

These subscription terms ("**Terms**") apply when you, the "**Customer**", wish to subscribe to the Services provided via the site at www.nirah.com.

We are Nirah Limited, a company incorporated and registered in England and Wales with company number 12673807 whose registered office is c/o Elco Accounting, 24 Church Street, Rickmansworth, Hertfordshire, England, WD3 1DD ("**Nirah**").

BACKGROUND

(A) Nirah has developed certain software applications and platforms which it makes available to subscribers via the internet on a pay-per-use basis for the purpose of subscribers being able to create and deliver training around their products to their own customers.

(B) The Customer wishes to use Nirah's service in its business operations.

(C) Nirah has agreed to provide and the Customer has agreed to take and pay for Nirah's service subject to the terms and conditions of this agreement.

AGREED TERMS

1. INTERPRETATION

1. The definitions and rules of interpretation in this clause apply in this agreement.

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services, as further described in Clause 2.2.

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

Customer Data: the data inputted by the Customer, Authorised Users, or Nirah on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services which includes, without limitation, all content of training courses and all information relating to the Customer's products and services.

Customer Personal Data: any personal data which the Customer supplies and Nirah processes in connection with this agreement.

Documentation: the information made available to the Customer by Nirah via the Site, which sets out a description of the Subscription packages, the Services and the Subscription Fees.

Effective Date: the date on which the Customer confirms its acceptance of these Terms on the Site.

Initial Subscription Term: the initial term of this agreement, as determined by the subscription plan chosen and set out in the Documentation.

Normal Business Hours: 9.30am to 6.00 pm local UK time, each Business Day.

Renewal Period: the same period of time as the Initial Subscription Term;

Services: the subscription services provided by Nirah to the Customer under this agreement via the Site, which will depend on the Subscription package chosen, and as more particularly described in the Documentation.

Site: the website on which the Services can be accessed, at www.nirah.com.

Software: the online software applications provided by Nirah as part of the Services.

Subscription: the subscription purchased by the Customer pursuant to Clause 9.1 which entitles Authorised Users to access and use the Services specified in the Documentation, in accordance with this agreement.

Subscription Fees: the subscription fees payable by the Customer to Nirah for the Subscription package that they have chosen, as set out in the Documentation.

Subscription Term: has the meaning given in Clause 14.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

UK GDPR: means the UK General Data Protection Regulation and amended Data Protection Act 2018.

Virus: any device or thing (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.

Vulnerability: a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) [and that person's legal and personal representatives, successors or permitted assigns].
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural, and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.9 A reference to writing or written includes faxes but not e-mail.
- 1.10 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.

2. SUBSCRIPTIONS AND COURSE CONTENT

- 2.1 Subject to the Customer complying with the terms and conditions of this agreement, Nirah hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services as described in the Documentation during the Subscription Term solely for the Customer's business operations.
- 2.2 In relation to the Authorised Users, the Customer undertakes that:
 - (a) the maximum number of Authorised Users that it authorises to access and use the Services shall not exceed the number of Authorised Users that it is permitted under the Subscription package that it has purchased;
 - (b) each Authorised User shall keep a secure password for their use of the Services, such password shall be changed frequently, and each Authorised User shall keep their password confidential;
 - (c) it shall maintain a written, up to date list of current Authorised Users and provide such list to Nirah within 5 Business Days of Nirah's written request at any time;
 - (d) it shall permit Nirah or Nirah's designated auditor to audit the use of the Services in order to establish the name and password of each Authorised User and the Customer's data processing facilities to audit compliance with this agreement. Each such audit may be conducted no more than once per quarter, at

Nirah's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;

- (e) if any such audits reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Nirah's other rights, the Customer shall promptly disable such passwords and Nirah shall not issue any new passwords to any such individual; and
- (f) if any of the audits reveal that the Customer has underpaid Subscription Fees to Nirah, then without prejudice to Nirah's other rights, the Customer shall pay to Nirah an amount equal to such underpayment within 10 Business Days of the date of the relevant audit.

