

The Software Bureau Ltd Clean Contacts – Terms and Conditions

1 Interpretation

1.1 In these Conditions and the Contract (which expression includes any attachments thereto) the following words and phrases shall, unless the context otherwise requires, have the following meanings:

1.1.1 'Conditions' means the standard terms and conditions for the grant of a licence as set out in this document (unless the context otherwise requires) and includes any special instructions which, if described as such and agreed in writing between the Licensor and the User, shall, in the event of and to the extent of any inconsistency between such special instructions and these Conditions, take precedence over these Conditions;

1.1.2 'Contract' means the contract for the licence to the User for access to the Application on these Conditions which is formed either on signature of the Licence Agreement by the User, or on any written quotation of the Licensor which is accepted by the User, or by the User clicking an "I Accept" or similar button, or by the User completing the registration page on the Clean Contacts website and confirming the User account or by the User's use of the Application;

1.1.3 'Data Usage Minimum Terms' means the terms upon which the User is entitled to access the Data as set out in Schedule One .

1.1.4 'Data' means the third party datasets made available to the User within the Application upon acceptance of the Data Usage Minimum Terms.

1.1.5 'Data Protection Legislation' means the Data Protection Act 2018 , the General Data Protection Regulation (GDPR) (EU) 2016/679, the Electronic Communications Data Protection Directive 2002/58/EC and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any legislation and/or regulations implementing them or made in pursuance of them including where applicable the guidance and codes of practice issued by the Information Commissioner and any successor legislation to the Data Protection Act 2018 or GDPR and "data controller", "data processor", "data subject", "personal data", "personal data breach" and "processing" (and "process" and "processes" shall be construed accordingly) shall have the meanings ascribed to them in the Data Protection Legislation.;

1.1.6 "Intellectual Property Rights" means all patents, copyrights, design rights, trademarks, service marks, trade secrets, know-how, database rights, actual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world;

1.1.7 'Clean Contacts website' means the website made available to the User for the purpose of accessing the Application and the Services.

1.1.8 "Modification" means:

1.1.8.1 any change or amendment to the Application; or

1.1.8.2 any new release of the Application which (in either case) from time to time is publicly marketed and offered for purchase by the Licensor in the course of its normal business;

1.1.9 "Specification" means the document detailing the specification of the Application published by the Licensor;

1.1.10 "Application" means:

1.1.10.1 the computer programs or services listed in the Contract and

1.1.10.2 any Modification which is accessed by the User during the subsistence of the Contract;

1.1.11 "Licence Fee" means the annual licence fee which is payable upon acceptance of the Contract (or in monthly instalments if applicable). As such licence fees are notified to the User from time to time via the Application or the Clean Contacts Website;

1.1.12 'Services' means the provision of the Data via the Application for the permitted purpose as set out in the Data Usage Minimum Terms

1.1.13 'Third Party Data Suppliers' means the suppliers of the Data

1.1.14 'User' means the company which has entered the Contract.

1.1.15 "User Data' means customer data controlled by the User and held within Microsoft Dynamics CRM which may include personal data

1.1.16 'User Database' means the defined set of User Data that the User will upload to the Application.

1.1.17 "Application User" means any employee or officer of the User;

1.2 The headings in these Conditions do not affect its interpretation. Save where the context otherwise requires, references to sub-clauses and clauses are to sub-clauses and clauses of these Conditions.

1.3 Unless the context otherwise so requires:

1.3.1 references to the Licensor and the User include their permitted successors and assigns;

- 1.3.2 references to statutory provisions include those statutory provisions as amended or re-enacted; and
- 1.3.3 references to any gender include all genders.
- 1.4 Any Contract shall have effect subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which the Contract is accepted or purported to be accepted.
- 1.5 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Licensor and the User.
- 1.6 The Licensor's employees or agents are not authorised to make any representations concerning the Application unless confirmed by the Licensor in writing. In entering into the Contract, the User acknowledges that it does not rely on any such representations which are not so confirmed.
- 1.7 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Licensor shall be subject to correction without any liability on the part of the Licensor beyond that set out in these Conditions.

