

BROWSER LONDON LIMITED CUSTOMER TERMS OF BUSINESS

Thank you for choosing to work with Browser. By using the services, you are agreeing to the following terms of business. Please read them carefully and be sure to check back on the Browser London website in case anything changes.

1. DEFINITIONS AND INTERPRETATION

In this Agreement:

1.1 the following terms shall have the following meanings unless the context otherwise requires:

"Conditions"	means these terms of business.
this "Agreement"	these Terms of business (as updated by Browser in accordance with its terms) together with the relevant Statement of Works (and any document expressly incorporated into the Statement of Works);
"Browser"	Browser London Limited, a company registered in England and Wales under registration number 6681071 with registered office at Wadebridge House, 16 Wadebridge Square, Poundbury, Dorchester, Dorset, DT1 3AQ;
"Browser Brand"	Browser's brand, trade mark, service mark, trade name, logo, style or image (whether registered or not);
"Business Day"	any day other than (i) a Saturday, (ii) a Sunday or (iii) a day when the clearing banks are not physically open for business in the City of London;
"Business Hours"	the hours between 9am and 5.30pm (local time in London) on Business Days;
"Acceptance date"	means the date on which the Product is accepted in accordance with clauses 5.1 to 5.5.
"Commencement Date"	the date stipulated as such on the Statement of Works, and if not set out on the Statement of Works it shall be the date on which the last of the Parties signs the Statement of Works;
"Confidential Information"	any information in any form or medium obtained by or on behalf of one Party from or on behalf of the other Party in connection with this Agreement which is expressly marked as confidential or which a reasonable person would reasonably consider to be confidential, whether disclosed or obtained before, on or after the date of this Agreement together with any reproductions of such information or any part of this information (and Browser's "Confidential Information" shall include the Service processes, operations, methodologies and set-ups, and the Customer's "Confidential Information" shall include the Data and details about its Users);
"Consultancy Services"	any services provided or to be provided by Browser to the Customer from time to time (including anything described in the Statement of Works) other than access to the Service and other than Support Services; including providing Customisations, consultancy, data, data migration, reports, training or advice;
"Consultancy Services Fee"	the fee payable for the Customer's receipt of the Consultancy Services as may be initially set out in the Statement of Works, or as updated by Browser from time to time;
"Content"	any information and materials provided by third parties or any User-generated content or material provided by the Customer or Users (including any message, data, graphics, photos and links), as uploaded via or to the Product or Service from time to time by or on behalf of the Customer or Users;
"Customer"	the customer who agrees with Browser to pay for Services, as identified in the Statement of Works;
"Customer Brand"	the Customer's brand, trade mark, service mark, trade name, logo, style or image (whether registered or not);
"Customer Group"	the Customer and any wholly owned subsidiary of the Customer from time to time;
"Data"	any data used or inputted by the Customer or any User in connection with its use of the Product or Service;
"User"	An individual who is given access to the Service by the Customer from time to time, including the Customer's administrator and any employee, officer, contractor, consultant or representative of the Customer Group;
"Fee"	the Subscription Fee and/or the Consultancy Services Fee and any other sums due from the Customer to Browser under this Agreement;
"Term"	the Term of one Year (or such other period as set out in the Schedule) commencing on the Commencement Date or on the expiry of the previous Term;
"Intellectual Property Rights"	copyright and related rights, trade marks and service marks, trade names and domain names, rights under licences, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, patents, rights to inventions, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, 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;
"Liability"	has the meaning given to it in Clause 6.4.1;
"Negligence"	has the meaning given to it in Clause 6.4.2;
"Party"	either Browser or the Customer;
"Rates"	Browser's standard time and materials rates in force from time to time, as may be initially set out in the Statement of Works, or as updated by Browser from time to time in accordance with this Agreement;

"Statement of Works"	the form or document agreed in writing between Browser and its customer which describes Browser's customer, the service provided by Browser to its customer, and such other commercial terms as are agreed by the parties within that document;
"Distinctive Customer Features"	means any elements, which do not form part of the generic functionality of the Product and which implement visual features and text created at the specific request and instruction of the Customer or supplied by the Customer (for example marketing material and photographs) as well as the concept and "look and feel" behind the Product where this is distinctive and unique to the Customer's site (but excluding any software developed by Browser);
"Customisations"	any bespoke or customised service, features, functionality, formatting, appearance or software applicable to Browser's service for the Customer (whether created by or on behalf of Browser or the Customer);
"Website"	Browser's website at browsergroup.com, browserlondon.com
"Year"	a period of 12 months commencing on the Commencement Date, or each subsequent period of 12 months commencing on an anniversary of the Commencement Date;
"Product" or "Service"	Any digital services (including the software comprised therein) and ancillary Website services or advice supplied or other work completed by Browser in connection with the Product.

1.2 references to "Clauses" are to clauses of these Terms of Business;

1.3 the headings are inserted for convenience only and shall not affect the interpretation or construction of this Agreement;

1.4 words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral and references to persons shall include an individual, company, corporation, firm, organisation or partnership;

1.5 references to "written" or in "writing" (except in respect of sending a notice in accordance with Clause 13) includes in electronic form;

1.6 references to "includes" or "including" or like words or expressions shall mean without limitation;

1.7 references to any statute or statutory provision shall include any subordinate legislation made under it, any provision which it has modified or re-enacted (whether with or without modification) and any provision which subsequently supersedes it or re-enacts it (whether with or without modification); and

1.8 references to "Browser" or the "Customer" or a "Party" shall include their respective directors, employees, subcontractors, servants and agents and their successors in title and permitted assigns.

