



Service Terms and Conditions

These resale service terms and conditions ("**Service Terms and Conditions**") govern the access and use of the Services (as defined below) and are issued by Vector AI Ltd (trading as Raft), a limited liability company with its registered place of business at Level 3, 22 Southwark Bridge Road, London SE1 9HB, United Kingdom ("**Company**" or "**Raft**") and contain, among other things, warranty disclaimers, liability limitations and use limitations.

1. Definitions and interpretation

1.1 Terms defined in any Order Form have the same meaning when used in these Service Terms and Conditions, unless given a different meaning herein and:

"Affiliate" means any entity that, directly or indirectly, controls, is under common control with or is controlled by the Customer. The term "control" (including its correlative meanings "under common control with" and "controlled by") as used in the preceding sentence means: (i) the holding beneficially of more than 50% of the issued share capital of that entity; or (ii) the possession, directly or indirectly, of the power to cast, or control casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of that entity or (iii) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to give directions with respect to the operating and financial policies of the entity with which the directors or other equivalent officers of that entity are obliged to comply.

"Agreement" means, in relation to the Customer, any Order Form, these Service Terms and Conditions, the DPA, any addendum or amendment agreement, order confirmation, statement of work or other ancillary document or instrument issued by the Company in relation to an Order Form (unless otherwise stated).

"Authorised User" means those employees, agents and independent contractors (including the Reseller) of the Customer or any of its Relevant Affiliates who are authorised by the Customer (or by any Relevant Affiliate, as applicable) to use the Services and the Documentation, as further described in Section 2.

"Customer" means the customer identified in the relevant Order Form.

"Customer Data" means any files or data uploaded by (or on behalf of) the Customer or any Relevant Affiliate to the Company's web-based platform underpinning the Services or otherwise to the Company's IT infrastructure in connection with the Services.

"Documentation" means applicable technical published manuals that accompany the Services.

"DPA" has the meaning given to that term in Section 5.6.

"Order Form" means any resale order form referencing these Services Terms and Conditions issued by the Company and the Reseller and accepted by a customer.

"Party" means, in relation to the Agreement, the Company, the Reseller and the Customer.

"Relevant Affiliate" means any Affiliate that has been designated as such by Customer for the purposes of this Agreement and notified to the Company in writing from time to time (each notification date, a "Notification Date").

"Reseller" means the reseller identified as such in the relevant Order Form.

"Services" has the meaning given to that term in the relevant Order Form.

"Software" the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software or data related to the Services.

"Term" has the meaning given to that term in Section 7.2.

1.2 In the event of any inconsistency between these Service Terms and Conditions and an Order Form, the Order Form shall prevail.

2. Services, Authorised Users and support

2.1 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer with the Services in accordance with the Service Level Terms and hereby grants to the Customer and to each Relevant Affiliate a non-exclusive, non-sublicensable, non-transferable, non-assignable, payment-bearing and revocable right and license (without the right to grant sublicenses) to permit the Authorised Users to access, view and use the Service, and any Documentation, solely for the Customer's or its Relevant Affiliates' own internal business purposes.

2.2 In relation to the Authorised Users, the Customer undertakes that: (a) each Authorised User shall keep a secure password for their use of the Services and that each Authorised User shall keep their



password confidential; (b) it shall maintain a written, up to date list of current Authorised Users and provide such list to the Company within 5 London business days of the Company's written request at any time or times.

2.3 The Customer shall not (and shall procure that no Relevant Affiliate will) (a) use the Services and/or Documentation to provide services to third parties; or (b) subject to Section 10.2, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party (except the Authorised Users).

2.4 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Company.

2.5 The rights provided under this Section 2 to permit the Authorised Users to access, view and use the Service, and any Documentation are granted to the Customer and to each Relevant Affiliate only, and shall not be considered granted to any other Affiliate of the Customer. It is acknowledged and agreed that no Relevant Affiliate or other Affiliate of the Customer shall have any rights of recourse or remedies under this Agreement.

2.6 Subject to the terms of this Agreement, Company will provide the Customer and/or the Reseller (as Authorised User of the Customer), as applicable, with all reasonable technical support services in accordance with the terms of this Agreement.

2.7 The Parties may agree from time to time to add Additional Products and Services to the Services in accordance with the terms of this Agreement.

2.8 The Services and Software may include data and software owned by third parties which are subject to 'open source' or 'free software' licenses ("Open Source Software"). Some Open Source Software providers require the Company to pass additional terms through to the Customer (which are subject to change from time to time). To see the current OSS terms applicable to the Services and Software, please go to the following URL: <https://raft.ai/raft-documentation-portal> (accessed using password: GDPREuropeanParliament1995!).

