



Campus Terms and Conditions

Last modified: July 16, 2024

Our Campus Terms and Conditions form part of the Contract that governs our customers' use of the Campus Services.

1. DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply in these terms and conditions.

1.1 Definitions:

Authorised Payment Method: your method of payment for our Subscription Fees (via debit or credit card) for which we have received approval from your card-issuing bank.

Authorised Users: those of your employees, agents, independent contractors, sole traders and/or your customers whom you determine shall be authorised (subject to our prior written approval) to use the Services and the Documentation, and includes i) where you are a company, your officers; ii) where you are a partnership, your partners; and iii) where you are a limited liability partnership, your members.

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

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 14.1 and 14.2.

Contact: a single individual (other than an Authorised User) whose Contact Information is stored by you in the Platform.

Contact Information: the name, and/or email address, phone number, online user name(s), and similar information submitted by Contacts to your landing pages on the Platform, or uploaded by you to the Platform, or manually added by you to the Platform, or added via the Education Data module by you to the Platform.

Content: any content that you may submit to the Platform.

Contract: the contract that you and we enter into for your access to the Platform, the Services and our supply of related products and services in accordance with these Terms, your Order, the Product Catalogue, and the Data Processing Agreement.

Customer, you, or your: refers to you, the customer, as specified in the Order.

Customer Data: the data provided by you or on your behalf by your Authorised Users.

Customer Materials: the materials that you or your Authorised Users, or we, on your behalf, provide or post, upload, input or submit for public display through the Platform.

Customer Representative: the person acting as the Customer's point of contact regarding the use of the Platform.

Data Controller: has the meaning as set out in Article 4(7) of the UK GDPR.

Data Processor: has the meaning as set out in Article 4(8) of the UK GDPR.

Data Processing Agreement: the data processing agreement that we enter into with you in respect of our processing of Customer Data pursuant to the Services, as set out at <https://www.sprint-education.co.uk/legal/data-processing-agreement>, and as such document may be updated from time to time.

Documentation: such documentation (including our Product Catalogue) that we make available to you on the Platform or via such other web address that we inform you of from time to time which specifies how the Platform should be used and the products available to you for purchase via the Platform.

Education Data: the education data that we make available to you via the Platform, as set out in the Product Catalogue.

Effective Date: the date on which the Contract made pursuant to these Terms shall begin, as set out in clause 2.3.

Force Majeure Event: an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or problems with the internet or a part of the internet, hacker attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks, pandemics, epidemics, lockdowns, and wars).

Heightened Cybersecurity Requirements: any laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, industry schemes and sanctions, which are applicable to either you or an

Authorised User (but not to us) relating to security of network and information systems and security breach and incident reporting requirements, which may include the cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information Systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time.

Initial Subscription Term: the period of 12 months or such other period as set out in the Order.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Limits: the limits that apply to you that are specified in the Order, in clause 7 of these Terms or in our Product Catalogue.

Maximum Contacts: the maximum number of Contacts you may hold in the Platform as set out in the Order.

Normal Business Hours: 09:00 to 17:00 local UK time, each Business Day.

Order: your order for Services either (i) on the prescribed form provided by us; or (ii) agreed between us in writing; or (iii) agreed between us verbally and confirmed by our subsequent commencement of the provision of the ordered Services to you.

Permitted Purpose: managing your marketing to prospects, leads, opportunities, and customers; managing your sales to new and existing customers; and ongoing customer relationship management within the Platform.

Plan: the sets of features and limits that govern your use of the Platform.

Platform: the online software platform known as Campus (or such other name as we may determine at any time) that we own and operate and make available to you as a service via the internet pursuant to these Terms.

Product Catalogue: the catalogue of all Campus products and services as set out at <https://www.sprint-education.co.uk/legal/product-catalogue> and which may be updated from time to time.

Provider, we, us, our: Sprint Media Limited, a company incorporated in England and Wales (registration number 6177833) having its registered office at B1 The Courtyard, Tewkesbury Business Park, Tewkesbury, GL20 8GD.

Renewal Term: the period described in clause 18.1.

Representatives: means, in relation to a party, its employees, officers, directors, shareholders, agents, contractors, subcontractors, affiliates, representatives and advisers.

Services: the services provided by us to you under these Terms via the Platform, as more particularly described in the Documentation, and/or any other product or service that you may purchase, and as set out in an Order.

Subscription Fees: the subscription fees payable by you to us as set out in the Order.

Subscription Term (or Term): the Initial Subscription Term together with any subsequent Renewal Term(s).

Support Services: support and maintenance services provided or to be provided by us to you in accordance with the Order.

Terms: these terms and conditions as amended from time to time in accordance with clause 22.2.

Third-Party Product: a software application, tool or product, the proprietary rights in which are owned by a third-party.

Updates: new versions of, and updates to, the Platform, whether for the purpose of fixing an error, bug or other issue in the Platform or enhancing the functionality of the Platform.

Upgrade: any feature, or other enhancement, to the Services, including the subscription to a new Plan, purchased during the Term of the Contract.

User Login: the user login purchased by you pursuant to clause 12.1 which entitles an Authorised User to access and use the Services and the Documentation in accordance with these Terms.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2 Clause headings shall not affect the interpretation of these Terms.
- 1.3 A reference to a company shall include any company, corporation, other body corporate, (including brand and trading names), wherever and however incorporated or established.
- 1.4 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of these Terms. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of these Terms under that statute or statutory provision.
- 1.5 A reference to writing or written excludes fax but not email.
- 1.6 References to clauses are to the clauses of these Terms.
- 1.7 Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. BASIS OF CONTRACT

- 2.1 You must indicate which of the Platform Plans you require either verbally or in writing to us.
- 2.2 We will complete and send to you an Order for signature by you. The Order (as signed by you) constitutes an offer by you to purchase Services in accordance with these Terms.
- 2.3 The Order shall only be deemed to be accepted when we issue written acceptance of the Order or we issue you with the login details for the Platform at which point and on which date the Contract shall come into existence (the 'Effective Date').
- 2.4 Any samples, drawings, descriptive matter, words or advertising issued by us, and any descriptions or illustrations contained in our website or other promotional materials,

are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

- 2.5 These Terms apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.6 Any quotation we provide to you shall not constitute an offer, and is only valid for a period of 7 Business Days from its date of issue.

3. USE OF SERVICES

- 3.1 Subject to the type of Plan purchased by you, to clause 12.1, the restrictions set out in this clause 3 and the remainder of these Terms, we hereby grant to you a non-exclusive, non-transferable right and licence, without the right to grant sublicences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Permitted Purpose.
- 3.2 In relation to the Authorised Users, you undertake that:
 - 3.2.1 you will not allow or suffer any User Login to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;
 - 3.2.2 each Authorised User shall keep a secure password for their use of the Services and Documentation, and that each Authorised User shall keep their password confidential;
 - 3.2.3 you shall permit us or our designated auditor to audit the Services in order to establish the name and password of each Authorised User and your data processing facilities to audit compliance with these Terms. Each such audit may be conducted no more than once per quarter, at our expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with your normal conduct of business;
 - 3.2.4 if any of the audits referred to in clause 3.2.3 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to our other rights, you shall promptly disable such passwords and we shall not issue any new passwords to any such individual; and
 - 3.2.5 if any of the audits referred to in clause 3.2.3 reveal that you have paid insufficient Subscription Fees, then without prejudice to our other rights, we shall invoice you for, and you shall pay us an amount equal to, the cost of the unpaid Subscription Fees within 14 Business Days of the date of the relevant audit.

