

STANDARD TERMS FOR THE SUPPLY OF MEDIKIND PRODUCTS AND SERVICES ("TERMS")

I. INTRODUCTION

These Terms together with the Order, shall apply to and govern the purchase by Customer of MediaKind's Hardware, Software, Services, Subscription Products, Cloud Services and/or Solutions (collectively referred to herein as "Products") specified in the Order to which these Terms are attached or referenced. Any other terms and conditions set out or referred to in a PO or any other document or communication from the Customer are hereby excluded. In the event of a conflict or ambiguity between these Terms and any provisions contained in any document forming part of the Order, the order of precedence to resolve that conflict shall be, in order of priority: Section I of these Terms, the Order, the remaining provisions of these Terms, any agreed amendments and any other document.

2. DEFINITIONS

In these Terms the following terms shall have the following meanings:

Acceptable Use Policy: the latest version of Supplier's acceptable use policy posted on its website and as updated from time to time;

Acceptance Tests: tests designed to verify substantial conformity of the Products with the Product Description, agreed between the parties in writing prior to Delivery, or in the absence of those, Supplier's standard test procedures;

Acceptance: has the meaning given to it in Section 3.3;

Affiliate: a company (i) controlling; (ii) controlled by; or (iii) under common control with Supplier or Customer as appropriate;

AI or Artificial Intelligence: means the ability of a machine-based system to apply analysis and logic-based techniques to data in order to solve problems and/or perform tasks (and to improve each of the aforesaid as more data is analyzed), and may include deep learning and generative AI (being AI that relies on mathematical models created by identifying and optimizing patterns from data to generate AI Output);

AI Output: any text, graphics, video, image, audio, data or other materials generated by any AI feature of the Products from Content during their normal and proper use by the Customer (and its Authorized Users) in accordance with these Terms;

Authorized Users: any person installing, configuring or using the Products with Customer's permission;

Cloud Services: Supplier's range of as-a-service solutions, as determined from time to time by Supplier, being any distinct, subscription, cloud-based, on-demand solution hosted, operated and maintained by Supplier (or which may be hosted by Customer) and made available to Customer pursuant to the Order;

Confidential Information: information that is proprietary or confidential to a party and is either clearly labelled as such or otherwise identified as being confidential;

Content: any text, graphics, video, images, audio or any other media, information, material or content (including metadata and Customer Data) that the Customer introduces into or makes available through, or which resides on or is transferred or transmitted over or using the Products;

Customer Data: any data whether text, drawings, diagrams, images or other information (including personal data) that is inputted to, collected by and/or stored by or within, and/or AI Output generated by, the Products during their normal and proper use by the Customer (and its Authorized Users) in accordance with these Terms;

Customer/You: the business entity placing the Order, a PO, or entering into relevant SOWs, with the Supplier;

Defect(s): material defects caused by defective material, workmanship or design which result in a failure of the Products to substantially conform to the Product Description;

Delivery: delivery as set forth in Section 3.1;

Hardware: hardware (including any purpose-built platform that houses software), documentation and other tangible deliverables or equipment that the Supplier has agreed to supply under the Order;

IPR: patents, trademarks, service marks or business names, registered designs, copyrights, design rights, utility models, topography rights, applications to register any of the aforementioned rights, trade secrets, know-how and rights of confidence and any other intellectual or industrial property rights of any nature whatsoever in any part of the world;

Metered Consumption: where payment for a Subscription Product is based on actual monthly metered usage (e.g. number of channels, live events, subscribers/end-users, or storage, capacity, throughput, or other usage variable) calculated in accordance with the fees and pricing set out in the Order and may be paid in advance (pre-paid) and/or paid in arrears (pay-as-you-go), and may be subject to Usage Quotas;

Open Source Software: open source software and libraries;

Order: if purchasing online or via a web-based "click to buy" process, the acceptance of an offer from the Supplier by Customer taking a required step to confirm the purchase (e.g. by clicking an offer acceptance button such as "Accept Offer", "Place Order", "Activate", "Subscribe", etc.), or by taking such other steps as may otherwise be stipulated by Supplier, to complete the purchase of a Product (or Solution); or, if other purchase method used, a written quote or proposal from the Supplier for a Product (or Solution) confirmed by an associated PO issued by Customer, or an agreed SOW or other document accepted in writing by Supplier;

Permitted Purpose: installation, configuration and, access or use, for normal business purposes, of Products, for the purpose identified in, and subject to any restrictions contained in, the Order or applicable user documentation

(including without limitation restrictions on the numbers of Authorized Users, storage capacity, channels, copies, etc.), or in the absence of an explicit purpose, limited to the ingest, storage, processing, packaging and delivery of Content in connection with the Customer's provision of media services to its subscribers;

PO: a purchase order or any other document for the purchase of Products issued by Customer and accepted in writing by Supplier;

Product Description: the description and specification of each Product's technical capabilities (including, where relevant, the function of each Product within a Solution, as described or set out in a "Solution Overview") as set out in an applicable Order, PO or SOW or, in the absence of such, Supplier's standard product data sheets;

Products: Hardware, Software, and/or Services, including Subscription Products, Cloud Services and Solutions;

Services: such services (excluding Cloud Services) as Supplier agrees to provide pursuant to the Order, and which may include without limitation systems integration, installation, commissioning, training, and maintenance and support services (all of which may be stated as being included in a purchase or that is available for purchase separately);

Software: any computer program, firmware or other software products owned or distributed by Supplier that Supplier has agreed to supply or make available to Customer under the Order, including, but not limited to, any related components, APIs, SDKs, associated media, printed materials, online or electronic documentation, and any updates, maintenance releases, bug fixes, corrections, enhancements, or other modifications thereto;

Solution: a combination of Products contained in a single offer;

SOW: any statement of work, services schedule, project outline, or similar document agreed in writing by the parties describing the scope of Products being purchased;

Subscription Products: Cloud Services and any other Products which are sold and/or licensed for a fixed term and/or on a subscription basis under the Order;

Subscription Term: the license period for Subscription Products as more particularly described in Section 14.2 below;

Supplier/MediaKind: the applicable MediaKind entity supplying Products under the Order;

Territory: those countries specified in the Order or in the absence of that, any country in which the Customer intends importing, possessing or using the Products (as the case may be);

Third Party Products: software or other products and services not created or produced by Supplier that are included as part of or incorporated into the Products (and which may be separately branded);

Usage Management: the monitoring, auditing and management of Customer's use of the Products;

Usage Quota(s): a fixed amount of Metered Consumption, if/where specified in the Order, which may be (i) "soft-

capped" meaning it can be exceeded subject to payment of the additional fees set out in the Order, or (ii) "hard-capped" meaning it cannot be exceeded without Supplier's consent per Section 5.9.

3. DELIVERY, INSTALLATION AND ACCEPTANCE

3.1 **Delivery.** The Delivery term for:

(a) Hardware supplied pursuant to the Order shall be (i) where payment is to be made by letter of credit, CPT to Supplier's nominated airport, (ii) for Orders with a shipping destination in the USA, DDP to agreed destination, and (iii) for all other Orders, FCA named place on Supplier's Order acknowledgement or if none stated, place of manufacture, in each case unless the parties agree otherwise. Any agreed trade term shall be construed in accordance with the Incoterms in force at the formation of the Order;

(b) Software (including software running on Hardware) supplied pursuant to the Order shall be FCA origin. For any Software where the method of delivery is via secure FTP, Delivery of such Software to Customer shall be deemed completed when Supplier notifies Customer in writing that the Software is available for download from the secure FTP site; or,

(c) Services supplied pursuant to the Order, as stated in that Order.

3.2 The installation method shall be as stated in the Order. Unless stated otherwise in the Order, Customer is responsible for installation of all Products.

