

TERMS & CONDITIONS

Please read these Terms and Conditions, carefully before registering for a subscription for the Services offered on this website operated by Amnexis Holding Ltd (trading as QUIXXS), Guinness Enterprise Centre, Taylor's Lane, Dublin 8, Ireland, ("**Company**").

By completing the online registration form for a chargeable subscription to use or access the Services at <https://QUIXXS.com> and clicking on the accept buttons relating to these [Terms and Conditions](#), [Terms of Use](#), [DPA](#) and [Privacy Policy](#), you the Customer agree to be legally bound by these Terms and Conditions, Terms of Use, DPA and Privacy Policy as they may be modified and posted on our website from time to time.

If you do not wish to be bound by these Terms and Conditions, Terms of Use, DPA and Privacy Policy then you may not register to use or purchase access to the Services.

The terms of this Agreement apply to all Authorised Users who access or use the Services.

You are not permitted to register to use the Services, nor use the Services if you are located outside of the UK.

You are not permitted to use the Services as a medical device as that term is defined in Article 2 of the EU Medical Devices Regulations 745/2017 (MDR) for the purposes of the diagnosis, prevention, monitoring, prediction, prognosis, treatment or alleviation of disease.

IT IS AGREED BETWEEN THE PARTIES THAT:

1. Definitions

In this Agreement the following capitalized terms shall have the following meanings:

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| "Agreement" | means these Terms and Conditions, including the Terms of Use, the DPA and the Privacy Policy together with each Order Form; |
| "App" | means the QUIXXS app that must be downloaded by the Customer and its Authorised's users in order to use the Services; |
| "Authorised Users" | means employees, agents, consultants, independent contractors of the Customer who have agreed to the Terms of Use, downloaded the App and have been expressly authorised by the Customer to access the Services; |
| "Business Day" | means Monday to Friday excluding any national holiday in the UK; |
| "Company" | means Amnexis Holding Ltd, trading as QUIXXS; |
| "Confidential Information" | means any and all information in any form whatsoever relating to the Company or its business, prospective business, finances, technical process, computer software (both source code and object code) and IPRs or compilations of two or more items of such information, whether or not each individual item is in itself confidential, which comes into a party's possession as a result of this Agreement or provision of the Services, the Customer's patients and medical information about them, and which the disclosing party regards, or could reasonably be expected to regard, as confidential and any and all information which has been or may be derived or obtained from any such information; |
| "Consequential Loss" | means pure economic loss, special loss, losses incurred by any third party, losses arising from business interruption, loss of business revenue, goodwill or anticipated savings, losses whether or not occurring in the normal course of business, costs of procuring substitute goods, products or services or wasted management or staff time; |

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| “Customer Data” | means all patient data, video and sound recordings of patient consultations and all other data imported into the Services for the purpose of using the Services or facilitating the Customer’s or an Authorised User’s use of the Services and any output generated by the Services which is used, released or distributed by the Customer, once such output has been checked and manually corrected as necessary in each individual case, by the appropriate Authorised User; |
| “Customer” | means the company or person who completes the online registration form for use of the Services; |
| “Documentation” | means any training materials and user manuals relating to the use of the Services, as well as any additional documentation that the Company provides to the Customer to assist in the correction of any issue with the Services; |
| “DPA” | means the data processing agreement of the Company published at https://www.amnexus.com/quixxslegals , as amended from time to time; |
| “Effective Date” | means the date this Agreement commences as set out in the Order Form; |
| “Feedback” | means feedback, innovations, requests, reports, recommendations or suggestions created by the Customer or Authorised Users regarding the attributes, performance or features of the Services; |
| “Fees” | means the fees set out in the Order Form for the Services payable by the Customer during the Term; |
| “Force Majeure” | means anything outside the reasonable control of a party, including but not limited to acts of God, fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, war, rebellion, insurrection, sabotage, epidemic, pandemic, quarantine restriction, labour dispute, labour shortage, power shortage (including where the Company ceases to be entitled to access the Internet for whatever reason, server crashes) transportation embargo, failure or delay in transportation, any act or omission (including laws, regulations, disapprovals or failure to approve) of any government or government agency; |
| “Initial Term” | means the initial term set out in the Order Form, starting on the Effective Date; |
| “IPR” | means all copyrights, patents, utility models, trademarks, service marks, registered designs, moral rights, design rights (whether registered or unregistered), technical information, know-how, database rights, semiconductor topography rights, business names and logos, computer data, generic rights, proprietary information rights and all other similar proprietary rights (and all applications and rights to apply for registration or protection of any of the foregoing) as may exist anywhere in the world; |
| “Order Form” | means each online order (or signed order form) completed by the Customer to order Services; |
| “Other Services” | means any additional services to be provided to the Customer during the Term of this Agreement set out in any subsequent Order Form added to this Agreement after the Effective Date; |
| “Privacy Policy” | means the privacy policy of the Company published at: https://www.amnexus.com/quixxslegals , as amended from time to time; |
| “Renewal Term” | means the renewal term set out in each Order Form; |
| “Services” | means the web application services of the Company, ordered online by the Customer, and set out in each Order Form and confirmation invoice sent to the Customer during the Term; |