2. GENERAL

2.1 Unless otherwise specifically varied in writing by a Director of Browser these Conditions alone shall be deemed to apply to all Services by Browser.

2.2 Browser reserves the right to subcontract any of the work undertaken on behalf of the Customer.

3. ESTIMATES

3.1 If Browser provides the Customer with an estimate it shall constitute an offer on the part of Browser.

3.2 If the Customer places an order for a Product with Browser without first having received an estimate such an order shall constitute an invitation to treat only and these Conditions alone shall apply to the Contract unless otherwise specifically agreed in writing by a partner of Browser when the offer by Browser is made.

4. SPECIFICATION / STATEMENT OF WORK

4.1 All specifications drawings and technical specifications accompanying an estimate shall not form part of the Contract unless expressly so stated in an estimate offer or agreed in writing by the parties. For the avoidance of doubt, the Statement of Works (once agreed by the Customer and Browser) will not be subject to the foregoing provisions of this clause 4.1 but shall form part of the Contract.

4.2 The Customer shall be solely responsible for the accuracy of all text specifications drawings and illustrations submitted by Browser to the Customer for checking and approval before the work is further progressed and the Customer accepts responsibility for final agreement of the Statement of Works, whether or not the Customer delegates this task to any partner or employee of Browser.

4.3 The Customer must at all times give a clear brief to Browser and ensure that all the facts given and the Product, which is the subject of the brief are accurate and in no way misleading.

5. TESTING, ACCEPTANCE AND WARRANTY

5.1 Subject to clause 5.3, the Customer shall have a period of 7 days following (whichever applicable) delivery of the Product provided that the Product has been deployed on Browser's staging server and is available for access for the purpose of conducting acceptance tests ("the Test Period") to test the Product to ensure that the Product meets the Statement of Works together with any changes agreed by the parties in writing ("the Tests"). The Customer must notify Browser of any alleged failure to comply with the Statement of Works or requirement agreed between the parties ("Defect") during the Test Period. If no such notification of a Defect is given during the Test Period the Product shall be conclusively presumed to be in accordance with the Contract and free from Defect or damage which would be apparent from reasonable testing and the Customer shall be deemed to have accepted the Product with effect from the expiry of the Test Period.

5.2 If the Customer shall notify Browser of a Defect during the Test Period (subject to clauses 5.4 and 5.5), Browser will have a period not exceeding 14 Business days from the date of such notification ("Correction Period") within which to carry out such amendments to the Product as may be necessary in order to bring it into conformity with the Statement of Works. Subject to clause 5.3, on the completion of which (and in any event before or at the latest by the expiration of the Correction Period) Browser will make the Product available to the Customer in order to carry out further Tests ("Re Test") the Customer shall have a further period of 30 days ("the Repeat Test Period") within which to carry out the Re Tests. If no notification of a Defect is given during the Repeat Test Period the Product shall be conclusively presumed to be in accordance with the Contract and free from Defect or damage which would be apparent from reasonable testing and the Customer shall be deemed to have accepted the Product with effect from the expiry of the Repeat Test Period.