3.3 **Acceptance.** Where the Order:

(a) is for Delivery only of Hardware and/or Software (e.g. no installation or deployment Services), unless the supplied Hardware and/or Software is rejected by Customer for a Defect within ten (10) business days of Delivery, then Acceptance of such Hardware and/or Software shall be deemed to have occurred; or

(b) is for Cloud Services only (e.g. no installation or deployment Services), Acceptance occurs upon the earlier of Supplier certifying the Cloud Services as ready to use or Customer using those Cloud Services; or

(c) includes installation or deployment Services to be provided by the Supplier, then Acceptance occurs in accordance with the processes set out in Section 3.4 below.

Notwithstanding the aforesaid, Acceptance shall be deemed to have occurred upon Customer putting supplied Products into operation or use.

3.4 **Acceptance Tests.** Where Section 3.3(c) applies, either:

(a) Supplier shall certify the purchased Products as ready to use upon successful completion of Supplier's standard test procedures; or,

(b) if specific Acceptance Tests have been agreed in the Order, such tests shall be conducted by the Supplier in such manner (and for Hardware or Software, at such site(s), and at such times) as specified in the Order, and (i) if the purchased Products pass the Acceptance Tests Supplier shall prepare and Customer agrees to promptly sign an acceptance certificate classified as a "Pass" and Supplier shall be entitled to invoice Customer for any payment corresponding to Acceptance referred to in these Terms or the Order; (ii) if the purchased

Products fail the Acceptance Tests but such failure would not prevent the Products being put into operation or being used (as applicable) (such failures being "Minor Defects"), Supplier shall prepare and Customer agrees to promptly sign an acceptance certificate classified as "Conditional Pass" with a list of identified Minor Defects and Supplier shall be entitled to invoice Customer for any payment corresponding to Acceptance referred to in these Terms or the Order, and Supplier shall use commercially reasonable efforts to remedy such identified Minor Defects within thirty (30) business days of the issue of the Conditional Pass certificate; (iii) if the purchased Products fail the Acceptance Tests and such failure is not for Minor Defects, Supplier shall endeavor to remedy the substantial non-conformities and shall notify Customer when the remedy for the identified substantial non-conformities is ready for testing whereupon the Acceptance Tests shall be repeated with particular attention to the previously identified substantial non-conformities and the provisions of this Section 3.4(b) shall apply to the repeated Acceptance Tests.

3.5 Delay. Where an express date for Acceptance (or in the case of a Delivery only Order, Delivery) has been agreed in writing by the parties, if Acceptance (or where applicable, Delivery) is not achieved within ten (10) business days of the date(s) so agreed, Customer shall have the right to recover from Supplier by way of liquidated damages an amount equal to 1% of the price for the purchased Products which cannot be put into operation or used in consequence of the delay for each complete week that Acceptance (or where applicable, Delivery) is delayed, up to a maximum of 10% of the price for such Products.

3.6 Liquidated damages shall not be payable for any delay arising in consequence of Force Majeure or to the extent that Customer or any third party acting on Customer's behalf is responsible for the delay, or if Customer fails to fulfil any of its obligations as specified in the Order.

3.7 Liquidated damages payable under Section 3.5 shall represent Supplier's entire liability to Customer and Customer's sole remedy in respect of any delays in achieving Acceptance (or where applicable, Delivery).

3.8 Customer shall not be entitled to terminate the Order as a result of delay until the maximum amount of liquidated damages has become payable under Section 3.5, following which Customer may terminate that Order in accordance with the provisions of Section 14.3 below.

3.9 The Parties acknowledge and agree that the foregoing liquidated damages in Section 3.5 are commercially justified based on the respective positions of the parties albeit that such liquidated damages may not prove to be an accurate reflection of the true loss suffered in any particular case.

4. VARIATIONS

4.1 Customer may request changes to the Order (a "Change Request") in accordance with the procedure in this Section 4.

4.2 Upon receipt of a Change Request, Supplier shall allocate a reference number to the Change Request and shall undertake an impact assessment as to whether the requested changes are feasible and achievable and, if so, shall provide to Customer a quotation (a "Change Request Quote") setting out the impact (if any) of such changes (including price, payment terms and any other provisions of the Order). Supplier shall use commercially

reasonable efforts to provide such Change Request Quote within ten (10) business days of a Change Request except in the case of major Change Requests requiring a significant amount of additional work, such as an investigation of the technical feasibility of such a Change Request, in which case Supplier shall promptly notify Customer of the expected time for delivery of a Change Request Quote.

4.3 Should Customer wish to proceed with the Change Request, it shall instruct Supplier in writing accordingly as soon as reasonably practicable but in any event not later than fifteen (15) business days after receipt of the Change Request Quote. Those parts of the Order affected by the Change Request will then be deemed to be modified accordingly (a "Variation"). Customer shall take such steps as are necessary to give effect to any change to the price, payment or other terms of the Order as set out in the Change Request Quote or otherwise agreed in writing by the parties.

4.4 Until Customer formally accepts a Change Request Quote in accordance with Section 4.3, Supplier shall continue to perform and be paid as if the Change Request had not been made.

4.5 Except as provided above, no amendment, variation or modification shall be made to the Order unless agreed in writing by a duly authorized representative of each party.

5. PRICE, FEES AND PAYMENTS

5.1 Payment Terms. Unless explicitly stated otherwise in the Order: (i) all Supplier quotes, proposals and offers remain valid for thirty (30) days after issue, (ii) fees and prices do not include sales, use, value added or goods and services taxes, which, where appropriate, such taxes will be added to invoices and paid by Customer unless Customer provides Supplier with evidence of payment or certificate of exemption, (iii) all invoices shall be paid within 30 days of invoice date, in the currency stipulated in the invoice, (iv) fees paid are non-refundable, and (v) all Orders shall be 100% invoiced upfront and payable in full forthwith following receipt of invoice, *unless* Supplier has agreed to grant credit and Customer is within its credit limit in which case fees and any other charges due shall be paid by Customer as follows:

(a) for Delivery only Orders of Hardware: (i) 30% invoiced on placing of the Order, payable forthwith and in any event prior to shipment of the Hardware; and (ii) 70% invoiced on the earlier of shipment or Delivery of the Hardware; or

(b) for Delivery only Orders of Software, 100% invoiced on shipment; or

(c) where an Order for Hardware or Software includes Acceptance Tests as provided in Section 3.4 (i) 30% invoiced on the placing of the Order, payable forthwith and in any event prior to shipment; (ii) 60% invoiced on the earlier of shipment or Delivery; and (iii) 10% invoiced on Acceptance; or

(d) for Subscription Products included in an Order (a) upfront or minimum payments will be invoiced in advance (pre-pay) as specified in the Order, and/or (b) Metered Consumption will be invoiced monthly in arrears (pay-as-you-go); or

(e) for one-time Services included in an Order, 100% invoiced upfront; or

(f) for Services included in an Order that are chargeable on a time and materials basis, monthly in arrears.

5.2 Price Review. For Subscription Products, Supplier shall be entitled to increase the pricing and/or fees payable under the Order, (i) if the Order is for a fixed minimum period, at the start of each Renewal Period, or (ii) if the Order has no fixed minimum period, once per calendar year; in both cases, upon 120 days' prior notice (email being sufficient) to the Customer.

5.3 No Set-Off. No payment shall be deemed to have been received until Supplier has received cleared funds. Any payments made by Customer shall be made without any set off or counterclaim whatsoever.

5.4 Milestone Payments. Where any milestone defined in the Order ("Milestone") is delayed for a period exceeding 30 days beyond the anticipated date for achieving such Milestone due to reasons not attributable to Supplier, then any payment linked to such Milestone shall become due and payable on the expiry of such 30-day period subject to Supplier giving Customer notice (email being sufficient) of such delay.

5.5 Overdue Fees and Payments. If Customer is overdue with any payment or fees due, then, without prejudice to any other right or remedy available to Supplier and subject to written notification (email being sufficient) by Supplier to Customer of its intention to exercise the rights set out in this section: (i) Customer shall be liable to pay interest on the overdue amount at the rate of one per cent per complete month until Supplier has received payment of the overdue amount together with interest that has accrued; and (ii) Supplier reserves the right to suspend contractual performance under any or all active Orders, and/or suspend any licenses granted pursuant to the Order, suspend access and use of any Cloud Services, and/or exercise a lien over unshipped goods and Supplier shall be under no obligation to resume performance, reinstate suspended licenses or access, or release unshipped goods (as applicable) until such time as Customer has paid all outstanding invoices and fees (and where applicable, interest) due. The exercise of any such suspension or lien shall not affect Customer's obligation to pay any amounts due prior to suspension.