3. Restrictions and responsibilities

3.1 Customer will not (and will procure that no Relevant Affiliate will), directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services; (ii) modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); (iii) use our Software, the Services or our third-party providers' property to train any artificial intelligence (AI) or machine learning algorithms or software, or to create any derivative works, compilations or collective works or, in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; or (iv) use the Services or any Software for time sharing or service bureau purposes or otherwise for the benefit of a third party; or (v) remove any proprietary

notices or labels.

3.2 Company shall own and retain all right, title and interest in and to (a) the Services and Software, (b) all improvements, enhancements, modifications, discoveries, trade secrets, concepts, ideas and/or designs, source code, applications, inventions, any derivative works or other technology developed in connection with the Services or the Software (whether or not patentable or otherwise protectable and whether developed independently by the Company or jointly with others), and (c) all intellectual property rights related to any of the foregoing.

3.3 The Customer or and any Relevant Affiliate may voluntarily provide any comments, suggestions, concepts, know-how, techniques, ideas, insights or recommendations (collectively, "**Feedback**") to the Company and if so, the Customer grants to the Company (in its own name and as duly authorized agent for and on behalf of each Relevant Affiliate, as applicable) a perpetual, irrevocable, transferable, non-exclusive right, without charge, to use any Feedback provided by the Customer or any Relevant Affiliate on any of the Services or Software in any manner and for any purpose.

3.4 Notwithstanding anything to the contrary, Company shall have the right to collect and analyse Customer Data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning all data and data derived therefrom), and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business.

3.5 The Parties agree that any issue arising from the Customer's (or any Relevant Affiliate's) Transportation Management System ("**TMS**") shall be the sole responsibility of Customer. Company may agree to provide professional services consisting of consulting support to optimize a TMS, with Customer bearing ultimate responsibility for its own TMS performance and setup. The Parties agree that Company shall not be liable for the setup or operation of a Customer TMS or the TMS of any Relevant Affiliate.

3.6 The Customer shall not (and shall procure that no Relevant Affiliate will), in connection with its use of the Service, access, store, distribute or transmit any Viruses, or any material that: is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or is otherwise illegal or causes damage or injury to any person or property. The Company reserves the right, without liability or prejudice to its other rights, to disable the Customer's (and/or any Relevant Affiliate's) access to any material that breaches the provisions of this Section.

For the purposes of this Section 3.6, "**Virus**" means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-

arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

4. Compliance

4.1 Any of Company's obligations under the Agreement are subject to the condition that fulfilment is not restricted by any impediment arising from any export control or economic sanctions law and regulation applicable to the Company, the Customer or any Relevant Affiliate (including, without limitation, trade, economic, sectoral or financial sanctions laws, regulations, embargoes or restrictive measurements administered, enacted or enforced, from time to time, by the United Nations, the United States of America, the United Kingdom, the European Union (including its member states) or their respective governmental, judicial or regulatory institutions, agencies, departments and authorities of any of the foregoing (each a "Sanction Authority") (collectively "Export Control and Sanction Laws").

4.2 The Customer, on the date of this Agreement (and, in relation to each Relevant Affiliate, on the relevant Notification Date) and on the first date of each Term, represents and warrants, that (i) it is not and no Relevant Affiliate is, a prohibited end-user under any Export Control and Sanction Laws and (ii) it is not, and no Relevant Affiliate is (a) listed on a Sanctions List; (b) owned or controlled (directly or indirectly) by an entity or person listed on a Sanctions List; (c) resident, domiciled or located in, or incorporated or organised under the laws of, a country or territory that is subject to any Export Control and Sanction Laws; or (d) otherwise identified by any Sanction Authority as being the subject of any Export Control and Sanction Laws.

For the purpose of this Section 4, "Sanction List" means any of the lists issued or maintained by a Sanctions Authority designating or identifying persons that are subject to Export Control and Sanction Laws, in each case as amended, supplemented or substituted from time to time, including (without limitation) the UK Sanctions List, Consolidated List of Financial Sanctions Targets in the UK and the Consolidated United Nations Security Council Sanctions List.

4.3 Customer covenants that it will, and will procure that each Relevant Affiliates will, use the Services only in compliance with Company's standard published policies then in effect and all laws and regulations applicable to the Customer and/or the Company and that it will not obtain, retain, use or provide access to the Services to any of its affiliates or third parties in a manner that may result in a breach of any Export Control and Sanctions Laws.