- 3.3 Without prejudice to any other rights and remedies available to us at law or otherwise, if there has been a breach by you of any of clause 3.2, 3.4, 3.5, 3.6, 3.7, and/or 3.8, we may suspend any or all of the Services and/or your access to the Platform and we shall be entitled to treat such breach as a material breach of the Contract for the purposes of clause 18.2.2.
- 3.4 You shall not use the Platform:
- 3.4.1 in any way that is unlawful illegal, fraudulent or harmful;
 - 3.4.2 in connection with any unlawful, illegal, fraudulent or harmful purpose or activity;
 - 3.4.3 to transmit or send unsolicited commercial communications ('Spam') in violation of any law; or
 - 3.4.4 to send email:
 - 3.4.4.1 to an address that is incomplete, inaccurate and/or not updated for all applicable opt-out notifications, using best efforts and best practices in the industry;
 - 3.4.4.2 to an address with invalid or non-existent domain names;
 - 3.4.4.3 using a third party's internet domain name without their consent, or be relayed from or through a third party's equipment without the third party's permission;
 - 3.4.4.4 containing false or misleading information in the subject line or otherwise contain false or misleading content;
 - 3.4.4.5 without a fully working unsubscribe link;
 - 3.4.4.6 to any purchased or leased list; or
 - 3.4.4.7 that contains invalid or forged headers.
- 3.5 You shall not access, store, distribute or transmit any Viruses, or any similar material during the course of your use of the Services.
- 3.6 You shall not:
- 3.6.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under these Terms:
 - 3.6.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform and/or Documentation (as applicable) in any form or media or by any means; or

- 3.6.1.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform or the Services; or
 - 3.6.2 access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
 - 3.6.3 carry out any email subscription and/or marketing and PR services (or other services that could be considered a conflict of interest or which compete with our services) to third parties without our prior written consent;
 - 3.6.4 subject to clause 28.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
 - 3.6.5 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 3; or
 - 3.6.6 introduce or permit the introduction of, any Virus into the Services or our network and information systems, or otherwise use the Platform in any way that causes, or may cause, damage to the Platform or impairment of the availability or accessibility of the Platform, or any of the areas of, or services on, the Platform.
- 3.7 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify us.
- 3.8 You shall promptly honour any unsubscribe request from your Contacts or a contact from the Education Data if that person does not unsubscribe via the link in the email but instead contacts you in another way to request the unsubscribing of their data.
- 3.9 The rights provided under this clause 3 are granted to you only, and shall not be considered granted to any subsidiary or holding company within your group (if applicable).
- 3.10 For the avoidance of doubt, you have no right to access the object code or source code of the Platform, either during or after the Term.

4. UPGRADING YOUR PLAN

- 4.1 Subject to the remaining provisions of this clause 4, you may, from time to time during any Subscription Term, Upgrade your Plan. This may include upgrading from one Plan to another, or may include purchasing additional email credits and/or User Logins or other services that we make available on the Platform from time to time.

- 4.2 Upon confirmation of your Upgrade requirement, we shall grant access to the relevant Plan or additional Services (and related Documentation) in accordance with and subject to the provisions of these Terms.
- 4.3 You and we acknowledge that we do not require a signed Order for Upgrades. In such circumstances, our provision to you of the Upgrade constitutes our acceptance of your Order and conclusion of the contract between us which is subject to the provisions of these Terms. You will be committed to such Upgrade for the remainder of the Subscription Term or such other period of time as shall be set out on your Order or invoice.
- 4.4 Our invoice for your Upgrades and the Subscription Fees will be conclusive evidence of the subject matter of the contract between us and the applicable Terms.
- 4.5 You accept that during the Initial Subscription Term and then during each subsequent Renewal Term, you have no right to reduce the scope of Services that you have ordered. You may only reduce the scope of Services at the end of any Initial Subscription Term or Renewal Term by providing not less than 14 days' notice in writing that you wish for the scope to be reduced for the next Renewal Term.
- 4.6 For the avoidance of doubt, no other terms and conditions introduced by you for any Upgrade shall apply.
- 4.7 In the event that you subscribe to a legacy "Campus Plan", some of the features and Limits that apply to that Plan may be different than those that appear in these Terms, and/or the Product Catalogue. If you have a legacy Campus Plan, we may choose to move you to our then-current Plans at any time. If you determine that you are using a legacy Plan and would like to Upgrade to a current Plan, you must execute a new Order.

5. SERVICES

- 5.1 During the Subscription Term, we shall provide the Services and make available the Documentation on and subject to the terms of the Contract.
- 5.2 We reserve the right to modify the Services and/or the Platform including by adding or deleting features or functions in an effort to improve your experience.
- 5.3 On the Platform we impose Limits based on the Plan type or Limits that are negotiated on a customer-by-customer basis.
- 5.4 We warrant to you that:

- 5.4.1 we have the legal right and authority to enter into and perform our obligations under these Terms and the applicable Contract;
 - 5.4.2 we will perform the Services with reasonable care and skill;
 - 5.4.3 the Platform will perform in all material respects in accordance with the Documentation.
- 5.5 We shall not be liable to you under clauses 5.4.2 and 5.4.3 to the extent that any non-conformance:
- 5.5.1 is caused by your use of the Services in a manner that contravenes our instructions;
 - 5.5.2 arises out of any modification or alteration of the Services by any person other than us or any person acting under our authority.
- 5.6 If the Services do not conform with the terms of clauses 5.4.2 and 5.4.3, our sole and exclusive liability and your sole remedy shall be for us at our own expense, to use reasonable commercial endeavours to correct any such non-conformance promptly.
- 5.7 You acknowledge that:
- 5.7.1 complex software is never wholly free from defects, errors, and bugs, and we give no warranty or representation that the Platform will be free from any Virus, defects, errors and/or bugs or that your use of the Services will be uninterrupted or error-free;
 - 5.7.2 we may, at times, need to take the Platform off-line to perform scheduled and unscheduled maintenance;
 - 5.7.3 we do not warrant or represent that the Platform will be compatible with any application, program or software not specifically identified as compatible in the Order;
 - 5.7.4 we will not and do not propose or purport to provide any legal, taxation or accountancy advice under or in connection with the Contract or in relation to the Platform and your use of it. Except to the extent expressly provided otherwise, we do not warrant or represent that the Platform will not give rise to any civil or criminal legal liability for you or for any other person;
- 5.8 You represent and warrant that the person that requests any Upgrade or that signs or agrees the Order is duly authorised to bind your company in relation to the subject matter of the Contract(s) entered into between us.
- 5.9 We:
- 5.9.1 do not warrant that:

- 5.9.1.1 the Education Data which may be used in the performance of the Services or which may be provided to you via the Platform is complete, accurate and up to date;
 - 5.9.1.2 that the Services, Documentation and/or the information obtained by you through the Services will meet your requirements; or
 - 5.9.1.3 the Platform, Documentation or Services will comply with any Heightened Cybersecurity Requirements;
- 5.9.2 are not responsible for any delays, delivery failures, or delivery of Content to unintended recipients or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 5.10 These Terms shall not prevent us from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under these Terms.
- 5.11 We warrant that we have and shall maintain all necessary licences, consents, and permissions necessary for the performance of our obligations under these Terms.
- 5.12 We shall follow our standard archiving procedures for Customer Data.
- 5.13 In the event of any loss or damage to Customer Data, our sole and exclusive liability and your sole and exclusive remedy shall be for us to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data.
- 5.14 We shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by us to perform services related to Customer Data maintenance and back-up for which we shall remain fully liable).