2.3 The Customer shall not access, store, distribute or transmit any Viruses during the course of its use of the Services. Further, the Customer shall not access, store, distribute or transmit any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property;

and Nirah reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause. For the avoidance of doubt, the Customer shall also ensure that its course users also do not upload or share any content that breaches this Clause 2.3.

2.4 The Customer shall not:

- (a) except to the extent expressly permitted under this 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 Software and/or Documentation (as applicable) 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 Software; or
- (b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services; or
 - (c) use the Services and/or Documentation to provide services to third parties; or
 - (d) 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
 - (e) attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this Clause 2; or
 - (f) introduce or permit the introduction of, any Virus or Vulnerability into Nirah's network and/or information systems.

2.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify Nirah.

2.6 The content of the courses that the Customer creates, using the Services, is the responsibility of the Customer and Nirah does not validate or check that content. However, in the event that Nirah does notice and determine, in its reasonable opinion, that content of a course may be misleading to the users that access the Site, Nirah shall have the right to suspend access to that content whilst the Customer provides evidence, to Nirah's reasonable satisfaction, that the content is accurate.

2.7 The rights provided under this Clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

3. PACKAGE UPGRADES AND ADD ONS

3.1 The Customer may, from time to time during any Subscription Term, upgrade their subscription package or purchase add-ons, subject to the payment of the additional fee.

3.2 If the Customer wishes to upgrade their Subscription package or purchase add-ons, the Customer can activate this within its account. The relevant, additional Subscription Fee shall be taken automatically from the payment method previously used by the Customer. If the payment is taken successfully, the upgrade or add-on will be supplied as part of the Services for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

4. SERVICES

4.1 Nirah shall, during the Subscription Term, provide the Services to the Customer on and subject to the terms of this agreement.

4.2 Nirah shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

- (a) planned maintenance carried out during the maintenance window between 8pm and 5am UK time; and
- (b) unscheduled maintenance performed outside Normal Business Hours, only where there is an unexpected issue.

5. DATA PROTECTION

5.1 For the purposes of this Clause 5, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the UK GDPR.

5.2 Both parties will comply with all applicable requirements of the UK GDPR.

5.3 The parties have determined that, for the purposes of the UK GDPR, Nirah shall process the Customer Personal Data, as a processor on behalf of the Customer.

5.4 By entering into this agreement, the Customer consents to, and shall procure all required consents, from its personnel, representatives, agents and own customers, in respect of all actions taken by Nirah in connection with the processing of Customer Personal Data, provided these are in compliance with the then-current version of Nirah's privacy policy available at www.nirah.com (Privacy Policy). In the event of any inconsistency or conflict between the terms of the Privacy Policy and this agreement, the Privacy Policy will take precedence.

5.5 Without prejudice to the generality of Clause 5.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Customer Personal Data to Nirah and lawful collection of the same by Nirah for the duration and purposes of this agreement.

5.6 Nirah shall use the Customer Personal Data for the purposes of fulfilling the agreement and contacting the Customer in relation to the same. Nirah shall keep the data for as long as the agreement is in force and for a further 6 years.

5.7 Without prejudice to the generality of Clause 5.2, Nirah shall, in relation to Customer Personal Data:

- (a) process that Customer Personal Data only for the purposes of fulfilling this agreement, unless Nirah is required by the UK GDPR to otherwise process that Customer Personal Data. Where Nirah is relying on

the UK GDPR as the basis for processing Customer Personal Data, Nirah shall notify the Customer of this before performing the required processing (unless the UK GDPR prohibits Nirah from so notifying the Customer on important grounds of public interest). Nirah shall inform the Customer if, in the opinion of Nirah, the instructions of the Customer infringe the UK GDPR;

- (b) implement robust technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data;
- (c) ensure that any personnel engaged and authorised by Nirah to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
- (d) assist the Customer insofar as this is possible, and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under the UK GDPR with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data; and
- (f) at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the agreement unless Nirah is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this Clause 5.7(f), Customer Personal Data shall be considered deleted where it is put beyond further use by Nirah.