- 5.3 If a Defect shall occur during the Re-Tests or if the Product is not Ready for Use prior to or at the latest by the end of the working day on the Go Live Date, then (subject to clauses 5.4 and 5.5) the Customer may, at its option:
- 5.3.1 return the Product to Browser subject to the relevant outstanding Defects being remedied within a period reasonably stipulated by the Customer (provided that any failure by Browser to ensure that the Product is Ready for Use by the expiration of that period so stipulated shall entitle the Customer to exercise (in its discretion) the rights set out at clauses 5.3.2 or 5.3.3);
 - 5.3.2 formally accept the Product for all purposes subject to a refund or (in respect of fees unpaid but which are due) allowance (whichever applicable) of the price payable in respect of the Product and/or associated services to fairly reflect the extent to which the Product (operating as a whole) is impaired by the failure to pass the acceptance tests. Such refund or allowance shall be agreed between the parties within a period of 7 days following the date on which the relevant Defect(s) was notified to Browser or the Go-Live Date (whichever applicable). In default of such agreement within such period, the Customer shall be entitled to exercise the rights set out at clause 5.3.3 of these conditions;
 - 5.3.3 (only in circumstances where after the Re-Tests the Product still contains a material defect which has the effect of making the Programs non-compliant with the Statement of Works in a material respect which renders the Programs unusable by the Customer) by written notice to Browser reject the Product in its entirety and terminate the Contract without liability to Browser (including, without limit, any liability to pay any outstanding fees which, at the time of (and but for) such termination, remain outstanding and are due to be paid) on the basis of a total failure of consideration. In the event of such termination pursuant to this clause 5.3.3, Browser will repay to the Customer all fees and charges paid to Browser by the Customer under or in connection with this Contract. In consideration of the payment made by Browser in accordance with the foregoing provisions of this clause 5.3.3, the Customer will promptly return to Browser all equipment, documentation, software or other information belonging to Browser then held by it and Browser will return to the Customer all equipment, documentation or other information belonging to the Customer then held by it.
- 5.4 If any failure to pass the Tests in this clause results from a Defect which is caused by an act or omission of the Customer, by one of the Customer's sub-contractors or agents for which Browser has no responsibility or is due to Third Party Products not supplied by Browser ("Non-Browser Defects"), the Product shall be deemed to have passed the Tests notwithstanding such Non-Browser Defect. Browser shall provide assistance reasonably requested by the Customer in remedying any Non-Browser Defects by supplying additional services or products. If so requested, the Customer shall pay Browser in full for all such additional services and products at Browser's then current fees and prices.
- 5.5 Acceptance of the Product shall be deemed to have taken place upon the happening of any of the following events:
- 5.5.1 the Customer uses any part of the Product "live" (that is, for any revenue-earning purposes or to provide any services to third parties) other than for test purposes a period of 14 days following live deployment of the Product on the Internet during which the use of the Product shall continue to form part of the acceptance tests to be carried out in accordance with this clause 5; or
 - 5.5.2 the Customer unreasonably delays the start of relevant Tests or any retest for a period of 7 days from the date when Browser notifies the Customer that the Product is ready to commence running the Tests or retest.
- 5.6 Browser warrants that it will perform the Service with reasonable skill and care and in a professional manner conforming to best industry practice. Browser further warrants that from the Acceptance Date for the Warranty Period the Product will perform substantially in accordance with the Statement of Works (minor interruptions and errors excluded and also excluding any amendments or alterations made to the Product by any third party without Browser's prior written consent). In the event that the Customer alleges that the Product is not in accordance with the warranties given by Browser in clause 5 during the Warranty Period the Customer must notify Browser in writing as soon as possible after becoming aware of the same.
- 5.7 On receipt of any claim by the Customer identifying a breach of the warranties set out in clause 5.6 Browser shall, provided it has received written notice of the Defect or error within the Warranty Period and that it is not a Non-Browser Defect, at its own expense, promptly remedy such failure or breach by replacement or repair or (where appropriate having used its reasonable endeavours to do so) allow the Customer a rebate (hereinafter specified) against any sum paid or payable by the Customer in respect of such defective Product or Service. The said rebate shall be:
- 5.7.1 A fair discount not exceeding the value of the defective Product as determined by the Contract ("the Contract Value") or
 - 5.7.2 (If the Product or Service were supplied by a third party or agent) such maximum allowance (if lower than the Contract Value) as Browser shall be able to negotiate from such third party or agent.

6. LIMITATION OF LIABILITY

- 6.1 This Clause 6 prevails over all other Clauses of this Agreement and sets out Browser's entire Liability and the Customer's sole and exclusive remedies in respect of Browser's performance, non-performance, purported performance, delay in performance or mis-performance of this Agreement or otherwise in relation to this Agreement or entering into this Agreement.
- 6.2 Browser does not exclude or limit Liability for:
- 6.2.1 death or personal injury caused by its Negligence; or
 - 6.2.2 its fraud; or
 - 6.2.3 fraudulent misrepresentation, or to any other representations that it would be unreasonable in law to exclude; or
 - 6.2.4 its breach of the obligations implied by Section 12 Sale of Goods Act 1979 or Section 2 Supply of Goods and Services Act 1982; or
 - 6.2.5 any other Liability which cannot be excluded or limited by applicable law.
- 6.3 Subject to Clause 6.2, Browser shall not have any Liability for any: a) indirect or consequential losses, damages, costs or expenses; b) loss of actual or anticipated profits; c) loss of use of money; d) loss of revenue; e) loss of goodwill; f) loss of reputation; g) loss of business or contracts; h) ex gratia losses; i) loss of operation time; or j) loss of opportunity; suffered by the Customer or any User or suffered by any person who uses or accesses the Service, the Content or any materials uploaded via the Service; whether or not such losses were reasonably foreseeable or Browser had been advised of the possibility of any such person incurring such losses. For the avoidance of doubt, this Clause 6.3 applies whether such losses are direct, indirect, consequential or otherwise.
- 6.4 In this Agreement:
- 6.4.1 "Liability" means liability in or for breach of contract, Negligence, misrepresentation, restitution, intentional tort, deliberate acts or omissions, or any other cause of action whatsoever relating to or arising under or in connection with this Agreement, including liability expressly provided for under this Agreement or arising by reason of the invalidity or unenforceability of any term of this Agreement (and for the purposes of this definition, all references to this "Agreement" shall be deemed to include any collateral contract); and
 - 6.4.2 "Negligence" means the breach of any (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty).