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| “Statistical Data” | means aggregated, anonymised data derived from the Customer or an Authorised User’s use of the Services which does not include any personal data or Customer Confidential Information; |
| “Term and Conditions” | means these terms and conditions of the Company published at: https://www.amnexus.com/quixxslegals , as amended from time to time; |
| “Term” | means the Initial Term together with any subsequent Renewal Term(s); |
| “Terms of Use” | means the Terms of Use published at: https://www.amnexus.com/quixxslegals , as amended from time to time, which the Customer and Authorised Users must agree to, before downloading the App. |

2 Provision of the Services

2.1 The Customer engages the Company and the Company agrees to provide the Services to the Customer in accordance with the terms of this Agreement from the Effective Date for the Term.

2.2 If the Customer wishes to purchase additional Services after the Effective Date, such Services shall be set out in one or more additional Order Forms, which will be incorporated into this Agreement.

2.3 It is a condition of using the Services that all Authorised Users agree to be bound by, and comply with, the provisions of the Terms of Use before they may access or use the Services.

3 Licence to use the Services

3.1 The Customer is granted a non-exclusive, non-transferable, revocable, licence to permit Authorised Users providing services within the UK to use the Services (including any associated IPR and Confidential Information of the Company) from the Effective Date for the Term for the Customer’s internal business operations. Such licence permits the Customer to make cache copies of software or other information necessary for the Customer to receive the Services via the Internet. Where open source software is used as part of the Services, such software use by the Customer will be subject to the terms of the open source licences. The Customer has no right to modify, adapt, or translate the Services or create derivative works from the Services. No additional implied rights are granted beyond those specifically mentioned in this clause 3.1.

3.2 Notwithstanding the Customer’s statutory rights, nothing in this Agreement shall be construed to mean, by inference or otherwise, that the Customer has any right to obtain source code for the software comprised within the Services and disassembly, decompilation or reverse engineering and other source code derivation of the software comprised within the Services is prohibited.

3.3 Unless otherwise specified in this Agreement, the Services are provided and may only be used in conjunction with:

- 3.4.1. The Customer’s existing systems and applications;
- 3.4.2. Providing access to the Services solely to Authorised Users; and
- 3.4.3. Accessing and using the Documentation as necessary to enable use of the Services.

3.4 The Customer may not, except as expressly permitted in this Agreement:

- 3.5.1. Lease, loan, resell, assign, licence, distribute or otherwise permit access to the Services; or
- 3.5.2. Use the Services to provide ancillary services related to the Services; or
- 3.5.3. Permit access to or use of the Services by or on behalf of any third party.

4 Intellectual Property Rights and Customer Data

4.1 All IPR and title to the Services and Documentation (save to the extent these incorporate any Customer Data, Customer IPR or third party owned item) shall remain with the Company and/or its licensors and subcontractors. No interest or ownership in the Services, Documentation, IPR or otherwise is transferred to the Customer under this Agreement.

