

## Purple Seven Ltd - Standard Terms and Conditions

These terms and conditions (the “**Standard Terms and Conditions**”) are entered into between Purple Seven Ltd of Gloucester House, Silbury Boulevard, Milton Keynes, MK9 2AH (the “**Company**”) and you as customer (“**Client**”), and are the Standard Terms and Conditions referred to in and comprising part of a Statement of Work (as such term is defined below).

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1

Defined terms shall have the following meaning when used in these Standard Terms and Conditions:

‘Application’ means each Vital Statistics software application to which the Client subscribes pursuant to a Statement of Work;

‘Charges’ means the Company’s fees and other charges (including any costs incurred by the Company with third parties) for the provision of the Services to the Client.

‘Data Controller’ has the meaning given to it under the Data Protection Laws.

‘Data Processor’ has the meaning given to it under the Data Protection Laws

‘Data Protection Laws’ means the following legislation to the extent applicable from time to time: (i) the Data Protection Act 1998 until and including 24 May 2018; (ii) unless and until the GDPR is no longer directly applicable in the United Kingdom, the GDPR and any national implementing laws, regulations and secondary legislation, as amended from time to time, in the United Kingdom and then; (iii) any successor legislation to the GDPR or the Data Protection Act 1998.

‘Data Subject’ has the meaning given to it under the Data Protection Laws.

‘Data Subject Request’ means a request made by a Data Subject to exercise any rights of Data Subjects under the Data Protection Laws in connection with Personal Data Processed pursuant to these Terms and Conditions.

‘GDPR’ means the General Data Protection Regulation (EU) 2016/679 ‘Information’ shall have the meaning given to it in Clause 7.1.

‘Intellectual Property Rights’ means all patents, rights to inventions, utility models, copyright and related rights, trade-marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

‘Personal Data’ has the meaning given to it under the Data Protection Laws.

‘Personal Data Breach’ has the meaning given to it under the Data Protection Laws.

‘Processed Client Data’ means the data created for a Client by the Company, which is based on and/or includes, amongst other things, the Data.

‘Processing Instructions’ means the Client’s instructions for how the Company Processes the Personal Data pursuant to clause 8.5.

‘Security Measures’ means appropriate technical and organisational measures that prevent or are designed to prevent the accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access to Personal Data, including all measures required by Article 32, in conformance with Article 28(3)(c), of the GDPR.

‘Services’ means work which the Client requires the Company to carry out from time to time as detailed in a Statement of Work. This includes, but is not limited to, access to software, training, consultancy and documentation.

‘Specification’ means the written specification (if any) of the work which the Client requires the Company to carry out including any technical or other requirements, which may be attached as Appendix 1 to the relevant Statement of Work.

‘Statement of Work’ means an agreement identified therein as a Statement of Work for the purpose of these Standard Terms and Conditions which has been entered into between the Company and the Client and which sets out the terms on which the Company shall (1) deliver Services, which may include the creation and delivery of Processed Client Data, to the Client, and (2) if applicable, provide access to one or more Applications to the Client.

‘Transfer Safeguards’ means safeguards that are recognised under the Data Protection Laws for permitting the transfer of Personal Data outside of the European Economic Area.

- 1.2 Headings shall not affect the interpretation of these Standard Terms and Conditions.
- 1.3 A person includes a natural person, corporate or incorporated body (whether or not having a separate legal personality).
- 1.4 Words in the singular shall include the plural and vice versa.
- 1.5 reference to one gender shall include a reference to other genders.
- 1.6 A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time taking account of any amendment or re-enactment; provided that as between the parties no such amendment or re-enactment shall apply for the purposes of these Standard Terms and Conditions to the extent that it will impose any new or extended obligation, liability and restriction or otherwise adversely effects the rights of any party.
- 1.7 A reference to a statute or statutory provision shall include any subordinate legislation made under that statute or statutory provisions.
- 1.8 A reference to “includes” or “including” shall be construed without limitation.
- 1.9 References to clauses and schedules are to clauses and schedules of these Standard Terms and Conditions.