5.6 Credit Requirements. Where Customer has been advised of a requirement for the same in advance of Supplier's order acknowledgement Supplier reserves the right to withhold or refuse contractual performance until Customer has supplied a satisfactory credit reference or bank guarantee or has agreed payment in the form of an irrevocable letter of credit drawn on a bank reasonably acceptable to Supplier.

5.7 Additional Services. Where Supplier carries out, at Customer's instruction, any services which are not Services included in the Order ("Additional Services"), including without limitation integration to or any issues relating to integration with any products not supplied by Supplier which arise out of Acceptance Tests, Supplier shall be entitled to charge additional and separate fees for such Additional Services in accordance with its standard charging rates on a time and materials basis (or such other basis as is agreed in writing by the parties). Wherever reasonably practical Customer shall be notified in advance of the value or likely value of charges for Additional Services in advance of the provision of such Additional Services. Acceptance of Products shall not be delayed pending completion of such Additional Services.

5.8 Usage Management. Supplier reserves the right to incorporate or use or provide access to a Usage Management tool, configuration portal and/or license manager within, as part

of, or as a required add-on to any Products. Customer is prohibited from accessing or changing any parameters contained within such tools or manipulate in any way the proper function of the tools and/or their functionality. Such tools (and/or the Products themselves) may contain a function which in random sequence sends usage related information to (or if the tools are cloud based, collects such information for) Supplier, and Customer hereby undertakes to install the tools and maintain Supplier's access to them (or if the tools are cloud based, to maintain such connectivity to those tools) as directed by Supplier and as may be required to ensure such information can be received and/or collected by Supplier without hindrance.

5.9 Increasing Hard-Capped Usage Quotas. Where a Subscription Product is licensed on the basis of a hard-capped Usage Quota, Customer may from time to time during the Subscription Term, increase any of those Usage Quotas by sending a written notice to Supplier containing details of the quota(s) that Customer wish to increase and from when, whereupon: (a) Supplier shall evaluate the request and respond with approval or rejection of the request, and where approved, Supplier shall activate the increased Usage Quota(s) as soon as is reasonably practicable but in any event within 30 days of its approval of the request and confirm this via email; and (b) Customer shall pay Supplier the additional fees for such increased Usage Quota(s) as and when due.

5.10 Reporting/Audit. For Products licensed on the basis of capacity or throughput or any other usage-related variable, Customer shall (at such frequency as specified in the Order, or if not so specified, no later than the end of each calendar month) submit to Supplier a written statement (certified by a senior executive of Customer) detailing Customer's use of the licensed Products to enable Supplier to calculate and verify the license fees due under the Order. Supplier may during the term of the license and for two (2) years thereafter audit Customer's use of licensed Products to verify that such use is and has been in accordance with these Terms and the Order, upon giving prior written notice to the Customer and only during normal business hours. The audit may consist of a written compliance questionnaire (certified by a senior executive of Customer) and/or may require a physical audit if in Supplier's opinion responses to a questionnaire are considered insufficient. The Customer shall provide Supplier with all reasonable assistance, including access to all information necessary for such verification.

5.11 Right to True-Up. Without prejudice to any other rights or remedies of Supplier under the Order, these Terms or at law, Supplier is entitled to invoice the Customer for any use of licensed Products (and/or of available features and/or functionality thereof) in excess of or in addition to what the Customer has paid for and the Customer agrees to pay such excess or additional amounts as are invoiced. For the avoidance of doubt, there will be no reduction or refund of license, usage and/or product support fees given if the license volumes, usage or any other applicable variable is below the level purchased or paid for or if the Products are not in use.

6. SUPPLIER RESPONSIBILITIES & WARRANTY

6.1 Warranty. Subject to the provisions of this Section 6, and Section 12, the Supplier warrants:

(a) for Products (excluding Subscription Products and Services), that it will for a period of 12 months for Hardware and 90 days

for Software from (a) Delivery, for Delivery only Orders, or (b) Acceptance, for other Orders, that it shall promptly repair, replace, or provide reasonable substitutes for Hardware or Software (or the defective part thereof) having Defects;

(b) for Subscription Products, that it will during the Subscription Term (a) for Hardware and Software, repair, replace, or provide reasonable substitutes for that Hardware or Software (or the defective part thereof) having Defects; (b) for Cloud Services, correct any Defects in the Cloud Services; in both cases in accordance with the support processes and timescales set out in the Order, which are dependent upon the level of support services purchased by the Customer, or if no level of support services is specified in the Order, in accordance with Supplier's standard support service offering in effect during the Subscription Term;

(c) for Services, that it will promptly re-perform those Services to the extent that they were provided otherwise than with reasonable skill and care;

and, in all cases, subject to the request for the same being promptly logged with the Supplier (using the support ticketing system specified in the Order) during the applicable period of warranty.

6.2 Repair/Replacement. Customer shall return defective Hardware or Software (where asked to do so by Supplier) to Supplier or as Supplier otherwise directs in the original or appropriate alternative packaging accompanied with the appropriate return authorization form, at Customer's cost, to enable Supplier to fully investigate the alleged Defects. Repaired or replacement Hardware and Software provided by Supplier shall have the benefit of a warranty in the terms of this Section 6 for the remainder of the applicable warranty period for the originally supplied Hardware or Software, or 3 months from provision of the repair or replacement, whichever is longer. Any Hardware returned and replaced shall become the property of Supplier.

6.3 Refund. In the event that Supplier determines (in its sole opinion) that it is not commercially feasible to (a) dispatch repaired, replacement or substitute Hardware or Software, or (b) correct Defects in Cloud Services, in both cases within a within a reasonable timeframe or at reasonable cost, and Supplier is unable to provide Customer with an alternative reasonably acceptable solution, Supplier shall at Customer's request refund to Customer that part of the price or fees paid attributable to the same, whereupon, (i) in the case of Hardware or Software, Customer shall return the Hardware or Software not useable in consequence of the warranted Defect to Supplier, or (ii) in the case of Cloud Services, cease use of the affected Cloud Services.

6.4 Cloud Services Maintenance. Cloud Services availability targets specified in the Order shall not apply in the event of: (a) scheduled maintenance (being pre-planned maintenance windows notified to Customer in advance); and (b) unscheduled maintenance (provided Supplier has where possible given Customer at least 12 hours' notice in advance, email being sufficient).

6.5 Warranty Exceptions. Other than as explicitly stated in these Terms:

(a) Products are provided to Customer on an as is, as available basis and Supplier does not warrant that operation and/or use

of Products by the Customer will be uninterrupted or error-free, or that Products will meet Customer's requirements;

(b) Supplier shall have no warranty obligations or be liable under this Section 6 to the extent a Defect arises and/or is exacerbated as a result of (i) misuse, neglect (including without limitation failure to notify Supplier of a Defect within a reasonable period of time), alteration, mishandling, attempted repair, maintenance or unauthorized manipulation by any person other than Supplier's authorized personnel, (ii) Customer's failure to follow Supplier's instructions as to the storage, installation, maintenance or use of the Products, or (iii) delays, failures, or other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, or (iv) Customer Data or Content;

(c) for Third Party Products, Customer shall only be entitled to such warranty or other benefit as Supplier has received from its suppliers and is able to pass on, and except as provided in this subsection, no warranty (whether express, statutory or implied) is given to Customer by any supplier or licensor of Supplier in respect of the whole or any part of a Third Party Product, and such suppliers and licensors disclaim all such warranties including without limitation any warranties of merchantability, non-infringement or fitness for a particular purpose.