6. SUPPORT

- 6.1 We will, as part of the Services, provide you with Support Services relating to the Plan that you have subscribed to. You may purchase additional/enhanced support services separately at our then current rates as set out in the Product Catalogue.
- 6.2 We may sub-contract the provision of any of the Support Services without your consent.

7. PRODUCT SPECIFIC TERMS

7.1 **Resources Module:** this is a standard module that is available as part of the Services at the date of your Order. Any updates to the Resources Module are at our sole discretion and we make no warranty or representation that we will refresh the Resources Module at any time during the Term.

7.2 **Education Data:**

7.2.1 We grant to you a non-exclusive, non-transferable, revocable, licence, for the duration of the Subscription Term, to:

7.2.1.1 access, view and utilise the Education Data solely in accordance with the Contract; and

7.2.1.2 store the Education Data on your system.

7.2.2 You represent, warrant and undertake that you:

7.2.2.1 shall not use the Education Data for any purpose contrary to any law or regulation or any regulatory code, guidance or request;

7.2.2.2 shall not extract, reutilise, use, exploit, distribute, disseminate, copy or store the Education Data for any purpose not expressly permitted under the Contract;

7.2.2.3 shall not do anything with the Education Data which may damage our goodwill or reputation or that of the Service or that will damage the value in the Education Data;

7.2.2.4 acknowledge and agree that if you export/copy Education Data from the Platform for a third-party company then the Education Data is only authorised to be used for the marketing purposes of that one third party company and not also for your purposes;

7.2.2.5 shall be liable for the loss or misuse of Education Data whilst in your care, or the care of persons to whom you have granted access to the Education Data;

7.2.2.6 shall, if you export the Education Data from the Platform, you shall electronically mark it as belonging to us so that it may be easily removed from any system (CRM/broadcasting system etc.) once the Subscription Term ends;

7.2.2.7 shall, if using the Education Data in a third-party platform, check with the platform provider that it is permitted to upload data as per their terms and conditions;

7.2.2.8 shall not use the Education Data for any activity other than the purpose for which it was originally provided;

7.2.2.9 hold a legitimate interest to process the Education Data and a Legitimate Interest Assessment is in place that details the

- balancing test you have undertaken to prove your legitimate interest;
- 7.2.2.10 shall keep the Education Data secure and completely safeguarded against unauthorised use or disclosure; and
 - 7.2.2.11 shall cease using and fully delete the Education Data from your systems once the Subscription Terms ends unless a data subject in the Education Data has become your customer or has contacted you of their own volition during the Subscription Term, such interaction must be recorded and made available to us at our request. For the avoidance of doubt once the Subscription Term ends you may no longer use any Education Data previously exported from the Platform, with the exception of any data subjects who have become your customer or have contacted you of their own volition during the Subscription Term, for any marketing, or any other purpose.
- 7.2.3 Without prejudice to any other rights and remedies available to us at law or otherwise, if there has been a breach by you of any of clause 7.2.2.1, 7.2.2.2, 7.2.2.3, 7.2.2.4, 7.2.2.8, 7.2.2.9 and/or 7.2.2.10, we may suspend any or all of the Services and/or your access to the Platform and we shall be entitled to treat such breach as a material breach of the Contract for the purposes of clause 18.
- 7.2.4 In the event that we consider your use of the Education Data is in breach of clause 7.2.2.11, i.e. where we, acting reasonably, determine that you have used the Education Data outside of the Subscription Term specified in clause 7.2.2.11, a charge of 100% of the Charges for the Initial Subscription Term or the Renewal Term from which the Education Data that was used was derived will be imposed and a new Renewal Term will begin on the date of the breach and you shall be required to pay within 7 days of notice to do so.
- 7.2.5 You hereby acknowledge and agree that:
- 7.2.5.1 we use all reasonable endeavours to ensure that Education Data is accurate and up-to-date. However, as lists are compiled from a variety of sources, we do not guarantee that any of the records are 100% complete;
 - 7.2.5.2 we have obtained all Education Data fairly and lawfully in accordance with applicable data protection legislation. However, we do not guarantee the accuracy or completeness of individual addresses, contact names or telephone numbers nor do we guarantee that any set of the Education Data is a complete compilation of the categories of persons or establishments described therein;
 - 7.2.5.3 all Intellectual Property Rights in the Education Data belong to us or our licensors, as the case may be. You shall have no rights in or to the Education Data other than the right to use the

Education Data in accordance with the express terms of the Contract;

7.2.5.4 in the event that you obtain updates to any of the Education Data, you hereby agree to make such updates available to us and to assign to us with full title guarantee all Intellectual Property Rights in such Education Data updates. You shall further procure that any necessary third party shall promptly execute any documents and perform any acts reasonably required for the purpose of giving full effect to the assignment of such Education Data updates to us;

7.2.5.5 neither you nor any of your Authorised Users have any right to copy the Education Data or otherwise make a record of it, nor may you or your Authorised Users otherwise process the Education Data other than in accordance with the Contract or as agreed in writing with us. You further undertake that you shall not resell or otherwise monetise any of the Education Data that we have made available to you other than in accordance with the Contract;

7.2.5.6 we (and our licensors) have made and will continue to make substantial investment in the obtaining, verification, selection, co-ordination, development, presentation and supply of the Education Data;

7.2.5.7 all email addresses of individuals that are included within Education Data shall be obfuscated for data protection purposes;

7.2.5.8 the Subscription Fees take into account that some emails in the Education Data may bounce and therefore no pro rata refund is payable by us to you for bounced emails; and

7.2.5.9 the Education Data contains seed names and dummy addresses to protect our Intellectual Property Rights. We do not pass out seed addresses to you or your Authorised Users even in the event of a dispute as it leaves our Education Data unprotected.