## 2 SERVICES

- 2.1 The Client shall notify the Company when it requires Services whereupon the Company shall prepare a Statement of Work for acceptance by the Client. The procedure for submission and acceptance of a Statement of Work is set out in Clause 5.

- 2.2 If the Client wishes to retain the Company to provide further Services from time to time then these shall be detailed in a separate Statement of Work.
- 2.3 The Company shall provide such Services to the Client, and the Client shall pay for and receive such Services, in accordance with the terms and conditions set out in the relevant Statement of Work together with the terms and conditions set out in these Standard Terms and Conditions.

### **3 TERM OF A STATEMENT OF WORK**

- 3.1 Each Statement of Work shall come into force on the date on which the parties enter into such Statement of Work and shall continue until terminated in accordance with Clause 12.

### **4 CHARGES AND PAYMENT**

- 4.1 Unless otherwise provided in the relevant Statement of Work, payment of the Charges shall be made by the Client in sterling. If Charges are paid by Direct Debit, they shall be deducted by from the Client's account on the date on which payment is due pursuant to the terms of the relevant Statement of Work. If Charges are not paid by Direct Debit, they shall be paid by the Client within 30 days of receipt of the relevant invoice from the Company. The Client shall not be entitled to withhold payment of Charges or make any deduction therefrom in respect of any setoff or counter claim.
- 4.2 Without prejudice to any other right or remedy of the Company, if any payment is not received by the Company by its due date:
  - 4.2.1 The Company shall be entitled to charge interest thereon at the rate of 5% above the Base Rate of National Westminster Bank plc for the time being in force from the due date for payment until actual payment; and
  - 4.2.2 May by notice in writing to the Client suspend the performance of the Services in whole or in part (in the Company's discretion) pending payment of all sums due to it.

### **5 ENTERING INTO STATEMENTS OF WORK**

- 5.1 These Standard Terms and Conditions shall take effect in relation to all Services provided by the Company to the Client pursuant to a Statement of Work.
- 5.2 The submission by the Company of a Statement of Work to the Client shall comprise an offer by the Company to supply the relevant Services and/or give the Client access to the relevant Applications (as the case may be), which offer may be accepted by the Client by returning to the Company the Statement of Work executed by the Client within 60 days of such offer being made and provided that the offer has not been withdrawn in writing by the Company prior to such acceptance. On expiry of such 60 day period, the offer shall lapse if it has not already been withdrawn.
- 5.3 Should the Client deliver to the Company an executed Statement of Work containing conditions or provisions inconsistent with or additional to those contained in the Statement of Work originally issued by the Company to the Client, then such revised version of the Statement of Work shall comprise a counter-offer available for acceptance by the Company. Such counter-offer may be accepted by the Company by delivering their written confirmation of the same to the Client. Any such acceptance of a Statement of Work containing revised terms shall not oblige the Company to accept such revised terms in respect of any future Statement of Work.

5.4 In the event of any conflict between the provisions set out in these Standard Terms and Conditions and any Statement of Work, then the provisions of the relevant Statement of Work shall prevail.

## **6 INTELLECTUAL PROPERTY RIGHTS**

- 6.1 All Intellectual Property Rights belonging to a party prior to the acceptance of a Statement of Work shall, for the purpose of this Agreement, remain vested in that party.
- 6.2 The Company retains all rights, title and interest in the products of the Services, including any anonymized Processed Client Data provided to the Client. Subject to payment in full for the relevant Services, the Company hereby grants the Client a non-exclusive licence to use the products of such Services solely for the Client's own internal business purposes. The Client shall not share, transfer or otherwise make available to any third party the products of the Services, including any anonymized Processed Client Data, unless agreed in writing between the Company and the Client.
- 6.3 Where the products of Services are comprised in whole or in part of items containing the Company's Intellectual Property Rights which are licensed to the Client for use, and the Company has reason to believe that the Client may be in breach of the terms of such licence (whether express or implied), the Company may terminate such licence immediately, without prejudice to any other rights which the Company may have in respect thereof.
- 6.4 If the Client agrees to participate in the Company's customer satisfaction survey, all rights to the responses and data submitted by the Client as part of such survey shall vest in the Company and the Company shall be entitled to use the completed surveys as it deems fit, including sharing the results with third parties.