4.2 The Customer shall retain sole ownership of all rights, title and interest in and to Customer Data and its pre-existing IPRs and shall have the sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data. The Customer grants the Company a non-exclusive, licence to use

Customer Data, Customer IPR and any third party owned item from the Effective Date for the Term to the extent required for the provision of the Services.

4.3 The Customer assigns all rights, title and interest in any Feedback to the Company. If for any reason such assignment is ineffective, the Customer shall grant the Company a non-exclusive, perpetual, irrevocable, royalty free, worldwide right and licence to use, reproduce, disclose, sub-licence, distribute, modify and exploit such Feedback without restriction.

4.4 The Customer grants the Company the perpetual right to use Statistical Data and nothing in this Agreement shall be construed as prohibiting the Company from using the Statistical Data for business and/or operating purposes, provided that the Company does not share any Statistical Data which reveals the identity of the Customer, Authorised Users or Customer's Confidential Information.

4.5 Any sub-processors named in the DPA who use AI tools to provide services on behalf of the Company and who have access to Customer Data are not permitted to use personal data or Confidential Data contained within Customer Data for the purposes of training their AI model. The Company will as far as this is possible, anonymise all sensitive patient data and Confidential Information before permitting such AI model to access such Customer Data.

4.6 The Company may take and maintain technical precautions to protect the Services from improper or unauthorised use, distribution or copying.

5 Term and Termination

5.1 This Agreement shall commence on the Effective Date for the Initial Term. On the expiry of the Initial Term, this Agreement shall automatically renew for successive Renewal Terms and continue until:

5.1.1 Either party terminates the Agreement by giving the other party at least 30 days notice in writing prior to the start of a Renewal Term; or

5.1.2 The Customer terminates the Agreement online via the account management page when logged into the Services.

5.2 The Company may terminate this Agreement or the provision of any Services with immediate effect if:

5.2.1 The Customer has used or permitted use of the Services in breach of the Terms of Use or other than in accordance with the terms of this Agreement; or

5.2.2 The Company is prohibited under applicable law, or otherwise from providing the Services.

5.3 Either party may terminate this Agreement immediately, with cause, if the other party:

5.3.1 Ceases or threatens to cease or carry on business; or

5.3.2 Is unable to pay its debts or enters into compulsory insolvency or voluntary liquidation; or

5.3.3 Convenes a meeting of its creditors or has a receiver, manager or similar official appointed in respect of its assets; or

5.3.4 Has an administrator, receiver, manager or similar official appointed; or

5.3.5 Is affected by a similar event under the law of any other jurisdiction; or

5.3.6 A Force Majeure event lasts for more than 14 days.

5.4 Either party may terminate this Agreement for material breach of any term by giving the breaching party written notice. However, where the breach is capable of remedy, provided that the breach is specified and remedy of the breach is requested, the notice shall only be effective if the breaching party fails to remedy the breach within 10 days of receipt of the notice.

5.5 Termination of this Agreement for any reason shall not affect the accrued rights of the parties arising under this Agreement and in particular without limitation the right to recover damages against the other. Clauses 3. (Licence), 4. (Intellectual Property Rights), 5. (Term and Termination), 6. (Ordering, Fees, Invoicing and Payment), 7. (Confidential Information), 8. (Data Protection) 10. (Liability), 11. (Indemnities), 13. (Assignment). 14. (Relationship between the Parties), 16. (Miscellaneous), 17. (Dispute Resolution) and 18. (Governing Law and Jurisdiction) shall survive the expiry or termination of this Agreement and shall remain in force and effect.

