

**GENERAL TERMS OF SALE** of (i) QA Limited (company number 02413137) with registered offices at International House, 1 St Katharine's Way, London, E1W 1UN, (ii) QA USA, Inc. (formerly Cloud Academy Inc.) whose principal place of business is at 530 Fifth Avenue, Suite 703, New York, NY 10036, and (iii) all Affiliates of QA Limited from time to time. These General Terms of Sale are effective from 18 June 2024.

## 1. Definitions and Interpretation

1.1. The following definitions shall have the following meanings:

**AI:** has the meaning given to it in Condition 4.3;

**Affiliate:** any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;

**Applicable Laws:** any (i) statute, statutory instrument, bye-law, order, directive, treaty, decree or law (including any common law, judgment, demand, order or decision of any court, regulator or tribunal); (ii) legally binding rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or (iii) legally binding industry code of conduct or guideline, which relates to the Contract and/or the obligations of a party under it,

**Bribery Laws:** the UK Bribery Act 2010, the US Foreign Corrupt Practices Act (FCPA) and all Applicable Laws in connection with anti-bribery or anti-corruption;

**Business Day:** a day other than a Saturday, Sunday or public holiday in the jurisdiction in which the Supplier is based;

**Charges:** means the charges payable for the Services as specified on an Order;

**Compliance Laws:** Bribery Laws, Modern Slavery Laws and the Tax Evasion Laws;

**Conditions:** these General Terms of Sale;

**Confidential Information:** any commercial, financial or technical information, information relating to business affairs, customers, clients or suppliers, the Contract and information relating to the Contract, know-how, features, functions, algorithms, interfaces, source code, look and feel of the Services or its constituent parts, other trade secrets, or other information which is obviously confidential in nature or has been identified as confidential, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;

**Contract:** the contract between the Supplier and the Customer for the supply of the Services incorporating these Conditions, the Product Specific Terms and the Order;

**Contract Year:** means a period of 12 months following the Order Start Date and each successive period of 12 months following that during the Term;

**Control:** means the power of a person to secure (a) by means of the holding of shares or the possession of voting power in relation to that or any other body corporate, or (b) as a result of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of a body corporate are conducted in accordance with that person's wishes; and in relation to a partnership, "control" means the right to a share of more than half the assets, or of more than half the income, of the partnership;

**CPI:** means: (i) in respect of Customer's with a registered office in the United States, the Consumer Price Index applicable to All Urban Consumers, published by the US Bureau of Labor Statistics; and (ii) in respect of all other Customers the general index of consumer prices published by the UK Office for National Statistics;

**Customer:** means the person or entity specified as the Customer on the Order;

**Customer Background IPR:** all Intellectual Property Rights in existence prior to the Customer's receipt of the relevant Services and either owned by or licensed to the Customer;

**Customer Data:** means any data, information, or materials provided by or on behalf of the Customer or its employees or those in receipt of the Services to the Supplier in connection with or related to the Services including personal data;

**Force Majeure Event:** means any circumstance not within a party's reasonable control including (a) acts of God, flood, drought, earthquake, volcano or other natural disaster; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action taken by a government or public authority; (f) collapse of buildings, fire, explosion or accident; (g) interruption or failure of utility service or (h) any pandemic, epidemic or government enforced lockdown or act with respect to each of (a) to (h);

**Foreground IPR:** Intellectual Property Rights or other proprietary rights created by the Supplier in connection with the Services, but excluding the Supplier Background IPR and the Customer Background IPR;

**Good Industry Practice:** the diligence, skill and care as would be expected by a provider of equivalent Services in the sector in which the Supplier operates;

**Intellectual Property Rights:** all patents, petty patents, utility models, trade marks, design rights, applications for any of the foregoing, copyright, moral rights, database rights, trade or business names, domain names, website addresses whether registrable or otherwise (including applications for and the right to apply for registration of any such rights), and any similar rights in any country whether currently existing or created in the future, in each case for their full term together with any renewals or extensions;