7.2.6 Your Obligations. You:

7.2.6.1 will, if any emails contained within the Education Data are used in an email campaign and are proven to be undeliverable due to them being an incorrect email such that they hard-bounce, send them to us, including a reason for non-delivery, in an Excel or comma separated format document within 14 days of the send date of the campaign that generated the hard-bounces to enable our data team to investigate and where possible correct the error;

- 7.2.6.2 agree to comply with any requests for the suppression of deceased names and to notify us of any request you receive for the suppression of a deceased name or disputed data that can be identified as being included in the Education Data within 14 days of receipt of the request;
- 7.2.6.3 agree to notify us within 14 days of receipt, of any request for access to, or the correction or the deletion of inaccurate data that you receive from an individual whose name can be identified as being included in the Education Data supplied by us to you;
- 7.2.6.4 agree to notify us if any Education Data is found to be out of date or incorrect;
- 7.2.6.5 agree to comply with any request for information from an individual whose name can be identified in the Education Data supplied to you by us regarding the source from which the name was obtained and that this request will be dealt with promptly and in any event within a maximum of 14 days;
- 7.2.6.6 will, where email Education Data is used to send emails, ensure that the recipient is given a simple means to opt-out of receiving further communications and you must forward to us the details of any recipients who do exercise their right to opt-out including any comments that may be made by such recipients in an Excel or comma separated format document within 7 days of the unsubscribe request;
- 7.2.6.7 will, where Education Data is used to send postal marketing, ensure that you forward to us the details of any recipients who do exercise their right to opt-out of further postal marketing including any comments that may be made by such recipients in an Excel or comma separated format document within 14 days of the recipients' request;
- 7.2.6.8 shall ensure that the Education Data is kept secure and in an encrypted form, and shall implement the best available security practices and systems to prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Education Data;
- 7.2.6.9 co-operate with all reasonable security investigations that we may undertake involving the Education Data and your use of it;
- 7.2.6.10 shall inform us in writing if you close, cease to trade, go into administration or liquidation. Any assignment, sale, transfer or other disposal of the Education Data is expressly prohibited; and

7.2.6.11 shall, if you become aware of any misuse of any Education Data, or any security breach in connection with the Platform that could compromise the security or integrity of the Education Data or otherwise adversely affect us or if you learn or suspect that any security feature has been compromised, revealed or obtained by any unauthorised person:

7.2.6.11.1 at your expense, promptly notify us and fully cooperate with us to remedy the issue as soon as reasonably practicable; and

7.2.6.11.2 accept the suspension of your access to the Platform and use of the Education Data until the misuse or security breach or unauthorised disclosure or compromise is remedied.

7.3 **Forms and Cookies:** The Platform gives you the ability to track the interactions with your website of those Contacts who have filled out a lead generation form. It does this by placing a cookie on that Contact's machine. If you intend to use this feature you must ensure your website has a clear Cookie Policy and that the page your lead generation form is embedded on also has a clear link to that policy.

8. CUSTOMER MATERIALS

8.1 You grant to us a non-exclusive licence to store, copy and otherwise use your Customer Materials on the Platform for the purposes of operating the Platform, providing the Services, fulfilling our other obligations under the Contract, and exercising our rights under the Contract.

8.2 Subject to clause 8.1, all Intellectual Property Rights in Customer Materials will remain, as between the parties, your property.

8.3 You warrant and represent to us that your Customer Materials, and their use by us in accordance with these Terms:

8.3.1 will not breach any laws, statutes, regulations or legally-binding codes;

8.3.2 will not infringe any person's Intellectual Property Rights or other legal rights; or

8.3.3 will not give rise to any cause of action against us or you or any third-party;

8.4 You further warrant and represent that Customer Materials do not contain any content that

8.4.1 is unlawful, harmful, threatening, defamatory, obscene, indecent, infringing, harassing, libellous or maliciously false, or racially or ethnically offensive;

- 8.4.2 infringes any copyright, moral rights, database rights, trade mark rights, design rights, rights in passing off, or other intellectual property rights;
 - 8.4.3 infringes any rights of confidence, rights of privacy, or rights under data protection legislation;
 - 8.4.4 constitutes negligent advice or contains any negligent statement;
 - 8.4.5 constitutes an incitement to commit a crime;
 - 8.4.6 is in contempt of any court, or in breach of any court order;
 - 8.4.7 facilitates illegal activity;
 - 8.4.8 depicts sexually explicit images;
 - 8.4.9 promotes unlawful violence;
 - 8.4.10 is blasphemous;
 - 8.4.11 is in breach of official secrets legislation;
 - 8.4.12 is in breach of any contractual obligation owed to any person;
 - 8.4.13 is or has ever been the subject of any threatened or actual legal proceedings or other similar complaint;
 - 8.4.14 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 8.4.15 is otherwise illegal or causes damage or injury to any person or property, in each case in any jurisdiction and under any applicable law.
- 8.5 Where we reasonably suspect that there has been a breach by you of the provisions of this clause 8, we may:
- 8.5.1 delete or amend the relevant Customer Materials; and/or
 - 8.5.2 suspend any or all of the Services and/or your access to the Platform while we investigate the matter.
- 8.6 Any breach by you of this clause 8 will be deemed to be a material breach of these Terms for the purposes of clause 18.2.2.

9. DATA PROTECTION

- 9.1 You may upload Customer Data to be hosted on the Platform. You are the Data Controller of the Customer Data and we are a Data Processor in respect of the Customer Data.
- 9.2 The terms on which we process such personal data are set out in the Data Processing Agreement.

9.3 You are the Data Controller in respect of the use of any Education Data that we license to you via the Platform for the purposes of marketing and prospecting to it.

9.4 We are the Data Controller in respect of the maintenance and management of the Education Data that we license to you via the Platform.

10. THIRD-PARTY PROVIDER

10.1 You acknowledge that the Services may enable or assist you to access the website content of, correspond with, and purchase products and services from, third-parties via third-party websites and that you do so solely at your own risk.

10.2 We make no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by you, with any such third-party. Any contract entered into and any transaction completed via any third-party website is between you and the relevant third-party, and not us. We recommend that you refer to the third-party's website terms and conditions and privacy policy prior to using the relevant third-party website. We do not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

11. YOUR OBLIGATIONS

11.1 You warrant and represent that the person who places the Order and/or the signatory to any Contract made pursuant to these Terms has the legal right and authority to enter into and commit your organisation to the obligations set out in these Terms and in the applicable Contract.

11.2 You shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Customer Data.

11.3 You shall:

11.3.1 provide us with all necessary co-operation in relation to these Terms and any Contract made under them;

11.3.2 (promptly upon any changes taking effect), provide us with correct and up to date contact details (name, email and telephone number) for your Customer Representatives and other contacts as may be relevant at your organisation, including in particular but without affecting the foregoing, (i) when contacts with whom we engage at your organisation leave and are replaced or (ii) where responsibility for the use of the Platform is transferred to another authorised person within your organisation;

- 11.3.3 provide us with access to Customer Data;
- 11.3.4 provide us with access to security information;
- 11.3.5 inform us of any changes of which you become aware through your use of the data comprised within Education Data;
- 11.3.6 without affecting your other obligations under the Contract, comply with all applicable laws and regulations with respect to your activities under the Contract;
- 11.3.7 carry out all other Customer responsibilities set out in these Terms in a timely and efficient manner. In the event of any delays in your performance of such responsibilities, we may adjust any agreed timetable or delivery schedule as reasonably necessary;
- 11.3.8 ensure that your Authorised Users use the Services and the Documentation in accordance with these Terms and you shall be responsible for any Authorised User's breach of these Terms; and
- 11.3.9 if you are unhappy with the quality of the Platform and/or the Services, notify us thereof or, if preferred, engage with us prior to providing any negative feedback on a public review platform or other social media platform.