## **7 CONFIDENTIALITY**

- 7.1 Subject to Clauses 7.2, 7.3, 7.4 and 7.5, each party to these Standard Terms and Conditions undertakes to treat as confidential and not disclose to any third party any information received by them from the other Party marked 'confidential' or which may reasonably be supposed to be confidential, including, without limitation, information contained or embodied in the Applications or the products of the Services including the Processed Client Data (in this Agreement collectively referred to as the "**Information**"), and shall keep such received Information secure with at least the same degree of care as it employs with regard to its own confidential information of a like nature and in any event in accordance with best current commercial security practices.
- 7.2 The provisions of Clause 7.1 shall not extend to any information which was rightfully in the possession of the receiving party prior to the date on which these Standard Terms and Conditions became binding on such party or any information which is already public knowledge or becomes so at a future date other than as a result of unauthorised disclosure.
- 7.3 A party shall not, without the prior written consent of the other party, divulge any part of the other party's Information to any person except:
- 7.3.1 to its employees or authorised officers who have signed confidentiality provisions that reflect, or are more stringent than, those set out in Clause 7.1;

7.3.2 to its auditors and professional advisors, an officer of HM Revenue and Customs, a court of competent jurisdiction, governmental body or applicable regulatory authority,

and the divulging party shall ensure that the persons and bodies referred to in paragraph 7.3.1. and 7.3.2. are made aware before the disclosure of any Information that the same is confidential and that the divulging party owes a duty of confidence to the other party.

- 7.4 The provisions of Clause 7 shall not apply to the whole or any part of the Information to the extent that it is the subject of a request under the Freedom of Information Act 2002 (unless the relevant Information is exempt from disclosure under such Act). Under such circumstances, the relevant party shall consult the other party (giving the other party 5 working days to respond) and take any observations received on the disclosure of the Information requested into account before making a determination on the request.
- 7.5 Notwithstanding the foregoing, data provided by the Client to the Company in relation to the provision of the Services by the Company to the Client may be used by the Company in anonymised reports and such anonymised data shall not constitute Information for the purpose of the provisions of Clause 7.
- 7.6 A receiving party shall promptly notify the other party in writing if the receiving party becomes aware of any breach of confidence in relation to the other party's Information by any person to whom the receiving party has divulged such Information, and shall give the other party all reasonable assistance in connection with any proceedings which the other party may institute against such person for breach of confidence.
- 7.7 The provisions of Clause 7 shall survive the termination of this Agreement.

## **8 CLIENT DATA**

- 8.1 The Client shall be solely responsible for the accuracy of any data provided to the Company or submitted via an Application in relation to the provision of Services, a Statement of Work and/or these Standard Terms and Conditions, and acknowledges that the accuracy of the reports and other information created by an Application are entirely dependent on the accuracy of such data.
- 8.2 The Company and the Client shall comply with all applicable requirements of the Data Protection Laws in connection with these Terms and Conditions. This clause 8 is in addition to, and does not relieve, remove or replace the Company's or the Client's obligations under the Data Protection Laws
- 8.3 The parties acknowledge that, for the purposes of the Data Protection Laws and these Terms and Conditions, the Client is the Controller and the Company is the Processor of any Personal Data Processed by the Company pursuant to these Terms and Conditions or any Statement of Work.
- 8.4 Without prejudice to the generality of clause 8.2, the Client:
- 8.4.1 is responsible for the integrity, security, maintenance and appropriate protection of its Personal Data which it receives, stores or transmits on or using its own systems, and ensuring its compliance with law and

