Fluent Standard Terms and Conditions

1   INTERPRETATION

1.1   The definitions and rules of interpretation in this Clause 1 apply in the Agreement.

Acceptable Use Policy: the acceptable use policy made available by Supplier from time to time;

Agreement: has the meaning given to it in Clause 2.2;

Application: the Application provided by Supplier, as identified in the Order Form;

Authorised Users: those employees, agents and independent contractors of Client who are authorised by Client to use the Services and Documentation;

Availability: has the meaning given to it in Clause 5.2;

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

Charges: the amounts payable to Supplier under or in connection with this Agreement, including those charges set out in the Order Form;

Client: means the entity identified as Client in the Order Form;

Client Data: the data provided by or on behalf of Client (including the Authorised Users) to Supplier for the purpose of using the Services or facilitating Client's use of the Services, including all user input and any log-in details required to access such information;

Client Dependencies: means the dependencies identified as Client Dependencies in the Order Form (if any);

Client Materials: has the meaning given to it in Clause 9.2;

Client Personal Data: has the meaning given to it in Clause 6.2;

Confidential Information: means all information of whatever nature or form that is disclosed (whether in writing, verbally or otherwise), obtained or created, under or in connection with this Agreement (whether prior to or after the Commencement Date) which is of a confidential or proprietary nature including: (a) the existence, terms and subject matter of this Agreement, and the negotiations relating to it; (b) the following information relating to either of the parties or their affiliated companies: (i) information regarding their business, affairs, and business plans; (ii) price lists, pricing structures, sales and marketing plans; (iii) information about employees, officers and other personnel; (iv) information about current and prospective clients, customers and suppliers; (v) know-how, trade secrets, inventions, products, operations, processes, product information and unpublished information relating to intellectual property rights; and (vi) any other commercial, financial or technical information; and (c) the Documentation.

Contract Year means a consecutive twelve-month period commencing on the Commencement Date as identified in the Order Form;

Data Protection Legislation: means all applicable laws relating to the processing of personal data, including:

a)   Data Protection Act 2018;

b)   EC Directive 2002/58/EC on Privacy and Electronic Communications;

c)   EC Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data ("**GDPR**");

d)   all local laws or regulations implementing or supplementing the EU legislation mentioned in (b) and (c) above; and

e) legally binding codes of practice issued by national Regulators relating to the laws, regulations and EU legislation mentioned in (a)-(d) above;

Documentation: means the information made available to Client by Supplier online via https://www.fluenthq.com/ or such other web address notified by Supplier to Client from time to time which sets out a description of the Services and the user instructions for the Services as may be updated from time to time.

Force Majeure Event: means any event or sequence of events beyond a party's reasonable control and which prevents it from, or delays it in, performing its obligations under this Agreement, including: (a) an act of God, flood, storm, drought, earthquake, or other natural disaster; (b) adverse weather conditions; (c) any cause or event arising out of or attributable to war, civil commotion or terrorist activity (or threat thereof); (d) any law, or any governmental order, rule or regulation; (e) fire or explosion; (f) labour dispute including strikes, industrial action, lockouts or boycott; (g) a shortage of raw materials; (h) power outages, blockages, or internet or telecoms failure; and (i) any epidemic or pandemic, including the COVID-19 pandemic, and compliance with any applicable governmental guidelines designed to prevent the spread of the relevant disease;

Initial Term: the initial term of the Agreement, as specified in the Order Form;

Normal Business Hours: 9.00 am to 6.00 pm UK time, each Business Day;

Order: means an order for Services signed by or accepted by Client pursuant to Clause 2.2;

Order Form: means a document setting out the details of the Application, number of User Subscriptions and Charges payable among other agreed terms;

Protected Functionality: the fundamental functional and technical aspects of the Services;

Renewal Period: successive 12-month periods following expiry of the Initial Term;

Services: the provision by Supplier to Client of the Application;

Standard Terms: these Fluent Standard Terms and Conditions;

Term: has the meaning given to it in Clause 12.1;

Third Party Platforms: has the meaning given to it in Clause 5.1;

User Subscriptions: the user subscriptions purchased by Client which entitle Authorised Users to access and use the Services and Documentation in accordance with this Agreement.