2 Licence

- 2.1 In consideration of the payments due by the User to the Licensor pursuant to the terms of these Conditions, the Licensor hereby grants to the User for the term of the Contract pursuant to Condition 5 a non-exclusive, non-transferable and non-sublicensable licence to allow its Application Users to use the Application for the purpose of accessing the Services on the terms and conditions of the Contract. The User may access the Data through the Application for its own internal business purposes but subject always to the Data Usage Minimum Terms.
- 2.2 For the purpose of sub-clause 2.1 above, "use" of the Application shall be restricted (subject to any express provision in the Contract to the contrary) to use of the Application for the term of the Contract specified on the signature/commercial terms section of the Contract and any renewal term in accordance with Condition 5.
- 2.3 Except as expressly set out in the Contract, or as permitted by any local law, the User undertakes:
 - 2.3.1 not to rent, lease, sub-license, resell, loan, translate, merge, adapt, vary or modify the Application or deal with the licence and other rights granted to it under the Contract;
 - 2.3.2 not to make alterations to, or modifications of, the whole or any part of the Application nor permit the Application or any part of it to be combined with, or become incorporated into, any other programs;
 - 2.3.3 not to use in a way that is unlawful;
 - 2.3.4 not to use in connection with any material which contains computer viruses or malware or spyware or with any material which is designed to adversely affect the operation of computer hardware or software or any communications network;
 - 2.3.5 User not to provide or otherwise make available the Application or its associated content and data in any form to any third party in whole or in part;
 - 2.3.6 not to permit or enable use the Application via any communications network or by means of remote access except by its Application Users in accordance with the terms of the Contract.
 - 2.3.7 only to access the Data for its internal business purposes and not to provide any service or allow access to the Data by any third party.
 - 2.3.8 only to use the Data for the permitted purpose in accordance with the Data Usage Minimum Terms
- 2.4 The User shall comply with the terms and conditions of all third-party software, data and content licences concerning code, content or data contained in the Application or otherwise made available by the Licensor and accessed through the Application. A copy of these third-party licences are available on request.
- 2.5 User shall ensure compliance by the Users of the terms of the Contract and shall be responsible for all acts and omissions of the Users in respect of the Application and Contract.
- 2.6 The Licensor shall be entitled at any time on reasonable notice to the User to audit the User's compliance with the terms of the Contract.
- 2.7 The User shall accept the Data Usage Minimum Terms made available within the Application prior to access to the Application.

3 User Warranties

- 3.1 The User warrants to the Licensor:
 - 3.1.1 that information supplied in relation to the size of the User Database is complete and accurate in all material respects; and
 - 3.1.2 that the User Database will constitute the same set of User Data for the duration of the Agreement
 - 3.1.3 that it will notify the Licensor of any changes in the size or make up of the User Database without unreasonable delay.
 - 3.1.4 that, in the event that the size of the User Database exceeds the limit specified in the Contract or the User Database constitutes a different set of User Data, it will pay any increased or additional Licence Fee to the Licensor on demand

4 Payment

4.1 The User shall pay to the Licensor:

4.1.1 The Licence Fee specified within the contract (as amended pursuant to Condition 4.3) immediately via credit card (unless a separate credit contract has been made between the User and the Licensor as specified in the Contract).

4.1.2 The User hereby grants permission to the Licensor to deduct the relevant Licence Fee for each month of the Term from the credit card, details of which have been supplied by the User. In the event that the User cancels payment during the Term then the balance of the Licence Fee shall become immediately due and payable to the Licensor.

4.2 The Licence Fee shall be automatically due and payable in advance of access to the Application.

4.3 The Licensor shall have the right to change the licence fee with effect from the end of the then current licence term subject to giving the User not less than 30 days' notice. If the User does not agree with the change in licence fee, it shall discuss this with the Licensor as soon as reasonably practicable. If no Contract can be reached, the User shall have the right to terminate the Contract on giving to the Licensor not less than 30 days' written notice, to expire at the end of the then current licence term.

4.4 All amounts payable under the Contract shall be exclusive of VAT, which shall be charged in addition at the then prevailing rate.

4.5 Via the Application the Licensor shall maintain during the Term (and thereafter for such period as is required by applicable accounting standards or by law) records relating to usage of the Application by the User. The Licensor shall be entitled to audit such records to ascertain whether the User has exceeded the usage limits as set out in the Contract. If any audit reveals an underpayment of amounts due to the Licensor then a new Licence Fee shall be payable by the User.

4.6 If the User fails to pay any amount by the due date, the Licensor shall be entitled to:

4.6.1 charge interest on the overdue amount at a rate of 4% per annum above the rate then in force of Barclays Bank plc or at the rate prescribed by the Late Payment of Commercial Debts (Interest) Act 1998, as amended; and/or

4.6.2 suspend the licence and the Client's access to the Application and associated content and data; and/or

4.6.3 terminate the Contract.

4.6.4 No refunds or credits shall be given by the Licensor to the User for underusage of the Services or for any other reason.

5 Term

5.1 The Contract shall continue on an annual basis and shall automatically continue unless

5.1.1 terminated by either party by giving to the other not less than 14 days' written notice to expire at the end of the said annual term. Or

5.1.2 terminated pursuant to Condition 6

6 Termination

6.1 The User shall have the right, without prejudice to its other rights or remedies, to terminate the Contract pursuant to Condition 4.3.

6.2 Either party shall have the right, without prejudice to its other rights or remedies, to terminate the Contract immediately by written notice to the other if:

6.2.1 the other fails to pay any amount due pursuant to the provisions of the Contract; or

6.2.2 is in material or persistent breach of any of the provisions of the Contract; or

6.2.3 is in breach of any of the provisions of the Contract and the other shall have failed to remedy that breach within 30 days after receiving written notice requiring it to remedy that breach; or

6.2.4 is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986); or becomes insolvent; or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction); or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets; or enters into or proposes any composition or arrangement with its creditors generally; or is subject to any analogous event or proceeding in any applicable jurisdiction.