6.6 Warranty Limitations. The warranties given in this Section 6 are:

(a) unique to Customer and may not be assigned or transferred in whole or in part by Customer, and any sub-licenses granted shall not operate as an assignment or transfer of any such warranties; and

(b) are in lieu of all other warranties or conditions expressed or implied by operation of law or otherwise, including without limitation implied warranties or conditions of merchantability, satisfactory quality, fitness for a particular purpose and non-infringement of third party rights and which are, to the fullest extent permitted by law, excluded from these Terms and all Orders; and,

(c) save as may otherwise be explicitly provided for in the support services terms of the Order, the Customer's sole remedies for any breach of warranty are as set out in this Section 6.

6.7 Any work carried out by Supplier at Customer's request which is otherwise than as required in satisfaction of Supplier's warranty obligations under this Section 6 shall be treated as Additional Services. Supplier shall be entitled to dispose of any Hardware or Software that has been sent to Supplier for repairs or upgrades which remains uncollected and in respect of which Customer has incurred charges that remain overdue for more than 60 days.

7. CUSTOMER'S RESPONSIBILITIES

7.1 Customer agrees to:

(a) provide Supplier with such co-operation and access to such information as may reasonably be required to enable Supplier to supply the Products and meet its obligations under the Order, ensuring that all information provided by it to Supplier is accurate and adequate in all material respects and that Customer is entitled to provide the information to Supplier for its use without recourse to any third party;

(b) promptly carry out all of its obligations specified in the Order, and if Supplier is providing on-site installation or deployment Services, (i) prepare the installation site, and (ii) provide a safe working environment, in each case as reasonably required from time to time to facilitate proper and timely performance under that Order;

(c) be responsible for (i) procuring and maintaining any required network connections and telecommunications links from Customer's systems to enable access to and use of cloud-based tools (e.g. for Product configuration and Usage Management) and/or purchased Cloud Services, and (ii) all issues, delays, delivery failures and all other loss or damage arising from or relating to Customer's network connections or telecommunications links or the internet;

(d) ensure that it and its Authorized Users only use Products in accordance with the terms and conditions set out in these Terms;

(e) be responsible for ensuring it has suitable backups and/or redundancies of Customer Data and/or Content; and,

(f) use all reasonable endeavours to prevent any unauthorized access to, or use of, the Products and, in the event of any such unauthorized access or use, promptly notify Supplier.

7.2 Compliance With Laws. Customer shall comply with all applicable laws and regulations with respect to Customer's activities under the Order and Customer's use of the Products. Further, Customer shall satisfy itself that the purchase, importation, possession, and/or access and use of the Products (as the case may be) by Customer and its Authorized Users (together with any Content that Customer introduces into or makes available through or stores, transfers or transmits over or using the Products) is lawful in the Territory, and that Customer has obtained all necessary consents, permits or licenses for such activities by Customer. Save as set out in Section 12, Supplier does not assume, and hereby disclaims, any obligation or liability in this regard. Customer shall dispose of any Hardware no longer needed in a responsible manner and may return the Hardware (at Customer's cost) to Supplier for recycling/disposal.

7.3 Acceptable Use. Customer shall, and shall require its Authorized Users to, comply with Supplier's published Acceptable Use Policy.

7.4 Entertainment Use. The Products are designed for the provision and management of video, audio and/or data assets intended for entertainment use (including educational and training purposes) and/or uses ancillary thereto (such as contribution and distribution of Content to entertainment networks) ("Entertainment Use"). The Products are not designed, manufactured, tested or intended for operation or use in relation to any (i) military or military support activities; (ii) intelligence gathering or surveillance, dissemination or planning activities; (iii) medical or medical observation activities; (iv) flight, navigation or related communication or planning activities (including without limitation those relating to air or space flight); or (v) any inherently dangerous, life-endangering or life-support applications. If Customer (or its Authorized Users) use the Products for any purpose other than Entertainment Use and/or for any purpose related to (i) to (v) above, then such use is at Customer's sole risk without any recourse against or with respect to Supplier and Customer hereby indemnifies and holds

Supplier (and its third party suppliers and licensors) harmless from any claims for loss, cost, damage, expense or liability arising out of or in connection with such use.

8. HEALTH AND SAFETY

Each party shall comply with all relevant health and safety laws and regulations in all respects relating to its obligations under the Order (including without limitation a safe working environment and methods of working) and shall indemnify the other party with respect to all costs, liabilities, damages or expenses incurred as a result of any failure to do so.

9. TITLE IN EQUIPMENT

Hardware (excluding Software thereon, IPR in the Hardware, and Hardware provided as Subscription Products) supplied under the Order shall become Customer's property when all sums due to Supplier under that Order for such Hardware have been paid in full. Until then, Supplier shall retain legal and beneficial ownership of the Hardware.

10. IPR, LICENSE, RIGHT TO USE

10.1 Title. IPR in all Products shall at all times remain the exclusive property of Supplier or its suppliers. IPR arising under an Order including without limitation IPR arising from the supply of Services, except to the extent they comprise or incorporate IPR supplied by Customer, shall vest in and be owned by Supplier (or its suppliers) absolutely, and Customer shall acquire no right, title or interest therein. Any and all rights not expressly granted to Customer are reserved in all respects by Supplier. To the extent that delivery of the Products requires any IPR supplied or owned by Customer, Customer grants Supplier a non-exclusive, worldwide, perpetual, irrevocable, fully paid-up, royalty free license with the right to sub-license, to design, develop, make, have made, use, copy, modify, sell, lease or otherwise distribute products based on, using or incorporating any such IPR.

10.2 Third Party Products. Third Party Products may be subject to separate terms and conditions as identified by Supplier in relevant product/service descriptions and specifications or via its website (or where relevant, contained in any "box" or "digital" license supplied with such Third Party Products), and Customer acknowledges and agrees that such terms (which may contain product specific rights and/or obligations such as usage restrictions, product specific warranties, limitations of liability, indemnification) shall apply to and govern Customer's use of the Third Party Products in preference to these Terms.

10.3 License Grant/Right To Use. Subject to these Terms and the Order, Supplier grants Customer (and where applicable to Third Party Products, shall procure the grant to Customer of,) a limited, non-exclusive, non-assignable, non-transferable right and license to use those Products specified in the Order (for Software such license only applies to the Software in executable form, and for Cloud Services, such license is limited to the right to access and use the Cloud Services) in the Territory for the Permitted Purpose.

10.4 Right to Sub-License. Customer shall be entitled to grant a sub-license to its Authorized Users in the terms, and subject to the conditions, of the license granted to Customer under this Section 10.

10.5 License Type. The license granted under Section 10.3 (and any sub-license granted under Section 10.4) shall:

(a) for Subscription Products, be limited for the Subscription Term specified in the Order; or

(b) for Products other than Subscription Products, (i) be limited for the term specified in the Order, or (ii) where no term is specified in the Order, be without limit of period, save that Supplier may immediately terminate such license (and the right to continue any sub-licenses) to use the relevant Products by notice in writing to Customer if Customer or any sub-licensee breaches any term of the license or sub-license (and if such breach is incapable of remedy or is not remedied within a reasonable time of a request to do so), whereupon Customer shall, at Supplier's direction, immediately cease use of those Products.

10.6 Copies. Customer may make copies of any supplied Software for reasonable back-up purposes, and shall retain a log of the location of the original, and number and location of permitted copies of the Software and, upon request, shall advise Supplier of such location and copies.

