDITIONS

These terms and conditions (as amended under clause 19.5) (the "Conditions") govern the supply of Services and licensing of software by HIGHCOHESION LIMITED, a company registered in England and Wales with company no. 12020025, whose registered office is at 3rd Floor 86-90 Paul Street, London, United Kingdom, EC2A 4NE ("HC") to the person/firm who purchases such Services/software, as stated on the Confirmation Email ("Customer"). These Conditions apply to the exclusion of any other terms that the Customer seeks to impose, or which are implied by trade, custom, practice or course of dealing.

Please carefully read this agreement. By signing up for an account or by accessing or using any portion of the platform or services, you agree that you have read and agree to be bound by the terms and conditions of this agreement.

If you do not agree to the terms of this agreement, or do not meet the qualifications included in this agreement, you must not access or use the platform or services. if you access or use any portion of the platform or services, you acknowledge that you meet the qualifications included in this agreement and agree to be bound by its terms.

This Agreement is entered into as of the earlier of the date You sign-up to the Platform or first access or use the Platform (the "Effective Date").

1. INTERPRETATION
    1.1. Clause, schedule and paragraph headings shall not affect the interpretation of these Conditions.
    1.2. Person includes a natural person, corporate and unincorporated body and, unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
    1.3. A reference to a party includes its personal representatives, successors and permitted assigns.
    1.4. A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted and includes any subordinate legislation.
    1.5. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
    1.6. Any phrase introduced by the terms "including", "include", "in particular" and "for example" shall be illustrative and shall not limit the sense of the preceding words.
    1.7. A reference to writing or written includes emails but excludes faxes.
    1.8. If there is an inconsistency between any of the provisions in the main body of these Conditions, the schedules or the content of any Confirmation Email, the following decreasing order of priority shall apply (unless it is expressly stated in an Confirmation Email that the content of a particular Confirmation Email can override these Conditions):
        1.8.1. these Conditions;
        1.8.2. the schedules; and
        1.8.3. the Confirmation Email.
    1.9. The following definitions apply:

Term	Definition
"Applicable Law"	the laws of England and Wales, together with any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services;
"Availability"	the availability of an access point on HC's backbone network, subject to clause 6.4;
"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
"Business Hours"	between the hours of 9:00 AM and 5:00 PM local UK time, each Business Day;
"Charges"	the charges set out or referred to in the Confirmation Email;

"Conditions"	the terms and conditions in this document, together with all schedules;
"Confidential Information"	information of commercial value, in whatever form or medium, disclosed by a party to the other party, including commercial or technical know-how, technology, information pertaining to business operations and strategies, information pertaining to customers, pricing and marketing, and any information which is marked confidential, or which the receiving party would reasonably believe to be confidential, taking into account the information itself, and the circumstances of its disclosure;
"Confirmation Email"	a written quotation by HC for the supply of Services/Platform;
"Contract"	as defined at clause 2.4;
"Customer Data"	all the Customer documents, information, designs, images, content, software, works, data, databases and materials of any kind and in any medium which are created, produced or owned by the Customer and which are accessed using the Platform;
"Data Protection Addendum"	the document located here
"Defect"	an error in the applicable software that causes it to fail to operate materially in accordance with its Documentation;
"Documentation"	the operating manuals, user instruction manuals, technical literature and all other related materials in human-readable or machine-readable forms supplied by HC or made available via the Platform;
"Effective Date"	as stated in the Confirmation Email;
"Emergency Maintenance"	maintenance resulting from the identification of an issue requiring urgent resolution for reasons of safety, security, as mandated by Applicable Law or as HC may otherwise determine using its own skill and judgment;
"End User"	Any user that uses HighCohesion to integrate and stream data between third party applications;
"End User Agreement"	in respect of any Open-Source Software, the specific licence under which the relevant Open-Source