**Modern Slavery Laws:** the UK Modern Slavery Act 2015 and all Applicable Laws in connection with anti-slavery;

**Order:** the order document entered into between the Supplier and the Customer for the supply of Services incorporating these Conditions and the Product Specific Terms. For the purposes of Apprenticeship Services, the APC (as defined in the Product Specific Terms) shall be the Order;

**Order End Date:** the date specified on the Order as the Order End Date;

**Order Start Date:** the date specified on the Order as the Order Start Date;

**Product Specific Terms:** means the terms and conditions specific to the Services being provided by the Supplier and which reference these Conditions as specified on the Order;

**Services:** the services specified in the Order;

**Supplier:** means either QA Limited, QA USA, Inc. or any other Affiliate of QA Limited as specified on the Order;

**Supplier Background IPR:** all Intellectual Property Rights or other proprietary rights owned by or licensed to the Supplier, its subcontractors or any third party, the use of which is necessary for or incidental to the provision of the Services;

**Supplier Materials:** any materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer;

**Tax Evasion Laws:** means the UK Criminal Finances Act 2017, 26 U.S. Code § 7201 and all Applicable Laws in connection with the prevention of tax evasion;

**Term:** the term of the Contract as specified on the Order; and

**VAT:** value added tax.

1.2. The following rules of interpretation shall apply to the Contract:

1.2.1. a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);

1.2.2. any clause, schedule or other headings in the Contract is included for convenience only and shall have no effect on the interpretation of the Contract;

1.2.3. a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;

1.2.4. a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;

1.2.5. a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;

1.2.6. a reference to a gender includes each other gender;

1.2.7. words in the singular include the plural and vice versa;

1.2.8. any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.9. a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (excluding email);

1.2.10. a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time;

1.2.11. a reference to legislation includes all subordinate legislation made from time to time under that legislation;

1.2.12. any obligation on a party not to do something includes an obligation not to allow that thing to be done; and

1.2.13. an obligation on a party includes an obligation to procure that its Affiliates comply with that obligation.

## 2. BASIS OF CONTRACT

2.1. The Order shall be binding on the Parties upon execution by both Parties at which point the Contract shall come into full force and effect.

2.2. The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only and are not an offer to supply Services and are incapable of being accepted by the Customer.

2.3. The terms specified on the Order, these Conditions and the Product Specific Terms form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.

2.4. The terms specified on the Order, these Conditions and the Product Specific Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate including those included on any confirmation of order or receipt.

2.5. Marketing and other promotional material relating to the Services are illustrative only and do not form part of the Contract.

2.6. An Order may be withdrawn by the Supplier at any time prior to written acceptance of the Order by the Customer.

2.7. To the extent of any conflict or inconsistency between the Order, these Conditions and the Product Specific Terms the following order of priority shall apply: (i) the Order; (ii) the Product Specific Terms; and (iii) these Conditions.

- 2.8. Each Order shall commence on the Order Start Date and continue until the Order End Date (the "Initial Term").
- 2.9. Unless specified otherwise on an Order or in the Product Specific Terms, each Order shall automatically renew for the same term (the "Renewal Term") following the Initial Term or Renewal Term (as applicable) unless terminated by either party giving at least ninety (90) days written notice prior to the end of the Initial Term or any Renewal Term thereafter.