7 Consequences of Termination

7.1 Any termination of this Contract (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force on or after that termination.

7.2 Upon termination for any reason:

- 7.2.1 all rights granted to the User shall cease;
- 7.2.2 the User must cease all activities authorised by the Contract;

8 Warranty

8.1 The Licensor warrants that the Application will conform in all material respects to the Specification for 30 days from the date of the Contract (the "Warranty Period"). If, within the Warranty Period, the User notifies the Licensor of any defect or fault in the Application in consequence of which it fails to conform in all material respects with the Specification, and such defect or fault does not result from the Application having been amended or used for a purpose or in a context other than the purpose or context for which it was designed (as set out in the Specification), the Licensor shall, at the Licensor's option, do one of the following:

- 8.1.1 repair the Application; or
- 8.1.2 replace the Application; or
- 8.1.3 refund the relevant proportion of any paid licence fee.

8.2 The warranties in Condition 8.1 will apply to any Modification which is acquired by the User during the course of the Contract as though the references to the date of the Contract were references to the date on which such Modification was acquired.

8.3 The Licensor's obligations set out in Condition 8 shall be its sole obligation and the User's sole remedy in respect of a breach of the warranty at Condition 8

9 Limitation of liability

9.1 The User hereby agrees to afford the Licensor not less than thirty days (following notification thereof by the User) in which to remedy any default hereunder.

9.2 The Licensor shall have no liability to the User in respect of any default unless the User shall have served notice of the same upon the Licensor within three months of the date it became aware of the circumstances giving rise to the default or the date when it ought reasonably to have become so aware.

9.3 Any notice of default served on the Licensor pursuant to Condition 9.2 above shall be deemed to have been withdrawn unless proceedings in respect thereof have been commenced (being both issued and served) within three months of the date of giving such written particulars.

9.4 Nothing in this Condition shall confer any right or remedy upon the User to which it would not otherwise be legally entitled.

9.5 The price for the Contract is determined on the basis of the exclusions from, and limitations of, liability contained in these Conditions. The User expressly agrees that these exclusions and liabilities are reasonable because of (amongst other matters) the likelihood that the amount of damages awardable to the User for a breach by the Licensor of these Conditions may otherwise be disproportionately greater than the price for the Contract.

9.6 The User acknowledges that the Application has not been developed to meet the User's individual requirements, and that it is therefore the User's responsibility to ensure that the facilities and functions of the Application meet the User's requirements.

9.7 The Licensor only allows access to the Application for normal business use for the User's business (as defined in Condition 2.3).

9.8 The Licensor shall not under any circumstances whatever be liable to the User, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for loss of profits, sales, business or revenue; business interruption; loss of anticipated savings; loss or corruption of data or information, loss of business opportunity, goodwill or reputation; or any indirect or consequential loss or damage.

9.9 Other than the losses set out in Condition 9.8 (for which the Licensor is not liable), the Licensor's maximum aggregate liability under or in connection with the Contract whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to the licence fees actually paid to the Licensor by the User in the previous twelve-month period. This maximum cap does not apply to Condition 9.10.

9.10 Nothing in the Contract shall limit or exclude the Licensor's liability for:

- 9.10.1 death or personal injury resulting from the Licensor's negligence'
- 9.10.2 fraud or fraudulent misrepresentation;
- 9.10.3 any other liability that cannot be excluded or limited by English law.

9.11 The User acknowledges that the Data and content supplied by or through the Application is not the Licensor's proprietary data and content and further acknowledges that it is its responsibility to check that such Data and content has been properly processed before it uses or deletes the data and content. To the fullest extent permitted by law the Licensor disclaims and excludes any and all liability for loss or damage (whether direct or indirect or consequential or incidental or special) arising out of or in connection with the User's use of the Application or the Data files accessed by the Application including without limit any and all losses relating to or resulting from:

The Software Bureau Limited, Airport House, Purley Way, Croydon, CR0 0XZ

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9.11.1 the accuracy reliability completeness suitability or fitness for purpose of the Application or the data files which have been accessed by the Application

9.11.2 any reliance upon or use of or actions taken or not taken or decisions made on the basis of any data files which have been accessed by the Application

9.11.3 the inability at any time to gain access to the Application or the data files via the Application

9.11.4 any computer viruses or spyware or malware of any description or any material which might adversely affect the operation of any computer hardware or software or any communications network which affects the User as a result of the User accessing the Application or the data files via the Application.

9.12 This Contract sets out the full extent of the Licensor's obligations and liabilities in respect of the supply of the Application and associated data and content. Except as expressly stated in this Contract, there are no conditions, warranties, representations or other terms, express or implied, that are binding on the Licensor. Any condition, warranty, representation or other term concerning the supply of the Application and associated data and events which might otherwise be implied, or incorporated in, this Contract whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

10 Intellectual Property

10.1 No Intellectual Property Rights in the Application or any Modification belong or shall belong to the User but shall vest in and remain with the Licensor at all times.