12. PRICE AND PAYMENT

12.1 You shall pay us the Subscription Fees for the relevant Services and User Logins in accordance with this clause 12.

12.2 We shall invoice as follows:

for the Subscription Fees:	annually, 6 monthly, quarterly or monthly in advance, as set out in the Order
for creative services provided by us to you:	monthly in arrears
for Upgrades purchased part way through the Term:	the fee shall be charged in advance on a pro rata basis (to the nearest number of months or part month remaining until expiry of the then current term). For avoidance of doubt Upgrades shall be coterminous with the termination or expiry of the original Services to which you have subscribed

12.3 You shall on the Effective Date provide us with a signed direct debit mandate, or valid up-to-date and complete credit/debit card details, or approved purchase order information acceptable to us and any other relevant valid, up-to-date and complete contact and billing details and, if you:

12.3.1 sign a direct debit mandate, or provide your credit/debit card details to us, you hereby authorise us to take direct debit payments, or bill such credit card:

12.3.1.1 on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term if the Order specifies you pay annually, or on the Effective Date and then every month thereafter for the Subscription Fees payable in respect of the Initial Subscription Term if the Order specifies you pay monthly; and

12.3.1.2 subject to clause 18.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Term if the Order specifies you pay annually, or on each anniversary of the Effective Date and then every month thereafter for the Subscription Fees payable in respect of the next Renewal Term if the Order specifies you pay monthly;

12.3.2 provide approved purchase order information to us, we shall invoice you:

12.3.2.1 on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and

12.3.2.2 subject to clause 18.1, prior to, on, or around each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Term,

and you shall pay each invoice, issued by us, by the payment date of such invoice.

12.4 If we have not received payment in full within 7 days after the due date, without prejudice to any other rights and remedies:

12.4.1 we may, on no less than 5 Business Days' notice to you and without liability to you, disable your password, account and access to all or part of the Platform and the Services and we shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

12.4.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of our bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

12.5 All amounts and fees stated or referred to in these Terms:

12.5.1 shall be payable in pounds sterling;

- 12.5.2 are non-cancellable and non-refundable;
 - 12.5.3 are exclusive of value added tax, which shall be added to our invoice(s) at the appropriate rate.
- 12.6 The Subscription Fee will be fixed throughout the Initial Subscription Term except if:
- 12.6.1 you Upgrade the Services part way through the Initial Subscription Term; or
 - 12.6.2 if you exceed the Maximum Contacts or other Limits agreed with us; or
 - 12.6.3 we agree otherwise with you in writing,
in which case, your Authorised Payment Method will automatically be charged the new rate for the next billing cycle (i.e., the next month or year).
- 12.7 Upon the commencement of a Renewal Term, we shall be entitled to increase your Subscription Fees up to our then in force list price as set out in our Product Catalogue by giving to you not less than 14 days' prior notice. The new price shall apply with effect from the first day of the Renewal Term. If you do not agree with the price increase, you may terminate your subscription by giving us notice of non-renewal under clause 18.1.1.
- 12.8 Where you have entered into a Contract for Services and either:
- 12.8.1 your direct debit fails; or
 - 12.8.2 you cancel the direct debit mandate prior to the expiry or termination of the Contract; or
 - 12.8.3 your credit/debit card fails; or
 - 12.8.4 the provisions of clause 12.9 apply,
- we reserve the right to charge you £25 for each and every such failed payment including if we make attempts (up to a maximum total of 4 additional attempts per payment due from you to charge your Authorised Payment Method) and we shall charge you the balance of the Subscription Fees for the remaining Term in the event of cancellation by you under clause 12.8.2.
- You authorise us to charge your Authorised Payment Method for the failed payment charges up to a total of 5 charges per month for each invoice due.
- 12.9 In the event that we have been unable to charge your Authorised Payment Method, for example due to its expiry or if it is invalid, you agree that we shall be entitled to retry billing your Authorised Payment Method. If you update your Authorised Payment Method to address the relevant issue or if we receive updates on your Authorised Payment Method from our payment service providers, we shall automatically resume billing. Some payment service providers will also automate a

retry to take payment from your Authorised Payment Method. If we remain unable after 3 additional attempts after the first attempt to charge your Authorised Payment Method, you shall lose the right to pay in instalments and we shall be entitled to demand the full balance of the invoice which will be payable immediately.

- 12.10 You agree to keep your business information up to date, including your company name, address, primary contact, and billing contact. You will also keep your Authorised Payment Method and billing and tax information up to date for the payment of incurred and recurring fees.
- 12.11 You authorise us to continue to charge your Authorised Payment Method for applicable fees during your Subscription Term and until any and all outstanding fees have been paid in full. All payment obligations are non-cancellable and all amounts paid are non-refundable, except as specifically provided for in the Contract. Save as otherwise provided in the Contract, all fees are due and payable in advance throughout the Term.
- 12.12 Resellers of Campus subscriptions agree to be responsible for the Order and to guarantee payment of all Subscription Fees applicable to their clients' accounts.
- 12.13 We will not provide refunds or credits in the case of cancellations, downgrades, inaccuracies in the Education Data or when there are unused portions of the Services on an open account.
- 12.14 If we offer a discounted price for the Services, whether as part of a signed for or non-signed for Order and you cancel part way through the Initial Subscription Term or the Renewal Term we shall be entitled to disregard the discount and shall be entitled to invoice you for the difference between the discounted price agreed and the full list price of the Service from the beginning of the current Term to the effective date of termination of the Service following your cancellation. You shall pay such invoice in full within 7 days of the date of the invoice.
- 12.15 We reserve the right to correct prices and invoices where typographical, clerical or other errors have been made in the Order, the quote or proposal document, any invoice, or in any other written or verbal correspondence.
- 12.16 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 12.17 Non-payment of Subscription Fees due to us under this Contract shall be deemed a material breach. You shall be liable for any and all cost and expenses, including but not limited to legal fees, court costs, bank charges, third-party supplier charges and

other administrative costs incurred by us in conjunction with the collection of the Subscription Fees.

12.18 You have no rights of cancellation after signature of the applicable Order. Any purported cancellation shall incur the full contract duration charges which we may invoice in full following cancellation. You shall pay such final invoice in full within 7 days of the date of the applicable invoice.

12.19 You acknowledge that in your capacity as a business, you have no statutory rights to cancel any contract pursuant to the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (SI 2013/3134) and that such regulations apply only to consumers which are defined at law as “an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession”.

13. PROPRIETARY RIGHTS

13.1 You acknowledge and agree that we and/or our licensors own all Intellectual Property Rights in the Services and the Documentation. Except as expressly stated herein, nothing in the Contract grants you any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

13.2 We confirm that we have all the rights in relation to the Services and the Documentation that are necessary to grant all the rights we grant to you under, and in accordance with, the terms of the Contract.

14. CONFIDENTIALITY

14.1 **Customer Confidential Information** means all information (marked or described verbally as confidential) disclosed by you or any of your Representatives or Authorised Users, customers or licensors to us and/or any of our Representatives during the Term, relating to:

14.1.1 the financial terms of the Contract and any supplemental orders placed by you from time to time;

14.1.2 the Customer Materials;

14.1.3 the Customer Data;

14.1.4 any information that would be regarded as confidential by a reasonable business person relating to:

14.1.4.1 your business, assets, customers, suppliers, or plans; and

14.1.4.2 your product information, know-how or designs.