5.9 The Customer hereby provides its prior, general authorisation for Nirah to:

- (a) appoint processors to process the Customer Personal Data, provided that Nirah:
 - (i) shall ensure that the terms on which it appoints such processors comply with the UK GDPR, and are consistent with the obligations imposed on Nirah in this Clause 5;
 - (ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of Nirah; and
 - (iii) shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to Nirah's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Customer shall indemnify Nirah for any losses, damages, costs (including legal fees) and expenses suffered by Nirah in accommodating the objection.
- (b) transfer Customer Personal Data outside of the UK as required for the Purpose, provided that Nirah shall ensure that all such transfers are effected in accordance with the UK GDPR. For these purposes, the Customer shall promptly comply with any reasonable request of Nirah, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).

6. THIRD PARTY PROVIDERS

The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Nirah makes 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 the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Nirah. Nirah recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Nirah does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

7. NIRAH'S OBLIGATIONS

7.1 Nirah undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

7.2 The undertaking at Clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Nirah's instructions, or modification or alteration of the Services by any party other than Nirah or Nirah's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Nirah will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in Clause 7.1.

7.3 Nirah:

- (a) does not warrant that:
 - (i) the Customer's use of the Services will be uninterrupted or error-free; or
 - (ii) that the Services will meet the Customer's requirements or that using the Services will result in more sales for the Customer; or
 - (iii) the Software or the Services will be free from Vulnerabilities or Viruses; or
- (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7.4 This agreement shall not prevent Nirah 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 this agreement.

7.5 Nirah warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

7.6 Nirah's archiving procedure for Customer Data is as follows: the data is backed up hourly to a local filesystem. This data will be backed up nightly to a backup server, with those backups being retained for 30 days. This may be amended by Nirah in its sole discretion from time to time. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against Nirah shall be for Nirah to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Nirah in accordance with the archiving procedure described above. Nirah 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 Nirah to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable in accordance with the terms of this agreement).

8. CUSTOMER'S OBLIGATIONS

8.1 The Customer shall:

- (a) provide Nirah with:
 - (i) all necessary co-operation in relation to this agreement; and
 - (ii) all necessary access to such information as may be required by Nirah;
in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
- (b) without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this agreement;

- (c) carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Nirah may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) ensure that the Authorised Users use the Services in accordance with the terms and conditions of this agreement and be responsible for any Authorised User's breach of this agreement;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Nirah, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
- (f) ensure that its network and systems comply with the relevant specifications provided by Nirah from time to time; and
- (g) be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Nirah's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

8.2 The Customer 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 such Customer Data.

8.3 The Customer warrants that the publication of the content within the training courses that it creates, pursuant to the Services, and publication of the training courses themselves, will not cause Nirah to be in breach of any third party's intellectual property rights.

9. CHARGES AND PAYMENT

9.1 The Customer shall pay the Subscription Fees to Nirah for the Subscription in accordance with this Clause 9.

9.2 The Customer shall, on the Effective Date, provide to Nirah valid, up-to-date contact details, along with valid, up-to-date and complete credit card details or approved purchase order information and billing details.

9.3 If the Customer provides:

- (a) its credit card details to Nirah; the Customer hereby authorises Nirah to bill such credit card:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to Clause 14.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period;
- (b) its approved purchase order information to Nirah, Nirah shall invoice the Customer:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to Clause 14.1, at least 45 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period,

and the Customer shall pay each invoice within 30 days after the date of such invoice.

9.4 If Nirah has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Nirah:

- (a) Nirah may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and Nirah shall be under no obligation to provide any or all of the Services while

the invoice(s) concerned remain unpaid; and

(b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Nirah's bank in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

9.5 All amounts and fees stated or referred to in this agreement:

- (a) shall be payable in pounds sterling;
- (b) are non-cancellable and non-refundable;
- (c) are exclusive of value added tax, which shall be added to Nirah's invoice(s) at the appropriate rate.

9.6 Nirah shall be entitled to increase the Subscription Fees at the start of each Renewal Period upon 45 days' prior notice to the Customer.

10. PROPRIETARY RIGHTS

10.1 The Customer acknowledges and agrees that Nirah and/or its licensors own all intellectual property rights in the Services. Except as expressly stated herein, this agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services.

10.2 Nirah confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

11. CONFIDENTIALITY

11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this 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.