- regulations, including Data Protection Laws, applicable to its own Processing and its use of the Services;
- 8.4.2 will ensure that it has a lawful basis and any necessary consents and notices in place to enable the lawful transfer of the Personal Data to the Company and to enable the Company to Process the Personal Data as contemplated (either expressly or by implication) by these Terms and Conditions or any Statement of Work in the provision of the Services; and
- 8.4.3 will ensure that the Processing Instructions shall at all times be compliant with the Data Protection Laws and shall not cause the Company to infringe Data Protection Laws.
- 8.5 The Annex (Data Processing Details) sets out the scope, nature and purpose of the Processing to be undertaken by the Company, the duration of the Processing and the types of Personal Data to be Processed. The Annex (Data Processing Details) may be updated from time to time by written agreement between the Company and the Client
- 8.6 Without prejudice to the generality of clause 8.2, the Company shall (in relation to any Personal Data Processed by the Company in connection with the performance by the Company of its obligations under these Terms and Conditions or any Statement of Work:
- 8.6.1 Process the Personal Data only in accordance with the Processing Instructions unless applicable law requires the Company to Process the Personal Data other than in accordance with the Processing Instructions, in which case the Company shall use reasonable endeavours to notify the Client of any such requirement before Processing the Personal Data (unless applicable law prohibits such notification);
- 8.6.2 implement and maintain the Security Measures;
- 8.6.3 ensure that all personnel who have access to and/or Process the Personal Data are obliged to keep the Personal Data confidential;
- 8.6.4 only transfer Personal Data to a country outside the European Economic Area if Transfer Safeguards are in place (to the extent required by Data Protection Laws) for such transfer;
- 8.6.5 assist the Client, at the Client's cost and expense, in responding to any Data Subject Request and in ensuring compliance with the Client's obligations under the Data Protection Laws with respect to security, breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
- 8.6.6 notify the Client without undue delay on becoming aware of a Personal Data Breach;
- 8.6.7 at the Client's written request, and at the Client's cost and expense, delete or return the Personal Data and copies thereof on termination or

expiry of these Terms and Conditions, unless the Company is required by applicable law to store the Personal Data; and

8.6.8 maintain, in accordance with Data Protection Laws binding on the Company, written records of all categories of Processing activities carried out by the Company on behalf of the Client under these Terms and Conditions or a Statement of Work.

8.7 The Client shall ensure that the Company shall have the right under any Data Protection Laws to further process, and shall obtain from Data Subjects any consent or other authorisation required under Data Protection Laws to enable:

8.7.1 the further processing of any transactional data held by the Company as a result of the Client using an Application (“Transactional Data”) in order to add such Transactional Data to the aggregated data set maintained by the Company for the purposes of creating and maintaining anonymous industry benchmarking; and

8.7.2 the retention of such data by the Company following termination of any relevant Statement of Works pursuant to which such data was originally submitted.

## 9 ANTI-BRIBERY

9.1 The Client shall comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including, but not limited to, the Bribery Act 2010.

## 10 LIMITATION OF LIABILITY

10.1 The Client acknowledges that the Company’s obligations and liabilities in respect of the Services are exhaustively defined in these Standard Terms and Conditions and each Statement of Work. The Client agrees that the express obligations undertaken by the Company in these Standard Terms and Conditions and each Statement of Work are in lieu of and to the exclusion of any warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise relating to anything supplied or services provided under or in connection with these Standard Terms and Conditions and each Statement of Work, including (without limitation) as to the condition, quality, performance, merchantability or fitness for purpose of the Services, the Applications, and the products thereof or any part of them.

10.2 The Client is responsible for the consequences of any use of the Services and/or Applications. The Company will not be liable for any indirect or consequential loss, damage, cost or expense of any kind incurred by the Client, whatever and however caused, whether arising under contract, tort (including negligence) or otherwise, including (without limitation) loss of production, loss of or corruption to data, loss of profits or of contracts, loss of operation time and loss of goodwill or anticipated savings, even if the Company has been advised of their possibility.

10.3 The Company will not be liable for any losses, liabilities, damages, costs and/or expenses, claimed by the Client or any third party (including without limitation any Data Subject, regulatory or supervisory authority) under or in connection with this Agreement to the extent that these (or the circumstances giving rise to them) have been contributed to, or caused by:

- 10.3.1 any failure to comply with the provisions of a Statement of Work or these Terms and Conditions if such default is attributable, contributed to or caused to any extent to the acts or omissions of the Client its agents, employees or contractors including, without limitation, any breach of these Standard Terms and Conditions or a Statement of Work by the Client;
- 10.3.2 any consequences arising from the Company complying with the Client's instructions or requirements including, without limitation, the Processing Instructions;
- 10.3.3 any consequences arising from the Client failing to secure any necessary consents, licences or permissions; or
- 10.3.4 any consequences arising from (a) software or equipment not supplied by the Company, or (b) the Internet, or (c) the Client's Internet connection.
- 10.4 The Company accepts liability for death or injury without limit to the extent that the same results from the Company's negligence or the negligence of its employees.
- 10.5 In all other cases not falling within clause 10.4, the Company's total liability per calendar year (whether in contract, tort, including negligence, or otherwise) under or in connection with these Standard Terms and Conditions and all Statements of Work, shall be £250,000 in aggregate.
- 10.6 The Client agrees that, except as expressly provided in Clause 10, the Company will not be under any liability of any kind whatever and however caused arising directly or indirectly in connection with these Standard Terms and Conditions and each Statement of Work.
- 10.7 The Client shall indemnify the Company and its employees and agents against:
  - 10.7.1 all damage or injury of any kind suffered by the Company or any of its employees or agents caused by or arising from or attributable to any act or omission by the Client, its employees or agents and arising whilst any employee or agent of the Company is present on the Client's premises; and
  - 10.7.2 all claims, costs, damages and expenses which may be incurred by reason of any infringement of Intellectual Property Rights or other proprietary right arising out of the use by the Company, without knowledge of the fact of such infringement, of any data, program materials or information supplied to it or submitted via an Application by the Client or its employees or agents for the purposes of or in connection with the performance of the Services and the provision of the Applications.

## 11 NON-SOLICITATION

- 11.1 The Client shall not at any time before the expiry of 12 months from the date of termination of the final Statement of Work, without prior written consent of the Company, solicit or endeavour to entice away from or discourage from being employed by the Company any of its employees engaged at any time during the duration of any Statement of Work. In the event of a breach of this Clause 11.1 by the Client, the Client shall pay to the Company an amount equal to one year's gross annual salary including benefits in kind (such sum being a genuine pre-estimate of the Company's losses and costs arising in respect of the recruitment of a replacement).

## 12 TERMINATION

- 12.1 The Client may terminate Services or an Application subscription being delivered pursuant to a Statement of Work, in whole or in part for convenience and without cause at any time by giving to the Company:
- 12.1.1 in relation to Services provided or Application subscriptions entered into pursuant to a Statement of Work concerning the software 'Vital Statistics', not less than 60 days' notice prior to auto renewal, such notice to be sent to the address specified in such Statement of Work; or
  - 12.1.2 in relation to all other Services, not less than twenty (20) days' notice. In the case of notice given pursuant to Clause 12.1.1 or Clause 12.1.2, the Client shall specify the termination date and pay to the Company all amounts due for the Services performed or Applications subscribed to up to the termination date. Pre-committed expenses shall be payable by the Client provided they have been incurred or committed to by the Company in line with the relevant Statement of Work, provided that that the Company shall use its reasonable endeavours to minimise and mitigate such expenses. Upon termination, the Company shall credit to the Client a pro-rata share of any Charges prepaid by the Client for Services or Application subscriptions to be provided after the effective date of termination.
- 12.2 The Company may terminate Services or an Application subscription being delivered pursuant to a Statement of Work, in whole or in part for convenience and without cause at any time by giving 60 days' written notice to the Client. Such notice shall specify the termination date and the Client shall pay all amounts due for the Services received or Applications subscribed to up to the termination date. Upon termination, the Company shall credit to the Client a pro-rata share of any Charges prepaid by the Client for Services or Application subscriptions to be provided after the effective date of termination.
- 12.3 Without prejudice to clause 12.4, termination of Services or Application subscriptions pursuant to clause 12.1 or 12.2 shall not:
- 12.3.1 affect these Standard Terms and Conditions or any Statement of Work then remaining in force (including those in relation to which Services or Application subscriptions have been terminated if other Services are provided and Applications are subscribed to pursuant to such agreements); or
  - 12.3.2 affect any accrued rights or liabilities of either party irrespective of the cause of such termination; or
  - 12.3.3 terminate the right of the Company to use any data supplied to it by the Client (including any data derived therefrom) provided that such use is on an anonymised and aggregated basis.
- 12.4 Without prejudice to any specific termination provisions contained within a Statement of Work, a party (the "Non-Defaulting Party") may terminate a Statement of Work immediately on giving notice to the other party (the "Defaulting Party") if:
- 12.4.1 the Defaulting Party commits or permits any material breach of any provision of the relevant Statement of Work and the Defaulting Party has failed to remedy such material breach as soon as practicable (where it is capable of remedy) and, in any case, within twenty (20) working days of receipt of notice of the breach from the Non-Defaulting Party;
  - 12.4.2 the Defaulting Party commits or permits any material breach of any provision of the relevant Statement of Work which is not capable of being cured;