- 6.5 Subject to Clause 6.2, the total aggregate Liability of each Party for all causes of action arising in each calendar year under this Agreement shall be limited to the greater of: (a) £10,000; or (b) 110% of the total sums paid and total other sums payable, in aggregate, by the Customer to Browser in that calendar year under this Agreement.
- 6.6 The limitations and exclusions of Liability under Clauses 6.3 and 6.5 have effect in relation both to any Liability expressly provided for under this Agreement and to any Liability arising by reason of the invalidity or unenforceability of any term of this Agreement.
- 6.7 Without prejudice to Clauses 6.3 and 6.5, the Customer acknowledges and accepts that Browser provides the Service to it on the express condition that Browser will not be responsible for nor shall it have any Liability to the Customer or any third party directly or indirectly for:
- 6.7.1 inaccuracies or errors or omissions in the Content or in any Content;
 - 6.7.2 late arrival or non-arrival of any messages containing Content;
 - 6.7.3 failure by the Customer to have in place all necessary means to gain access to the Content or for sending and receiving messages containing Content; or
 - 6.7.4 failure by the Customer to maintain all equipment, software, hardware, telecommunications links and network to enable it to send and receive messages containing Content or use of the Service.

7. DELIVERY AND RISK

- 7.1 Any time or date (other than as agreed in writing between the parties or otherwise contained in the Statement of Works or in these Conditions (including, but not limited to, the Go Live Date and the other timescales specified in Clause 5 of these Conditions) named by Browser for delivery of the Product or performance of the Service is given and intended as an estimate only and Browser shall not be liable to make good any damage or loss whether arising directly or indirectly out of delay in delivery.

8. PRICE

- 8.1 All prices quoted are valid for acceptance by the Customer for 30 days only after which time (except to the extent such prices form part of a Contract) they may be altered by Browser without giving notice to the Customer to reflect increases in costs to Browser (including without limitation costs of materials, labour, transport and services and any tax duty or charge imposed by any government or other authorities). Where applicable, after an order has become binding on Browser, all prices will have VAT added at the appropriate rate. (Unless otherwise agreed in writing and save in the case of direct mail packs, packaging and delivery to the address of the Customer set out overleaf are normally included in the price). If delivery is to take place at an address other than that specified overleaf Browser may, at its discretion, charge the Customer with any extra cost incurred in making such delivery. If the Customer requires delivery of the Product or performance of the Service to be expedited quicker than any agreed timescales, or notifies Browser of any special requirements regarding delivery of the Product or performance of the Service Browser may charge the Customer an additional sum to cover additional costs incurred including (without limitation) labour overtime costs travel expenses.

9. PAYMENT

- 9.1 We accept direct wire transfer, credit card payment, standing orders and direct debit. We do not accept payment by cheque.
- 9.2 Unless otherwise agreed in writing or stated on Browser's quotation, invoices are due for payment by the Customer 30 days from the date of the invoice. Browser reserves the right at any time before proceeding or proceeding further with an order to demand full or partial payment of moneys due and payable under the Contract and under any other contract between Browser and the Customer. If the production or delivery of the Product is suspended at the request of the Customer or delayed due to the default of the Customer, Browser may charge the Customer for work carried out up to that point, any materials ordered for the Customer and any other additional costs incurred, which charge will be payable immediately by the Customer.
- 9.3 In the event of payment not being made in full in accordance with Clause 9.2, such sum shall bear interest from the due date until payment is made to Browser (irrespective of whether the date of payment is before or after any judgement or award in respect of the same) at 8 per cent per annum over Royal Bank of Scotland PLC's current base rate. Browser also reserves the right to suspend any other services following non-payment within the agreed terms.
- 9.4 In the event of a hosting package being suspended due to non-payment, then Browser reserves the right to remove the Product from the server it is being hosted on. In this instance, it is the client's responsibility to have backed up the site and data and not that of Browser. Browser is not responsible for the loss of data, should the hosting package expire.
- 9.5 In the event of a hosting package being suspended, there will be a charge associated with bringing sites out of archive and that charge will depend on the complexity of the site. The minimum charge for this process is £1,250.

10. COPYRIGHT, INTELLECTUAL PROPERTY RIGHTS AND RELATED MATTERS

- 10.1.1 Any film screen, drawing, artwork, design, photograph, software program(s) (including both object and source computer programming code) or other materials prepared by Browser (unless provided by the Customer or otherwise agreed by Browser) in the production and supply and all copyright registered design and trademarks, design and moral rights, and other intellectual property rights therein, apart from the Distinctive Customer Features, are the exclusive property of Browser until paid for in full.
- 10.1.2 Browser owns all intellectual property rights in the software developed for the Product and digital artwork written or developed by Browser (including without limitation all file layouts and screen layouts developed by Browser which are part of or associated with the use of the software but excluding Third Party Products), with the exception of the Distinctive Customer Features and, subject to the Customer making full payment for the Product, Browser hereby grants the Customer (subject to the customer making payment in full of all sums outstanding under this Contract) a perpetual non-exclusive licence of all such intellectual property rights in the Product or Service for the purposes of operating the Product or Service. The licence will be non-transferrable and non-assignable by the Customer save with the prior written consent of Browser. For the avoidance of doubt, in the event of any termination of this Contract other than by Browser in accordance with Clause 11.3.1, Customer is hereby granted a perpetual non exclusive licence to use, maintain, enhance, modify and/or further develop the Product (subject to any restrictions contained in Third Party Product's licence terms) and Browser shall (either in advance or immediately upon termination of this Contract as described) supply to the Customer or its nominated replacement service provider a copy of the source materials used in the development of the Product (including, without limit, the source code and other programming documentation, logic diagrams, flow charts, routines and sub routines) and shall provide to the Customer or its nominated replacement service provider all reasonable assistance and information to facilitate the orderly transfer of the Product and associated hosting and related Services to the Customer or to its nominated replacement service provider PROVIDED THAT the Customer and (if applicable) its nominated replacement service provider shall only use such source materials and other materials strictly in connection with the operation of the Product as the Customers Product or Service and such use shall be subject to the provisions of Clause 15 (which the Customer will procure its nominated replacement service provider's observance of by agreement in writing). All Third Party Products are supplied in accordance with the relevant licensor's standard terms.
- 10.1.3 The Customer owns or has a valid licence to use the copyright in the data which it supplies to Browser for the Product (including, for the avoidance of doubt, all Distinctive Customer Features) and Browser undertakes (at the cost of the Customer) to return the data at the request of