11.2 Subject to Clause 11.4, 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 the implementation of this agreement.

11.3 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 this agreement.

11.4 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 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

11.5 The Customer shall not make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of Nirah (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

11.6 The above provisions of this clause shall survive termination of this agreement, however arising.

12. INDEMNITY

12.1 The Customer shall defend, indemnify and hold harmless Nirah against claims (including, without limitation claims from users that have accessed the Customer's courses via the Site), actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation, provided that:

(a) the Customer is given prompt notice of any such claim;

(b) Nirah provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

(c) the Customer is given sole authority to defend or settle the claim.

12.2 Nirah shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the Services or Documentation in accordance with this agreement infringes any United Kingdom patent effective as of the Effective Date, copyright, trademark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

(a) Nirah is given prompt notice of any such claim;

(b) the Customer provides reasonable co-operation to Nirah in the defence and settlement of such claim, at Nirah's expense; and

(c) Nirah is given sole authority to defend or settle the claim.

12.3 In the defence or settlement of any claim, Nirah may procure the right for the Customer 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 the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

12.4 In no event shall Nirah, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

(a) a modification of the Services or Documentation by anyone other than Nirah; or

(b) the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by Nirah; or

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

12.5 The foregoing and Clause 13.3(b) state the Customer's sole and exclusive rights and remedies, and Nirah's (including Nirah's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13. LIMITATION OF LIABILITY

13.1 Except as expressly and specifically provided in this agreement:

(a) the Customer assumes sole responsibility for results obtained from the use of the Services by the Customer, for acquisition of new customers, for the safety and efficacy of its products, and for conclusions drawn from such use. Nirah shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Nirah by the Customer in connection with the Services, or any actions taken by Nirah at the Customer's direction;

(b) 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 this agreement; and

- (c) the Services and the Documentation are provided to the Customer on an “as is” basis.

13.2 Nothing in this agreement excludes the liability of Nirah:

- (a) for death or personal injury caused by Nirah’s negligence; or
- (b) for fraud or fraudulent misrepresentation.

13.3 Subject to Clause 13.1 and Clause 13.2:

- (a) Nirah shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and
- (b) Nirah’s total aggregate liability in contract (including in respect of the indemnity at Clause 12.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement (including, without limitation the obligations in Clause 5) shall be limited to the total Subscription Fees paid for the Subscription during the 12 months immediately preceding the date on which the claim arose.

14. TERM AND TERMINATION

14.1 This agreement shall, unless otherwise terminated as provided in this Clause 14, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods (each a Renewal Period), unless:

- (a) Nirah notifies the Customer of cancellation, in writing, at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) The Customer activates a cancellation via its account at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of this agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.

14.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 60 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;

- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (g) 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 the other party (being a company, partnership or limited liability partnership);
- (h) the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) a creditor or encumbrancer of the other party 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 the other party's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 14.2(c) to Clause 14.2(j) (inclusive);
- (l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (m) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.

14.3 On termination of this agreement for any reason:

- (a) all licences granted under this agreement shall immediately terminate;
- (b) 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;
- (c) Nirah may destroy or otherwise dispose of any of the Customer Data in its possession unless Nirah receives, no later than 10 days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Nirah shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Nirah in returning or disposing of Customer 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.

15. FORCE MAJEURE

Nirah shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Nirah or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

16. MISCELLANEOUS

- 16.1 No failure or delay by a party to exercise any right or remedy provided under this 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.

- 16.2 Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 16.3 If any provision or part-provision of this agreement 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 this agreement. If any provision or part-provision of this agreement is deemed deleted under this clause, 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.
- 16.4 This 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.
- 16.5 Each party acknowledges that in entering into this 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 this agreement.
- 16.6 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement
- 16.7 The Customer shall not, without the prior written consent of Nirah, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 16.8 Nirah may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 16.9 Nothing in this agreement 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).
- 16.10 This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 16.11 Any notice required to be given under this agreement shall be in writing, including by email. If notice is to be posted, it 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 in this agreement, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this agreement.
- 16.12 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in 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 24 hours after sending.
- 16.13 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.
- 16.14 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).