10.7 Restrictions. Unless expressly permitted elsewhere in these Terms or in the Order, Customer is prohibited and shall have no right to (except where explicitly permitted by law or with Supplier's prior written consent):

(a) exceed a hard-capped Usage Quota (when applicable);

(b) permit an allocated user or subscriber login to be used by more than one individual Authorized User (unless it has been reassigned in its entirety to another individual Authorized User, in which case the prior Authorized User shall no longer have any right to use that login);

(c) copy, adapt, reverse engineer, decompile, disassemble, unbundle, repackage, attempt to derive source code, modify or create derivative works of any Software or any of its component parts for any reason whatsoever, in whole or in part;

(d) sell, lease, license, rent, assign, distribute, or otherwise transfer or share, in whole or in part, the Products or Customer's rights in or to the same, to another party, including rights on a membership, subscription, or hosted basis;

(e) bundle or distribute the Products in any manner;

(f) enable or permit use of the Products by a third party (other than to permit Customer's Authorized Users to use the Products in the normal course of business), whether for evaluation or otherwise, or whether in a third-party outsourcing facility, on a service or service bureau arrangement, or on a rental, application service provider, or timesharing basis;

(g) use the Products to transmit, reproduce, store, or share Content that Customer does not have the right to transmit, reproduce, store, or share.

These license restrictions and conditions are made for the benefit of Supplier (and its suppliers) and may be enforced by such suppliers to the extent that they relate to their products.

10.8 Feature/Functionality Changes. Supplier reserves the right to change or vary the features and/or functionality of, or components within, its Products and/or updates thereto (including substituting or replacing Third Party Products, Open Source Software or AI) as the Products evolve or undergo updates and/or improvements, and hence Supplier may amend its Product technical data sheets and/or relevant descriptions and specifications from time to time, *provided* that those changes

do not materially impact or reduce the features and functionality available within the Products as purchased by Customer.

10.9 Open Source Software. Software may contain and/or Cloud Services may utilize Open Source Software, the use of which may be subject to specific license terms, and which Supplier shall where required identify in relevant product/service descriptions and specifications or via its website. In the event of conflict between the terms and conditions of these Terms and the terms of the applicable license for such Open Source Software, the terms of the applicable Open Source Software license shall govern, but only to the extent required by such license. Notwithstanding anything to the contrary in these Terms, all Open Source Software is provided "as-is", and Supplier makes no warranties, whether express or implied, in respect of the Open Source Software, and disclaims all implied and statutory warranties in respect thereof, and Supplier shall not have any indemnification liabilities in respect of any claims to the extent arising from or connected to Open Source Software.

10.10 Artificial Intelligence. Software and/or Cloud Services may include features and functionality that incorporate, use or rely on machine-based systems that use AI as a core function. Supplier shall identify all such AI use in relevant product/service descriptions and specifications, datasheets or via its website.

11. FORCE MAJEURE

Neither Supplier or Customer shall be liable for any loss or damage suffered or incurred by the other arising from a party's delay or failure to fulfill or otherwise discharge any of its obligations (except obligations to pay fees due) to the extent such delay or failure is caused by any cause or circumstance beyond its or its sub-contractors' reasonable control including but not limited to act of God; declared natural disasters and health pandemics; governmental act; compliance with any law or governmental order, currency or trade restriction, embargo or sanction; withholding, delay or revocation of export or import control approval or other license; materials or component shortages; war (whether formally declared or not), terrorist activity; nuclear, chemical or biological contamination; fire, flood, explosion; prolonged break-down of transport; electrical, internet, or telecommunication outage that is not caused by the party; civil commotion or industrial dispute (other than industrial disputes related solely to the employees of the party claiming Force Majeure) ("**Force Majeure**"). Subject to the party relying on this provision promptly notifying the other party in writing of the reason for the delay and the likely duration of the delay, the performance of the delaying party's obligations to the extent affected by the delay shall be suspended during the period that the cause persists, provided that each party shall use commercially reasonable efforts to avoid the effect of that cause. If performance is not resumed within 60 days of that notice the non-delaying party may at any time thereafter but in any event prior to resumption of obligations by the delaying party by notice in writing cancel the affected Order.

12. LIABILITY

12.1 NEITHER SUPPLIER'S NOR CUSTOMER'S LIABILITY FOR ANY OF THE FOLLOWING IS EXCLUDED OR LIMITED BY THESE TERMS OR ANY OTHER PROVISION OF AN ORDER (EVEN IF ANY OTHER TERM OF ORDER WOULD SUGGEST OTHERWISE):- (I) DEATH OR BODILY INJURY CAUSED BY THAT PARTY'S NEGLIGENCE OR THE

NEGLIGENCE OF ITS EMPLOYEES, AGENTS OR SUB-CONTRACTORS; (II) FRAUD OR OTHER CRIMINAL ACT; (III) FRAUDULENT MISREPRESENTATION; (IV) FOR ANYTHING ELSE IN RELATION TO WHICH, UNDER THE LAW GOVERNING THE ORDER, LIABILITY CANNOT BE EXCLUDED OR LIMITED. CUSTOMER'S LIABILITY UNDER SECTIONS 7.2, 7.3 or 13.5 SHALL NOT BE EXCLUDED OR LIMITED IN ANY WAY.

12.2 SUBJECT TO SECTION 12.1, NEITHER SUPPLIER, NOR ANY AFFILIATE, SUPPLIER OR LICENSOR OF SUPPLIER, NOR CUSTOMER SHALL BE LIABLE UNDER OR IN RELATION TO AN ORDER (WHETHER THE LIABILITY ARISES FROM BREACH OF CONTRACT, NEGLIGENCE, UNDER AN INDEMNITY, OBLIGATION TO REFUND, UNDER ANY OTHER THEORY OF LAW OR FOR ANY OTHER REASON INCLUDING WITHOUT LIMITATION LIABILITY ARISING FROM ACCIDENTAL, NEGLIGENT AND DELIBERATE BREACH) FOR ANY:- (I) LOSS OF PROFITS; (II) LOSS OF REVENUE; (III) LOSS OF SAVINGS OR PROSPECTIVE SAVINGS; (IV) LOSS OF OR DAMAGE TO GOODWILL OR REPUTATION; (V) LOSS OF, OR LOSS OF THE USE OF, OR UNAUTHORIZED ACCESS TO ANY SOFTWARE, CONTENT OR DATA; (VI) LOSSES OR LIABILITIES IN RELATION TO ANY OTHER CONTRACT; (VII) COSTS ASSOCIATED WITH NON-UTILIZATION OF A TRANSMISSION NETWORK OR (VIII) INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE. FOR THE PURPOSES OF THIS SECTION THE TERM "LOSS" INCLUDES A PARTIAL LOSS OR REDUCTION IN VALUE AS WELL AS A COMPLETE OR TOTAL LOSS.

12.3 SUBJECT TO SECTIONS 12.1 AND 12.2, SUPPLIER'S TOTAL AGGREGATE LIABILITY (WHETHER THE LIABILITY ARISES FROM BREACH OF CONTRACT, NEGLIGENCE, UNDER AN INDEMNITY, OBLIGATION TO REFUND, UNDER ANY OTHER THEORY OF LAW OR FOR ANY OTHER REASON INCLUDING WITHOUT LIMITATION LIABILITY ARISING FROM ACCIDENTAL, NEGLIGENT AND DELIBERATE BREACH) SHALL BE LIMITED:

(I) FOR ANY ORDER CONTAINING SUBSCRIPTION PRODUCTS, IN EACH CALENDAR YEAR FOR ALL CLAIMS FIRST ARISING IN THAT CALENDAR YEAR TO AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF FEES PAID BY THE CUSTOMER UNDER THAT ORDER DURING SUCH CALENDAR YEAR; AND

(II) FOR ALL OTHER ORDERS, TO AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER PURSUANT TO THE ORDER UNDER WHICH THE LIABILITY ARISES.

12.4 CUSTOMER AGREES THAT IT SHALL TAKE, AND SUPPLIER SHALL (SAVE AS PROVIDED IN SECTION 12.1) HAVE NO LIABILITY FOR ANY LOSS, HARM OR DAMAGES THAT WOULD HAVE BEEN PREVENTED BY, REASONABLE PRECAUTIONS (RELATIVE TO THE IMPORTANCE TO CUSTOMER OF THE PRODUCTS CONCERNED), INCLUDING WITHOUT LIMITATION BACKING UP SOFTWARE, CUSTOMER DATA AND CONTENT AT REASONABLE INTERVALS, IMPLEMENTING BACK-UP SYSTEMS OR REDUNDANCY AND, WITH RESPECT TO HARDWARE, MAINTAINING SUITABLE NUMBERS OF

SPARE UNITS AT SUITABLE LOCATIONS (TO THE SUPPLIER'S RECOMMENDED MINIMUM LEVEL OF SPARES).