5.6 Upon termination of this Agreement the Customer shall promptly pay the Company all unpaid Fees and all licences granted under the Agreement shall terminate on the effective date of termination. The Company shall:

5.6.1 Cease providing the Services to the Customer;

5.6.2 At the option of the Customer, following receipt of a request from the Customer delete (in accordance with the terms of the DPA) or return, all Customer Data stored in the Company's database in a common machine readable format, free of charge, provided that such request is made within 14 days of termination. If the Customer requires any Customer Data to be returned in a different format the Company reserves the right to charge for this additional service.

6 Ordering, Fees and Invoicing and Payment

6.1 The Company is entitled to refuse any order placed by a Customer. If an order is accepted, the Company will confirm acceptance via email. The Company shall confirm the Fees payable for the Services ordered, in the invoice sent to the Customer with the acceptance email.

6.2 Fees for the Services are based upon usage and consist of a fixed fee and an excess usage fee. The fixed fee is based upon use of the Services each month, up to the number of hours stated in the invoice, ("Permitted Use"). Excess usage fees will be charged in addition, for all use of the Services in excess of the Permitted Use, each month.

6.3 All invoices shall be issued in the currency set out in the Order Form and shall be payable in full by the Customer. All Fees exclude any Value Added Tax, or other sales tax legally payable on the date of the invoice, which shall be paid by the Customer in addition, where applicable.

6.4 The Customer shall pay all Fees to the Company in advance, by credit card at the time of placing its first order and on the date of each subsequent invoice thereafter. The Fee is the applicable price for the Services set out in the Order Form

6.5 . The Company may increase the Fees at any time upon giving the Customer at least 30 days prior notice. The new Fees shall apply from the start date of the next Renewal Term after expiry of such 30 day period, ("Increase Date"). If the Customer does not agree with the increase in Fees, the Customer must terminate the Agreement prior to the Increase Date by giving the Company written notice or terminating the Agreement online via the account management page when logged in to the Services. If the Customer continues to use the Services after the Increase Date, the Fees shall be increased from the Increase Date.

6.6 The Customer undertakes that all details provided for the purpose of obtaining the Services will be correct and that any credit card details used are its own, and that there are sufficient funds or credit facilities to cover the Fees.

6.7 Where payment of any Fees is not received when due, the Company may:

6.7.1 Require the Customer to pay the outstanding invoice by another payment method within 7 days;

6.7.2 Without liability to the Customer, disable the Customer's password, account and access to all or part of the Services. The Company shall be under no obligation to provide any or all of the Services while any invoice remains unpaid.

6.8 The Company shall be entitled to charge interest on overdue Fees at the applicable statutory rate.

6.9 The Company reserves the right to recover any costs and reasonable legal fees it incurs in recovering overdue payments.

6.10 Unless otherwise explicitly stated in this Agreement, no Fees paid in advance shall be refunded for any reason. All credits expire at the end of the Initial Term or Renewal Term if not used and are not carried forward to the next Renewal Term.

7 Confidential Information

7.1 Each party may use the Confidential Information of the other only for the purposes of this Agreement. Each party must keep confidential all Confidential Information disclosed to it, except where the recipient of Confidential Information is required to disclose the Confidential Information by law to any regulatory, governmental or other authority with relevant powers to which either party is subject.

7.2 Each party may disclose the Confidential Information of the other party to those of its employees and agents who need to know the Confidential Information for the purposes of this Agreement, but only if the employee or agent is bound by confidentiality undertakings equivalent to those set out in this Agreement.

7.3 Both parties agree to return (or destroy) all documents, materials or data containing Confidential Information to the disclosing party without delay upon completion of the Services or termination or expiry of this Agreement.

7.4 The obligations of confidentiality under this Agreement do not extend to information that:

7.4.1 Was in the other party's lawful possession before the negotiations leading to this Agreement; or

7.4.2 Is, or after the Effective Date, becomes publicly known other than through any act or omission of the receiving party; or

7.4.3 Is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

7.4.4 Is independently developed by the receiving party, which independent development can be shown by written evidence; or

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

7.5 If either party is required to disclose any Confidential Information pursuant to clause 7.4.5 such party shall, where lawfully permitted to do so:

7.5.1 Promptly consult with and take into account any comments from the other party prior to making any disclosure; and

7.5.2 Work with the other party to ensure that any exemptions or other legitimate means of preventing disclosure or limiting disclosure are used to the fullest extent possible.