10.2 The Licensor undertakes to defend the User from and against any claim or action that the possession, use, development, modification or maintenance of the Application (or any part thereof) in accordance with the terms of the Contract infringes the Intellectual Property Rights of a third party (an "Infringement Claim") and shall fully indemnify and hold harmless the User from and against any losses, damages, costs (including all legal fees) and expenses incurred by or awarded against the User as a result of or in connection with any such Infringement Claim. For the avoidance of doubt, the above indemnity shall not apply where the Infringement Claim in question is attributable to possession, use, development, modification or maintenance of the Application (or any part thereof) by the User other than in accordance with the terms of the Contract.

10.3 For the avoidance of doubt, references to Application in this Condition 10 exclude all Data and content associated with the Application and the User shall have no right against the Licensor in respect of such data or content.

10.4 The User agrees that:

10.4.1 the User shall as soon as reasonably practicable notify Licensor in writing of any Infringement Claim of which it has notice;

10.4.2 the User shall not make any admission as to liability or compromise or agree to any settlement of any Infringement Claim without the prior written consent of the Licensor which consent shall not be unreasonably withheld or delayed; and

10.4.3 the Licensor shall, on its written request and at its own expense be entitled to have the conduct of or settle all negotiations and litigation arising from any Infringement Claim and the User shall, at the Licensor's request and expense, give the Licensor all reasonable assistance in connection with those negotiations and such litigation.

10.5 If any Infringement Claim is made, or in the Licensor's reasonable opinion is likely to be made, against the User, the Licensor may at its sole option and expense:

10.5.1 procure for the User the right to continue using the Application (or any part thereof) in accordance with the terms of the Contract; or

10.5.2 modify the Application so that it ceases to be infringing; or

10.5.3 replace the Application with non-infringing Application;

10.6 Provided that if the Licensor modifies or replaces the Application, the modified or replacement Application must comply with the warranties contained in Condition 8.1 the User shall have the same rights in respect thereof as it would have had under those Clauses had the references to the date of the Contract been references to the date on which such modification or replacement was made.

11 Assignment and sub-licensing

11.1 The User shall have no right to grant sub-licences.

11.2 The User shall have no right to assign the benefit or burden of the Contract in whole or in part or to allow the Application or Contract to become the subject of any charge, lien or encumbrance.

12 Data Protection

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

12.2 The Parties agree that in respect of any part of the User Data that constitutes personal data the Licensor shall be the data processor and the User shall be the data controller. Where the Licensor is supplying personal data to the User, the Third-Party Data Supplier and the User will each be a Data Controller.

12.3 With regard to personal data processed under this Contract, the User when acting in its capacity as data controller shall: -

12.3.1 ensure that when it transfers the relevant personal data to the Licensor to process it has a legal basis for doing so that the Licensor in its capacity as data processor may lawfully process the data;

12.3.2 ensure that the data subject and/or relevant third parties have been informed of such use, processing, and transfer which is compliant with Data Protection Legislation and that the User's instructions comply with such legislation

12.3.3 take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental or unlawful loss, destruction, alteration, unauthorised disclosure of or damage or access to personal data transmitted, stored or otherwise processed;

12.3.4 upon receipt of a complaint from any data subject related to the User's use of the Data, (i) promptly notify the Licensor (ii) immediately cease using such data subject's details for marketing purposes; and (iii) follow any reasonable complaint handling procedure outlined by the Third-Party Data Supplier relayed to the User by the Licensor and (iv) respond to such complaint in accordance with the Data Protection Legislation;

12.3.5 not undertake any act or omission which would breach the Data Protection Legislation:

12.4 With regard to personal data processed under this Contract, the Licensor shall:

12.4.1 process the personal data only in accordance with the terms of this Contract and any lawful instructions reasonably given by the User from time to time;

12.4.2 ensure that any additional or replacement data processors it appoints in respect of the personal data, are appointed on terms that comply with the Data Protection Legislation and in any event shall remain fully liable to the User for performance of such data processor's obligations;

12.4.3 take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental or unlawful loss, destruction, alteration, unauthorised disclosure of or damage or access to personal data transmitted, stored or otherwise processed.

