

ISUMO Terms and Conditions version 1.4

1. Interpretation

1.1. The definitions and rules of interpretation in this clause apply in this agreement.

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as further described in clause 2.2.4.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Change of Control: the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression change of control shall be construed accordingly.]

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 12.5.

Customer Data: the data inputted by the Customer, Authorised Users, or ISUMO on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Documentation: the documentation annexed to this Agreement as Annexe 1.

Data Protection: covers the GDPR requirements effective 25 May 2018

Effective Date: the date of this agreement.

Initial Subscription Term: the initial term of this agreement as set out in Service Term.

Normal Business Hours: 9.00 am to 5.30 pm local UK time, each Business Day.

Renewal Period: the period described in clause 16.1.

Services: the services provided by ISUMO to the Customer under this agreement as more particularly described in the Documentation.

Software: the software applications provided by ISUMO as part of the Services.

Subscription Fees: the subscription fees payable by the Customer to ISUMO for the User Subscriptions, as set out in paragraph 1 of Schedule 1.

Subscription Term: has the meaning given in clause 15.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

Support Services Policy: ISUMO's policy for providing support in relation to the Services set out in the Documentation.

User Subscriptions: the user subscriptions purchased by the Customer pursuant to clause 10.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement.

Virus: 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, malware and other similar things or devices.

1.2. Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

1.4. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7. A reference to a statute gdpr

or statutory provision is a reference to it as it is in force as at the date of this agreement.

1.8. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.

1.9. A reference to writing or written includes faxes but not e-mail.

1.10. References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

2. User subscriptions

2.1. Subject to the Customer purchasing the User Subscriptions in accordance with clause 3.3 and clause 9.1, the restrictions set out in this clause 2 and the other terms and conditions of this agreement, ISUMO hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's internal business operations.

2.2. In relation to the Authorised Users, the Customer undertakes that:

2.2.1. the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;

2.2.2. it will not allow any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;

2.2.3. where applicable and specified in Service fees each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed no less frequently than 60 days and that each Authorised User shall keep his password confidential;

2.2.4. it shall maintain a written, up to date list of current Authorised Users and provide such list to ISUMO within 5 Business Days of ISUMO's written request at any time or times;

2.2.5. if any of the audits referred to in clause 1.1 authorised users, reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to ISUMO's other rights, the Customer shall promptly disable such passwords and ISUMO shall not issue any new passwords to any such individual; and

2.2.6. if any of the audits referred to in clause 1.1 authorised users, reveal that the Customer has underpaid Subscription Fees to ISUMO, then without prejudice to ISUMO's other rights, the Customer shall pay to ISUMO an amount equal to such underpayment as calculated in accordance with the prices set out in paragraph 1 of Schedule 1 within 30 Business Days of the date of the relevant audit.

2.3. The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive and ISUMO reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material or applications that breach the provisions of this clause.

2.4. The Customer shall not:

2.4.1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

2.4.1.1. and except to the extent expressly permitted under this agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or

2.4.1.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

2.4.2. access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

2.4.3. use the Services and/or Documentation to provide services to third parties; or

2.4.4. subject to clause 24.1, 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, or

2.4.5. attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2; and

2.5. 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 ISUMO.

2.6. The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

3. Additional user subscriptions

3.1. Subject to clause 3.2 and clause 3.3, the Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in paragraph 1 of Schedule 1 and ISUMO shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of this agreement.

3.2. If the Customer wishes to purchase additional User Subscriptions, the Customer shall notify ISUMO in writing. ISUMO shall evaluate such request for additional User Subscriptions and respond to the Customer with approval or rejection of the request [(such approval not to be unreasonably withheld)].

3.3. If ISUMO approves the Customer's request to purchase additional User Subscriptions, the Customer shall, within 30 days of the date of ISUMO's invoice, pay to ISUMO the relevant fees for such additional User Subscriptions as set out in paragraph 0 of Schedule 1 and, if such additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

4. Services

4.1. ISUMO shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this agreement.

4.2. ISUMO shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

4.2.1. planned maintenance carried out during the maintenance windows of 10.00 pm to 2.00 am UK time; and

4.2.2. unscheduled maintenance performed outside Normal Business Hours, provided that ISUMO has used reasonable endeavours to give the Customer at least 6 'Normal Business Hours' notice in advance.