4.4 If Customer (or any Relevant Affiliate) transfers Goods delivered by Company, or works or services (including all kinds of technical support) performed by Company, to a third party, or if Customer (or any Relevant Affiliate) re-exports such Goods, works or services, Customer and any Relevant Affiliate must comply with all applicable Export Control and Sanction Laws.

Prior to any transfer or export/re-export of Goods, works or services, Customer must in particular check and ensure (and procure that each Relevant Affiliate will) by taking appropriate and verified contractual, technical and organizational measures that: there will be no infringement of an embargo or sanction imposed by any Export Control and Sanction Laws

over such transfer or export/re-export, by brokering of agreements concerning those Goods, works or services or by provision of other economic resources in connection with those Goods, works or services, also considering the limitations of domestic business and prohibitions of by-passing those embargos or sanctions; such Goods, works and services are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless Customer (or the Relevant Affiliate, as applicable) has obtained the required authorization; Customer (or the Relevant Affiliate, as applicable) is at all times in compliance with the regulations of all applicable Sanction List or "Denied Persons Lists" or similar lists concerning the trading with entities, persons and organizations under any Export Control and Sanction Laws.

For the purpose of this Section 4.4, the term "Goods" refers to hardware and/or software and/or technology as well as corresponding documentation that is made available to Customer or any Relevant Affiliate in any form, regardless of the mode of provision and explicitly includes software that is made available in 'software-as-a-service' form.

4.5 Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of this Section 4 or otherwise from Customer's (or any Relevant Affiliate's) use of Services.

4.6 Although Company has no obligation to monitor Customer's use of the Services, Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of this Section 4.

4.7 If so required to enable a competent export control or customs authority or the Company to conduct export control, customs or trade compliance checks, Customer will, upon Company's (or such authority's) request, promptly provide Company (and the relevant authority) with all requested information pertaining to the particular Customer, end-user or end-customer and the person(s) owning or controlling the Customer (directly or indirectly), the particular destination and the particular intended use of the Services, Goods, works and services provided by Company, as may be deemed relevant by Company (or the relevant authority) under any applicable laws and regulations, including any Export Control and Sanction Law.

4.8 The Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including, but not limited to administrative and end-user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

5. Confidentiality; Data Protection

5.1 In this Section 5:

"Authorised Use" means use for the Services, the Software and the ancillary activities contemplated under this Agreement, including Customer

support, Services analysis and improvements.

"Confidential Information" means (i) the existence and the content of this Agreement and the collaboration and the activities contemplated under it and (ii) in relation to each of the Parties or any of its Affiliates, without limitation, all of its proprietary or non-public information relating to its business plans or practices, financial or technical matters, regulatory information, agreements with third parties, trade secrets, algorithms, software programs, software source codes and documents, designs, know-how, inventions, operations, information regarding its marketing or promotion of its products or business, its customers and suppliers and lists of actual or prospective customers or suppliers and (iii) in relation to each of the Parties or any of its Affiliates, information received by it from third parties that it is obligated to treat as confidential PROVIDED THAT it shall not include any information, however designated, that that can be demonstrated with competent evidence: (a) is or subsequently becomes publicly available through no wrongful act of the Recipient; (b) is already known to the Recipient at the time of disclosure by (or on behalf of) the Discloser; (c) is rightfully received by the Recipient from a third party without restriction on disclosure and without breach of this Agreement; or (d) is independently developed by Recipient and without the use of any of the information disclosed to it by an Affiliate of a Discloser.

"Discloser" means the Party (or any of its respective Affiliates) disclosing Confidential Information to the other Party (or to any of its respective Affiliates).

"Recipient" means the Party (and any of its respective Affiliates) receiving Confidential Information from the other Party or from any of the disclosing Party's Affiliates (or any of its or their respective agents or representatives).