	Software is distributed as varied from time to time in accordance with the terms of such End User Agreement;
"Excluded Cause"	maintenance resulting from: (i) misuse, incorrect use of or damage from whatever cause (other than any act or omission by HC); (ii) failure to maintain the necessary environmental conditions for use; (iii) use in combination with any equipment or software not provided/approved in writing by HC; (iv) use in combination with equipment or software which suffers a fault; (v) relocation or implementation by the Customer or any third party not authorised by HC; (vi) any act or omission of a third party; (vii) any breach of the Customer's obligations under these Conditions howsoever arising; (viii) any modification to the Platform not authorised by HC; (ix) operator error; or (x) any other excluded causes set out in the relevant Confirmation Email or the Maintenance and Support Specification;
"Excluded Maintenance"	maintenance which is necessary as a result of any of the Excluded Causes;
"Extended Term"	1 year;
"Force Majeure Event"	events of the kind described in clause 17.1;
"Good Industry Practice"	the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a supplier of similar services to the Services supplied under a Contract;
"Go-Live Date"	the date on which HC grants the Customer access to the Platform, as set out in the Confirmation Email;
"Harmful Code"	any software, hardware or other technology, device or means, including any virus, worm, malware or other malicious computer code, the purpose or effect of which is to permit unauthorised access to,

	or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner (i) the function of any computer, software, firmware, hardware, system or network or (ii) the security, integrity, confidentiality or use of any data;
"Initial Term"	a term of 1 year from the Effective Date;
"Insolvency Event"	any of the following: (i) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; (ii) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; (iii) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; (iv) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party; (v) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; (vi) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; (vii) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the

	whole or any part of the other party's assets and such attachment or process is not discharged within 14 days; (viii) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (i) to (vii) above (inclusive); or (ix) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
"Intellectual Property Rights"	patents, utility models, rights to inventions, copyright and neighbouring and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
"Maintenance and Support Hours"	the hours of 09:00 to 17:00 local UK time on Business Days;
"Maintenance and Support Services"	the services provided pursuant to clause 8;
"Maintenance and Support Specification"	the document appended as updated and amended by HC from time to time;
"Open-Source Software"	any software licensed under any form of open-source licence meeting the Open Source Initiative's Open Source Definition (http://www.opensource.org/docs/definition.php) or any libraries or code licensed from time to time under the General Public Licence (as described by the Free Software Foundation and set out at http://www.gnu.org/licenses/gpl.html), or anything similar, included or used in, or in the development of, the Platform;
"Partner"	An HC development partner;

"Planned Maintenance"	maintenance intended to resolve or prevent issues, improve performance, make enhancements or implement configuration changes, notified to the Customer in advance;
"Platform"	the HC platform located at control.hico.io and further described in the Documentation;
"Services"	the Subscription Services and the Maintenance and Support Services, together with any other ancillary or incidental services provided by HC to the Customer in accordance with these Conditions;
"Sourcing Issue"	an inability on the part of HC to source particular materials or resources on terms similar or identical to those available at the Effective Date (including due to exchange rate fluctuations, increases in taxes or duties) or a change in Applicable Law;
"Subscription Services"	the making available by HC to the Customer of access to the Platform via HC's hosting environment; and
"Term"	the Initial Term, together with any Extended Term(s); and

2. BASIS OF CONTRACT
    2.1.   To request the supply of Services in accordance with this Agreement, the Customer shall:
        2.1.1.   Sign-up for an account on the Platform; and
        2.1.2.   Supply all information reasonably required by HC pursuant to the sign-up process.
    2.2.   Signing up to access the Platform constitutes an offer by the Customer to take and pay for the Services in accordance with these Conditions, which HC is free to accept or reject.
    2.3.   HC may refuse to provide the Services in its absolute discretion. If the offer is accepted, HC shall notify the Customer of that acceptance ("Confirmation Email") using the email address provided during the sign-up process.
    2.4.   A Contract shall be formed incorporating these Conditions (the "Contract") once the Confirmation Email is sent.
    2.5.   Should any correspondence from the Customer contradict in any way the Confirmation Email or any of these Conditions, such contradictory terms shall not be incorporated unless and to the extent that a revised Confirmation Email is issued incorporating any of the same.
    2.6.   Subsequent to the Effective Date, a Contract may not be terminated except in accordance with its terms.
    2.7.   Unless expressly stated to the contrary in the relevant Confirmation Email (or otherwise agreed in writing by HC), each Confirmation Email is only valid for 30 days from its date of issue.
    2.8.   In consideration for the payment of the Charges, HC will provide the Services in accordance with the Contract from the applicable Effective Date.