13. INDEMNIFICATION

13.1 SUBJECT TO THE PROVISIONS OF SECTION 12 AND THIS SECTION 13, SUPPLIER SHALL, AT SUPPLIER'S EXPENSE, (A) DEFEND CUSTOMER FROM AND AGAINST ANY CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION, AND/OR PROCEEDINGS ASSERTED BY A THIRD PARTY AGAINST CUSTOMER ARISING FROM ANY ACTUAL OR ALLEGED INFRINGEMENT OR VIOLATION OF A PATENT, TRADE SECRET, COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY RESULTING FROM THE PROPER USE OF THE PRODUCTS WITHIN THE TERRITORY (A "SUPPLIER INFRINGEMENT CLAIM") AND (B) INDEMNIFY CUSTOMER FROM AND AGAINST ANY REASONABLE EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), DAMAGES, LOSSES, AND/OR LIABILITIES THAT ARE (1) DIRECTLY RELATED TO A SUPPLIER INFRINGEMENT CLAIM AND (2) FINALLY ORDERED BY A COURT OF COMPETENT JURISDICTION OR ARE REQUIRED TO BE PAID AS PART OF A SETTLEMENT AGREEMENT APPROVED IN WRITING BY SUPPLIER. CUSTOMER SHALL PROVIDE SUPPLIER WITH PROMPT NOTICE OF ALL SUPPLIER INFRINGEMENT CLAIM(S) FOR WHICH SUPPLIER IS RESPONSIBLE HEREUNDER, AND SUCH NOTICE SHALL INCLUDE AN IDENTIFICATION OF THE PRODUCTS THAT CUSTOMER CONTENDS IS A SUBJECT OF THE SUPPLIER INFRINGEMENT CLAIM(S) AND AN IDENTIFICATION OF THE SPECIFIC INFRINGEMENT ALLEGATION(S) (IN THE CASE OF A PATENT INFRINGEMENT CLAIM, AN IDENTIFICATION OF THE SPECIFIC PATENT CLAIMS) THAT CUSTOMER CONTENDS IMPLICATES SUCH PRODUCTS. IN ALL CIRCUMSTANCES, SUPPLIER SHALL HAVE FULL AUTHORITY TO ASSUME CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY SUPPLIER INFRINGEMENT CLAIM; HOWEVER, CUSTOMER SHALL HAVE THE RIGHT TO PARTICIPATE AT ITS OWN EXPENSE IN THE DEFENSE OF A SUPPLIER INFRINGEMENT CLAIM THROUGH COUNSEL OF ITS OWN CHOOSING. AT ALL TIMES CUSTOMER SHALL COOPERATE FULLY WITH SUPPLIER IN THE DEFENSE OF A SUPPLIER INFRINGEMENT CLAIM, INCLUDING PROVIDING SUPPLIER WITH SUCH ASSISTANCE AS SUPPLIER MAY REASONABLY REQUIRE IN CONNECTION THEREWITH. SUPPLIER SHALL HAVE NO OBLIGATION UNDER THIS SECTION IF THE SUPPLIER INFRINGEMENT CLAIM RESULTS FROM OR IS BASED ON: (I) THE USE OF THE PRODUCTS IN COMBINATION WITH HARDWARE, SOFTWARE, OR SERVICES OR OTHER TECHNOLOGIES NOT SUPPLIED BY SUPPLIER; (II) THE MODIFICATION OF THE PRODUCTS BY ANYONE OTHER THAN SUPPLIER OR ITS SUBCONTRACTORS OR AGENTS; (III) CUSTOMER CAUSING OR CONTRIBUTING TO THE EVENTS THAT GAVE RISE TO THE SUPPLIER INFRINGEMENT CLAIM FOR WHICH IT SEEKS DEFENSE AND/OR INDEMNITY; (IV) THE VALUE OF THE USE OF A NON-SUPPLIER PRODUCT, SERVICE, DATA, BUSINESS PROCESS, OR OTHER INTELLECTUAL PROPERTY RIGHTS, INCLUDING CUSTOMER'S PRODUCTS, SERVICES, DATA AND BUSINESS PROCESSES; (V) A SPECIFICATION, REQUIREMENT, DESIGN OR INSTRUCTION PROVIDED BY CUSTOMER; (VI) THE USE OF THE PRODUCT, OR PART THEREOF, IF CUSTOMER HAS REFUSED AN OFFER OF A

REPLACEMENT OR MODIFICATION FOR SUCH PRODUCT, OR PART THEREOF, AND SUCH REPLACEMENT OR MODIFICATION IS NOT SUBJECT TO THE SUPPLIER INFRINGEMENT CLAIM; (VII) FAILURE OF THE CUSTOMER OR ITS AUTHORIZED USERS TO TAKE A LICENSE AND/OR PAY PARTICIPATION FEES EXPRESSED TO BE PAID TO A THIRD PARTY (OTHER THAN A NETWORK EQUIPMENT OR TECHNOLOGY PROVIDER) UNDER ANY LICENSING REGIME, INCLUDING, WITHOUT LIMITATION, MPEG 4 PART 10 OR HEVC, UNLESS SUPPLIER HAS PREVIOUSLY NOTIFIED CUSTOMER THAT SUCH LICENSE AND/OR PARTICIPATION FEES IS INCLUDED WITHIN THE RELEVANT ORDER; OR, (VIII) DATA OR CONTENT INTRODUCED INTO OR MADE AVAILABLE THROUGH OR TRANSFERRED OR TRANSMITTED OVER OR USING THE PRODUCTS.

13.2 THE INDEMNITY IN SECTION 13.1 SHALL ONLY APPLY TO A SUPPLIER INFRINGEMENT CLAIM PROVIDED THAT: (I) CUSTOMER PROMPTLY NOTIFIES SUPPLIER IN WRITING OF THE SUPPLIER INFRINGEMENT CLAIM ONCE ITS BECOMES AWARE OF IT (WHETHER BY FORMAL NOTICE OR OTHERWISE); (II) CUSTOMER DOES NOT MAKE ANY ADMISSION AS TO LIABILITY IN RELATION TO, OR COMPROMISE OR AGREE TO ANY SETTLEMENT OF, THE SUPPLIER INFRINGEMENT CLAIM WITHOUT THE PRIOR WRITTEN CONSENT OF SUPPLIER; (III) IF SUPPLIER SO REQUESTS, CUSTOMER ALLOWS SUPPLIER AT ITS OWN EXPENSE TO HAVE THE CONDUCT OF OR SETTLE ALL NEGOTIATIONS AND LITIGATION ARISING FROM THE SUPPLIER INFRINGEMENT CLAIM; (IV) CUSTOMER ACTS IN RELATION TO THE SUPPLIER INFRINGEMENT CLAIM IN ACCORDANCE WITH THE REASONABLE INSTRUCTIONS OF SUPPLIER AND, AT SUPPLIER'S REQUEST AND EXPENSE, GIVES SUPPLIER ALL REASONABLE ASSISTANCE IN CONNECTION WITH THOSE NEGOTIATIONS AND SUCH LITIGATION; AND (V) SUBJECT TO THE OTHER PROVISIONS OF THIS SECTION 13.2, CUSTOMER TAKES ALL REASONABLE STEPS TO MINIMIZE ANY LOSS OR DAMAGE SUFFERED BY IT THAT WOULD OTHERWISE HAVE BEEN COVERED BY THE INDEMNITY.