7.6 The parties acknowledge and agree that without prejudice to the general confidentiality provisions in this clause 7 and without limitation, all information falling within the definition of Confidential Information as set out in clause 1 of this Agreement and any information which is supplied by the disclosing party to the receiving party pursuant to this Agreement or the negotiation thereof is:

7.6.1 Confidential Information the disclosure of which by the receiving party would be an actionable breach of confidence; or

7.6.2 A trade secret of the disclosing party; and

7.6.3 Information, the disclosure of which would be likely to prejudice the commercial interests of the disclosing party or of any other person.

8 Data Protection

8.1 Each party undertakes to comply with its obligations under relevant applicable data protection laws, principles and agreements.

8.2 To the extent that personal data is processed by the Company when the Customer or Authorised Users use the Services via the Customer's account, the parties acknowledge that the Company is a data processor and the Customer is a data controller and the parties shall comply with their respective obligations under applicable data protection law and the terms of the DPA.

8.3 Where the Company collects and processes personal data of the Customer or an Authorised User for its own purposes, as a data controller, when providing the Services to the Customer or Authorised User such collection and processing shall be in accordance with the Privacy Policy.

8.4 If a third party alleges infringement of its data protection rights, the Company shall be entitled to take measures necessary to prevent the infringement of a third party's rights from continuing.

9 Representations and Warranties

9.1 Each party warrants and represents that:

9.1.1 It has full corporate power and authority to enter into this Agreement and to perform the obligations required hereunder;

9.1.2 The execution and performance of its obligations under this Agreement does not violate or conflict with the terms of any other agreement to which it is a party and is in accordance with any applicable laws; and

9.1.3 It shall respect all applicable laws and regulations, governmental orders and court orders, which relate to this Agreement.

9.2 The Company warrants to the Customer that it has the right to licence the Services.

9.3 The Company warrants and represents that the Services shall be performed with reasonable skill and care and in a professional manner in accordance with good industry practice.

9.4 The Company warrants to the Customer that the Services will operate to provide in all material respects the facilities and functions implemented by the Company. If there is a breach of this warranty, the Company shall use reasonable commercial endeavours, to correct any material defect or to replace the defective Services. Notwithstanding the aforesaid, the Company shall only be obliged to remedy any material defect if:

9.4.1 The Customer notifies the Company in writing immediately upon discovering the defect; and

9.4.2 Following the Company's examination of the Services, it is established that such a defect exists.

9.5 The warranties in clauses 9.2 to 9.4 inclusive shall not cover deficiencies or damages relating to:

9.5.1 Any third party components not provided by the Company; or

9.5.2 Any third party provided connectivity necessary for the provision or use of the Services; or

9.5.3 Compliance with third party software or products, non-Company programmes or data used in combination with the Services except as set out in the Agreement; or

9.5.4 A failure of the Services caused by the use or operation of the Services by the Customer or Authorised User with an application or in an environment other than that set out in the Agreement; or

9.5.5 Modifications made to the Services not carried out by the Company.

9.6 No warranty is made regarding:

9.6.1 The results the Customer can achieve from using the Services; or

9.6.2 That the Services will operate uninterrupted or error free; or

9.6.3 That the Services or the server that makes the Services available is free from any harmful components, including, without limitation, viruses; or

9.6.4 That information (including any instructions) or results or outputs provided within the Services is accurate, complete, or useful.

9.7 All third party content or information provided by the Company via the Services, for example via links to third party websites or services is provided "as is". The Company provides no warranties in relation to such content or information and shall have no liability whatsoever to the Customer for its use or reliance upon such content or information.

9.8 The Company and any applicable third-party provider of an AI tool used to provide the Services, make no representations or warranties of any kind, express or implied, in relation to any information, text or content generated via the AI tool, ("**Output**"). Output is based upon patient data recorded through the Services, ("**Input**") and the Company and any third-party provider of an AI tool have no liability whatsoever for the quality, accuracy, availability, suitability, reliability, or content of the Output.