12.4.4 not process or transfer any such data outside the European Economic Area (EEA) without the User's prior consent;

12.4.5 assist the User with complying with data protection impact assessments in respect of the Licensor processes; and liaise with the relevant supervisory authority in respect of the processing undertaken by the Licensor where reasonably requested to do so;

12.4.6 make available to the User all information reasonably necessary to demonstrate compliance by the Licensor with the obligations applicable to them in this Contract, and allow for and contribute to audits, including inspections, conducted by the User, or where agreed by both parties (such agreement not to be unreasonably withheld) an auditor appointed by the User, upon giving no less than 10 working days' notice to the Licensor of the request to carry out an audit. It is agreed that such audit is to take place during normal working hours and at a mutually convenient time for the purpose of investigating and assessing the Licensor's compliance with the terms of this Contract and shall be subject to such conditions as the Licensor reasonably imposes in order to protect the confidentiality and security of its systems and data. Any information disclosed shall only be used for the proper conduct of the audit and any resulting action required and shall be treated as Confidential Information of the Licensor This right of audit may not be exercised other than in accordance with this Clause 12.4.6, nor more than once in any 12-month period, unless: (1) the User has reasonable grounds to suspect that the Licensor is in breach of its obligations under this Contract; or (2) otherwise required by applicable law or the direction of a supervisory authority;

12.4.7 promptly inform the User (together with provision of reasonable written justification at the same time) if it reasonably believes that compliance with any personal data processing instructions provided by the User would contravene Data Protection Legislation.

12.4.8 ensure that it immediately ceases processing personal data where this is required by Data Protection Legislation.

12.4.9 ensure that it maintains records of all categories of personal data processing activities carried out with, where relevant, such records containing:

(a) the name and contact details of all other data processors appointed by it;

(b) the name and contact details of its data protection officer (where appointed);

l the categories of data subject, types of personal data processing and duration of processing carried out by it;

(d) where applicable, details of transfers of personal data to a third country or an international organisation by it, including the identification of that third country or international organisation, and the documentation of suitable safeguards in respect of such transfers;

(e) a general description of the technical and organisational security measures implemented by it to safeguard the personal data and the processing of the personal data.

12.4.10 not divulge such personal data whether directly or indirectly to any person, without the User's express consent except to (i) those of its employees and sub-contractors that need to have access to the data and who are made aware of their legal obligations with regards to such data; (ii) the data subject, (iii) a supervisory body or; (iv) as required by Data Protection Legislation;

12.4.11 promptly carry out any request from the User or a data subject to respond to and/or requiring the Licensor to amend, transfer or delete all or any part of such Personal Data;

12.4.12 notify the User immediately upon receiving any notice or communication from any Data Subject, supervisory or government body which relates directly or indirectly to the processing of the Personal Data;

12.4.13 assist the User to respond promptly to all subject access requests which may be received from data subjects and (i) provide the User with all reasonable information and assistance relating to a personal data breach as requested by the User; (ii) comply with all reasonable steps as reasonably requested by the User in respect of managing such personal data breach and (iii) promptly undertake all such remedial actions as necessary to mitigate the consequences of the personal data breach, and to the extent reasonably possible, remedying the cause of the personal data breach;

12.4.14 notify the User, within 24 working hours of it becoming aware of a breach or a reason to suspect a breach of the terms of this Clause 12.4. or any personal data is lost, corrupted, used by or disclosed to a third party in breach of this Contract; and

12.4.15 establish business continuity plans in order to protect Personal Data in the event of unforeseen circumstances including fire protection and secure, regular back-ups.

12.4.16 not undertake any act or omission which would breach the Data Protection Legislation.

12.5 In the event that any of the above obligations, including without limitation under clauses 12.4.2, 12.4.5, 12.4.6, 12.4.11 and 12.4.13, cause the Licensor to incur material additional expense, the Licensor reserves the right to make reasonable additional charges where the User requests the Licensor to carry out such actions.

12.6 No personal data will be retained by the Licensor within the Application.

13 Indemnity

The User agrees that it shall ensure that it processes any data legally and shall indemnify the Licensor against any liability it may incur arising out of the default of the User with regard to the legitimate grounds for processing data.

14 General

14.1 No party shall be liable to the other for any delay or non-performance of its obligations under the Contract arising from any cause or causes beyond its reasonable control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion or failure in internet connection.

14.2 Each party agrees and undertakes that during the term of the Contract and thereafter it will keep confidential all, and will not use for its own purposes nor without the prior written consent of the other disclose to any third party unless required by law to do so any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party unless such information is public knowledge or already known to such party at the time of disclosure or subsequently becomes public knowledge other than by breach of the Contract or subsequently comes lawfully into the possession of such party from a third party. The provisions of this Condition 13.2 shall remain in full force and effect notwithstanding any termination of the Contract.

14.3 No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

14.4 If any provision of the Contract is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions will not be prejudiced.

14.5 Any amendment, waiver or variation of the Contract shall not be binding on the parties unless set out in writing, expressed to amend the Contract and signed by or on behalf of each of the parties.

14.6 Notices shall be in writing, and shall be sent to the other party marked for the attention of the person at the address set out for such party in the Contract. Notices may be sent by first-class mail. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 72 hours after posting.

14.7 The Conditions, the Contract and the documents annexed thereto or otherwise referred to therein contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter

14.8 This Contract shall be governed by and construed in accordance with English Law and each party hereby submits to the non-exclusive jurisdiction of the English Courts.