13.3 IF ANY SUPPLIER INFRINGEMENT CLAIM IS MADE, OR IN SUPPLIER'S REASONABLE OPINION IS LIKELY TO BE MADE, THEN SUPPLIER MAY, AT ITS OPTION AND EXPENSE, AND CUSTOMER SHALL PERMIT SUPPLIER TO (I) OBTAIN THE RIGHT FOR CUSTOMER TO CONTINUE USING THE PRODUCTS THAT ARE THE SUBJECT OF THE SUPPLIER INFRINGEMENT CLAIM; OR (II) REPLACE OR MODIFY THE PRODUCTS THAT ARE THE SUBJECT TO THE SUPPLIER INFRINGEMENT CLAIM WITH NON-INFRINGEMENT PRODUCTS OF EQUIVALENT FUNCTIONALITY AND IN CONFORMITY WITH THE REQUIREMENTS OF THE RELEVANT ORDER AND THESE TERMS. IF NEITHER OF THE ALTERNATIVES SET FORTH IN THE FOREGOING SUBCLAUSES (I) AND (II) ABOVE IS REASONABLY COMMERCIALY PRACTICABLE IN SUPPLIER'S DISCRETION, THEN (A) SUPPLIER WILL NOTIFY CUSTOMER TO DISCONTINUE USING THE PRODUCTS (OR PORTIONS THEREOF); (B) CUSTOMER WILL DISCONTINUE USE OF THE PRODUCTS (OR PORTIONS THEREOF); AND (C) SUPPLIER SHALL REFUND TO CUSTOMER THE FEES PAID TO SUPPLIER FOR THE PERTINENT PRODUCTS (IN THE CASE OF HARDWARE OR

SOFTWARE, LESS A REASONABLE AMOUNT FOR DEPRECIATION, AND CUSTOMER SHALL RETURN THE PERTINENT PRODUCTS TO SUPPLIER OR AT SUPPLIER'S REQUEST, DELETE SOFTWARE FROM CUSTOMER'S SYSTEMS). IF CUSTOMER FAILS TO DISCONTINUE USE OF THE PRODUCTS (OR PORTIONS THEREOF) AS SET FORTH IN THE IMMEDIATELY PRECEDING SENTENCE, SUPPLIER SHALL HAVE NO LIABILITY FOR SUCH CONTINUED USE BY CUSTOMER OF THE RELEVANT PRODUCTS.

13.4 SECTIONS 13.1 TO 13.3 SET FORTH SUPPLIER'S SOLE LIABILITY AND CUSTOMER'S SOLE REMEDY FOR ANY CLAIM OF INFRINGEMENT OR VIOLATION OF A PATENT, TRADE SECRET, COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY RIGHT OF ANY THIRD PARTY.

13.5 THE CUSTOMER SHALL INDEMNIFY SUPPLIER FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES OR EXPENSES ("LOSSES") INCURRED OR SUFFERED BY SUPPLIER AS A RESULT OF ANY THIRD PARTY CLAIM (A) THAT THE USE, REPRODUCTION, DISTRIBUTION, DELIVERY, STORAGE, CACHING OR TRANSMISSION OF CONTENT, OR CUSTOMER DATA OR OTHER MATERIALS CONTAINED IN SUCH CONTENT, OVER OR THROUGH OR USING THE PRODUCTS INFRINGES OR MISAPPROPRIATES ANY THIRD PARTY RIGHTS OR BREACHES SECTIONS 7.2 OR 7.3 (A "CUSTOMER INFRINGEMENT CLAIM"), AND (B) INDEMNIFY SUPPLIER FROM AND AGAINST ANY REASONABLE EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), DAMAGES, LOSSES, AND/OR LIABILITIES THAT ARE (1) DIRECTLY RELATED TO A CUSTOMER INFRINGEMENT CLAIM AND (2) FINALLY ORDERED BY A COURT OF COMPETENT JURISDICTION OR ARE REQUIRED TO BE PAID AS PART OF A SETTLEMENT AGREEMENT APPROVED IN WRITING BY CUSTOMER. SUPPLIER SHALL PROVIDE CUSTOMER WITH PROMPT NOTICE OF ALL CUSTOMER INFRINGEMENT CLAIM(S) FOR WHICH CUSTOMER ARE RESPONSIBLE HEREUNDER, AND SUCH NOTICE SHALL INCLUDE AN IDENTIFICATION OF THE SUBJECT OF THE CLAIM(S) AND OF THE SPECIFIC ALLEGATION(S). CUSTOMER SHALL HAVE THE RIGHT TO ASSUME CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CUSTOMER INFRINGEMENT CLAIM, SAVE THAT SUPPLIER MAY TAKE CONTROL OF THE DEFENSE AND SETTLEMENT OF A CLAIM IF CUSTOMER FAIL TO DO SO IN A TIMELY MANNER. WHERE CUSTOMER DO ASSUME CONTROL, SUPPLIER SHALL HAVE THE RIGHT TO PARTICIPATE AT ITS OWN EXPENSE IN THE DEFENSE OF A CUSTOMER INFRINGEMENT CLAIM THROUGH COUNSEL OF ITS OWN CHOOSING. SUPPLIER SHALL COOPERATE FULLY WITH CUSTOMER IN THE DEFENSE OF A CUSTOMER INFRINGEMENT CLAIM. CUSTOMER SHALL HAVE NO OBLIGATION UNDER THIS SECTION TO THE EXTENT THAT THE CUSTOMER INFRINGEMENT CLAIM RESULTS FROM OR IS BASED ON A CLAIM FOR WHICH SUPPLIER IS OBLIGED TO INDEMNIFY CUSTOMER UNDER SECTION 13.1.

14. SUSPENSION/CANCELLATION/TERMINATION

14.1 The Order shall commence in accordance with its stipulated start date and shall continue in full force and effect until its natural expiry, unless terminated earlier in accordance with these Terms or the Order.

14.2 Subscription Term. For Subscription Products:

(a) if the Order specifies a fixed minimum period, the Order shall continue for that minimum period (the “Initial Subscription Term”) and thereafter be automatically renewed for successive periods of 12 months (each a “Renewal Period”) unless: (i) either Party gives the other not less than 90 days’ written notice of cancellation before the end of either the Initial Subscription Term or a Renewal Period (as applicable), in which case the Order (and the licenses granted to use the Subscription Products) shall terminate upon the expiry of the Initial Subscription Term or Renewal Period, as applicable; or (ii) otherwise terminated in accordance with the provisions of these Terms or the Order; or,

(b) if the Order has no fixed minimum period, the Order shall continue until (i) cancelled by either Party giving the other not less than 90 days’ written notice at any time; or, (ii) otherwise terminated in accordance with these Terms or the Order.

The period of time from the Order (for Subscription Products) commencing until its expiry, cancellation or termination shall constitute the “Subscription Term”.

14.3 Termination For Cause. Supplier or Customer may terminate the Order immediately at any time by written notice to the other if: (i) the other commits a material breach of these Terms or the Order, which if capable of remedy it fails to so remedy within 30 days of receiving written notice requiring it to do so; or (ii) the other becomes insolvent, has an administrator, receiver or manager appointed over the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its winding-up dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or any event occurs in a foreign jurisdiction analogous to, or comparable with, any of the above.

14.4 Effect of Termination. Except as expressly stated elsewhere in the Order, on termination of the Order for any reason:

(a) each party shall return and make no further use of any Confidential Information belonging to the other party;

(b) if the Order includes Subscription Products, then all rights and licences to use those Subscription Products shall terminate, and the Customer shall immediately cease use of the Subscription Products (and if for Hardware or Software, immediately return such Hardware to the Supplier and/or, at Supplier’s direction, return or destroy relevant Software and any back-up copies (and procure that sub-licensees do the same) and certify in writing to Supplier that this has been done; and

(c) if the Order includes Cloud Services, Supplier may destroy or otherwise dispose of any Content or Customer Data in its possession unless Supplier receives, within 10 days of the effective date of the termination of that Order, a written request for the delivery to Customer of the then most recent back-up of the Content or Customer Data, which Supplier shall endeavour to send to Customer within 30 days of receipt of such written request, provided that Customer has, at that time, paid all fees outstanding at (and/or resulting from) termination (whether or not due at the date of termination). You agree to pay all reasonable expenses incurred by Supplier in returning or disposing of such Content or Customer Data.