the Customer. Browser undertakes (but not further) to keep part or all of any database information supplied to Browser confidential (save to the extent necessary to carry out the Service and unless part or all of that database or information becomes public knowledge other than through a breach of this undertaking) and not to use any Customer's database or information for any purpose other than that of the Contract. The parties agree that all copyrights, registered design and trademarks, design and moral rights and other intellectual property rights in the Distinctive Customer Features shall be and remain vested in the Customer.

- 10.2 Browser shall not be required to deal with any matter which it considers is or may be unsuitable or be of an illegal or libellous nature and the Customer shall indemnify Browser in respect of any claims costs and expenses arising out of any illegal or libellous matter printed displayed or created for the Customer.
- 10.3 Browser shall not in any circumstances be liable for any loss liability or expense suffered or incurred by the Customer by reason of any use or resale of the Product which constitutes an alleged or actual infringement of any patent design copyright know-how or other secret information or trade mark foreign or domestic vested in a third party and the Customer shall indemnify and keep indemnified Browser against any claims which may be made against Browser in respect of any such alleged or actual infringement.
- 10.4 If during the course of carrying out any order Browser deems any matter to be libellous or of such nature as may render Browser liable to legal proceedings, Browser shall not be bound or required to complete such order and shall not be under any liability for non-completion. The Customer shall pay for any work done or expenses incurred by Browser.
- 10.5 If the Customer is to supply Browser with a database or artwork/design on disk, this shall be in digital format and the customer shall be responsible for ensuring compatibility with Browser's equipment, format or, if agreed by Browser in writing, on hard copy. Browser may reject any materials which are not so supplied or may in its own discretion, and at the Customer's sole expense.
- 10.6 Browser may for its own publicity purposes reproduce any design of the Customer in Browser's own publicity material including (without limitation) its brochures, Website and advertising material.

11. TERMINATION

- 11.1 (Save for termination of this Agreement under clause 11.2) The Customer may not cancel any order except with the written consent of Browser upon terms which will indemnify Browser against all loss, (but excluding consequential loss, which term shall include loss of profit, loss of business and depletion of goodwill) on the part of Browser and cost of all labour and materials, expenses and charges incurred.
- 11.2 If:
 - 11.2.1 either party ("the Defaulting Party") is in breach of the Contract or any other contract with the other; or
 - 11.2.2 any event conferring a right of termination under sub-clause 11.3 shall have occurred; then in any such case that other party shall be entitled (without prejudice to its other rights hereunder) to suspend further performance of the Contract for such reasonable time as it shall deem fit and (in respect of Browser) for this purpose to stop any goods in transit to the Customer and (where the Customer is in breach) any agreed deadlines (including without limitation the Go-Live Date) shall be deemed to be extended by the period of the suspension of performance.
- 11.3 Either party may by written notice to the Defaulting Party terminate the Contract if:
 - 11.3.1 the Defaulting Party is in breach of the Contract or any other contract with the other party (such breach if remediable not having been remedied within 28 days of notice in writing to the Defaulting Party specifying the breach and requiring its remedy); or
 - 11.3.2 any judgement or execution or other process issued in respect of any judgement against the Defaulting Party is unsatisfied for 14 days; or
 - 11.3.3 being a corporation the Defaulting Party enters into liquidation or suffers the appointment of a receiver or administrative receiver or any petition is presented or order made for the appointment of an administrative receiver or administrator, or any event analogous to any of the foregoing shall happen in any jurisdiction. Any such termination shall be without prejudice to the Customer's and Browser's rights under the Contract save that (in respect of amounts paid by the Customer) the Customer shall be entitled to credit (subject to Browser's right of set-off against any liabilities on any account) amounting to the lesser of the price under the Contract with the Customer and the proceeds (less costs) of Browser's subsequent disposal of goods which it has not delivered or which it repossesses.
 - 11.3.4 performance by the Defaulting Party of its obligations under this Contract shall (for a period of 30 (thirty) or more consecutive days) be hindered or prevented by industrial dispute accident breakdown of machinery, shortage of materials, export or import restrictions or any other cause whatsoever beyond the reasonable control of the Defaulting Party, in which case the other party shall be entitled by notice in writing to the Defaulting Party to terminate the Contract but without prejudice to the liabilities of either party accrued before the date of termination.