5.2 Recipient, for itself and for each of its Affiliates, agrees (in each case, unless otherwise agreed with the Discloser in writing) in relation to any Confidential Information disclosed to it (or to any of its Affiliates), (i) to accept Discloser's Confidential Information solely for the Authorised Use; (ii) to refrain from reverse engineering, decompiling or disassembling Confidential Information; (iii) to keep secret and not to disclose, publish, distribute or disseminate any Confidential Information other than to any of its Affiliates or to any of its (and each of its Affiliates') officers, directors, employees, agents, auditors, service providers, potential investors, potential acquirors or professional advisers with a need to know for the Authorised Use (each an **"Authorised Person"**) and to inform each Authorised Person of the strictly confidential nature of the Confidential Information and of Recipient's obligation under this Agreement; (iv) to use reasonable care, but in no event less than the same degree of care that it uses to protect its own confidential and proprietary information of similar importance, to prevent the unauthorized use, disclosure, publication and dissemination of Confidential Information; and (v) upon knowing or suspecting, on reasonable grounds, that any of the Confidential Information of the Discloser has been used, disclosed or accessed by anybody in breach of this Agreement or for use other than the Authorised Use or as permitted in accordance with this Section, to promptly notify the Discloser and consult with the Discloser regarding the action to be taken to limit any further unauthorised use, disclosure or access, in each case, to the extent not prohibited by law or applicable regulation.

5.3 Recipient may disclose Confidential Information in accordance with a judicial or other governmental order or applicable statutory or regulatory obligation, provided that Recipient either (i) to the extent not

prohibited by law or applicable regulation, gives the undersigned Discloser representative reasonable notice prior to such disclosure to allow Discloser having a reasonable opportunity to seek a protective order or equivalent, or (ii) obtains written assurance from the applicable judicial or governmental entity that it will afford the Confidential Information the highest level of protection under applicable law or regulation.

5.4 The Recipient shall be responsible to the Discloser for any breach of the terms of this Section 5 by any of its Authorised Persons.

5.5 This Section 5 shall supersede any previous non-disclosure or confidentiality agreement between the Parties in so far as that agreement applied to any Confidential Information and such Confidential Information shall be covered and protected under the terms of this Agreement as if this Agreement had been in place at the time when such Confidential Information was first disclosed between the Parties.

5.6 The terms of the Data Processing Addendum, located in a separate document located here (and as updated from time to time): <https://raft.ai/raft-documentation-portal> (accessed using password: GDPREuropeanParliament1995!) (the "DPA"), shall apply to the processing of personal data (each as defined in the GDPR) by Company solely on behalf of Customer to the extent that such personal data is regulated by the General Data Protection Regulation (EU) 2016/679 ("EU GDPR") or the EU GDPR as it forms part of the laws of the United Kingdom ("UK GDPR") (EU GDPR and UK GDPR together referred to as the "GDPR"). For the purposes of the DPA, the Customer hereby represents and warrants that (i) any personal data (including any personal data, personal information or personal identifiable information or any equivalent term as defined in any applicable data protection laws) transmitted to Company by any Relevant Affiliate in connection with this Agreement is transmitted by that Relevant Affiliate for and on behalf of the Customer and shall constitute Customer Personal Data (as defined in the DPA) and (ii) its instruction under the DPA to Company for processing of Customer Personal Data shall apply to any Customer Personal Data so transmitted to Company by any Relevant Affiliate.

5.7 Customer agrees that the Company may collect general, aggregated, non-personally identifiable information regarding data about usage of the Service by the Customer and any Relevant Affiliate, and use such information for statistical purposes and to improve its products.

5.8 The Parties shall work together in good faith to issue at least one mutually agreed upon press release within 90 days of the Effective Date, and Customer agrees (i) to reasonably cooperate with Company (and liaise with Customer's parent company and associated brands) to serve as a reference account and to agree to written testimonials and (ii) to allow use of the Customer's logo on the Company's website and in the Company's other marketing materials.

6. Payment Of Fees

6.1 The Customer shall pay the Reseller all applicable fees and charges in relation to the Services in the amounts and at the times as will be agreed between the Reseller and the Customer from time to time (the **"Fees"**).

6.2 Product lines can only be removed from the Services at the end of the specified Initial Service Term and all applicable Fees for the remaining

Services will be charged pursuant to the regular billing cycles. Fees for any Additional Products and Services will become due and payable in the amounts and at the times identified in the relevant Order Form.

7. Term And Termination

7.1 Subject to earlier termination as provided below, this Agreement covers the Initial Service Term and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the “**Term**”), unless either Party requests termination in writing at least thirty (30) days prior to the end of the then-current Term.