3. CUSTOMER'S OBLIGATIONS
   3.1. The Customer shall:
      3.1.1. provide all necessary co-operation reasonably required in relation to a Contract;
      3.1.2. comply with any and all obligations which are set out in a Contract, as well as any other obligations which are apparent or would be ordinarily expected to be complied with by the Customer in the ordinary course of receipt of similar services;
      3.1.3. provide such assistance from any of the Customer's personnel as may be reasonably requested by HC from time to time;
      3.1.4. respond promptly to any request for a decision, guidance, information or instruction which HC may submit in relation to a Contract from time to time;
      3.1.5. not do or permit anything to be done that will or may damage the business, reputation, image and/or goodwill of HC;
      3.1.6. only use the Services and Platform for lawful purposes and shall not use the Services or Platform:
         3.1.6.1. in any way that breaches any Applicable Law;
         3.1.6.2. in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
         3.1.6.3. for the purpose of harming or attempting to harm minors in any way;
         3.1.6.4. to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam); or
         3.1.6.5. to knowingly transmit any data, send or upload any material that contains Harmful Code.

4. SERVICES
   4.1. The terms of this clause 4 apply with respect to any Services supplied pursuant to a Contract.
   4.2. During the Term, in consideration for the payment of all applicable Charges, HC shall provide the applicable Services to the Customer materially in accordance with the Contract.
   4.3. HC will use its reasonable endeavours to supply all relevant Services in accordance with any performance metrics specified in respect of the same.
   4.4. In respect of the Services, HC shall use reasonable endeavours to meet any performance dates specified, but any such dates are estimates only and time is not of the essence for the performance of the Services.
   4.5. If performance of the Services is delayed at the Customer's request, or because of any acts or omissions of the Customer, the parties may agree revised dates for performance. At its discretion, HC may apply a reasonable increase to the Charges as a result of such delay.
   4.6. HC shall have the right to make any changes to the Services which:
      4.6.1. improve the nature or quality of the Services;
      4.6.2. are necessary to comply with Applicable Law;
      4.6.3. result from a Sourcing Issue; or
      4.6.4. do not materially negatively affect the nature or quality of the Services, and HC shall notify the Customer in any such event.

5. PERSONNEL
 5.1. HC and the Customer shall ensure that all of their personnel, as well as subcontractor personnel:
  5.1.1. have the necessary skills, expertise and diligence to undertake such work in accordance with Good Industry Practice; and
  5.1.2. are under appropriate obligations of confidentiality.

6. SUBSCRIPTION SERVICES
 6.1. HC shall perform the Subscription Services in material accordance with the Documentation and the relevant SoW.
 6.2. The Customer acknowledges that backup copies of the Platform are not required, as it is not locally installed.
 6.3. HC shall use its reasonable endeavours to comply with any applicable service levels for the Subscription Services from the Go-Live Date.
 6.4. The following shall not reduce Availability:
  6.4.1. availability of the portion of the circuit that does not transit HC's backbone network, as the Customer is responsible for its own internet access;
  6.4.2. Subscription Maintenance Events;
  6.4.3. Customer-caused or third party-caused outages or disruptions (except to the extent that such outages or disruptions are caused by those duly authorised third parties sub-contracted by HC to perform the Subscription Services); and
  6.4.4. outages or disruptions attributable in whole or in part to Force Majeure Events.
 6.5. Availability measurements are performed at 3-month intervals and measure the Availability of an availability test page within the Platform within 30 seconds. Availability measurement begins on the first day of the first calendar month following the Go-Live Date. Availability shall be calculated by HC and is based on the monthly average percentage Availability, calculated at the end of each calendar month as the total actual minutes of Availability divided by total possible uptime minutes in the month. HC shall keep and shall send to the Customer, on request, full records of its Availability measurement activities under a Contract.
 6.6. HC does not warrant that:
  6.6.1. the Customer's use of the Subscription Services will be uninterrupted or error-free; or
  6.6.2. the Customer's access to any Customer Data transferred via the Platform will be uninterrupted or error-free.