### 3. WARRANTIES

- 3.1. Each party warrants that, as at date of the Contract, it has full capacity and authority to enter into and perform its obligations under the Contract.
- 3.2. Each party warrants to the other that:
  - 3.2.1. it is solvent and able to perform all of its obligations under the Contract and will remain so throughout the duration of the Contract; and
  - 3.2.2. it shall perform its obligations under the Contract in a manner that complies with all Applicable Law.
- 3.3. All other warranties (express or implied) are hereby excluded to maximum extent permitted by Applicable Law.
- 3.4. SUBJECT TO CONDITION 9.1 AND ANY EXPRESS WARRANTIES CONTAINED IN THE CONTRACT, THE SUPPLIER MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR RESULTS OF THE USE THEREOF WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE SUPPLIER STRICTLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, AND LIABILITY WITH RESPECT TO ANY THIRD-PARTY PRODUCTS AND ANY LIABILITY WITH RESPECT TO THE USE OF AI.
- 3.5. The Customer acknowledges and agrees that the Services are provided "as is" and the effectiveness and/or outcome of the Services is subject to various factors beyond the Supplier's reasonable control, including but not limited to, the Customer's commitment, participation, or engagement (and that of its personnel).
- 3.6. Without limitation, the Customer represents and warrants to the Supplier that:
  - 3.6.1. it has and will continue to comply with all Applicable Law in respect of its use of AI and in respect of any Customer Data that is processed by AI; and
  - 3.6.2. it has obtained and will continue to obtain all consents, licences and permissions in relation to any Customer Data it provides or otherwise makes available to AI.
- 3.7. The Supplier warrants that it has taken reasonable steps to mitigate the risk of any AI causing material discrimination.

### 4. SUPPLY OF SERVICES

- 4.1. The Supplier shall:
  - 4.1.1. provide the Services to the Customer in all material respects in accordance with the terms of the Contract;
  - 4.1.2. use all reasonable efforts to meet any performance dates for the delivery and/or supply of the Services;
  - 4.1.3. provide the Services in accordance with Good Industry Practice and Applicable Laws;
  - 4.1.4. use personnel who are suitably skilled and experienced to satisfy the Contract; and
  - 4.1.5. have and maintain all necessary licences, consents and permissions in order to provide the Services.
- 4.2. The Supplier shall not be liable for any delay in or failure of performance under the Contract caused by:
  - 4.2.1. the Customer's failure or delay to provide any information and/or resources required by the Supplier in order to provide the Services;
  - 4.2.2. the Customer's failure to comply with the reasonable instructions of the Supplier relating to receipt of the Services; or
  - 4.2.3. the Customer's failure to comply with obligations specified in the Contract.
- 4.3. The Customer acknowledges and agrees that, unless otherwise specified within an Order, artificial intelligence products or features and/or machine learning technologies (together, "AI") may autonomously analyse and make decisions based on data and algorithms without human intervention in connection with the provision of the Services.
- 4.4. The Customer acknowledges and agrees that the Services are provided "as is" and the effectiveness or outcomes of the Services are subject to various factors beyond the Supplier's reasonable control, including but not limited to, the Customer's commitment, participation, or engagement.
- 4.5. The Customer shall and shall procure the use of AI by its personnel or those in receipt of Services under the Contract act at all times in accordance with the Supplier's reasonable instructions and the terms and conditions of the AI identified to the Customer or such personnel at the point of or prior to use.

- 4.6. The Customer shall not use (and shall procure that its personnel or those in receipt of Services under the Contract shall not use) AI in any way which may damage the reputation of the Supplier.
- 4.7. The Customer grants permission to the Supplier (and will procure such permission) to use, process and analyse Customer Data for the purpose of delivering the Services and for its internal business purposes.
- 4.8. The Customer acknowledges and agrees that Customer Data (including in the form of prompts or queries) may be inputted into AI ("Inputs") and the Customer may receive outputs from the AI forming part of the Services ("Outputs").
- 4.9. The Customer acknowledges and agrees that the Supplier may use Inputs and Outputs to train or otherwise improve its AI and may utilise the data generated or collected through its use of AI for the purpose of improving its services and enhancing its AI.
- 4.10. Due to the nature of its AI, the Supplier cannot represent or warrant that Output does not incorporate or reflect third-party content or material.
- 4.11. The Customer acknowledges and agrees that the Supplier makes no representation, warranty, undertaking or guarantee regarding specific improvements or results from the Services or that the Services meet the Customer's or any other person's requirements.
- 4.12. The Customer acknowledges and agrees that Outputs may be generated through AI and are not tested, verified, endorsed or guaranteed to be accurate by the Supplier. The Customer accepts that the Supplier has made or makes no other representations or undertakings regarding the operation and adequacy of AI that may form part of the Services, including whether AI meets the Customer's individual requirements. Any warranties, conditions, or terms as to fitness for purpose or satisfactory quality are excluded.