12. ASSIGNMENT

- 12.1 Subject to any assignee (in the case of an assignment) confirming in writing to be bound by the provisions of this Agreement, Browser may assign, transfer, novate or subcontract its rights, liabilities or obligations under this Agreement either in whole or in part to any other person, firm or company.
- 12.2 The Customer shall not (or purport to) assign, sub-license, transfer, novate, charge or otherwise encumber, create any trust over or deal in any manner with this Agreement or any of its rights, liabilities or obligations under this Agreement without the prior written consent of Browser (such consent not to be unreasonably withheld or delayed).

13. NOTICES

- 13.1 Any notice required or authorised to be given under this Agreement shall be in writing and shall be served by personal delivery or by recorded delivery or overnight courier or by facsimile addressed to the relevant Party at its address stated in this Agreement or at such other address or facsimile number as is notified by the relevant Party to the other Party for this purpose from time to time or at the address or facsimile number of the relevant Party last known to the other Party.
- 13.2 Any notice so given by recorded delivery or overnight courier shall be deemed to have been served two Business Days after the same shall have been despatched and any notice so given by facsimile shall be deemed to have been served upon receipt of an answerback signal from the receiving machine, and in proving such service it shall be sufficient to prove that the letter or facsimile was properly addressed or numbered and, as the case may be, despatched or an answerback signal received.

14. SPECIFICATION

- 14.1 The Customer has, on or prior to placing its order for the Product and the Service, notified and discussed with Browser its desired specification and requirements in respect thereof. It is agreed that all such specifications and requirements as have been agreed between the parties, are incorporated into the Statement of Works and that no amendments to it may be made without the written consent of both parties.

15. CONFIDENTIALITY

- 15.1 Each Party shall keep and procure to be kept secret and confidential the Confidential Information of the other Party and shall not use nor disclose the same save:
- 15.1.1 for the purposes of the proper performance of this Agreement; or
 - 15.1.2 as otherwise permitted by this Agreement; or
 - 15.1.3 with the prior written consent of the other Party.
- 15.2 Where one Party discloses Confidential Information of the other Party to its representative, employee, consultant, subcontractor, supplier, customer, User, agent, professional adviser or insurer, it shall do so on a need-to-know basis and subject to obligations equivalent to those set out in this Clause 15. Each Party shall use all reasonable endeavours to ensure that any such representative, employee, consultant, subcontractor, supplier, customer, User, agent, professional adviser or insurer complies with such obligations.
- 15.3 The obligations of confidentiality in this Clause 15 shall not extend to any matter which either Party can show:
- 15.3.1 is in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations of this Agreement; or
 - 15.3.2 was already in its written records prior to receipt; or
 - 15.3.3 was independently developed by it; or
 - 15.3.4 was independently disclosed to it by a third party entitled to disclose it.
- 15.4 If either Party is required to disclose the Confidential Information of the other Party under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction, then the Party required may disclose the Confidential Information to the extent required but shall, prior to any disclosure where practicable, give the other Party as much warning as practicable and consult with the other Party in writing and, at the other Party's request and cost, fully co-operate with and assist that other Party in opposing any such disclosure.
- 15.5 Neither Party shall make any announcement of any kind in respect of the subject matter of this Agreement except with the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed) or as is required by law.
- 15.6 Subject to Clause 15.5, Browser may identify the Customer as its customer and the type of services provided by Browser to the Customer, provided that in doing so Browser shall not (without the Customer's prior written consent) reveal any Confidential Information of the Customer.
- 15.7 The obligations of this Clause 15 shall continue after termination or expiry of this Agreement for whatever reason.

16. DATA PROTECTION AND SECURITY

- 16.1 In performing this Agreement, each Party shall:
- 16.1.1 comply with all applicable data protection legislation; and
 - 16.1.2 procure those employees, agents, consultants and contractors (and, in the case of the Customer, its Users) comply with all applicable data protection legislation.
- 16.2 Browser is committed to security. However, the Customer acknowledges that the Product cannot be guaranteed as being 100% secure and that the uploaded information may not be 100% secure. Although Browser shall take measures in accordance with good industry practice, it cannot guarantee the absolute security of the Data, including as a result of actions or omissions taken by third parties.
- 16.3 Browser shall:
- 16.3.1 implement and maintain a comprehensive written information security program that includes administrative, technical, and physical safeguards to ensure the confidentiality, security, integrity, and availability of Confidential Information and Data and to protect against unauthorized access, use, disclosure, alteration or destruction of Confidential Information and Data. The Information Security Program shall include, but not be limited to, the following safeguards where appropriate:
 - (a) Access Controls – policies, procedures, and physical and technical controls: (i) to limit physical access to its information systems and the facility or facilities in which they are housed to properly authorized persons; (ii) to ensure that all members of its workforce who require access to Confidential Information or Data have appropriately controlled access, and to prevent those workforce members and others who should not have access from obtaining access; (iii) to authenticate and permit access only to authorized individuals and to prevent members of its workforce from providing Confidential Information or Data unauthorized individuals; and (iv) to encrypt and decrypt Confidential Information and Data where appropriate;
 - (b) Security Awareness and Training – a security awareness and training program for members of Browser's workforce providing Services hereunder, which includes training on how to implement and comply with its Information Security Program;
 - (c) Security Incident Procedures – policies and procedures to detect, respond to, and otherwise address security incidents, including procedures to monitor systems and to detect actual and attempted attacks on or intrusions into Confidential Information or Data or information systems relating thereto, and procedures to identify and respond to suspected or known security incidents, mitigate harmful effects of security incidents, and document security incidents and their outcomes;
 - (d) Contingency Planning – policies and procedures for responding to an emergency or other occurrence (for example, fire, vandalism, system failure, and natural disaster) that damages Confidential Information or Data (or systems containing Confidential Information or Data), including a data backup plan and a disaster recovery plan;
 - (e) Data Integrity – policies and procedures to ensure the confidentiality, integrity, and availability of Confidential Information and Data and protect it from disclosure, improper alteration, or destruction;
 - (f) Storage and Transmission Security – technical security measures to guard against unauthorized access to Confidential Information and Data that is being transmitted over an electronic communications network, which may include a mechanism to encrypt Confidential Information and Data in electronic form while in transit over public networks or systems to which unauthorized individuals may have access;
 - (g) Testing – Regular testing of the key controls, systems and procedures of the Information Security Program to ensure that they are properly implemented and effective in addressing the threats and risks identified. Tests should be conducted or reviewed in accordance with its internal policies and procedures by internal auditors, independent third parties or staff independent of those that develop or maintain the security programs.
- 16.4 The parties agree that as of the date hereof, there is no intent for either parties to receive, process, or have access to any personal data in connection with providing Services hereunder. Should the parties agree in writing that any such access shall be necessary in connection with Browser's