7. WARRANTIES
 7.1. Each party warrants to the other that:
  7.1.1. it has full capacity to enter into and perform its obligations under a Contract; and
  7.1.2. each Contract is executed by a duly authorised representative of that party.
 7.2. HC warrants to the Customer that:
  7.2.1. HC will comply with all Applicable Laws. However, HC is not responsible for compliance with any laws or regulations applicable to the Customer or the Customer's industry that are not generally applicable to information technology service providers. HC does not determine

whether any Customer Data includes information subject to any specific law or regulation;

7.2.2. HC will perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with Good Industry Practice;

7.2.3. the Platform has been regularly scanned for Harmful Code in accordance with Good Industry Practice; and

7.2.4. the Platform will perform substantially in accordance with the functions specified in the Documentation when in use in a manner that conforms to the terms and conditions of a valid Contract and the Documentation.

7.3. The Customer warrants to HC that:

7.3.1. the Customer owns or otherwise has and will have the necessary rights and consents in and relating to the relevant Customer Data in order to transfer it via the Platform;

7.3.2. the Customer Data does not include content which is unlawful or could otherwise give rise to civil or criminal liability.

7.4. Except for the express warranties set forth in these Conditions, the Platform, Documentation and Services are provided "as is" and HC hereby disclaims all warranties, whether express, implied, statutory or otherwise, including warranties of merchantability, fitness for a particular purpose and all warranties arising from course of dealing, usage or trade practice. Without limiting the foregoing, HC makes no warranty of any kind that the Platform or Documentation or results of the use thereof, will be compatible or work with any software, system, or other services except if and to the extent expressly set forth in the Documentation, or be error free.

8. MAINTENANCE AND SUPPORT SERVICES

8.1. The terms of this clause 8 apply to the Maintenance and Support Services.

8.2. HC shall provide the Maintenance and Support Services for the Platform to the Customer in accordance with the Confirmation Email and the Maintenance and Support Specification. In the event of any inconsistency between the Confirmation Email and the Maintenance and Support Specification, the Confirmation Email shall prevail to the extent of the inconsistency.

8.3. With respect to Excluded Maintenance:

8.3.1. HC is not obliged to perform any Excluded Maintenance unless the Customer has agreed to pay the applicable Charges in respect of it;

8.3.2. where HC is performing or has performed the Maintenance and Support Services in circumstances where it is subsequently established that the Defect in the Platform was due to any of the Excluded Causes, HC may charge, and the Customer shall pay, the applicable additional Charges in respect of that work.

9. INTELLECTUAL PROPERTY

9.1. HC warrants that it has, and will continue to have, all necessary rights in and to any and all Intellectual Property Rights that it purports to grant to the Customer pursuant to a Contract. The Customer warrants to HC that HC's possession and use in accordance with these Conditions of any materials (including third-party materials supplied by the Customer to HC) shall not cause HC to infringe the rights, including any Intellectual Property Rights, of any third party.

9.2.   The Customer acknowledges and agrees that (unless and to the extent expressly stated to the contrary in the Confirmation Email), HC and/or its licensors own all Intellectual Property Rights in the Platform.

9.3.   Except as expressly stated herein, these Conditions do not grant the Customer any Intellectual Property Rights or any other rights or licences to, in or in respect of the Platform.