### 5. Charges and Payment

- 5.1. All Charges are non-refundable.
- 5.2. The Customer shall reimburse the Supplier for such additional travelling, subsistence and other expenses as are properly incurred by the Supplier in the performance of its duties under the Contract provided that such costs and expenses are approved by the Customer in advance of being incurred.
- 5.3. The Charges are exclusive of VAT and all other similar taxes imposed by Applicable Law which the Customer shall pay to the Supplier in addition to the Charges.
- 5.4. The Supplier shall use reasonable endeavours to quote any purchase order number supplied by the Customer on its invoices. Further, where the Customer requires the Supplier to use a purchase order number, the Customer shall promptly provide the Supplier with such a number.
- 5.5. Unless specified otherwise in an Order or Product Specific Terms, the Supplier shall be entitled to issue an invoice at any time on or after a Contract has been entered into by the Parties.
- 5.6. Except where otherwise specified in the Order or Product Specific Terms, the Charges shall be due and payable by the Customer within thirty (30) days of the date of the Supplier's invoice.
- 5.7. The Customer shall not be entitled to exercise any set-off, lien or any similar claim in relation to Charges due to the Supplier.
- 5.8. No payment shall be considered to be paid until it is received by the Supplier in cleared funds. Each party bears its own bank's costs for making or receiving payment.
- 5.9. Payment shall be in the currency of Supplier's invoice or in such other currency as is stipulated in the Order Form.
- 5.10. If the Customer notifies the Supplier that it disputes the correctness of an invoice or any part of it or the basis upon which it has been calculated (a "Dispute Notice"):
  - 5.10.1. the Customer shall pay the undisputed part of the invoice in accordance with this Condition 5 and in the case of any disputed part of the invoice which is withheld but subsequently agreed or determined to be payable shall pay such amount within seven (7) days of such agreement or determination; and
  - 5.10.2. the Customer shall provide the Supplier with reasonable information and assistance for the Supplier to resolve the Dispute Notice;
  - 5.10.3. the parties shall cooperate and work together in good faith to seek to resolve the Dispute Notice promptly;
  - 5.10.4. if the Parties do not resolve the Dispute Notice in fifteen (15) Business Days from date of the Supplier's invoice either party may commence or continue proceedings in respect of the unresolved dispute.
- 5.11. Where sums due under the Contract are not paid in full by the due date:
  - 5.11.1. the Supplier may, without limiting its other rights, charge interest on such sums at 4% a year above the Bank of England base rate from time to time in force, and
  - 5.11.2. interest shall accrue on a daily basis and apply from the due date for payment until actual payment in full, whether before or after judgment.
- 5.12. Unless stated otherwise on an Order or Product Specific Terms, the Supplier shall be entitled to increase Charges on each anniversary of commencement

of an Order by a percentage equal to the percentage increase in CPI in the previous 12 months.

- 5.13. The Supplier shall be permitted to assign the benefit of any invoices to any Supplier Affiliate who shall be permitted to invoice the Customer. Upon such assignment the Customer shall deal with the Supplier Affiliate regarding invoicing and payment of Charges.

## **6. DATA PROTECTION AND INFORMATION SECURITY**

- 6.1. The Data Protection Addendum available at <https://www.qa.com/legal-privacy/> is incorporated into these Conditions.