- 14.2 **Provider Confidential Information** means all information (whether or not marked or described verbally as confidential) disclosed by us or any of our Representatives to you and/or any of your Representatives either orally or in writing (including digital form) prior to or during the Term, relating to:
- 14.2.1 the financial terms of the Contract and any supplemental orders placed by you from time to time;
 - 14.2.2 our proprietary materials;
 - 14.2.3 any information that would be regarded as confidential by a reasonable business person relating to:
 - 14.2.3.1 our business, assets, customers, suppliers, or plans; and
 - 14.2.3.2 our product information, know-how or designs.
- 14.3 The provisions of this clause shall not apply to any Customer Confidential Information or Provider Confidential Information that:
- 14.3.1 is or becomes generally available to the public (other than as a result of its disclosure in breach of this clause);
 - 14.3.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
 - 14.3.3 was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the disclosing party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information;
 - 14.3.4 to the extent such Customer Confidential Information or Provider 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; or
 - 14.3.5 the parties agree in writing is not confidential or may be disclosed.
- 14.4 Each party shall keep the other party's Confidential Information confidential and shall not:
- 14.4.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with the Contract; or
 - 14.4.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 14.
- 14.5 Each party may disclose the other party's Confidential Information to its Representatives provided that:
- 14.5.1 it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and

- 14.5.2 the applicable Representatives are bound by obligations of confidentiality in respect of such Confidential Information.
- 14.6 Either party may, provided that they have reasonable grounds to believe that the other party is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose the other party's Confidential Information to the Serious Fraud Office without first informing the other party of such disclosure.
- 14.7 The provisions of this clause 14 shall survive for a period of 24 months from termination or expiry of the Contract.

15. INDEMNITY

- 15.1 You shall defend, indemnify and hold us and our Representatives harmless, at your expense, against any and all claims, actions, proceedings, losses, damages, expenses and costs (each, an "Action") brought against us or any of our Representatives, including those brought by third-parties, (including without limitation court costs and reasonable legal fees) to the extent that such Action is based upon, is in connection with, or arises out of:
 - 15.1.1 your or your Representatives' use of the Services and/or Documentation;
 - 15.1.2 your or our or either of our Representatives' (including your Authorised Users' and your customers') use of the Customer Materials;
 - 15.1.3 unauthorised or illegal use of the Service by you or your Representatives or by any other person using your User Login;
 - 15.1.4 your or your Representatives' (including your Authorised Users' and your customers') non-compliance with or breach of the terms of our Contract; or
 - 15.1.5 your or your Representatives' use of Third-Party Products,provided that:
 - 15.1.6 we give you notice of any such Action within 30 days of our becoming aware of the Action;
 - 15.1.7 we provide reasonable co-operation to you in the defence and settlement of such Action, at your expense; and
 - 15.1.8 you are given sole authority to defend or settle the Action.
- 15.2 You will not accept any settlement in relation to the Action that:
 - 15.2.1 imposes an obligation on us;
 - 15.2.2 requires us to make an admission; or
 - 15.2.3 imposes liability not covered by these indemnifications or places restrictions on us,

without our prior written consent.

- 15.3 We shall defend you against any claim that your use of the Services or Documentation in accordance with these Terms infringes any United Kingdom copyright, trade mark, database right or patent effective during the Term, and shall indemnify you for any amounts awarded against you in judgment or settlement of such claims, provided that:
- 15.3.1 you give us notice of any such claim within 30 days of becoming aware of any claim;
 - 15.3.2 you do not make any admission, or otherwise attempt to compromise or settle the claim and provide reasonable co-operation to us in the defence and settlement of such claim, at our expense; and
 - 15.3.3 we are given sole authority to defend or settle the claim.
- 15.4 In the defence or settlement of any claim, we may:
- 15.4.1 procure the right for you to continue using the Services and/or Documentation as applicable;
 - 15.4.2 replace or modify the Services and/or Documentation as applicable so that they become non-infringing; or, if such remedies are not reasonably available,
 - 15.4.3 terminate the Contract made pursuant to these Terms on 2 Business Days' notice to you without any additional liability or obligation to pay liquidated damages or other additional costs to you.
- 15.5 In no event shall we or our Representatives be liable to you under this indemnity to the extent that the alleged infringement is based on:
- 15.5.1 a modification of the Services or Documentation by anyone other than us; or
 - 15.5.2 your use of the Services or Documentation in a manner contrary to the instructions given to you by us; or
 - 15.5.3 your use of the Services or Documentation after notice of the alleged or actual infringement from us or any appropriate authority; or
 - 15.5.4 your breach of any of the terms of the Contract.
- 15.6 Clauses 15.3, 15.4 and 15.5 state your sole and exclusive rights and remedies, and our entire obligations and liability, for infringement of any United Kingdom patent, copyright, trade mark or database right.
- 15.7 Nothing in this clause shall restrict or limit your general obligation at law to mitigate any loss you may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

16. LIMITATION OF LIABILITY

YOUR ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CLAUSE.

EXCEPT AS EXPRESSLY AND SPECIFICALLY PROVIDED IN THE CONTRACT, THIS CLAUSE 16 STATES OUR ENTIRE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM BY YOU AGAINST US.

16.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW:

16.1.1 WE MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, SECURITY, ACCURACY OR COMPLETENESS OF THE SERVICE, DATA SYNCHED TO OR MADE AVAILABLE FROM THE SERVICE, PLATFORM CONTENT, OR THE SERVICES FOR ANY PURPOSE;

16.1.2 THE SERVICES AND THE DOCUMENTATION ARE PROVIDED TO YOU ON AN "AS IS" BASIS;

16.1.3 ALL WARRANTIES, REPRESENTATIONS, CONDITIONS AND ALL OTHER TERMS OF ANY KIND WHATSOEVER IMPLIED BY STATUTE OR COMMON LAW ARE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCLUDED FROM THE CONTRACT.

16.2 EXCEPT AS EXPRESSLY AND SPECIFICALLY PROVIDED IN THE CONTRACT, YOU ASSUME SOLE RESPONSIBILITY FOR RESULTS OBTAINED FROM THE USE OF THE SERVICES AND THE DOCUMENTATION. WE SHALL HAVE NO LIABILITY FOR ANY DAMAGE CAUSED BY OR ARISING OUT OF OR IN CONNECTION WITH ANY ERRORS OR OMISSIONS IN ANY EDUCATION DATA PROVIDED BY US TO YOU OR IN ANY CUSTOMER DATA, OR FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH INFORMATION, INSTRUCTIONS OR SCRIPTS PROVIDED TO US BY YOU IN CONNECTION WITH THE SERVICES, OR ANY ACTIONS TAKEN BY US AT YOUR DIRECTION;

16.3 NOTHING IN THE CONTRACT EXCLUDES OUR LIABILITY:

16.3.1 FOR DEATH OR PERSONAL INJURY CAUSED BY OUR NEGLIGENCE;

16.3.2 FOR FRAUD OR FRAUDULENT MISREPRESENTATION; OR

16.3.3 FOR ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED AT LAW.

16.4 SUBJECT TO CLAUSE 16.3, CLAUSE 16.6 IDENTIFIES THE KINDS OF LOSS THAT ARE NOT EXCLUDED. SUBJECT TO THAT, CLAUSE 16.5 EXCLUDES SPECIFIED TYPES OF LOSS.