9.4.   In consideration for the payment of all applicable Charges, HC hereby grants to the Customer a non-exclusive, revocable licence for the Term to access and use the Platform in accordance with the Documentation.

9.5.   Use of the Platform shall be restricted to:

9.5.1.   object code form;

9.5.2.   any transfer restrictions or other metrics set out in the Confirmation Email;

9.5.3.   the normal business purposes of the Customer; and

9.5.4.   employees of the Customer and third party contractors using the same solely for the benefit of the Customer.

9.6.   HC shall provide to the Customer, from time to time, copies of the Documentation containing sufficient up-to-date information for the proper use and maintenance of the Platform. Such Documentation may be supplied in electronic form.

9.7.   Except as expressly licensed, the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, access all or any part of the Platform in order to develop software which competes with the same, or to decompile, disassemble, modify, adapt or make error corrections to the same in whole or in part.

9.8.   The Customer may not use the Platform other than as specified in this clause without the prior written consent of HC, and the Customer acknowledges that additional Charges may become payable on any change of use approved by HC.

9.9.   Nothing in these Conditions shall be construed so as to prevent HC from using in the furtherance of its own business general know-how or expertise gained in its performance of a Contract, provided that any such use does not constitute or result in a disclosure of any Confidential Information in breach of clause 11 or infringement of any Intellectual Property Rights.

10.   OPEN-SOURCE SOFTWARE

10.1.   The terms of this clause 10 apply where Open-Source Software is made available to the Customer pursuant to a Contract.

10.2.   The Customer acknowledges and agrees that:

10.2.1.   HC is making such Open-Source Software available pursuant to the terms of the applicable End User Agreement and such software is provided "as is"; and

10.2.2.   any such Open-Source Software provided by HC may only be used according to the terms and conditions of the End User Agreement.

10.3.   The Customer shall comply with the terms of the End User Agreement.

11.   CONFIDENTIALITY

11.1.   Each party may be given access to Confidential Information from the other party in order to perform its obligations under a Contract. A party's Confidential Information shall not include information that:

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

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

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

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

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

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11.2.   Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of a Contract.

11.3.   Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of a Contract.

11.4.   Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

11.5.   HC acknowledges that the Customer Data is the Customer's Confidential Information.

11.6.   This clause 11 shall survive termination of a Contract, however arising.

12. CHARGES AND PAYMENT

12.1.   The Customer shall pay HC the Charges in accordance with this clause 12. Except as specifically set forth in a Contract, all payment obligations under a Contract are non-cancellable and all payments made are non-refundable.

12.2.   The Customer shall on the Effective Date (whether as part of the sign-up process or otherwise) provide to HC valid, up-to-date and complete credit or debit card details or approved purchase order information acceptable to HC and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:

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12.2.1.   its card details to HC, the Customer hereby authorises HC to bill such card monthly in arrears with respect to any usage Charges incurred by the Customer during that month; and

12.2.2.   its approved purchase order information to HC, HC shall invoice the Customer monthly in arrears with respect to any usage Charges incurred by the Customer during that month.

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12.3.   If the Customer disputes the Charges or any portion of them as set forth on any payment receipt or invoice, the Customer shall within 30 days of the date of the applicable invoice or payment receipt:

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12.3.1.   If the dispute relates to an outstanding invoice, pay the undisputed portion of the Charges; and

12.3.2.   notify HC in writing of its basis for contesting the disputed Charges.

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12.4.   The Parties agree to discuss any dispute within 10 Business Days of HC's receipt of such notification. If necessary, HC shall provide an amended invoice to Customer after the discussion and Customer will pay such invoice within the agreed time period (or if none, 30 days from receipt of the invoice by the Customer). In the event of an over payment, a credit note will be issued.

12.5.   Where a failure of the Customer to comply with its obligations under a Contract results in additional costs for HC and/or wasted time, HC may charge the Customer for the same on a time and materials basis.