9.9 The Company shall have no liability or responsibility resulting from the Customer or Authorised User's use of the Output or any errors or omissions contained in the Output. The Customer's Authorised Users must check and evaluate the accuracy of any Output before using it and must not rely on the Company to do this. The Customer acknowledges and agrees that the Company has no control over any use of the Output by the Customer or Authorised Users. Any use of Output is at the Customer's own risk. Prior to publication of any Output, it is recommended the Customer adds a disclosure that the Output was generated by AI tools.

9.10 The Customer warrants that:

9.10.1 It will only use the Services in the UK;

9.10.2 Use of the Services for the Customer's activities is lawful;

9.10.3 It has obtained explicit, prior written consent from all patients to collect, use and process their medical information, and records, (special category data) by the Company using artificial intelligence solely for the purposes of providing the Services;

9.10.4 It rightfully owns the necessary user rights, copyrights and ancillary copyrights and permits required for it to fulfil its obligations under this Agreement;

9.10.5 It shall not use the Services to collect, store or process any special category data, without first having obtained all necessary consents required from individuals;

9.10.6 It shall comply with, and shall ensure that Authorised Users agree to comply with, the provisions of the Terms of Use before using the Services.

9.11 The Customer warrants and represents that it and Authorised Users shall maintain reasonable security measures (as may change over time) covering, without limitation, confidentiality, authenticity and integrity to ensure that the access to the Services granted under this Agreement is limited as set out under this Agreement. In particular the Customer and Authorised Users shall treat any identification, password or username or other security device for use of the Services with due diligence and care and take all necessary steps to ensure that they are kept confidential, secure and are used properly and are not disclosed to unauthorised persons. Any breach of the above shall be immediately notified to the Company in writing. The Customer shall be liable for any breach of this Agreement by an Authorised User.

9.12 The Customer warrants and represents that it shall ensure that its network and systems comply with the relevant specification provided by the Company from time to time and that it is solely responsible for procuring and maintaining its network connections and telecommunications links from the Customer's systems to the Company'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.

9.13 The Company does not provide any guarantees or warranties about the availability of the Services or compliance with any service levels. However, the Company will use best efforts to make the Services available during the Term on Business Days with 99.9% availability (excluding any scheduled maintenance that is carried out from time to time).

9.14 The Company aims to respond to support requests and queries within 1 Business Day of receiving an electronic request for assistance.

9.15 Except as expressly stated in this Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to satisfactory quality and fitness for purpose) are excluded to the fullest extent permitted by law.

9.16 The Customer acknowledges that the geolocation format feature of the Services should not be used for high risk applications where precise locations or features on maps are essential to the Customer, for example use of the Services by the emergency services.

10 Liability

10.1 Neither party excludes or limits its liability to the other for fraud, death or personal injury caused by their negligent act or omission or wilful misconduct.

10.2 Neither party shall be liable for any Consequential Loss whether arising out of or related to this Agreement or in tort (including negligence or breach of statutory duty), misrepresentation or however arising, even if the party was advised of the possibility of such damages.

10.3 Neither party shall be liable for any loss of profits (whether categorised as direct or indirect) arising out of or related to this Agreement, whether based on contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, even if a party was advised of the possibility of such damages.

10.4 Subject to clauses 10.1 to 10.3 inclusive, the total liability of the Company to the Customer in aggregate (whether in contract, tort or otherwise) for any and all claims relating to or arising under this Agreement or based upon any claim for indemnity or contribution shall be limited to the total Fees (excluding all taxes) paid by the Customer to the Company during the 12 month period prior to the date on which any such claim arose. If the duration of the Agreement has been less than 12 months, such shorter period shall apply.

10.5 The Customer shall be liable for any breaches of this Agreement caused by the acts, omissions or negligence of any Authorised Users who access the Services as if such acts, omissions or negligence had been committed by the Customer itself.