performance hereunder, the Customer and Browser shall agree to additional written terms applicable to such access. Without limiting the generality of the foregoing, Browser shall, as applicable:

- 16.4.1 in accordance with the General Data Protection Regulation, act as "data processor" only on instructions from the Customer as "data controller" in relation to the processing of "personal data" (as all of those terms are defined under that Act) carried out on behalf of the Customer (including the Data) and shall take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to;
 - 16.4.2 permit access to the Customer and its representatives to Browser's premises and records at all reasonable times and on reasonable notice to enable the Customer to ensure compliance by Browser with this Clause 16.4. The access right is subject to the Customer and its representatives first agreeing to Browser's reasonable requirements as to confidentiality and to the Customer and its representatives using their reasonable endeavours to ensure that while they are on Browser's or its suppliers' premises they will conform to the normal codes of staff and security practice as are applicable at the premises and keep disruption to a minimum. The Customer acknowledges that if it and its representatives seek access under this sub-Clause 16.4.2 they shall only access the Data in any way such that they cannot and do not see any other data hosted or managed by Browser, as Browser needs to maintain the confidentiality of the data hosted or managed by it; and
 - 16.4.3 as soon as practicable inform the Customer of any notice or communication concerning data protection legal obligations received from any person (including any data subject or caller) or any regulatory authority (including the UK's Information Commissioner) concerning the provision of the Service to the Customer and cooperate fully (at the Customer's cost) with the Customer in relation to all relevant matters concerning data protection requirements in connection with the Service.
- 16.5 The Customer acknowledges that Browser may supply Data in respect of which Browser is acting as data processor for the Customer, to its third party suppliers to whom it sub-contracts the provision of any or all of the Service. Browser shall impose corresponding provisions to this Clause 16 on any such sub-processor.
- 16.6 The Parties acknowledge that Browser shall not be in breach of this Agreement if required to stop or change, or carry out in a particular way, the use of any personal data by the data subject or data controller or other person and that affects its or its subcontractor's ability or efficiency in providing any of the services pursuant to this Agreement. The Customer shall be fully responsible for any additional Fees and expenses arising out of Browser so complying with such Customer requirements.

17. CUSTOMER'S INDEMNITY

- 17.1 The Customer shall at all times indemnify and keep fully indemnified Browser against any and all liabilities, claims, losses, damages, demands, charges, costs, and expenses (including legal expenses) that Browser may suffer or incur as a result of:
- 17.1.1 the use or hosting of the Content or Data;
 - 17.1.2 any infringement of any Intellectual Property Rights of a third party arising from any information, data and materials (including Content or Data) the Customer or a User submits as part of the Product/Service; or
 - 17.1.3 any breach of Clauses 3, 4, 5, 7, 8, 9, 14 and 15.

18. FORCE MAJEURE

- 18.1 Browser shall not have any Liability for any breach, hindrance or delay in performance of its obligations under this Agreement which is caused by circumstances beyond its reasonable control including any act of God, actions or omissions of third parties (including suppliers, couriers, hackers, governments, quasi-governmental, supra-national or local authorities), insurrection, riot, civil war, civil commotion, war, hostilities, threat of war, warlike operations, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions, national emergencies, terrorism, nuclear, chemical or biological contamination or sonic boom, piracy, arrests, restraints or detentions of any competent authority, blockade, strikes or combinations or lock-out of workmen, epidemic, fire, explosion, storm, flood, drought, adverse weather conditions, loss at sea, earthquake, natural disaster, accident, collapse of building structures, failure of plant machinery or machinery or third party computers or third party hardware or vehicles, failure or problems with public utility supplies (including general: electrical, telecoms, water, gas, postal, courier, communications or Internet disruption or failure), shortage of or delay in or inability to obtain supplies, stocks, storage, materials, equipment or transportation ("**Event of Force Majeure**"), regardless of whether the circumstances in question could have been foreseen.
- 18.2 Browser agrees to use its reasonable commercial endeavours to inform the other Party upon becoming aware of an Event of Force Majeure.
- 18.3 Browser's provision of the Service shall be suspended during the period that the circumstances of the Event of Force Majeure persist.
- 18.4 Browser shall be granted an extension of time for performance equal to the period of the delay.
- 18.5 If performance of any obligations are delayed under this Clause 18, the Customer shall accept performance as and when Browser shall be able to perform.
- 18.6 If the Event of Force Majeure continues without a break for more than one month, either Party may terminate this Agreement immediately by notice to the other, in which event neither Party shall be liable to the other Party by reason of such termination.
- 18.7 If Browser has contracted to provide identical or similar services to more than one customer and is prevented from fully meeting its obligations to the Customer by reason of an Event of Force Majeure, Browser may decide at its absolute discretion which contracts it will perform and to what extent.