7.2 Notwithstanding anything to the contrary in this Agreement, the Company reserves the right to modify, suspend, or terminate the Services in whole or part by notice to the Customer in writing (which shall include electronic mail), if (i) requested to do so by a court, regulator or competent governmental authority; (ii) the Customer becomes or is reasonably likely to become insolvent; (iii) there has been or it is reasonably likely that there will be: (1) a breach of Customer's obligations, representations or warranties under the Agreement; (2) a breach of Company's agreement with a third-party provider; (3) a violation of third party rights or (4) a breach of applicable law which is reasonably likely to have an adverse impact on the Company's interests. Company's notice will specify the cause of the termination, suspension or modification and, if the cause of the termination, suspension or modification is reasonably capable of being remedied, the Company will inform the Customer of the actions it must take to reinstate the Service. If Customer does not take all such actions within 30 days (or if the cause is not capable of remedy), the Company may suspend, limit or terminate the Agreement in whole or in part. Charges remain payable in full during periods of suspension or modification arising from Customer's breach, action or inaction. The Company may, upon reasonable notice, terminate all or part of the Agreement in relation to a Service which is being discontinued.

7.3 If Customer elects to terminate this Agreement by written notice and prior to the end of its then current Term, and such termination is not permitted by this Agreement, Customer shall pay the balance of the Fees for the remainder of the then-current Term and Company shall not be obligated to refund any portion of the Fees already paid by Customer for the then-current Term.

7.4 If the Parties agree to add Additional Products and Services to the Services the then current Term will remain unaffected.

7.5 In addition to any other remedies it may have, either Party may also terminate this Agreement upon thirty (30) days' written notice (or without notice in the case of non-payment), if the other Party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, Company may delete stored Customer Data.

7.6 All Sections of this Agreement which, by their nature, should survive termination will survive termination, including, without limitation, Sections 3 (*Restrictions and responsibilities*), 4.5, 4.7, 5 (*Confidentiality; Data Protection*), 6 (*Payment of Fees*), 8 (*Warranty and Disclaimer*), 9 (*Exclusion and Limitation of Liability*) and 10 (*Miscellaneous*).

8. Warranty and Disclaimer

8.1 Each Party represents and warrants to the other Party that, to the best of its knowledge: (a) the signatory signing this Agreement on its behalf has the right to sign this Agreement and (b) this Agreement does not and shall not conflict with its constitutional documents, or any agreement or other instrument binding on it.

8.2 Customer represents and warrants to the Company and to the Reseller that Customer possesses all rights required to lawfully make the Customer Data available to the Company in connection with the Services and/or otherwise make use of the Services with respect to the Customer Data and allow the Company to provide the Service in connection therewith, and further warrants and represents that the display, access to and/or use of such Customer Data does not infringe upon, misappropriate, or otherwise violate any intellectual property, proprietary, privacy or other rights of any third parties.

8.3 Company does not warrant that the operation or use of the Services will be error-free or uninterrupted or that any defect will be corrected. Company is not responsible for and shall have no liability in respect of any damage caused by errors or omissions in any information, instructions or data provided by Customer or third parties in connection with the Services or Software, or any actions taken by Company at Customer's direction; any delays, delivery failures, or any other loss or damage resulting from the transfer of data over telecommunications networks and facilities, including the internet, and Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such telecommunications facilities. Customer assumes sole responsibility for results obtained from the use of the Services, by Customer and its Authorised Users, and for conclusions drawn from such use; to the maximum extent permitted by law, Company disclaims any and all representations, conditions and warranties whether express or implied by statute or common law or otherwise that the Services or the Software are or will be of satisfactory quality, fit for a particular purpose, provided with reasonable care and skill or non-infringing, or the results or data obtained by the Customer through the use of the Services will meet the Customer's requirements. The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

9. Exclusion and Limitation of Liability

9.1 The following Section sets out the entire financial liability of Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer (i) arising under or in connection with this Agreement (including under any indemnity), (ii) in respect of any use made by the Customer of the Software, the Documentation, the Services or any part of them and (iii) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

9.2 COMPANY SHALL NOT BE LIABLE WHETHER IN CONTRACT (INCLUDING UNDER ANY INDEMNITY), TORT (INCLUDING FOR NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION OR OTHERWISE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS OPPORTUNITY, DEPLETION OF GOODWILL, DAMAGE TO REPUTATION, LOSS OR WASTE OF MANAGEMENT OR STAFF TIME OR INTERRUPTION OF BUSINESS, OR LOSS OR CORRUPTION OF DATA



OR INFORMATION OR SIMILAR LOSSES (IN EACH CASE, WHETHER DIRECT OR INDIRECT), OR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL LOSS, COSTS, DAMAGES, CHARGES OR EXPENSES. NOTHING IN THIS AGREEMENT EXCLUDES THE LIABILITY OF COMPANY FOR DEATH OR PERSONAL INJURY CAUSED BY COMPANY NEGLIGENCE; FRAUD OR FRAUDULENT MISREPRESENTATION; OR ANY OTHER LIABILITY THAT CANNOT BY LAW BE LIMITED OR EXCLUDED.