VAT: value added tax as charged in accordance with the Value Added Tax Act 1994;

Virus: any thing or device (including any software, code, file or programme) that may: (a) 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 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 (b) adversely affect the user experience of the Services, including worms, trojan horses, viruses, malware, software vulnerabilities and other similar things or devices;

Year: the period of twelve (12) months starting from the Commencement Date, or from the anniversary of the Commencement Date, as applicable.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement. References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement. Words in the singular shall include the plural

and in the plural shall include the singular. Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender. 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. If there is an inconsistency between any of the provisions in these Standard Terms and: (i) any Special Terms set out in an Order, the Special Terms shall prevail; (ii) any provisions other than the Special Terms set out in an Order, these Standard Terms shall prevail; (iii) any other document referred to in these Standard Terms, these Standard Terms shall prevail.

2 BASIS OF AGREEMENT

2.1 These Standard Terms shall apply to all Orders to the exclusion of any other terms that Client may seek to impose or incorporate (including on any purchase orders or similar), or which are implied by trade, custom, practice or course of dealing.

2.2 No binding contract shall be formed, and Supplier shall be under no obligation to provide the Services and/or Documentation, until Client has indicated its acceptance of the Order either expressly by signing an Order Form or by executing an Order Form online in such format as is stipulated by Supplier from time to time (which may include DocuSign or a "tick-box" acceptance method on the Fluent website) (each an "**Order**"), following which that Order and the Standard Terms shall together form an "**Agreement**".

2.3 Nothing in an Agreement shall prevent Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services which are similar to those provided under the Agreement.

3 RIGHT TO USE THE SERVICES

3.1 Subject to Client complying with the provisions of the Agreement (including the restrictions set out in this Clause 3), Supplier hereby grants to Client a non-exclusive, non-transferable licence, without the right to grant a sub-licence, to permit the Authorised Users to use the Services and the Documentation for the Term solely for Client's internal business operations and subject always to use in accordance with the Acceptable Use Policy.

3.2 Client shall promptly following execution of an Order Form provide Supplier with the name of each Authorised User. Supplier shall provide a username and password with respect to each Authorised User to enable access to and use of the Application.

3.3 Client undertakes that:

(a) the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the maximum number of User Subscriptions in the Subscription Range it has purchased from time to time;

(b) each Authorised User shall keep a secure password for their respective use of the Services and that each Authorised User keeps their password confidential;

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

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

(e) it shall permit Supplier or Supplier's designated auditor to audit the Services in order to establish Client's compliance with this Agreement. Each such audit may be conducted no more than once per quarter, at Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with Client's normal conduct of business;

(f) if any audit referred to in Clause 3.2(e) reveals that any password has been provided to any individual who is not an Authorised User, then without prejudice to Supplier's other rights, Client shall promptly disable such passwords and Supplier shall not issue any new passwords to any such individual; and

(g) if any audit referred to in Clause 3.2(e) reveals that Client has underpaid Subscription Fees to Supplier, then without prejudice to Supplier's other rights, Client shall pay to Supplier an amount equal to such underpayment as calculated in accordance with the Charges set out in the Order within ten (10) Business Days of the date of the relevant audit.

3.4 Client shall not, and shall procure that each Authorised User shall not, access, store, distribute or transmit any Viruses, or any material during the course of use of the Services that: (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (ii) facilitates illegal activity; (iii) depicts sexually explicit images; (iv) promotes unlawful violence; (v) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or (vi) is otherwise illegal or causes damage or injury to any person or property.

3.5 Client shall not and shall procure that each Authorised User shall not:

(a) except as may be allowed by any applicable law that is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Agreement: (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services and/or Documentation in any form or media or by any means; or (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services and/or Documentation;

(b) during the Term and for twelve (12) months after the Term, create or assist any third party to create, directly or indirectly, a product or service that competes with the Services or any software application containing the same or similar functionality to the Protected Functionality;

(c) use the Services and/or Documentation to provide services to any third parties or otherwise demonstrate the Services to third parties;

(d) subject to Clause 14.6, license, sell, rent, lease, transfer, assign, distribute, display, disclose or otherwise exploit, or otherwise make available, the Services and/or Documentation to any third party

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except the Authorised Users on the basis set out in the Agreement; and/or

(e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, except as provided under this Clause 3.

3.6 Client shall, without prejudice to its other obligations, use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or Documentation and, in the event of any such unauthorised access or use, promptly notify Supplier in writing.