19. AGREEMENT TERMS

- 19.1 This Agreement contains all the terms agreed among the Parties regarding its subject matter and supersedes and excludes any prior agreement, understanding or arrangement between the Parties, whether oral or in writing. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the Parties prior to this Agreement except as expressly stated in this Agreement. Neither Party shall have any remedy in respect of any untrue statement made by the other Party upon which that Party relied in entering into this Agreement (unless such untrue statement was made fraudulently or as to a fundamental matter) and that Party's only remedies shall be for breach of contract as provided in this Agreement.
- 19.2 This Agreement constitutes the whole agreement and understanding of the Parties as to the subject matter hereof and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to herein.
- 19.3 The terms of this Agreement apply to the exclusion of any Terms of Business submitted, proposed or stipulated by the Customer whether such Terms of Business are contained in the Customer's purchase orders, documents or otherwise. This Agreement shall apply to the Service and the Consultancy Services and Support Services and shall override all other Terms of Business that are inconsistent with this Agreement whether express, implied or otherwise.
- 19.4 Browser may update these Terms of Business for its customers generally by providing the updated Terms of Business to its customers (whether electronically at the Website or otherwise in writing). Subject to Clause 19.5, such updated Terms of Business shall apply by no less than four months' prior written warning (after they were first posted on the Website or sent in writing to the Customer), to take effect at the beginning of the next

Subscription Term. The Customer shall be responsible for checking the Website for any important announcements including changes to these Terms of Business.

- 19.5 Browser may make emergency changes to the Terms of Business (and inform the Customer of this, including through a post on the Website or otherwise in writing) without prior notice to comply with any law, court order or legal requirement or in case it needs to do so in order to comply with the requirements of any subcontractor who assists Browser with the provision of the Service (including hosting facilities). Where reasonably practicable, Browser will endeavour to give reasonable prior warning.
- 19.6 Subject to Clauses 19.4 and 19.5, no change to the specific terms of this Agreement shall be binding unless it is agreed in writing by each of the Parties.
- 19.7 If the Customer provides Browser with a purchase order, this shall be purely for the Customer's administrative purposes only and shall not form part of this Agreement.
- 19.8 This Agreement shall be legally formed and the Parties shall be legally bound when both Parties have agreed in writing to the relevant Statement of Works (which may be either both Parties signing a written Statement of Works in hard copy form or Browser's receipt of the Customer's electronically submitted Statement of Works). In any event, the use or access of the Service by the Customer or any User shall constitute acceptance of these Terms of Business.
- 19.9 In the event of any conflict between the provisions within any of the documents within this Agreement, then the Statement of Works shall prevail over these Terms of Business (except to the extent that the Parties expressly agree in writing that a particular provision within the Statement of Works shall be over-riden or changed).

20. MISCELLANEOUS

- 20.1 The relationship of the Parties is that of independent contractors dealing at arm's length. Except as otherwise stated in this Agreement, nothing in this Agreement shall constitute the Parties as partners, joint ventures or co-owners, or constitute either Party as the agent, employee or representative of the other Party, or empower either Party to act for, bind or otherwise create or assume any obligation on behalf of the other Party, and neither Party shall hold itself out as having authority to do the same.
- 20.2 Unless a Party expressly states in writing that it is waiving a particular power, right or remedy in a particular stated instance, no failure or delay or omission by either Party in exercising any power, right or remedy under this Agreement or at law shall operate as a waiver of such power, right or remedy; and no waiver in any particular instance shall extend to or affect any other or subsequent event or impair any powers, rights or remedies in respect of it or in any way modify or diminish that Party's other powers, rights or remedies under this Agreement or at law.
- 20.3 If any Clause or other provision in this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall in no way affect any other Clause or provision or part of any Clause or provision, all of which shall remain in full force and effect.
- 20.4 This Agreement does not and is not intended to confer any rights to any third party. A person who is not a Party to this Agreement has no rights under the Contracts (Rights of Third parties) Act 1999 to enforce any term of this Agreement.
- 20.5 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. If the Customer is domiciled:
 - 20.5.1 in the European Union, the exclusive forum for settling any disputes which may arise out of or in connection with this Agreement shall be the English courts;
 - 20.5.2 outside the European Union, any dispute which may arise out of or in connection with this Agreement shall be exclusively referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this Clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English.

All dealings, correspondence and contacts between the Parties shall be made or conducted in the English language.

Version: 1.1.6 January 2025