4.3. ISUMO will, where specified in [service terms] as part of the Services and at additional cost to the Customer, provide the Customer with ISUMO's standard customer support services during Normal Business Hours in accordance with ISUMO's Support Services Policy in effect at the time that the Services are provided. ISUMO may amend the Support Services Policy in its sole and absolute discretion from time to time. The Customer may purchase enhanced support services separately at ISUMO's then current rates.

5. Customer data

5.1. The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

5.2. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for ISUMO to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by ISUMO . ISUMO shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by ISUMO to perform services related to Customer Data maintenance and back-up). The Customer acknowledges that, unless the service is provided directly by ISUMO with no third party involvement, no Customer Data shall be kept, maintained or accessed by ISUMO in any event.

5.3. ISUMO shall, in providing the Services, comply with its [Privacy and Security Policy] relating to the privacy and security of the Customer Data available at [<http://ISUMO.co.uk/secpol>] or such other website address as may be notified

to the Customer from time to time, as such document may be amended from time to time by ISUMO in its sole discretion.

5.4. If ISUMO processes any personal data on the Customer's behalf when performing its obligations under this slaagreement, the parties record their intention that the Customer shall be the data controller and ISUMO shall be a data processor and in any such case:

5.4.1. the Customer acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Services and ISUMO's other obligations under this agreement;

5.4.2. the Customer shall ensure that the Customer is entitled to transfer the relevant personal data to ISUMO so that ISUMO may lawfully use, process and transfer the personal data in accordance with this agreement on the Customer's behalf;

5.4.3. the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;

5.4.4. ISUMO shall process the personal data only in accordance with the terms of this agreement and any lawful instructions reasonably given by the Customer from time to time; and

5.4.5. each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

5.4.6. ISUMO does not have access to client data records and does not provide processing of data but storage, back-up and overarching network security services as so contracted and does not copy, distribute or manipulate data under any circumstances.

6.1 The following definitions apply in this paragraph 6.

Data Protection Legislation: up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the GDPR is no longer directly applicable in the United Kingdom, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the United Kingdom and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

GDPR: the General Data Protection Regulation (Regulation (EU) 2016/679).

6.2 Both you and we shall comply with all applicable requirements of the Data Protection Legislation. This clause 6.2 is in addition to, and does not relieve, remove or replace, either your or our obligations under the Data Protection Legislation.

6.3 Both you and we acknowledge that for the purposes of the Data Protection Legislation, you are the data controller and we are the data processor (where controller and processor are as defined in the Data Protection Legislation).

6.4 Set out below is a summary of the specific processing activities to be undertaken by us in connection with a Contract in relation to personal data (where processing and personal data are as defined in the Data Protection Legislation):

(a) Subject matter of the processing: the performance by us of the Services pursuant to a Contract.

(b) Duration of the processing: the duration of a Contract and/or as required by the Data Protection Legislation and/or other Applicable Law (as defined below).

(c) Nature of the processing: such activities as shall be comprised within the Services which you subscribe for, as more fully described herein.

(d) Purpose of the processing: the performance by us of the Services pursuant to a Contract.

(e) Type(s) of personal data processed: as determined and controlled by you in your sole discretion, and which may include, but is not limited to the following categories of personal data: name, date of birth/age, residential address, email address and home/office/mobile telephone number(s).

(f) Categories of data subjects (as defined in the Data Protection Legislation) whose personal data will be processed: as determined and controlled by you in your sole discretion, and which may include, but is not limited to the following categories of data subjects:

(i) your prospects, customers, clients, business partners and vendors (who are natural persons);

(ii) officers, employees, agents, advisors and sub-contractors of your prospects, customers, clients, business partners and vendors; and

(iii) your officers, employees, agents, advisors and sub-contractors.

6.5 Without prejudice to the generality of clause 6.2, you shall ensure that you have all necessary appropriate consents

and notices in place to enable lawful transfer of any relevant personal data to us for the duration and purposes of a Contract.