## **7. INTELLECTUAL PROPERTY RIGHTS**

- 7.1. Except where explicitly otherwise stated, nothing in the Contract shall act to transfer any Intellectual Property Rights from one party to the other.
- 7.2. The Customer and its licensors shall retain all right, title and interest in and to the Customer Background IPR.
- 7.3. The Supplier and its licensors shall retain all right, title and interest in and to the Supplier Background IPR and in any materials in which Supplier Background IPR subsists, including any documents, training guides, instruction manuals, drawings, diagrams, videos or any other materials provided by the Supplier to the Customer in the provision of the Services.
- 7.4. The Customer grants to the Supplier a royalty free, non-exclusive licence during the Term to use the Customer Background IPR to the extent necessary and for the purpose of providing the Services to the Customer; and performing the Supplier's other obligations under the Contract.
- 7.5. The Supplier grants to the Customer a royalty free, non-exclusive licence during the Term to use such Supplier Background IPR to the extent necessary for the Customer to receive the Services and for no other purpose (including no further commercial exploitation). The Customer shall not copy, reproduce, sell, licence, distribute, publish or otherwise circulate any Supplier Background IPR unless agreed in writing by the Supplier.
- 7.6. Unless otherwise agreed in an Order, all Foreground IPR shall vest in the Supplier.
- 7.7. The Supplier hereby grants to the Customer a royalty-free, licence for the Term to use the Foreground IPR to the extent necessary for the Customer to receive the Services and for no other purpose (including no further commercial exploitation). The Customer shall not copy, reproduce, sell, licence, distribute, publish or otherwise circulate any Foreground IPR unless agreed in writing by the Supplier.
- 7.8. Subject to the Customer's compliance with Condition 7.10, the Supplier shall indemnify the Customer from and against losses together with reasonably incurred legal expenses (on the standard basis) suffered or incurred by the Customer as a direct result of a claim that:
  - 7.8.1. the Customer's use of the Foreground IPR in accordance with the rights granted under the Contract; or
  - 7.8.2. the Customer's use of Supplier Background IPR in accordance with the rights granted under the Contract,infringes the Intellectual Property Rights of any person.
- 7.9. Subject to the Supplier's compliance with Condition 7.10, the Customer shall indemnify the Supplier from and against losses together with reasonably incurred legal expenses (on the standard basis) suffered or incurred by the Supplier as a direct result of a claim that the Supplier's use of the Customer Background IPR in accordance with the rights granted under the Contract infringes the Intellectual Property Rights of any person.
- 7.10. In relation to any claim to be indemnified, the party seeking indemnification under the Contract (the "indemnified party") shall:
  - 7.10.1. as soon as reasonably practicable give written notice of that matter to the other party (the "indemnifying party"), specifying in reasonable detail the nature of the relevant matter and shall use its reasonable endeavours to avoid and mitigate the losses it incurs;
  - 7.10.2. not make any admission of liability, agreement or compromise in relation to the matter in respect of which it seeks to be indemnified without the prior written consent of the indemnifying party (such consent not to be unreasonably withheld or delayed); and
  - 7.10.3. allow the indemnifying party to have the conduct of all proceedings relating to the indemnity (and cooperate with the indemnifying party in relation to all such proceedings, at the indemnifying party's cost) and the indemnifying party shall at its sole discretion decide what action if any to take in respect of such matter and shall not be obliged to bring or defend any such proceedings if it decides in its sole discretion not to do so.
- 7.11. The Customer is responsible for exercising human judgment, discretion and oversight in connection with its receipt and implementation of the Services and agrees not to upload, use or integrate the Services, or any part thereof, including but not limited to Supplier Background IPR or the Supplier's Foreground IPR, into any artificial intelligence product or service without the written consent of the Supplier and not to use the content, information or material other than the intended use in connection with the Services.

- 7.12. The Customer shall indemnify the Supplier from and against losses together with reasonably incurred legal expenses (on the standard basis) suffered or incurred by the Supplier as a result of the Customer's failure to use Supplier Foreground IPR or Supplier Background IPR in accordance with Condition 7.11.