3.7 Supplier reserves the right to disable Client's access to the Services and/or Documentation and/or terminate the Agreement with immediate effect on written notice where Client is in breach of this Clause 3.

3.8 The rights provided under this Clause 3 are granted to Client only, and shall not be considered granted to any subsidiary or holding company of Client.

4 ADDITIONAL USER SUBSCRIPTIONS

4.1 Subject to the rest of this Clause, Client may, from time to time during any Term request an additional number of User Subscriptions in excess of the number set out in the Order.

4.2 If Supplier approves Client's request to purchase an additional number of User Subscriptions, the parties will record the same in an amended or reissued Order Form, and Supplier shall grant access to the Services and to the Documentation to any such additional Authorised Users in accordance with the provisions of this Agreement.

4.3 Client shall, within thirty (30) days of the date of Supplier's invoice, pay to Supplier the relevant Charges for such additional User Subscriptions as set out in the

updated Order and, if such additional Authorised Users are purchased by Client part way through the Initial Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by Supplier for the remainder of the Initial Term or Renewal Period (as applicable).

5 SERVICES

5.1 Supplier shall provide the Services using reasonable care and skill. Client acknowledges and agrees that the Services and the success of the Application are reliant on third party platforms and technologies [(including Slack, Microsoft Teams, Microsoft Azure and AI technologies such as OpenAI's GPT-3.5 and GPT-4)] and other third parties outside of Supplier's reasonable control ("**Third Party Platforms**") and that Supplier shall not be liable for any acts or omissions of such Third-Party Platforms.

5.2 Supplier shall use commercially reasonable endeavours to ensure that the Application is available for use by Authorised Users in material conformity with the Agreement ("**Availability**") for at least 99.5% of the time, as measured over the course of each calendar month during the Term. Availability will be calculated without regard to downtime or disruptions due to any of the following:

(a) misuse of the Application;

(b) failure of internet connectivity;

(c) failure or outage of any Third Party Platforms;

(d) Client's failure to meet any minimum hardware, software or other requirements as notified by Supplier to Client from time to time;

(e) Client's failure to provide Supplier with accurate and complete data sources with regard to traffic, ad

networks, ad placements, ad revenue and APIs used by Client;

(f) disruptions due to a Force Majeure Event;

(g) planned maintenance carried out during the maintenance window of 10.00 pm to 3.00 am UK time;

(h) any Service suspension permitted by the Agreement; and

(i) any unscheduled emergency maintenance performed outside Normal Business Hours. In such event, Supplier shall, wherever possible, try to give Client at least 6 hours' notice of such maintenance.

5.3 Supplier reserves the right to amend the Services and/or Documentation from time to time as necessary to comply with any applicable law or regulatory requirement, or for any other reason if the amendment does not materially affect the nature or quality of the Services. Supplier shall notify Client of any such event as soon as reasonably possible.

5.4 Notwithstanding anything else in the Agreement, Supplier shall be entitled to suspend provision of the Services:

(a) where it is mandated to do so by a regulatory body or as reasonably necessary to enable Supplier to make any adjustments to the Services so as comply with all applicable laws and regulations;

(b) to investigate any breach or suspected breach by Client of the Agreement, including of the Acceptable Use Policy and/or any other policies notified to Client by Supplier from time to time; and/or

(c) for so long as there is any overdue sum owed to Supplier by Client under the Agreement.

6 DATA

6.1 Each party shall comply with the obligations applicable to it under the Data Protection Legislation.

6.2 The parties agree that in order to provide the Services, the Supplier may process personal data provided by or on behalf of Client in connection with the provision of the Services, including the names and email addresses relating to Authorised Users ("Client Personal Data"). Such Client Personal Data shall be processed by Supplier in accordance with the Supplier's data processing agreement that can be found at [www.fluenthq.com/dpa].