—Schedule One

DATA USAGE MINIMUM TERMS

The User acknowledges and agrees that the Product contains the Deceased, Goneaway and Movers information, which is licensed to the Product Reseller by Royal Mail Group Limited, REaD Group Limited and Wilmington Millennium Limited. The use by the User of this information is subject to the following terms (**Data Usage Minimum Terms**)

Definitions

- Batch Processing** the use of the Product to carry out automated electronic processing of a batch of User Records in a User Database against Deceased, Goneaway and Movers Information within the NCOA® Update, NCOA® Suppress databases, GAS, GAS Reactive, The Bereavement Register and Mortascreen databases for the purpose of identifying Matches;
- Confidential Information** any information of a confidential or proprietary nature (irrespective of the form, presentation or communication including computer software and data, physical objects and samples and, in the case of Royal Mail, the Redirection Information, whether before or after it is incorporated into a User Database) relating to the business, commercial, operations, Users, processes, budgets, product information, know-how and/or strategies of either party;
- Data Protection Legislation** the Data Protection Act 2018, the General Data Protection Regulation (GDPR) (EU) 2016/679, the Electronic Communications Data Protection Directive 2002/58/EC and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any legislation and/or regulations implementing them or made in pursuance of them including where applicable the guidance and codes of practice issued by the Information Commissioner;
- Decryption Process** the codes, methodology and/or medium to be deployed to decrypt, use or activate the Product;
- EEA** the European Economic Area comprising, for the time being, the EU member states, Norway, Iceland Liechtenstein and the United Kingdom;
- Enquirer** an individual or a company who, or which, has enquired with the End User about a service or product of the End User and/or has responded to an offer or invitation from the End User regarding information relating to such service or product;
- GAS Reactive** A product consisting of details of individuals with postal addresses within the UK who have moved and the new address of the individual who has moved which Product is updated and supplied together with the updates on the basis specified in this Agreement.
- Intellectual Property Rights** all intellectual property rights including copyright and related rights, database rights, trademarks and trade names, patents, topography rights, design rights, trade secrets, know-how, and all rights of a similar nature or having similar effect which subsist anywhere in the world, whether or not any of them are registered and applications for registrations, extensions and renewals of any of them;
- Match** a tracking match where through Processing, a name and address contained in the User Database is matched to a Moved Away Address, Moved To Address or Passed Away Address on each or any of NCOA ® Update Database, NCOA ® Suppress, GAS Reactive, The Bereavement Register or Mortascreen
- Mortascreen** a database containing individuals who are deceased and residing in the UK, including updates, arranged and supplied by Wilmington Millennium Ltd
- Moved Away Address** the name and address of a current or lapsed User or Enquirer of the End User which has been lawfully and fairly obtained by the End User solely for the purposes of marketing, commercial communications or user administration.
- Moved To Address** the name and address of a current or lapsed User or Enquirer of the End User which have been lawfully and fairly obtained by the End User solely for the purposes of marketing, commercial communications or User administration;
- NCOA® Suppress Database** a database containing Suppression Data selected, arranged and compiled by Royal Mail and stored on electronic media and including any updates to it
- NCOA® Update Database** a database containing redirection information selected, arranged and compiled by Royal Mail using data from the redirection forms completed by Redirection Users and stored on electronic media and including any updates to it;
- Passed Away Address** the name and address of a deceased customer or prospective customer of the End User which have been lawfully and fairly obtained by the End User solely for the purposes of marketing, commercial communications or customer administration
- Personal Data** has the meaning given to it in the Data Protection Legislation.
- Processing** has the meaning given to it in the Data Protection Legislation and **Process** and **Processes** shall be interpreted accordingly.
- Product** the product, service or solution which is modified or enhanced by, incorporated with, created using, derived from or involves the supply or includes the Deceased, Goneaway and Mover Information;
- Product Reseller The Software Bureau Ltd a company registered in England and Wales under registered number 02826490** whose office is registered at 5 White Oak Square, London Road, Swanley, Kent, BR8 7AG which is licensed by the Data Owners to use their products known as NCOA ® Update Database, NCOA

® Suppress, GAS Reactive, The Bereavement Register or Mortascreen in the Product and which directly or indirectly is providing access to the Product to the User;

Public Body any department, office or agency of Her Majesty's Government or any local government authority or agency or any other public authority;

REaD Group, REaD Group Limited a company registered in England and Wales under registered number 02959244 whose registered office is at The Pavilion, Newhams Row, London, SE1 3UZ

Royal Mail Royal Mail Group Limited, a company registered in England & Wales under registered number 04138203 whose registered office is at 100 Victoria Embankment, London, EC4Y 0HQ.

The Bereavement Register (also known as 'TBR') a product arranged and compiled by REaD Group consisting of details of individuals in the United Kingdom who have died and is updated and supplied together with the updates on the basis specified in this Agreement.

User the individual, company or other legal entity hereby entering into a User Contract with the Product Reseller which is the owner or licensor of the User Database;

User Contract the agreement between the Product Reseller and the User which incorporates these Data Usage Minimum Terms;

User Database an electronic compilation of User Records;

Wilmington Millennium, Wilmington Millennium Ltd a company registered in England and Wales under registered number 08069752 whose registered office is at 5th Floor, 10 Whitechapel High Street, London, E1 8QS.