6.6 Without prejudice to the generality of clause 6.2, we shall, in relation to any personal data processed in connection with the performance by us of our obligations under a Contract:

(a) process that personal data only on your written instructions unless we are required by the laws of any member of the European Union or by the laws of the European Union applicable to us to process personal data (Applicable Laws). Where we are relying on laws of a member of the European Union or European Union law as the basis for processing personal data, we shall promptly notify you of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit us from so notifying you;

(b) ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by us);

(c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

(d) not transfer any personal data outside of the European Economic Area unless your prior written consent has been obtained and the following conditions are fulfilled:

(i) you and/or we (as appropriate) have provided appropriate safeguards in relation to the transfer;

(ii) the data subject has enforceable rights and effective legal remedies;

(iii) we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and

(iv) we comply with reasonable instructions notified to us in advance by you with respect to the processing of the personal data;

(e) assist you, at your expense, in responding to any request from a data subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(f) notify you without undue delay on becoming aware of a personal data breach;

(g) at your written direction, delete or return personal data and copies thereof to you on termination of the Contract unless required by the Data Protection Legislation and/or other Applicable Law to store the personal data; and

(h) maintain complete and accurate records and information to demonstrate our compliance with this clause 6.6.

7. Third party providers

The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. ISUMO makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not ISUMO. ISUMO recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. ISUMO does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

8. ISUMO's obligations

8.1. ISUMO undertakes that the Services will be performed:

8.1.1. substantially in accordance with the Documentation; and

8.1.2. with reasonable skill and care.

8.2. The undertaking at clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to ISUMO's instructions, or modification or alteration of the Services by any party other than ISUMO or ISUMO's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, ISUMO will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 8.1. Notwithstanding the foregoing, ISUMO:

8.2.1. does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

8.2.2. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8.3. This agreement shall not prevent ISUMO from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.

8.4. ISUMO warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

9. Customer's obligations

The Customer shall:

9.1.1. provide ISUMO with:

9.1.1.1. all necessary co-operation in relation to this agreement; and

9.1.1.2. all necessary access to such information as may be required by ISUMO;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

9.1.2. comply with all applicable laws and regulations with respect to its activities under this agreement;

9.1.3. carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, ISUMO may adjust any agreed timetable or delivery schedule as reasonably necessary;

9.1.4. ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;

9.1.5. obtain and shall maintain all necessary licences, consents, and permissions necessary for ISUMO, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;

9.1.6. ensure that its network and systems comply with the relevant specifications provided by ISUMO from time to time; and

9.1.7. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to ISUMO's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet, unless the client has directly engaged with ISUMO to deliver these services.

10. Charges and payment

10.1. The Customer shall pay the Subscription Fees in advance to ISUMO for the User Subscriptions in accordance with this clause 10 and Schedule 1.

10.2. The Customer shall on the Effective Date establish a direct debit in respect of the Subscription Fees to the credit of ISUMO's bank account specified on invoice, ISUMO shall invoice the Customer on a monthly basis in respect of

such Subscription Fees. If ISUMO has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of ISUMO:

10.2.1. ISUMO may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and ISUMO shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

10.2.2. interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of ISUMO's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

10.3. All amounts and fees stated or referred to in this agreement:

10.3.1. shall be payable in pounds sterling;

10.3.2. are, subject to clause 15.4.2, non-cancellable and non-refundable;

10.3.3. are exclusive of value added tax, which shall be added to ISUMO's invoice(s) at the appropriate rate.

10.4. If, at any time while using the Services, the Customer exceeds the amount of disk storage space specified in the Documentation, ISUMO shall charge the Customer, and the Customer shall pay, ISUMO's then current excess data storage fees. ISUMO's excess data storage fees current as at the Effective Date are set out in Schedule 1.

10.5. ISUMO shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to clause 4.3 and/or the excess storage fees payable pursuant to clause 10.4 at the start of each Renewal Period upon 90 days' prior notice to the Customer and Schedule 1 shall be deemed to have been amended accordingly

10.6. The Customer will pay the Service Fees and all other charges together with VAT on or before the first day of the month to which the Service Fee relates or, in the case of service invoices, the date for payment as specified on the invoice. Payment must be made by direct debit or standing order, the mandate for which must be executed and delivered to ISUMO at the same time as this Agreement is executed.

11. Proprietary rights

11.1. The Customer acknowledges and agrees that ISUMO and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

11.2. ISUMO confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

12. Confidentiality

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

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

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

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

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

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

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

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

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

12.5. The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute ISUMO's Confidential Information.

12.6. ISUMO acknowledges that the Customer Data is the Confidential Information of the Customer.

12.7. This clause 12 shall survive termination of this agreement, however arising.

12.8. No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

12.9. In the event that either party's Confidential Information is disclosed to a third party or the integrity of a party's Confidential Information is otherwise compromised, each party shall notify the other party as soon as possible after the relevant party becomes aware of such disclosure or compromise.