10.6 The Customer shall not raise any claim under this Agreement more than 1 year after:

10.6.1 The discovery of the circumstances giving rise to a claim; or

10.6.2 The effective date of termination or expiry of this Agreement.

10.7 The parties acknowledge and agree that in entering into this Agreement, each had recourse to its own skill and judgement and have not relied on any representation made by the other, their employees or agents.

11 Indemnities

11.1 The Company shall at its own expense, defend or at its own option settle any claim brought against the Customer by a third party on the basis of an infringement of any IPR by the Services (excluding any claim deriving from any Customer provided item) and pay any final judgment entered against the Customer on such issue or any settlement thereof, provided that:

11.1.1 The Customer notifies the Company promptly of each such claim;

11.1.2 The Company is given sole control of the defence and/or settlement; and

11.1.3 The Customer fully co-operates and provides all reasonable assistance to the Company in the defence or settlement.

11.2 If all or part of the Services becomes, or in the opinion of the Company may become, the subject of a claim or suit of infringement, the Company shall at its own expense and sole discretion:

11.2.1 Procure for the Customer the right to continue to use the Services or the affected part thereof;

11.2.2 Replace the Services or affected part with another suitable non-infringing service or software;

11.2.3 Modify the Services or affected part to make the same non-infringing.

11.3 The Company shall have no obligations under clauses 11.1 and 11.2 above to the extent that a claim is based on:

11.3.1 A modification of the Services by anyone other than the Company;

11.3.2 The combination, operation or use of the Services with other services or software not provided by the Company if such infringement would have been avoided in the absence of such combination, operation or use; or

11.3.3 The use of the Services in any manner inconsistent with the terms of this Agreement; or

11.3.4 The negligence or wilful misconduct of the Customer.

11.4 Clauses 11.1 to 11.3 state the Customer's sole and exclusive rights and remedies and the Company's entire obligations and liability for any claims made under these clauses.

11.5 The Customer shall defend, indemnify and hold the Company and its employees, sub-contractors or agents harmless from and against any costs, losses, fines, liabilities and expenses, including reasonable legal costs arising from any claim relating to or resulting directly or indirectly from:

11.5.1 Any claimed infringement or breach by the Customer or an Authorised User of any IPRs with respect to use of the Services outside of the scope of this Agreement; or

11.5.2 Use by the Company of any Customer Data or item provided by the Customer or an Authorised User when providing the Services in accordance with the provisions of this Agreement; or

11.5.3 Any access to or use of the Services by an Authorised User in breach of the terms of this Agreement, and in particular any breach of the Terms of Use; and

11.5.4 Breaches of data protection law or regulations or the terms of the DPA by the Customer, or Authorised Users;

and the Company shall be entitled to take reasonable measures in order to prevent breaches of third party rights from continuing.

12 Security

12.1 The Company shall permit the Customer to determine which Authorised Users may access the Services by downloading the App.

12.2 The Customer and Authorised Users must ensure that each password is only used by the user to which it has been assigned. The Customer is responsible for any and all activities that occur under the Customer's account and via the Customer's passwords. The Customer will immediately notify the Company if the Customer becomes aware of any unauthorised use of the Customer's account, the Customer's passwords or breach of security known to the Customer. The Company shall have no liability for any loss or damage arising from the Customer's failure to comply with these requirements.

12.3 The Company may suspend access to the Services, or portion thereof, at any time, if in the Company's sole reasonable discretion, the integrity or security of the Services is in danger of being compromised by acts of the Customer or Authorised Users. The Company shall where possible in the circumstances give the Customer 24 hours written notice, before suspending access to the Services, giving specific details of its reasons.

13 Assignment

13.1 No party may assign or transfer its rights under this Agreement without the prior written consent of the other party, such consent shall not be unreasonably withheld, however the Company shall be entitled to assign the Agreement to:

13.1.1 Any company in the Company's group of companies; or

13.1.2 Any entity that purchases the shares or assets of the Company as the result of a merger, takeover or similar event, who is not a competitor of the Customer.