Moved To Permitted Purpose carrying out Processing and in relation to any Match, updating the User records by either (i) replacing the Moved Away Address of the existing User or Enquirer of the User which forms part of the relevant User Record with the relevant Moved To Address or (ii) appending the relevant Moved To Address to the Moved Away Address in the User Record and (iii) for the avoidance of any doubt, the Permitted Purpose shall not, in accordance with Data Protection Legislation, include sending any marketing to individuals, and (iv) for the avoidance of doubt the User shall not use the Product for contacting anyone other than an existing customer or prospect of the User;

Suppression Permitted Purpose carrying out Processing and in relation to any Match (i) providing a permanent flag against the Moved Away Address of the relevant existing customer or prospective customer to whom the Match relates (ii) for the avoidance of any doubt, the Permitted Purpose shall not, in accordance with Data Protection Legislation, include sending any direct marketing to individuals;

For the avoidance of doubt the purpose shall not permit the User to use the Deceased, Goneaway and Mover Information for the purpose of assessing creditworthiness; for sub licensing, selling or otherwise disclosing or making available the Deceased, Goneaway and Mover information to any third party acting as a credit reference agency or as a supplier of information used for assessing creditworthiness; in the case of Moved To Addresses for contacting anyone other than an existing customer or prospect of the User.

For the avoidance of doubt the purpose shall not permit the use of The Bereavement Register for the purpose of debtor tracing.

For the avoidance of doubt the purpose shall not permit the flags or data generated from the use of Mortascreen to any company that amalgamates deceased data from the provision of deceased data from third parties 'The Consortium'. The Consortium refers to OBIT, and includes any other companies that collect deceased data in a similar manner;

Licence

In consideration of the User complying with these Data Usage Minimum Terms, the Product Reseller grants to the User a non-exclusive, non-transferable, revocable sub-licence in the EEA to access and use the Deceased, Goneaway and Mover information accessed as part of its use of the Product for the Permitted Purpose only. The User shall in no circumstances use or allow the use of the Deceased, Goneaway and Mover information for the purpose of detecting fraud or money laundering.

The User warrants and undertakes to ensure that any User Database (in respect of which Processing is being performed using the Product) is owned or licensed by the User for the User's own use and comprises only User Records used for the purposes of marketing, commercial communications and routine administration. In each case, the address in each User Record will be complete to the best of the End User's knowledge prior to Processing.

The User must:

ensure that the Deceased, Goneaway and Mover information supplied by way of a Match is immediately integrated into the User Records; and

not try to access, extract, utilise or process the Deceased, Goneaway and Mover information except through Processing and not carry out any Individual Look Ups or any other means of looking up information concerning a specific individual.

The User must pay the Product Reseller a subscription fee for all Matches it obtains through its use of the Product for or as part of services provided in respect of the User Database.

The Software Bureau Limited, Airport House, Purley Way, Croydon, CR0 0XZ

Registered in England No: 2826490

On entering into a User Contract, the User shall provide their legal entity details to the Product Reseller User and warrants that it has obtained all necessary consents or has otherwise established a lawful basis to update User Databases under the Data Protection Legislation.

The User must not modify the Product at any time and must not pass the Product or copies thereof nor the Decryption Process to any third party. The User agrees to indemnify and keep indemnified The Software Bureau, Royal Mail, The REaD Group and Wilmington Millennium against all losses, costs, claims and damages suffered or incurred by them directly or indirectly as a result of a breach of any provision of these Data Usage Minimum Terms by the User.

At any time during the term of the User Contract, on the provision of two Working Days' notice from the Data Owners, the User shall give the Data Owners and its agents reasonable accompanied access during working hours to its premises, computer systems, accounts, documents and records for the purpose of verifying and monitoring the User's compliance with these Minimum Terms.

The User shall ensure the centralised allocation and storage of all material relevant to the Decryption Process. The User shall, in addition, ensure that all details and data concerning the Decryption Process are treated as Confidential Information and shall provide details of the Decryption Process to its own employees or subcontractors only on a strictly 'need to know' basis for the purpose of performing its obligations under these Minimum Terms.

Liability of the Data Owners

The User acknowledges that the Data Owners do not warrant:

the accuracy and/or completeness of the Deceased, Goneaway and Mover information;

that the NCOA® Update including all other New Address Database and suppression sources contains the names and addresses of all Redirection Users or movers; nor

that the NCOA® Update including all other New Address Database and Suppression sources does not infringe the Intellectual Property Rights of any third party.

The User agrees that The Software Bureau, Royal Mail, The REaD Group and Wilmington Millennium will not be liable for any loss or damage (whether direct or indirect) however arising from the use by the User of the Deceased, Goneaway and Mover information. The User acknowledges that The Software Bureau and the Data Owners will not be liable to the User in respect of its use of the Product.

The User acknowledges that the Data Owners will not be obliged in any circumstances to provide Deceased, Goneaway and/or Movers Information or related services directly to the User.