13. Non-Solicitation

13.1 neither party shall directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the other party any person employed or engaged by such other party in the provision of the Services or (in the case of the Customer) in the receipt of the Services at any time during the term of this Agreement or for a further period of 12 months after the termination of this agreement.

14. Indemnity

14.1. The Customer shall defend, indemnify and hold harmless ISUMO against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation, provided that:

14.1.1. the Customer is given prompt notice of any such claim;

14.1.2. ISUMO provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

14.1.3. the Customer is given sole authority to defend or settle the claim.

14.2. ISUMO shall defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

14.2.1. ISUMO is given prompt notice of any such claim;

14.2.2. the Customer provides reasonable co-operation to ISUMO in the defence and settlement of such claim, at ISUMO's expense; and

14.2.3. ISUMO is given sole authority to defend or settle the claim.

14.3. In the defence or settlement of any claim, ISUMO may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on [2] Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

14.4. In no event shall ISUMO, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

14.4.1. a modification of the Services or Documentation by anyone other than ISUMO; or

14.4.2. the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by ISUMO; or

14.4.3. the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from ISUMO or any appropriate authority.

14.5. The foregoing states the Customer's sole and exclusive rights and remedies, and ISUMO's (including ISUMO's employees, agents and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

15. Limitation of liability

15.1. This clause 15 sets out the entire financial liability of ISUMO (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

15.1.1. arising under or in connection with this agreement;

15.1.2. in respect of any use made by the Customer of the Services and Documentation or any part of them; and

15.1.3. in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.

15.2. Except as expressly and specifically provided in this agreement:

15.2.1. the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. ISUMO shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to ISUMO by the Customer in connection with the Services, or any actions taken by ISUMO at the Customer's direction; and

15.2.2. all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement.

15.3. Nothing in this agreement excludes the liability of ISUMO:

15.3.1. for death or personal injury caused by ISUMO's negligence; or

15.3.2. for fraud or fraudulent misrepresentation.

15.4. Subject to clause 15.2 and clause 15.3:

15.4.1. ISUMO shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and

15.4.2. ISUMO's total aggregate liability in contract (including in respect of the indemnity at clause 15.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the total Subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the claim arose.

16. Term and termination

16.1. This agreement shall, unless otherwise terminated as provided in this clause 16, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a Renewal Period), unless:

16.1.1. either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

16.1.2. otherwise terminated in accordance with the provisions of this agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.

16.2. Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

16.2.1. the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

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

- 16.2.3.** the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- 16.2.4.** the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ;
- 16.2.5.** the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 16.2.6.** a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 16.2.7.** an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- 16.2.8.** the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- 16.2.9.** a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 16.2.10.** a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- 16.2.11.** any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.2.4 to clause 16.2.10 (inclusive);
- 16.2.12.** the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 16.3.** On termination of this agreement for any reason:
- 16.3.1.** all licences granted under this agreement shall immediately terminate;
- 16.3.2.** each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- 16.3.3.** ISUMO may destroy or otherwise dispose of any of the Customer Data in its possession unless ISUMO receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. ISUMO shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by ISUMO in returning or disposing of Customer Data; and
- 16.3.4.** any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

17. Force majeure

ISUMO shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of ISUMO or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or

direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

18. Conflict

If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules or Annexes, the provisions in the main body of this agreement shall prevail.

19. Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

20. Waiver

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

21. Rights and remedies

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

22. Severance

22.1. If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

22.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

23. Entire agreement

23.1. This agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

23.2. Each of the parties acknowledges and agrees that in entering into this agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement, other than as expressly set out in this agreement.

24. Assignment

24.1. The Customer shall not, without the prior written consent of ISUMO, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

24.2. ISUMO may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

25. No partnership or agency

Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the

assumption of any obligation or liability and the exercise of any right or power).

26. Third party rights

This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

27. Notices

26.1. Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party in accordance with this clause for such purposes.

27.2. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

28. Governing law

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 the law of England and Wales.

29. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.