## **8. COMPLIANCE LAWS**

- 8.1. Each party shall:
  - 8.1.1. comply at all times with Compliance Laws and warrants and represents on a continuing basis to the other party that neither it nor any of its employees, agents and subcontractors have breached and/or committed an offence under Compliance Laws and is not aware of any event which may give rise to a breach of Compliance Laws or an offence under Compliance Laws or an investigation into a breach of Compliance Laws;
  - 8.1.2. not do or omit to do anything which may place the other party in breach of the Compliance Laws;
  - 8.1.3. have in place appropriate policies and procedures to avoid an offence under Compliance Laws or a breach of Compliance Laws and provide the other party with evidence of such policies and procedures upon request along with any records it maintains to demonstrate compliance with the Compliance Laws;
  - 8.1.4. notify the other party immediately of any breach or non-compliance with Compliance Laws; and
  - 8.1.5. comply with its own policies and procedures regarding Compliance Laws.

## **9. LIABILITY**

- 9.1. NEITHER PARTY EXCLUDES OR LIMITS ITS LIABILITY (IF ANY) TO THE OTHER:
  - 9.1.1. FOR PERSONAL INJURY OR DEATH RESULTING FROM ITS NEGLIGENCE;
  - 9.1.2. FOR FRAUD OR FRAUDULENT MISREPRESENTATION;
  - 9.1.3. FOR ANY MATTER WHICH IT IS NOT PERMITTED BY LAW TO EXCLUDE OR LIMIT ITS LIABILITY; OR
  - 9.1.4. FOR BREACH OF CONDITIONS 7 AND 15.
- 9.2. SUBJECT TO CONDITION 9.1 AND 9.4 AND NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THE CONTRACT, THE MAXIMUM AGGREGATE LIABILITY OF THE SUPPLIER TO THE CUSTOMER IN EACH CONTRACT YEAR, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, RESTITUTION OR OTHERWISE (INCLUDING UNDER ANY INDEMNITY) SHALL BE LIMITED TO THE TOTAL CHARGES PAID OR PAYABLE BY THE CUSTOMER UNDER THE CONTRACT IN THE APPLICABLE CONTRACT YEAR.
- 9.3. SUBJECT TO CONDITION 9.1 AND 9.4 AND NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THE CONTRACT, THE MAXIMUM AGGREGATE LIABILITY OF THE CUSTOMER TO THE SUPPLIER IN EACH CONTRACT YEAR, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, RESTITUTION OR OTHERWISE (INCLUDING UNDER ANY INDEMNITY) SHALL BE LIMITED TO THE TOTAL CHARGES PAID OR PAYABLE BY THE CUSTOMER UNDER THE CONTRACT IN THE APPLICABLE CONTRACT YEAR.
- 9.4. SUBJECT TO CONDITION 9.1, THE MAXIMUM AGGREGATE LIABILITY OF EACH PARTY FOR BREACH OF CONDITION 6 SHALL BE LIMITED TO £5,000,000.
- 9.5. THE EXCLUSIONS FROM AND LIMITATIONS OF LIABILITY CONTAINED IN THE CONTRACT WILL APPLY AFTER AS WELL AS BEFORE THE DATE OF EXPIRY OR TERMINATION OF THE CONTRACT AND WILL BE CONSIDERED SEVERALLY. THE INVALIDITY OR UNENFORCEABILITY OF ANY ONE SUB-CLAUSE OR CLAUSE WILL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY OTHER SUB-CLAUSE OR CLAUSE AND WILL BE CONSIDERED SEVERABLE FROM EACH OTHER.
- 9.6. SUBJECT TO CONDITION 9.1, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR INDIRECT OR CONSEQUENTIAL LOSS INCLUDING ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUE, LOSS OF GOODWILL, ACTUAL OR POTENTIAL BUSINESS, REPUTATION OR OPPORTUNITY, OR LOSS OF SAVINGS (WHETHER ANTICIPATED) OR OTHERWISE).

## **10. INSURANCE**

- 10.1. The Supplier shall maintain in force, with a reputable insurance company properly licensed to underwrite insurance risks of the type in question, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall provide the Customer with evidence of such cover upon request.
- 10.2. Supplier shall provide to the Customer, upon the Customer's reasonable request, a certificate evidencing such insurance.