16.5 THE TYPES OF LOSS WHOLLY EXCLUDED ARE:

16.5.1 LOSS OF PROFITS;

16.5.2 LOSS OF REVENUE OR BUSINESS;

- 16.5.3 LOSS OF ANTICIPATED SAVINGS;
 - 16.5.4 WASTED EXPENDITURE;
 - 16.5.5 LOSS OF OR DAMAGE TO GOODWILL AND/OR REPUTATION;
 - 16.5.6 LOSS OF USE OR CORRUPTION OF DATA OR INFORMATION;
 - 16.5.7 PURE ECONOMIC LOSS; OR
 - 16.5.8 FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL LOSS, COSTS, DAMAGES, CHARGES OR EXPENSES.
- 16.6 SUBJECT TO CLAUSE 16.7, THE TYPES OF LOSS AND SPECIFIC LOSSES NOT EXCLUDED ARE:
- 16.6.1 SUMS YOU HAVE PAID TO US PURSUANT TO THE CONTRACT IN RESPECT OF ANY SERVICES NOT PROVIDED IN ACCORDANCE WITH THE CONTRACT;
 - 16.6.2 ADDITIONAL COSTS OF PROCURING AND IMPLEMENTING REPLACEMENTS FOR, OR ALTERNATIVES TO, OUR SERVICES NOT PROVIDED IN ACCORDANCE WITH THE CONTRACT. THIS IS LIMITED TO REASONABLE COSTS OF MANAGEMENT TIME TO IMPLEMENT A REPLACEMENT SERVICE; AND
 - 16.6.3 LOSSES YOU INCUR ARISING OUT OF OR IN CONNECTION WITH ANY THIRD-PARTY CLAIM AGAINST YOU WHICH HAS BEEN CAUSED BY OUR ACT OR OMISSION. FOR THESE PURPOSES, THIRD PARTY CLAIMS SHALL BE LIMITED TO DEMANDS, FINES, PENALTIES, ACTIONS, INVESTIGATIONS OR PROCEEDINGS, INCLUDING THOSE MADE OR COMMENCED BY OUR PERSONNEL, A REGULATOR AND YOUR CUSTOMERS.
- 16.7 SUBJECT TO CLAUSE 16.3, OUR TOTAL LIABILITY TO YOU FOR:
- 16.7.1 ANY LOSS ARISING FROM OUR FAILURE TO COMPLY WITH OUR DATA PROTECTION OBLIGATIONS SHALL NOT EXCEED AN AMOUNT EQUAL TO THREE TIMES THE LIABILITY CAP AS DEFINED IN CLAUSE 16.7.2; AND
 - 16.7.2 ALL OTHER LOSS OR DAMAGE WHICH DOES NOT FALL WITHIN CLAUSE 16.7.1 SHALL BE LIMITED TO A SUM EQUAL TO THE TOTAL AMOUNTS PAID OR PAYABLE FOR THE SERVICE IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM (THE 'LIABILITY CAP').
- 16.8 CYBER SECURITY INSURANCE IS RARELY COMMERCIALY VIABLE FOR SMALLER AND MEDIUM SIZED ORGANISATIONS. YOU ACCEPT THAT YOU ARE RESPONSIBLE FOR MAKING YOUR OWN ARRANGEMENTS FOR THE INSURANCE OF ANY SUCH LIABILITY. YOU UNDERSTAND AND AGREE THAT WITHOUT YOUR AGREEMENT TO THE LIMITATIONS OF LIABILITY SET OUT IN THIS CLAUSE 16, WE WOULD NOT PROVIDE THE SERVICES TO YOU.
- 16.9 REFERENCES TO LIABILITY IN THIS CLAUSE 16 INCLUDE EVERY KIND OF LIABILITY ARISING UNDER OR IN CONNECTION WITH THE CONTRACT INCLUDING BUT NOT

LIMITED TO LIABILITY IN CONTRACT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, RESTITUTION OR OTHERWISE.

16.10 NOTHING IN THE CONTRACT EXCLUDES OR LIMITS YOUR LIABILITY FOR ANY BREACH, INFRINGEMENT OR MISAPPROPRIATION OF OUR INTELLECTUAL PROPERTY RIGHTS.

16.11 UNLESS A PARTY NOTIFIES THE OTHER PARTY THAT IT INTENDS TO MAKE A CLAIM IN RESPECT OF AN EVENT WITHIN THE NOTICE PERIOD, THE OTHER PARTY SHALL HAVE NO LIABILITY FOR THAT EVENT. THE NOTICE PERIOD FOR AN EVENT SHALL START ON THE DAY ON WHICH THE PARTY WISHING TO MAKE A CLAIM BECAME, OR OUGHT REASONABLY TO HAVE BECOME, AWARE OF ITS HAVING GROUNDS TO MAKE A CLAIM IN RESPECT OF THE EVENT AND SHALL EXPIRE 12 MONTHS FROM THAT DATE. THE NOTICE MUST BE IN WRITING AND MUST IDENTIFY THE EVENT AND THE GROUNDS FOR THE CLAIM IN REASONABLE DETAIL.

17. SUSPENSION OF SERVICE

17.1 We reserve the right to edit or remove any Content in our sole discretion for any reason, without notice or explanation.

17.2 We may suspend any of your Authorised Users' access to any or all of the Services without notice for use of the Platform's email send service that results in excessive bounces, Spam complaints via feedback loops, direct Spam complaints (to our Customer Services desk), or requests for removal from a mailing list by recipients.

17.3 Without prejudice to this general right and our other legal rights, if you breach any provision of the Contract in any way, or if we reasonably suspect that you have done so, we may:

17.3.1 delete or edit any of your Content;

17.3.2 send you one or more formal warnings;

17.3.3 temporarily suspend your access to a part or all of the Services;

17.3.4 permanently prohibit you from using a part or all of the Services;

17.3.5 take legal action against you for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from the breach;

17.3.6 take further legal action against you;

17.3.7 disclose such information to law enforcement authorities as we reasonably feel is necessary or as required by law.

18. TERM AND TERMINATION

- 18.1 The Contract made pursuant to these Terms shall, unless otherwise terminated as provided in this clause 18, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, these Terms shall be automatically renewed for successive periods of 12 months (each a 'Renewal Term'), unless:
- 18.1.1 either party notifies the other party of termination, in writing, at least 14 days before the end of the Initial Subscription Term or any Renewal Term, in which case the Contract made pursuant to these Terms shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Term; or
 - 18.1.2 otherwise terminated in accordance with the provisions of these Terms.
- 18.2 Without affecting any other right or remedy available to us, we may terminate the Contract made pursuant to these Terms with immediate effect by giving written notice to you if:
- 18.2.1 you fail to pay any amount due under the applicable Contract on the due date for payment;
 - 18.2.2 you commit a material breach of any other provision of these Terms and (if such breach is remediable) fail to remedy that breach within a period of 7 days after being notified in writing to do so;
 - 18.2.3 you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit inability to pay your debts or are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
 - 18.2.4 you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or a solvent reconstruction;
 - 18.2.5 you apply to court for, or obtain, a moratorium under Part A1 of the Insolvency Act 1986;
 - 18.2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or a solvent reconstruction;
 - 18.2.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over you (being a company, partnership or limited liability partnership);