7 CLIENT'S OBLIGATIONS

7.1 Client shall:

(a) provide Supplier with all necessary co-operation and support in relation to the Agreement and all necessary access to such information and equipment as may be required by Supplier to provide the Services;

(b) provide Supplier with Client Dependencies, Client Data and Client Materials;

(c) comply with all applicable laws and regulations with respect to its activities under the Agreement and ensure compliance by the Authorised Users;

(d) carry out all Client responsibilities in the Agreement or otherwise agreed by the parties in writing, in each case in a timely and efficient manner, and in the event of any delays in Client's provision of such assistance as agreed by the parties, Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

(e) obtain and maintain all necessary licences, consents and permissions required for Supplier to perform its

obligations under the Agreement, including the Services, as may be notified by Supplier to Client from time to time;

(f) permit Supplier to monitor and audit Client's use of the Application from time to time, including in respect of the number and identify of users and in respect of compliance with the Agreement (including the restrictions contained in Clause 3) and Client acknowledges that Supplier may suspend Client's access to the Application at any time if Supplier has reasonable cause to believe that Client is not acting in compliance with the Agreement;

(g) ensure that its network and systems comply with the relevant specifications and instructions provided by Supplier from time to time;

(h) provide Client Data in a secure and encrypted form; and

(i) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Services, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Client's network connections or telecommunications links or caused by the internet.

7.2 Client shall be responsible for and shall ensure compliance by all Authorised Users with the Acceptable Use Policy and any other policies notified to Client by Supplier from time to time. A breach of this obligation shall be deemed to be a material breach of the Agreement, and shall also entitle Supplier to suspend provision of the Services immediately on notice to Client. Supplier shall resume Service provision only

once the breach has been rectified by Client and Supplier has received reasonable legally binding assurance that the breach will not recur during the Term. All Charges shall continue to be payable during any Service suspension except to the extent such suspension is caused by Supplier's breach of the Agreement.

8   CHARGES AND PAYMENT

8.1 Client shall pay the Charges to Supplier for the Services in accordance with this Clause 8.

8.2 Supplier shall invoice Client for the Charges monthly in arrears in the Currency.

8.3 Client shall pay each invoice submitted by Supplier in full and in cleared funds in the Currency to a bank account nominated in writing by Supplier within 30 days of the date of the invoice and time for payment shall be of the essence.

8.4 If Client fails to make a payment due to Supplier under the Agreement by the relevant due date:

(a) Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 8.4 will accrue at 4% a year above the Bank of England's base rate from time to time;

(b) Supplier may disable Client's password, account and access to the Services and Supplier shall be under no obligation to provide the Services while the invoice(s) concerned remain unpaid; and/or

(c) Supplier may terminate the Agreement with immediate effect on written notice if a sum remains overdue for more than 14 days.

8.5 Supplier reserves the right to increase the Charges by not more than ten percent

(10%) annually on not less than thirty (30) days' written notice to Client.

8.6 All amounts and fees stated or referred to in the Agreement:

    (a)   shall be payable in the Currency;

    (b)   are non-refundable; and

    (c)   are exclusive of any applicable value added tax, which shall be added to Supplier's invoice(s) at the appropriate rate and payable at the same time as the underlying sum.

9 PROPRIETARY RIGHTS

9.1 Client acknowledges and agrees that Supplier (or its licensors) owns all intellectual property rights in the Services and Documentation throughout the world. Except as expressly stated in the Agreement, the Agreement does not grant Client 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 interest in the Application, Services or Documentation. All goodwill arising from use of the Services shall accrue solely to Supplier.

9.2 Client hereby grants Supplier a paid-up, non-exclusive, non-transferable licence to copy and modify any materials provided by Client to Supplier (including Client Data) ("**Client Materials**") as necessary to provide the Services and fulfil its obligations under the Agreement, and for the purposes of improving the Application and providing services to Supplier's clients, including conducting testing and training machine learning systems.

9.3 Supplier shall not make any Client Materials available to any of Client's direct competitors, but Supplier may collect and analyse data, statistics and other usage information relating to the performance or use of the Services and may provide such data in an anonymised format to third parties for business purposes, including for demonstrating the effectiveness of the Application.

9.4 Client shall indemnify Supplier and keep Supplier indemnified against any and all losses, damages, liabilities, claims and costs that Supplier may suffer or incur as a result of any claim that Supplier's use of Client Materials, in accordance with the Agreement, infringes the intellectual property rights of a third party.

9.5 Supplier shall indemnify Client any and all losses, damages, liabilities, claims and reasonable costs that Supplier may suffer or incur as a result of any claim that Client's use of the Application in accordance with this Agreement actually infringes the intellectual property rights of a third party. Notwithstanding the foregoing, Supplier shall have no liability to Client to the extent that the alleged infringement is based on:

    (a)   a modification of the Services by anyone other than Supplier;

    (b)   Client's use of the Services in a manner contrary to the instructions given by Supplier; and

    (c)   Client's use of the Services after notice of the alleged or actual infringement from Supplier or any appropriate authority.