## 11. TERMINATION

- 11.1. Without limiting or affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
  - 11.1.1. the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty days after being notified to do so;
  - 11.1.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the UK Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
  - 11.1.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
- 11.2. The Supplier may terminate the Contract:
  - 11.2.1. for convenience without liability to the Customer on 30 days' notice or upon such other notice specified in the Order provided that the Supplier shall reimburse the Customer for a pro-rata element of the Charges which are applicable to any Services which, but for termination, would have been provided by the Supplier; or
  - 11.2.2. where the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 15 days after the Supplier has given notification that the payment is overdue.

## 12. CONSEQUENCES OF TERMINATION

- 12.1. On termination or expiry of the Contract for any reason the Customer shall promptly deliver to the Supplier all Supplier Materials.
- 12.2. Termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry.
- 12.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 12.4. Upon request following termination each party shall return or destroy Confidential Information belonging to the other party, provided that each party shall be entitled to keep a copy of Confidential Information which is required for accounting, legal or regulatory reasons, provided that Condition 15 shall continue to apply to any Confidential Information held by a party.
- 12.5. Termination or expiration of this Contract shall be without prejudice to any accrued rights or remedies of either party and shall be without prejudice to any right to claim damages that would have existed but for termination or expiration.
- 12.6. Upon termination or expiry of the Contract, all rights granted to the Customer under the Contract shall terminate and the Customer shall (and shall procure that its employees or those in receipt of Services under this Contract shall) immediately cease using AI provided in connection with the Services.

## 13. Force majeure

- 13.1. Subject to the remaining provisions of this Condition 13, a party will not be in breach of the Contract or otherwise liable to the other party for any failure to perform or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event.
- 13.2. If a Force Majeure Event occurs, then the party whose performance of any obligations under the Contract is affected by the Force Majeure Event shall:
  - 13.2.1. promptly notify the other of the occurrence of a Force Majeure Event including the nature, extent, effect and likely duration of the circumstances constituting the Force Majeure Event and use its reasonable endeavours, without being required to incur additional expenditure, to remedy or mitigate the effect of the Force Majeure Event; and
  - 13.2.2. continue to perform its obligations under the Contract to the extent possible during the period of the Force Majeure Event including the delivery and acceptance if reasonably possible of remote or virtual delivery of the Services, in which case the Customer shall not be relieved of any of its obligations hereunder, including but not limited to its payment obligations.
- 13.3. If a Force Majeure Event prevents the Supplier from performing any of its obligations for more than 30 (thirty) days, Customer may terminate the Contract by notice to the Supplier.

## 14. ASSIGNMENT AND OTHER DEALINGS

- 14.1. The Supplier may at any time assign its rights and obligations under the Contract, including to any Supplier Affiliate, provided that the entity which the Contract is transferred must be of sufficient skill and expertise to comply with obligations under the Contract.

- 14.2. The Supplier may subcontract obligations under the Contract as it sees fit, provided that the Supplier shall remain liable for the acts and omissions of any subcontractor as if they were acts and omissions of the Supplier.
- 14.3. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

## 15. CONFIDENTIALITY

- 15.1. Each party will, subject to Condition 15.2:
  - 15.1.1. only use the other party's Confidential Information for the purpose of performing its obligations under the Contract;
  - 15.1.2. keep the other party's Confidential Information secret, safe and secure; and
  - 15.1.3. not disclose the other party's Confidential Information to any other person.
- 15.2. Each party may disclose the other party's Confidential Information:
  - 15.2.1. to the extent required by Applicable Law or any court of competent jurisdiction or the rules of any governmental or regulatory body; and
  - 15.2.2. to those of its Affiliates, officers, directors, employees and professional advisers who need access to that Confidential Information so that it can perform its obligations under the Contract. A party disclosing the other party's Confidential Information under this Condition will procure that each person to whom it discloses that Confidential Information will not do or omit to do anything which if done or omitted to be done by that party would be a breach of this Condition 15.
- 15.3. Confidential Information does not include information that:
  - 15.3.1. is at the relevant time in the public domain (other than by virtue of a breach of this Condition 15);
  - 15.3.2. was received by the other party from a third party who did not acquire it in confidence; or
  - 15.3.3. is developed by the other party without any breach of the Contract.