- 12.4.3 the Defaulting Party commits repeated breaches of duties or obligations under the relevant Statement of Work (regardless of whether these breaches are individually cured or otherwise resolved), the cumulative effect of which shall be deemed to be a material breach of the relevant Statement of Work;
  - 12.4.4 the Defaulting Party has a receiver or administrative receiver appointed or passes a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect or if the Defaulting Party becomes subject to an administration order or enters into any voluntary arrangement with its creditors or ceases or threatens to carry on business;
  - 12.4.5 any encumbrancer takes possession of any material part of the assets of the Defaulting Party; or
  - 12.4.6 if the Defaulting Party ceases or threatens to cease to carry on the whole or substantially the whole of its business or that part of its business to which the relevant Statement of Work relates.
- 12.5 Termination of a Statement of Work pursuant to sub-clauses 12.4.1 to 12.4.6 shall not (subject as above) affect:
- 12.5.1 any accrued rights or liabilities of either party irrespective of the cause of such termination; or
  - 12.5.2 any other Statement of Work still in force; and
  - 12.5.3 the provisions of these Standard Terms and Conditions which have been incorporated into such Statement of Work and which shall survive such termination.

### **13 FORCE MAJEURE**

- 13.1 Neither party will be liable for any delay in performing or failure to perform its obligations (other than a payment obligation) under any Statement of Work and/or these Standard Terms and Conditions due to any cause outside its reasonable control. Such delay or failure will not constitute a breach of the relevant Statement of Work or these Standard Terms and Conditions and the time for performance of the affected obligation will be extended by such period as is reasonable.

### **14 NOTICES**

- 14.1 Any notice or other document required to be given in relation to a Statement of Work or these Standard Terms and Conditions or any communication between the parties with respect to any of the foregoing shall be in writing in English and be deemed duly given if signed by or on behalf of a duly authorised officer of the party giving the notice and if left at or sent by pre-paid registered or recorded delivery post or by facsimile transmission or other means of telecommunication in permanent written form to the address of the party receiving such notice as set out at the head of the Statement of Work to which the notice or communication relates, or to such other address as notified between the parties for the purpose of this Clause.
- 14.2 Any such notice or other communication shall be deemed to be given to and received by the addressee:
- (a) at the time the same is left at the address of or handed to a representative of the party to be served;
  - (b) by post on the day not being a Sunday or public holiday 2 days following the date of posting; and
  - (c) in the case of a facsimile transmission or other means of telecommunication on the next following day.

14.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left, or that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission was confirmed and/or acknowledged as the case may be.

## **15 SEVERABILITY**

15.1 If any part of these Standard Terms and Conditions or a Statement of Work is found by a court of competent jurisdiction or other competent jurisdiction to be invalid, unlawful or unenforceable then such part will be severed from the remainder of these Standard Terms and Conditions or the relevant Statement of Work (as the case may be) which will continue to be valid and enforceable to the fullest extent permitted by law.

## **16 WAIVER**

16.1 No delay or failure by either party to exercise any of its powers, rights or remedies under a Statement of Work or these Standard Terms and Conditions will operate as a waiver of them nor shall any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing. The remedies provided in a Statement of Work and these Standard Terms and Conditions are cumulative and not exclusive of any remedies provided by law.

## **17 WHOLE AGREEMENT AND VARIATIONS OF TERMS**

17.1 These Standard Terms and Conditions together with each Statement of Work issued pursuant to its provisions constitute the complete and exclusive statement of the agreement between the parties relating to the subject matter thereof and supersedes all previous communications, representations and other arrangements, oral or written, save that where the Client enters into a separate data confidentiality agreement with the Company, that agreement is standalone and shall not be superseded by these Standard Terms and Conditions or a Statement of Work. The Client acknowledges that no reliance is placed on any representation made but not embodied in the Statements of Work or these Standard Terms and Conditions.