Property Rights in Deceased, Goneaway and Movers information

The Intellectual Property Rights in Deceased, Goneaway and Movers information supplied to the User as part its use of the Product shall remain at all times the property of Royal Mail, REaD Group or Wilmington Millennium as appropriate.

The User will not do or permit the doing of anything within its control which will prejudice in any way whatsoever the name of Royal Mail, REaD Group or Wilmington Millennium as appropriate or the rights of Royal Mail, REaD Group or Wilmington Millennium as appropriate in the Deceased, Goneaway and Mover information and will give immediate notice to Royal Mail, REaD Group or Wilmington Millennium as appropriate upon the User becoming aware of anything which may prejudice the name of Royal Mail, REaD Group or Wilmington Millennium as appropriate or the rights of Royal Mail, REaD Group or Wilmington Millennium as appropriate in the Deceased, Goneaway and Mover information.

The User undertakes to the Data Owners that it will give immediate notice upon it becoming aware of any unauthorised use of the data or any other of the Intellectual Property Rights of the Data Owners.

The Data Owners may bring any action for any such unauthorised use on behalf of itself and at its cost and the User shall co-operate fully in any such action. The User is not granted any separate right of action relating to the Intellectual Property Rights of the Data Owners in respect of any such unauthorised use and disclaims any such separate right that it may have insofar as such a disclaimer is permitted by Law.

Upon termination of the User Contract, the licence in Clause 2 shall continue in respect of the Deceased, Goneaway and Mover information that has been supplied to the User through its use of the Product and incorporated into the User Database as at the date of termination provided that the User continues to use, such Deceased, Goneaway and Mover information only for the Permitted Purpose and in accordance with the limits on use of the Deceased, Goneaway and Mover information contained in these Data Usage Minimum Terms which shall continue to operate in respect of such Deceased, Goneaway and Mover information after the termination of the User Contract.

Data Protection

For the purposes of this clause 5 "data controller", "data processor" "personal data" and "processing" (and "process" and "processes" shall be construed accordingly) shall have the meanings ascribed to them in the Data Protection Legislation.

The Parties' attention is drawn to the Data Protection Legislation. The Parties' acknowledge and agree that it is the factual arrangement between them which dictates the role and status of each party under Data Protection Legislation in respect of processing any personal data under User Contract. Notwithstanding the foregoing, the parties anticipate that they shall, subject to the terms of this Agreement, each separately determine the purposes for which and the manner in which any personal data is required to process in connection with the User Contract, and therefore, for the purposes of the User Contract, are each a data controller in respect of such personal data.

The User acknowledges and agrees that the Data Owners are data controllers in respect of any personal data contained in the Deceased, Goneaway and Movers Information.

The User acknowledges and agrees that in entering into the User Contract, it processes personal data under the Data Protection Legislation. The User acknowledges that these Data Usage Minimum Terms are structured in order to comply with the Data Protection Legislation. The User undertakes that it will not do or omit to do any act which would place Royal Mail, The Software Bureau, REaD Group or Wilmington Millennium in breach of the Data Protection Legislation.

Each party undertakes to the other that it will duly observe all its obligations under the Data Protection Legislation which arise in connection with these Minimum Terms.

The User agrees to comply with the Data Protection Legislation as they apply to its use of the Deceased, Goneaway and Mover (including compliance with any data protection notices and opt out/opt in wording on the Redirections Form as amended from time to time by Royal Mail) and to make any notification required under the Data Protection Legislation.

Confidentiality

The User agrees that it shall, in relation to any Confidential Information:

keep it confidential and not disclose it to any other person other than to its professional advisers, employees, agents and sub-contractors on a need to know basis;

not copy or reproduce any part of the Confidential Information except as permitted under these Minimum Terms without the prior written approval of the other party;

apply to the Confidential Information no lesser security measures and degree of care than those which it takes in protecting its own confidential information and in any event no less than that which a reasonable person or business would take in protecting its own confidential information; and

use the Confidential Information only for the purposes of these Minimum Terms.

General

The Product Reseller may terminate the User Contract with immediate effect if the User brings any of the Data Owners into disrepute or fails to comply with these Minimum Terms. If the Reseller Agreement expires or is terminated for any reason, the User Contract will automatically be terminated.

The User acknowledges and agrees that these Minimum Terms are given for the benefit of the Data Owners. That the Data Owners may enforce the benefits conferred on it under these Minimum Terms as if it were a party to the User Contract, in accordance with the Contracts (Rights of Third Parties) Act 1999. The User further acknowledges and agrees that Royal Mail shall bring any action for any unauthorised use of its Intellectual Property Rights in the Deceased, Goneaway and Mover Information on its own behalf.

Except as set out at Clause 7.2 above, a person who is not a party to the User Contract may not enforce any of its provisions under the Contracts (Rights of Third Parties) Act 1999.

These Minimum Terms may not be varied by the User or the Product Reseller without the prior written consent of the Data Owners.