14 Relationship between the Parties

14.1 The Company and the Customer are independent contractors and nothing in this Agreement will be construed as creating an employer-employee relationship.

15 Contacts

15.1 The Customer shall provide a designated application support contact who will be responsible for and have sufficient information to respond to support questions.

15.2 The Customer shall provide a designated billing contact with all relevant contact information to respond to billing and payment questions regarding the Services.

16 Miscellaneous

16.1 Should a provision of this Agreement be invalid or become invalid then the legal effect of the other provisions shall be unaffected. A valid provision is deemed to have been agreed which comes closest to what the parties intended commercially and shall replace the invalid provision. The same shall apply to any omissions.

16.2 This Agreement constitutes the whole agreement and understanding between the parties and supersedes all prior agreements, representations, negotiations and discussions between the parties relating to the subject matter thereof.

16.3 Except with respect to the Customer's obligation to pay the Fees, if a party is wholly or partially unable to comply with its obligations under this Agreement due to Force Majeure, then that party's obligation to perform in accordance with this Agreement will be suspended for the duration of the Force Majeure. As soon as practicable after an event of Force Majeure arises, the party affected by Force Majeure must notify the other party of the extent to which the notifying party is unable to perform its obligations under the Agreement.

16.4 In the event of any inconsistency between the content of the Terms and Conditions, an Order Form, the Terms of Use, the DPA or the Privacy Policy, the Order Form shall prevail followed by the Terms and Conditions, the Terms of Use, the DPA, and then the Privacy Policy. If after the Effective Date any subsequent Order Form is signed by the parties and added to this Agreement during the Term and there is a conflict between the terms of such subsequent Order Form, its attachments and the Terms and Conditions, the newest Order Form shall prevail over the terms of any previous Order Form and its attachments, unless specifically stated otherwise in the subsequent Order Form.

16.5 Amendments to, or notices to be sent under this Agreement, must be given in writing and shall be deemed to have been duly given if sent by email to the email address used for billing purposes by each party. The Company may change or modify the terms of this Agreement, upon giving the Customer 30 days notice via email. All changes shall be deemed to have been accepted by the Customer unless the Customer terminates the Agreement prior to the expiry of the 30 day period.

16.6 Failure to exercise, or any delay in exercising, any right or remedy under this Agreement, or at law or equity, shall not be a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

16.7 Neither party shall make any public statement, press release or other announcement relating to the terms or existence of this Agreement, or the business relationship of the parties, without the prior written consent of the other party. Notwithstanding the aforesaid the Company may use the Customer's name and trademarks (logo only) to list the Customer as a client of the Company on its website and in other marketing materials and information.

16.8 Nothing contained in this Agreement is intended to be enforceable pursuant to any statutory rights that a third party may have in relation to this Agreement in any applicable jurisdiction.

17 Dispute Resolution

17.1 The parties will use their respective reasonable efforts to negotiate in good faith and settle any dispute that may arise out of or in relation to this Agreement and any breach of it.

17.2 If any such dispute cannot be settled amicably through ordinary negotiations of the sales directors of each party, the dispute shall be escalated in writing to the chief technology officer of the Company and the chief financial officer of the Customer who shall in good faith try and resolve the dispute. If the dispute or difference is not resolved within 14 days of the dispute being escalated the parties shall then be entitled to pursue their claim in accordance with clause 18 below.

18 Governing Law and Jurisdiction

18.1 This Agreement and any disputes arising under it, shall be governed by the laws of England. The courts of England shall have exclusive jurisdiction for the settlement of all disputes arising under this Agreement.

19 Territorial Restrictions

19.1 The Services are not intended to be used outside of the UK. The Company reserves the right to limit the availability of the Services or any portion of the Services, to any person, geographic area, or jurisdiction, at any time and in its sole discretion, and to limit the quantities of any content, program, product, service or other feature that the Company provides, where it reasonably suspects there is a breach of this restriction.