- 18.2.8 the holder of a qualifying floating charge over your assets (you being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
 - 18.2.9 a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;
 - 18.2.10 any of your creditors or encumbrancers attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;
 - 18.2.11 any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in clause 18.2.3 to clause 18.2.10 (inclusive);
 - 18.2.12 you suspend or cease, or threaten to suspend or cease, carrying on all or a substantial part of your business;
 - 18.2.13 your financial position deteriorates so far as to reasonably justify the opinion that your ability to give effect to these Terms is in jeopardy;
 - 18.2.14 you are subject to a change of control; or
 - 18.2.15 you or any of your Representatives engages in abusive, threatening, or harassing behaviour towards us or any of our employees, agents, or Representatives. Abusive behaviour includes but is not limited to verbal abuse, physical threats, and any form of harassment.
- 18.3 On termination of any Contract pursuant to these Terms for any reason, in relation to that terminated Contract only:
- 18.3.1 you shall immediately pay to us all of our outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, we shall submit an invoice, which shall be payable by you immediately on receipt;
 - 18.3.2 all licences granted under the applicable Contract shall immediately terminate and you shall immediately cease all use of the Services and/or the Documentation;
 - 18.3.3 each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party to the extent the same was provided pursuant to the terminated Contract;
 - 18.3.4 subject to clause 18.3.5 we shall use our reasonable endeavours to irretrievably delete from the Platform any Customer Confidential Information and to delete any Customer Data in our possession;
 - 18.3.5 we shall be entitled to retain any document (including any electronic document) containing Customer Confidential Information after the termination of the applicable Contract if:

- 18.3.5.1 we are obliged to retain such document by any law or regulation or other rule enforceable against us; or
 - 18.3.5.2 the document in question is a letter, email, order confirmation, invoice, receipt or similar document addressed to us; and
 - 18.3.6 we shall permanently withdraw your (and your Authorised Users') access to the Platform;
 - 18.3.7 you will ensure that all Customer Data that is exportable is exported from the Platform before the termination date.
- 18.4 Any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced.
- 18.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

19. FORCE MAJEURE

- 19.1 Where a Force Majeure Event gives rise to a failure or delay in either party performing its obligations under any Contract (other than obligations to make payment), those obligations will be suspended for the duration of the Force Majeure Event.
- 19.2 A party who becomes aware of a Force Majeure Event which gives rise to any failure or delay in performing its obligations under the Contract, will:
- 19.2.1 forthwith notify the other; and
 - 19.2.2 inform the other of the period for which it is estimated that such failure or delay will continue.
- 19.3 The affected party will take reasonable steps to mitigate the effects of the Force Majeure Event.

20. PUBLICITY

- 20.1 You grant us the right to include your name and company logo in our customer list, on our website and any other medium for the purposes of advertising our Services. Consent can be withdrawn at any time, by emailing us.
- 20.2 We shall be entitled to use any creative work, designs, artwork or other deliverables created by us in performance of the Services for the purpose of providing examples and case studies on our website and/or other marketing material.

- 20.3 You grant us the right to include any testimonial you have given us and/or be included in any case-study, on our website and any other medium for the purposes of advertising our Services. Consent can be withdrawn at any time, by emailing us.

21. CONFLICT

If there is an inconsistency between any of the provisions in the Order and the main body of these Terms, the provisions in these Terms shall prevail to the extent of such inconsistency, unless expressly provided otherwise in the Order.

22. VARIATION

- 22.1 Subject to clause 22.2, no variation of any of the detail set out on any Order (excluding these Terms) shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 22.2 We may update these Terms at any time by notice in writing to you (which includes notice on the Platform and/or our website) to the extent that any such update does not affect:
- 22.2.1 the price you pay for your Services;
 - 22.2.2 the term of your Contract; or
 - 22.2.3 any other specific term set out exclusively on the Order.
- 22.3 You accept that it is your responsibility to regularly review any new releases of these Terms that we make available to you. Your continued use of our Services indicates your acceptance of any updates to our Terms. If you object to any such update to our Terms, you will have the right to terminate the Contract within 30 days of the Terms being updated by giving to us 30 days' notice in writing.

23. WAIVER

- 23.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 23.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

24. RIGHTS AND REMEDIES

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

25. SEVERANCE

- 25.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.
- 25.2 If any provision or part-provision of the Contract is deemed deleted under clause 25.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

26. DENIAL OF SERVICE ATTACKS

- 26.1 If the Platform, or your use of, the Platform:
 - 26.1.1 is being subjected to denial-of-service attacks or other disruptive activity;
 - 26.1.2 is being used to engage in denial-of-service attacks or other disruptive activity;
 - 26.1.3 is creating a security vulnerability for the Services or for others;
 - 26.1.4 is consuming excessive bandwidth or storage; or
 - 26.1.5 is causing harm to us or others,then we may, by email or telephone notice to you, suspend all or any access to the Platform, Services and Documentation.
- 26.2 We will make commercially reasonable efforts to limit the suspension to the affected portion of the Platform or Services as applicable, and you and we shall make reasonable efforts to promptly resolve the issues giving rise to the suspension of the Platform, Services and Documentation.
- 26.3 Nothing in this clause **Error! Reference source not found.** limits our right to terminate for cause, if we determine that you are acting, or have acted, in a way that has or may negatively reflect on or affect us, our staff, our prospects, or our customers.

27. ENTIRE AGREEMENT

- 27.1 These Terms together with the Order, the Product Catalogue, and the Data Processing Agreement constitute the entire agreement between the parties which makes the Contract and supersede and extinguish all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.

27.2 Each party acknowledges that in entering into a Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

27.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

27.4 Nothing in this clause shall limit or exclude any liability for fraud.

28. ASSIGNMENT

28.1 You shall not, without our prior written consent, assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of your rights and obligations under the Contract except that you may assign the Contract to a successor by reason of merger, reorganisation, sale of all or substantially all of your assets, change of control or operation of law, provided such successor is not a competitor of ours.

28.2 In the event that you wish to grant to your affiliates (which include your advertising agency or designers) access to the Platform, the Services, and Documentation, you must first seek our written consent. You hereby acknowledge and agree that notwithstanding our consent, you shall remain primarily liable to us for the affiliates' compliance with the terms of such Contract(s).

28.3 We may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of our rights and obligations under the Contract.

29. NO PARTNERSHIP OR AGENCY

Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

30. THIRD PARTY RIGHTS

Nothing in the Contract shall give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision set out in it.

31. COUNTERPARTS

- 31.1 The Order may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 31.2 Transmission of the executed signature page of a counterpart of the Order by email (in PDF, JPEG or other agreed format) shall take effect as the transmission of an executed "wet-ink" counterpart of the Order.
- 31.3 No counterpart shall be effective until each party has provided to the other at least one executed counterpart.

32. NOTICES

- 32.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Order.
- 32.2 Any notice or communication shall be deemed to have been received:
 - 32.2.1 if delivered by hand, at the time the notice is left at the proper address;
 - 32.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 09:00 am on the second Business Day after posting; or
 - 32.2.3 if sent by email at the time of transmission, or, if this time falls outside Normal Business Hours in the place of receipt, when Normal Business Hours resume.
- 32.3 This clause 32 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

33. GOVERNING LAW

The Contract and any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England and Wales.

34. JURISDICTION

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