17.2 The Company may amend these Standard Terms and Conditions from time to time and shall notify the Client of any variations.

## **18 THIRD PARTY RIGHTS**

18.1 A person who is not a party to a Statement of Work or these Standard Terms and Conditions shall not have any rights of enforcement in relation thereto under the Contracts (Rights of Third Parties) Act 1999.

## **19 NO PARTNERSHIP OR AGENCY**

19.1 Nothing in any Statement of Work or these Standard Terms and Conditions is intended or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other.

## **20 SUB-PROCESSING**

20.1 The Client consents to the Company engaging the categories of third party Processors as set out in the Annex (Data Processing Details) (Sub-Processor). the Company shall notify the Client of the identity of any such Sub-Processor upon receiving a written request from the Client and shall use reasonable endeavours to respond to such request within 3 [Business Days]. If the Company engages a Sub-Processor, the Company shall ensure that a written agreement is in place with the

Sub-Processor that contains materially the same obligations to those set out in this clause [1].

**20.2** The Client agrees that any Sub-Processor may be based outside of the state, province, country or other jurisdiction in which the Client has chosen to store its Personal Data, subject to the Company complying with clause [1.5.4] of these Standard Terms and Conditions.

## **21 GOVERNING LAW AND DISPUTE RESOLUTION**

21.1 These Standard Terms and Conditions will be construed in accordance with and governed by the laws of England.

21.2 In the event that any dispute or difference between the Client and the Company arising out of or in connection with these Standard Terms and Conditions cannot be resolved between the Client and the Company within a reasonable time, then both parties hereby agree to refer the dispute to, and follow the procedures of the CEDR, 70 Fleet Street, London, EC4Y 1EU. Unless agreed otherwise, the parties shall share equally the costs charged by the mediation service provider.

21.3 If any dispute between the Client and the Company arising out of or in connection with an alleged breach of these Standard Terms and Conditions cannot be resolved within 1 month of being submitted to mediation proceedings pursuant to Clause 21.2, then either party may issue a claim in the courts of England to whose exclusive jurisdiction in relation to any such claims each party hereby submits.

## ANNEX – DATA PROCESSING DETAILS

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### 1 Subject-matter of processing:

The personal data which are necessary to render the services outlined below in point 3 including, specifically: Name, Address, Contact email, Contact telephone, Survey response data, Gender (where recorded at point of sale by the Data Controller).

The processing activities to be carried out are:

Collection	Decoration
Transfer	Analysis
Modification	Anonymisation
Dedupe	Pseudonymisation
Suppression	Deletion

### 2 Duration of the processing:

As defined by the Data Controller and reflected in the privacy policy or other communication made available to Data Subjects by the Data Controller. Once personal data meets the retention criteria of the data controller, records are automatically anonymised.

Upon termination of the processing agreement between the Data Processor and the Data Controller, the data processor shall delete the personal data and any copy in its possession.

### 3 Nature and purpose of the processing:

To provide actionable insight to arts attending behaviours for Data Controllers to better understand their customers, tailor communications more appropriately and improve their product offering and levels of service based on customer satisfaction feedback. Customer analysis for reporting to funding bodies.

### 4 Type of Personal Data:

Customer names, addresses, email addresses, telephone contact numbers, customer feedback survey responses. Where supplied by the customer in the form of survey responses: Gender, Ethnicity, opinion.

### 5 Categories of Data Subjects:

Ticket buying consumers.

### 6 Processing Instructions

Data is extracted using the automated software from the clients ticketing database. Control is given to the client to restrict access to database tables that the client permits The Company to read from. Software extracts data, encrypts and compresses before sending securely over SSL.

Data is sent via SSL tunnel to a webservice hosted on the Company's private domain. This is secured by an SSL certificate providing 2048 bit encryption.

### 7 Categories of Sub-Processors

Professionals or companies working in the areas of software development and data science.