12.6.   HC may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Customer to HC.

13. INDEMNITIES & LIMITATION OF LIABILITY

13.1. The Customer hereby indemnifies HC from and against any and all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by HC in connection with:

13.1.1. any failure of the Customer to obtain appropriate licences and/or consents in accordance with its obligations under a Contract or any subsequent revocation or non-renewal of any such licence and/or permit;

13.1.2. any failure of the Customer to ensure its compliance with Applicable Law in accordance with its obligations under a Contract; and

13.1.3. any use of the Services or the Platform by the Customer other than as envisaged under a Contract.

13.2. HC shall defend the Customer, its officers, directors and employees against any claim that the Platform or Services infringe any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts finally awarded against the Customer in judgment or settlement of such claims, provided that:

13.2.1. HC is given prompt notice of any such claim;

13.2.2. the Customer provides reasonable co-operation to HC in the defence and settlement of such claim (at HC's expense, provided such expenses are reasonable and can be evidenced to HC's satisfaction); and

13.2.3. HC is given sole authority to defend or settle the claim.

13.3. In the defence or settlement of any claim, HC may procure the right for the Customer to continue using the Platform or Services, replace or modify the Platform or Services so that they become non-infringing or, if such remedies are not reasonably available, terminate a Contract on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer. In no event shall HC, its employees, agents and subcontractors be liable to the Customer to the extent that the alleged infringement is based on:

13.3.1. a modification of the Platform or Services by anyone other than HC;

13.3.2. the Customer's use of the Platform or Services in a manner contrary to the instructions given to the Customer by HC; or

13.3.3. the Customer's use of the Platform or Services after notice of the alleged or actual infringement from HC or any appropriate authority.

13.4. The foregoing states the Customer's sole and exclusive rights and remedies, and HC's (including its employees', agents' and subcontractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13.5. The following provisions set out the entire financial liability of HC (including any liability for the acts or omissions of its employees, agents and subcontractors) to the other in respect of:

13.5.1. any breach of a Contract howsoever arising; and

13.5.2. any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with a Contract.

13.6. Nothing in a Contract shall limit or exclude HC's or the Customer's liability for:

13.6.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

13.6.2. fraud or fraudulent misrepresentation;

13.6.3. any indemnity given in a Contract; or

13.6.4. any other liability which cannot be limited or excluded by Applicable Law.

13.7. Subject to clauses 13.5 and 13.6, HC's liability in respect of loss or damage under a Contract in any 12-month period shall not exceed the lower of:

13.7.1. a sum equal to the total Charges paid to HC by the Customer hereunder during the period of 12 months immediately prior to the event giving rise to the claim; or

13.7.2. £12,000, however, that liability arises including breach of contract, tort, misrepresentation or breach of statutory duty.

13.8. Subject to clause 13.5, in no event will HC be liable to the Customer (whether in contract, tort, negligence or otherwise):

13.8.1. for any delay in performance of the Services or any failure to perform the Services that is caused or contributed to by a Force Majeure Event;

13.8.2. for any loss not flowing directly and naturally in the ordinary course of events from its own act or omission;

13.8.3. for the consequences of any acts or omissions of the Customer; or

13.8.4. for any indirect, special or consequential loss or damage.

14. TERM AND TERMINATION

14.1. Each Contract shall, unless otherwise terminated as provided in this clause 14, commence on the Effective Date and shall continue for the Initial Term, and thereafter, shall renew automatically for successive Extended Terms.

14.2. Without affecting any other right or remedy available to it, either party may terminate a Contract for convenience on the expiry of the Initial Term or any Extended Term by serving notice in writing on the other party, such notice to expire no less than 3 months prior to the end of the Initial Term or relevant Extended Term.