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

9.7 Clause 9.6 and Clause 11.6 state Client's sole and exclusive rights and remedies, and Supplier's entire obligations and liability, for infringement of any intellectual property right.

9.8   Where one party ("**Indemnifying Party**") agrees to indemnify the other party ("**Indemnified Party**") under the Agreement, such indemnity is subject to the Indemnified Party complying with the following process in the event that a third party claim arises:

(a)   the Indemnified Party must promptly and fully notify the Indemnifying Party in writing of such claim;

(b)   the Indemnified Party must forward all correspondence and related documents relating to the claim to the Indemnifying Party promptly on receipt;

(c)   the Indemnified Party must not make any admission of liability, settlement or compromise without the prior written consent of the Indemnifying Party (not to be unreasonably withheld or delayed);

(d)   the Indemnified Party must give the Indemnifying Party express authority to conduct all negotiations and litigation and to defend and/or settle all litigation arising from such claim;

(e)   the Indemnified Party must provide the Indemnifying Party with all available information and assistance in relation to such claim as the Indemnifying Party may reasonably require at the Indemnifying Party's cost and expense; and

(f)   if within ninety (90) days after the Indemnifying Party's receipt of notice of any such claim, the Indemnifying Party fails to take action to defend or settle such claim, the Indemnified Party may at the Indemnifying Party's expense undertake the defence, compromise, or settlement of the claim as it sees fit.

9.9   The Indemnified Party shall not be entitled to be indemnified pursuant to this Agreement in respect of any losses, damages, liabilities, claims and costs to the extent that the Indemnifying Party can demonstrate that such losses, damages, liabilities, claims and costs have been caused or increased as a result of any failure by the Indemnified Party to comply with its obligations under this Agreement.

10   CONFIDENTIALITY

10.1   Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement. 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;

(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.

10.2   Subject to Clause 10.4, 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 as strictly necessary to perform its obligations under the Agreement.

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

10.4 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 Clause 10.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

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

10.6 The above provisions of this Clause 10 shall survive termination of the Agreement, however arising.

10.7 Notwithstanding the provisions of this Clause 10, Supplier may announce and/or publish that Client is a customer of Supplier and/or uses the Services. Supplier shall comply with all reasonable branding guidelines provided to Supplier by Client in this regard.

11 LIABILITY

11.1 Supplier shall not have any liability under the Agreement, including any failure in the Services, that arises as a result of:

(a) act or omissions of Client or Client's contractors, employees, agents or other persons for whom Client is responsible;

(b) errors or omissions of Supplier in inputting data into the Application which results in an error in the auctions managed on behalf of Client;

(c) errors or omissions in information and/or instructions provided to Supplier by or on behalf of Client in connection with the Services, or any actions taken by Supplier at Client's direction;

(d) use of the Services contrary to Supplier's instructions or not in accordance with the Agreement; or

(e) any modification or alteration of the Services by any person other than Supplier or Supplier's duly authorised contractors or agents.

11.2 Supplier:

(a) does not warrant that Client's use of the Services will be entirely uninterrupted or error-free or that the Services, and/or the information obtained by Client through the Services and/or Documentation will meet Client's requirements; and

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

11.3 Except as provided in the agreement, 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 agreement, and the services are provided to client on an "as is" basis.

11.4 Where Supplier uses third-party hosting providers, Supplier's liability for the acts or omissions of those providers is subject to the same exclusions and limitations as set out in the relevant terms and conditions between Supplier and those third-party providers. Supplier shall use its reasonable endeavours to pass on to Client the benefit

of such remedies as they apply to the Services.

11.5 Subject to clause 11.7, supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any:

(a) loss of profits, loss of revenue, depletion of goodwill or reputation, loss or corruption of data or information, or loss of management time; or

(b) special, punitive, consequential or indirect loss.

11.6 Subject to clauses 11.5 and 11.7, the aggregate liability of the supplier during a contract year for any losses incurred by the client in relation to the agreement shall be limited to a sum equal to 100% of the total charges paid by client to supplier under that agreement during that contract year.