9.3 COMPANY SHALL NOT BE LIABLE FOR ANY THIRD-PARTY SERVICES, CODE, TECHNOLOGY, APPLICATIONS, POLICIES, PROCEDURES, OR PRODUCTS.

9.4 OTHER THAN ANY LIABILITY PURSUANT TO SECTIONS 3 (*RESTRICTIONS AND RESPONSIBILITIES*) AND 6 (*PAYMENT OF FEES*) AND SUBJECT ALWAYS TO THE LIABILITY EXCLUSIONS IN SECTIONS 9.2, 9.3 AND 9.5, A PARTY'S TOTAL AGGREGATE LIABILITY IN CONTRACT (INCLUDING UNDER ANY INDEMNITY), TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION OR OTHERWISE UNDER OR IN CONNECTION WITH THIS AGREEMENT, FOR ANY AND ALL EVENTS, SHALL BE LIMITED TO THE TOTAL FEES PAYABLE BY THE CUSTOMER (BEING THE AGGREGATE FEES PAID FOR THE SERVICES AND FOR PROFESSIONAL SERVICES) DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM OR CAUSE OF ACTION AROSE (OR IF THE CLAIM OR CAUSE OF ACTION AROSE WITHIN THE FIRST 12 MONTHS OF THE AGREEMENT, 12 TIMES THE AVERAGE OF THE MONTHLY FEES PAID).

9.5 IN NO EVENT SHALL THE COMPANY OR ANY THIRD-PARTY PROVIDER UNDER THE SERVICES OR SOFTWARE BE LIABLE FOR ANY PENALTIES, INTEREST, TAXES, DUTIES, CHARGES, FEES OR OTHER AMOUNTS IMPOSED ON THE CUSTOMER (OR ON ANY OF THE CUSTOMER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES) BY ANY GOVERNMENTAL OR REGULATORY AUTHORITY, OFFICE OR AGENCY.

9.6 IN THE EVENT THAT APPLICABLE LAW DOES NOT ALLOW THE LIMITATION OF LIABILITY AS SET FORTH IN THIS CLAUSE 9, THIS LIMITATION WILL BE DEEMED MODIFIED SOLELY TO THE EXTENT NECESSARY TO COMPLY WITH APPLICABLE LAW. ALL EXCLUSIONS AND LIMITATIONS CONTAINED HEREIN WILL ALSO APPLY TO COMPANY'S THIRD-PARTY SUPPLIERS.

9.7 The Parties expressly acknowledge and agree that Company has agreed to the Fees and entered into this Agreement, in part in reliance upon the exclusions and limitations of liability specified herein, which allocate the risk between Company and Customer and contributes to the basis of the bargain between the Parties.

10. Miscellaneous

10.1 If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

10.2 This Agreement is not assignable, transferable or sublicensable

by Customer except with Company's prior written consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent.

10.3 This Agreement is the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be made in a writing signed by all Parties, except as otherwise provided herein.

10.4 The Company may modify these Service Terms and Conditions at any time by providing notice to the Customer in writing. Modified terms become effective 30 days after such notice. By using the Services after the effective date, Customer agrees to be bound by the most recent version of the Service Terms and Conditions. Customer is responsible for reviewing and becoming familiar with any such modifications.

10.5 No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever.

10.6 The Reseller shall have the benefit of and shall be entitled to enforce the terms of Clauses 2.3, 3.1, 3.6, 4.3, 4.6, 5.6, 5.7, 8.2 against the Customer.

10.7 Any rights conferred on third parties pursuant to the Contracts (Rights of Third Parties) Act 1999 will be excluded except that the Company's Affiliates and third-party providers shall benefit from the Company's rights and remedies under this Agreement. The Parties may cancel or vary this Agreement in accordance with its terms without the consent of any third party. Except for the Company's Affiliates and third-party providers, no other third parties shall have any rights or remedies under the Agreement.

10.8 All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. Customer hereby consents to receiving electronic communications from the Company. These electronic communications may include notices about applicable fees and charges, transactional information, and other information concerning or related to the Services.

10.9 This 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 the law of England and Wales without giving effect to conflict of laws rules to the extent those rules would require applying another jurisdiction's laws. The application of the United Nations Convention on Contracts for International Sale of Goods is expressly excluded. 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 this Agreement or its subject matter or formation.



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