## 16. GENERAL

- 16.1. The Contract constitutes 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. Nothing in the Contract purports to limit or exclude any liability for fraud or fraudulent misrepresentation.
- 16.2. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties' authorised representatives.
- 16.3. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent 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 the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.4. If any provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity or enforceability of the rest of the Contract. If any provision or part-provision of this Contract is deemed deleted under this Condition 16.4, the parties shall negotiate in good faith to agree a replacement.
- 16.5. There are no third party beneficiaries of the Contract including under the UK Contracts (Rights of Third Parties) Act 1999 and nothing in the Contract, express or implied, is intended to confer on any person other than the parties hereto (and their respective successors, heirs and permitted assigns), any rights, remedies, obligations or liabilities.
- 16.6. The Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.
- 16.7. The Contract shall not operate so as to create a partnership or joint venture of any kind between the Parties. Nothing contained in the Contract shall be so construed as to constitute either party to be the agent of the other. Neither party shall have any authority to make any commitments on the other party's behalf.

## 17. NOTICES

- 17.1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 17.2. A notice or other communication shall be deemed to have been received: if delivered by hand, at the time the notice is left at the proper address; or if

sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

- 17.3. This Condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

**18. GOVERNING LAW AND JURISDICTION**

- 18.1. Within five (5) Business Days of receipt of a written notice of a dispute arising under the Contract, a representative of Supplier and a representative of the Customer will arrange to discuss the dispute at a mutually satisfactory time. If Supplier and the Customer cannot agree on a mutually acceptable resolution of the dispute within thirty (30) days, the dispute will be submitted to the ordinary courts as provided below.
- 18.2. The Contract, 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:

Customer Registered Address:	Governing Law:
UK and EEA	The laws of England and Wales
US	The laws of the State of Delaware
All other territories	The laws of England and Wales

- 18.3. Each party irrevocably agrees that the courts of:

Customer Registered Address:	Courts of:
UK and EEA	England and Wales
US	Delaware
All other territories	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 the Contract or its subject matter or formation.

**19. EQUITABLE RELIEF**

- 19.1. Each party acknowledges and agrees that a breach or threatened breach by a party of any of its obligations under Condition 15 hereto would cause irreparable harm for which monetary damages would not be an adequate remedy and each party agrees that, in the event of such breach or threatened breach, the non-breaching party may be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

**20. EXPORT CONTROL AND SANCTIONS**

- 20.1. Neither party, nor any of its respective directors or officers: (a) is an entity identified on, or owned or controlled by, or acting on behalf of, any individuals or entities identified on an applicable restricted party list; or (b) is organized under the laws of, ordinarily resident in, located in, or acting on behalf of, any jurisdiction(s) subject to comprehensive sanctions, including Russia, Cuba, Iran, North Korea, Syria, and Crimea. Each Party agrees to inform the other if any of the foregoing ceases to be true.

**21. EQUAL OPPORTUNITY**

- 21.1. Each party represents and warrants that it does not and will not discriminate against any worker because of their age, color, creed, disability, national origin, race, religion, sex, sexual orientation, gender identity, or veteran status, and that they are and will act and remain in compliance with all Applicable Laws, rules and regulations, including the UK Equality Act 2010 and in the US, the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a).

**22. HEALTH AND SAFETY**

- 22.1. The parties shall perform their obligations under the Contract in accordance with:
- 22.1.1. all Applicable Laws regarding health and safety; and
- 22.1.2. the health and safety policy of the other party whilst at the other party's premises (to the extent it has been made known by one party to the other party).
- 22.2. Each party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at either party's premises of which it becomes aware and which relate to or arise in connection with the Contract. Each party shall adopt any necessary associated safety measures in order to manage any such material health and safety hazards.