11.7 nothing in the agreement shall exclude or limit a party's liability for:

(a) death or personal injury arising from its negligence;

(b) Fraud or fraudulent misrepresentation; or

(c) any other liability to the extent that such liability may not be excluded or limited as a matter of law.

12 TERM AND TERMINATION

12.1 Each Agreement shall commence on the Commencement Date and shall continue for the Initial Term, and continue thereafter for any Renewal Period ("**Term**"), unless and until:

(a) Either party terminates the Agreement by giving at least 60 days' prior written notice before the end of the relevant period during the Initial Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the Initial Term or applicable Renewal Period; or

(b) otherwise terminated earlier in accordance with the provisions of the Agreement.

12.2 Either party may terminate the Agreement with immediate effect by giving written notice to the other party if the other party commits any material breach of any of the provisions of the Agreement and, in the case of a breach capable of remedy, fails to remedy such breach within 30 days of receipt of a written notice from the party giving full particulars of the breach and requiring it to be remedied (and failure by Client to pay any Charges on the due date shall be deemed a material breach of the Agreement).

12.3 Supplier may terminate the Agreement with immediate effect by giving written notice to Client in accordance with Clause 3.7 (breach of Client obligations).

12.4 Either party may terminate the Agreement with immediate effect by giving written notice to the other party if the other party becomes the subject of any insolvency related event or proceedings (including bankruptcy, administration, receivership or liquidation) (or is subject to any similar or equivalent event or proceedings in any jurisdiction).

12.5 On termination of the Agreement for any reason:

(a) Client shall immediately pay to Supplier all of Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Supplier shall submit an invoice, which shall be payable by Client immediately on receipt;

(b) Client shall immediately cease all use of the Services;

(c) Supplier may destroy or otherwise dispose of any of the Client Data in

its possession, unless Supplier receives, no later than ten days after the effective date of the termination of the Agreement, a written request for the delivery to Client of the then most recent back-up of the Client Data. Supplier shall use commercially reasonable endeavours to deliver the back-up to Client within 45 days of its receipt of such a written request, provided that Client has, at that time, paid all fees and Charges outstanding at and resulting from termination (whether or not due at the date of termination). Client shall pay all reasonable expenses incurred by Supplier in returning or disposing of Client Data; and

(d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

12.6 Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination of the Agreement shall remain in full force and effect.

13 FORCE MAJEURE EVENT

13.1 Notwithstanding anything else in this Agreement, where a Force Majeure Event occurs a party shall not be liable to the extent that it is delayed in or prevented from performing its obligations under this Agreement due to the Force Majeure Event, and the obligations of the party affected by the Force Majeure Event shall be suspended for the duration of the Force Majeure Event.

13.2 The non-performing party shall:

(a) notify the other party of the Force Majeure Event and its expected duration;

(b) use its reasonable endeavours to minimise the effects of the Force Majeure Event; and

(c) keep the other party informed of the status of the Force Majeure Event and its impact on the performance of its obligations under this Agreement.

14 GENERAL

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

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

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

14.4 If any provision (or part of a provision) of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

14.5 The Agreement constitutes the entire agreement between the parties and

supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Agreement 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 Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement. Nothing in this Clause 14.5 shall limit or exclude any liability for fraud.

14.6   Client shall not, without the prior written consent of Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

14.7   Nothing in the Agreement is intended to or shall be construed as establishing or implying any partnership, joint venture or agency of any kind between the parties, and neither party shall have authority to act in the name of or to otherwise bind the other party in any way.

14.8   The Agreement does not confer any rights on any person or party (other than the parties to this Agreement) pursuant to the Contracts (Rights of Third Parties) Act 1999.

14.9   Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out below or such other address as may have been notified by that party for such purposes or sent by email to the address as may have been notified by that party. Notwithstanding the above, if any party commences legal proceedings relating to

the Agreement, the claim form or other process by which it is started may not be served by email.

Supplier:

Address: Aviation House, Kingsway, London WC2B 6NH

Email: rob@usechannel.com

Client:

Address: as set out in the "Client Contact Details" section of the Order Form

Email: as set out in the "Client Contact Details" section of the Order Form

14.10   A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in Normal Business Hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission, provided that no automatic delivery failure message is received by the sender.

15   Governing Law And Jurisdiction

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

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