14.3. Without affecting any other right or remedy available to it, each party may terminate a Contract with immediate effect by giving written notice to the other, if the other party:

14.3.1. commits a material breach of any other term of a Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

14.3.2. repeatedly breaches any of the terms of a Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms thereof;

14.3.3. fails to pay any amount due under a Contract on the due date for payment and remains in default not less than 10 Business Days after being notified in writing to make such payment; or

14.3.4. experiences an Insolvency Event.

15. CONSEQUENCES OF TERMINATION

15.1. On termination of a Contract for any reason:

15.1.1. all rights granted to the Customer under the terminating Contract shall cease;

15.1.2. the Customer shall cease all activities authorised by the terminating Contract;

15.1.3. the Customer shall immediately pay any sums due to HC (including sums on a time and materials basis for any work in progress) without set off or deduction; and

15.1.4. each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party.

16. DATA PROTECTION

The parties shall comply with the Data Protection Addendum.

17. FORCE MAJEURE

17.1. In no event will either party be liable or responsible to the other party, or be deemed to have defaulted under or breached a Contract, for any failure or delay in fulfilling or performing any of its obligations thereunder, except for any payment obligation, when and to the extent such failure or delay is caused by any circumstances beyond such party's reasonable control (a "Force Majeure Event"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the relevant Contract, national or regional emergency, strikes, labour stoppages or slowdowns or other industrial disturbances (other than within HC itself), passage of law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either party may terminate the affected Contract if a Force Majeure Event continues substantially uninterrupted for a period of 30 days or more.

17.2. In the event of any failure or delay caused by a Force Majeure Event, the affected party shall give prompt written notice to the other party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimise the effects of such Force Majeure Event.

18. NOTICES

18.1. A notice given pursuant to a Contract shall be in writing, addressed to the place of business of the relevant party and shall be:

18.1.1. delivered personally;

18.1.2. sent by email; or

18.1.3. sent by pre-paid special delivery.

18.2. A notice is deemed to have been received:

18.2.1. if delivered personally, at the time of delivery;

18.2.2. in the case of email, at the time of transmission, provided a delivery notification is obtained evidencing delivery of the email; or

18.2.3. in the case of special delivery, the date on which delivery takes place, as evidenced by the acknowledgement from the Royal Mail, provided that if receipt is not within Business Hours on a Business Day, delivery shall be deemed to be when business next starts in the place of receipt.

19. GENERAL TERMS

19.1. Use of subcontractors: the Customer consents to HC engaging subcontractors to provide Services on its behalf, provided that HC remains responsible for its subcontractors' compliance with HC's obligations under a Contract.

19.2. Rights and remedies: except as expressly provided in a Contract, the rights and remedies provided under a Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

19.3. Marketing: the Customer agrees that HC may include the Customer's name and logo on the HC website and in its list of customers, press releases and other promotional materials. Any Customer logo or trademark usage will be in accordance with the Customer's trade mark and logo usage guidelines, if such guidelines are provided to HC prior to the usage occurring.

19.4. Entire agreement: a Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in a Contract. Each party agrees that its only liability in respect of those representations and warranties that are set out in a Contract (whether made innocently or negligently) shall be for breach of contract.

19.5. Variation: no variation of a Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19.6. Severance: if any provision (or part of a provision) of a Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

19.7. No waiver: failure to exercise, or any delay in exercising, any right or remedy provided under a Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under a Contract or by law shall preclude or restrict the further exercise of that or any other right or remedy.

19.8. Assignment & subcontracting:

19.8.1. HC may at any time assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under a Contract. HC may subcontract or delegate in any manner any or all of its obligations under a Contract to any third party or agent; and

19.8.2. a Contract is personal to the Customer and the Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust of or deal in any other manner with any or all of its rights and obligations under a Contract without HC's prior written consent (such consent not to be unreasonably withheld or delayed).

19.9. Counterparts: a Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one Contract.

19.10. No partnership: nothing in a Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

19.11.   Third party rights: a person who is not a party to a Contract shall not have any rights under or in connection with it, including pursuant to the Contracts (Rights of Third Parties) Act 1999.

19.12.   Governing law: a Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

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