14.5 Right To Suspend. In the event of non-compliance by Customer with Sections 7.1 to 7.3 inclusive and/or 10.7, Supplier reserves the right to suspend Customer’s use of the Products (which can include disabling user accounts and/or any licenses granted to Customer), and Supplier shall be under no obligation to reinstate such rights or licenses until such time as Customer is in compliance. Serious or persistent non-compliance by Customer shall constitute an incurable material breach. Further, if any instructions, information, technical documents, design approval, letters of undertaking, licenses or authorizations required to be provided by Customer have not been provided, Supplier reserves the right to suspend its contractual performance or withhold any relevant shipment under the Order pending provision of the same. Supplier will, where practicable and reasonable to do so, endeavor to give Customer prior notice of its intention to exercise its rights under this section, but Customer acknowledges that it may not always be possible or appropriate to give prior notice (e.g. in order to protect Supplier’s IPR or reputation, to prevent loss or damage, or to comply with applicable laws).

14.6 Termination of the Order for any reason 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 in these Terms or the Order which is expressly or by implication intended to come into force or continue in force on or after that termination. Notwithstanding the foregoing, the parties agree that the equitable remedy of specific performance of either party is hereby expressly excluded.

14.7 Upon (and notwithstanding) the expiration or termination of the Order, the following provisions of these Terms shall continue in full force and effect with respect to that Order: Sections 1, 5, 7, 10, and 12 through 17.

15. CONFIDENTIALITY

15.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under these Terms and the Order. Entry into the Order shall not affect any related non-disclosure agreement entered into between the parties, which shall continue in full force and effect and shall apply to the subject matter of the Order.

15.2 A party’s Confidential Information shall not be deemed to include information that: (a) is or becomes publicly known other than through any act or omission of the receiving party, free of any obligation of confidence; (b) was in the other party’s lawful possession before the disclosure; (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (d) is independently developed by the receiving party, which independent development can be shown by written evidence.

15.3 Subject to Section 15.6, each party shall hold the other’s Confidential Information in confidence and not make the other’s Confidential Information available to any third party or use the other’s Confidential Information for any purpose other than the implementation of these Terms and the Order.

15.4 Each party shall take all reasonable steps to ensure that the other’s Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of these Terms.

15.5 Customer acknowledges that details of the Products, all technical and pricing information provided to it by Supplier,

results relating to the performance, testing, development and support of the Products or any other existing or new product and/or service of Supplier, and analyses, reports and other work resulting or derived therefrom, are Supplier's Confidential Information and shall not be disclosed to any third party by Customer.

15.6 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this sub-section it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

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

16. CUSTOMER DATA

16.1 Each party shall comply with applicable data protection laws and regulations.

16.2 Customer Data shall be treated in the same manner as Confidential Information, and Customer shall have sole ownership, and responsibility for the use, legality, reliability, quality, integrity and accuracy, of Customer Data.

16.3 If Supplier processes any personal data on the Customer's behalf when performing its obligations under the Order, it shall do so in accordance with the Product-specific Data Processing Agreement (or DPA) published on its website, which document(s) is deemed incorporated into and made a part of these Terms.

16.4 Supplier may collect, copy and use data (in aggregated form) collected by it in relation to (a) the performance, security, operational management, and support of the Products; (b) Supplier's testing, development, and sales of existing or new products and/or services; and (c) compiling and analyzing such data (in an aggregated and anonymized format), to prepare reports, analysis or other work resulting from such compilation and analysis for Supplier's internal use.

17. GENERAL

17.1 Except as may be expressly provided elsewhere in these Terms, Customer may not transfer or assign the Order or any or all of its rights under it without the prior written consent of Supplier. Supplier or Customer may assign the Order on a transfer of its business or undertaking in which event the Order shall automatically accrue for the benefit of the assigning party's successor by operation of law, save that if Customer grants a security interest in any Product or part thereof, the secured party has no right to use, transfer or sell those Products. Supplier may assign the Order to an Affiliate as part of a group restructuring or consolidation, and/or may sub-contract or procure the performance of all or any part of the Order by an Affiliate and reserves the right to sub-contract to third party suppliers. Notwithstanding any other provision to the contrary, Customer hereby consents to any assignment of any rights of Supplier in relation to any receivables arising under the Order to any financial institution or other third party.

17.2 For Customer's based in the UK or EU: the construction, validity and performance of these Terms and the Order shall be governed by the laws of the England and Wales and the parties hereby irrevocably submit to the sole and exclusive jurisdiction of the Courts of England and Wales to resolve any disputes between them. For Customers based in any location other than the UK or EU: the construction, validity and performance of these Terms and the Order shall be governed by the laws of Texas, USA and the parties hereby irrevocably submit to the sole and exclusive jurisdiction of the courts of Collin County, Texas, USA to resolve any disputes between them. All proceedings shall be conducted using the English language and, in the event that these Terms or the Order are translated, the English language version shall be the governing version. Notwithstanding the foregoing the parties shall attempt to resolve in good faith any disputes arising and shall give due consideration to the use of mediation or alternative dispute resolution techniques and reference to independent experts prior to the issue of court proceedings. The United Nations Convention on Contracts for the International Sale of Goods shall not apply (and if these Terms or the Order is governed by the laws of Texas, USA, the Uniform Computer Information Transactions Act shall not apply).

17.3 The failure of either party to enforce any term of the Order or these Terms does not constitute a waiver of it and shall in no way affect the right to later enforce the term.

17.4 The invalidity or unenforceability of the whole or part of any provision of these Terms or the Order shall not adversely affect the validity or enforceability of the remaining provisions or the remainder of the provision in question, which shall remain in full force and effect. Where relevant, the parties shall use commercially reasonable efforts to find a new stipulation resembling the invalid one in its commercial consequence as much as possible.

17.5 Supplier is permitted to identify Customer as a recipient of Supplier's Products, and use Customer's name and logo, in its marketing materials.

17.6 These Terms and the Order, together with the documents referred to therein (and any relevant non-disclosure agreement previously signed by the parties), constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. Each of the parties acknowledges and agrees that in entering into the Order it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether a party to the Order or not) relating to the subject matter of the Order, other than as expressly set out in these Terms or the Order.

17.7 Customer agrees to fully comply with all applicable trade compliance and export laws and regulations of the United States or any other relevant jurisdiction. Customer shall satisfy itself that the purchase and use of Products (and if relevant, the importation, possession and use of those Products) in the country of destination is lawful in that country and Supplier hereby disclaims and shall have no liability in connection therewith. Where requested by Supplier, Customer agrees to provide Supplier with such information as it may reasonably request for the purpose of demonstrating compliance with international laws on export, trade compliance, and embargo. If

Customer fails to provide any information reasonably requested by Supplier pursuant to this section, or provides incorrect information, Supplier reserves the right to suspend any licenses granted hereunder, until such time as the requested information or corrected information is received and verified by Supplier.

17.8 If the Order is entered into in counterparts, each counterpart will, when executed and delivered, be regarded as an original, and all the counterparts will together constitute one and the same instrument.

17.9 Any variation of these Terms or the Order shall not be effective unless in writing and signed by both Parties (through their authorized representatives).

17.10 A written notice required to be given under these Terms or the Order (where email is not stated as being sufficient) shall:

(i) be in writing and shall be: (a) delivered personally; or (b) sent by pre-paid recorded or tracked delivery; or (c) sent by commercial courier, to the Party required to receive the notice at the address set out in the Order. In addition, copies of all notices sent to the Supplier must also be emailed to: legalnotices@mediakind.com. A written notice shall be deemed duly received: (a) if delivered personally, when left at the address for the contact referred to above; or (b) if sent by pre-paid recorded or tracked delivery, or by commercial courier, on the date and at the time the delivery receipt is signed. Where email is stated as being sufficient, provided the email has been sent to the contact email address provided in the Order (or as part of an online signup process), such notice shall be deemed delivered within 2 hours of sending (evidenced by an email delivery receipt confirming that the message has been successfully delivered to the recipient's mailbox).
