

Terms & Conditions

1. Definitions

In these Conditions the following definitions apply:

“Additional Term” has the same meaning given to that term in Condition 3.1.

“Authorised Location(s)” means the sites/ locations as set out in the Service Agreement (where relevant) in respect of which the End User may make use of the Software Services and the Documentation in accordance with the Contract.

“Back-Up Policy” means DRI’s standard back-up policy (as amended from time to time), available upon request.

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

“Commencement Date” means the date stated as the commencement date on the Service Agreement.

“Conditions” means these terms and conditions as amended from time to time by DRI in accordance with Condition 5.6.

“Confidential Information” means all confidential or proprietary information (however recorded or preserved) that is disclosed or made available (in any form or by any method), directly or indirectly, by one party to the other whether before, on or after the Commencement Date, including:

(a) information that is identified as being of a confidential or proprietary nature;

(b) all confidential or proprietary information relating to the business or affairs, financial or trading position, assets, intellectual property rights, customers, clients, suppliers, employees, plans, operations, processes, products, intentions or market opportunities of DRI, the Customer and/or any End User;

(c) information which the receiving party ought reasonably to comprehend that the disclosing party would regard as confidential;

(d) the know-how, designs, trade secrets, technical information or software of DRI, the Customer and/or any End User.

Confidential Information shall exclude information which:

(a) was public knowledge or already known to the recipient at the time of disclosure;

(b) subsequently becomes public knowledge other than as a direct or indirect result of the information being disclosed in breach of these Conditions;

(c) subsequently comes lawfully into the possession of the recipient from a third party who was not bound by any obligation of confidentiality or otherwise prohibited from disclosing the information to the recipient; or

(d) is otherwise agreed in writing by the parties not to be confidential.

“Contract” means the contract between DRI and the Customer for the supply and purchase of the Services in accordance with these Conditions.

“Contract Year” means a period of 12 months from the Commencement Date and each successive period of 12 months thereafter during the Term.

“Control” means the beneficial ownership of more than 50% of the issued share capital of a

company or the legal power to direct or cause the direction of the general management of the company, and “controls”, “controlled” and the expression “change of control” shall be construed accordingly.

“Customer” means the entity purchasing the Services either as a reseller or an enterprise customer and described further in the Service Agreement.

“Data Protection Legislation” means any applicable European Union or English laws relating to privacy or the use or processing of data relating to natural persons, including:

(a) EU Regulation 2016/679 (“GDPR”); and

(b) any laws or regulations ratifying, implementing, adopting, supplementing or replacing GDPR; in each case, to the extent in force, and as such are updated, amended or replaced from time to time.

“Default” has the meaning given to that term in Condition 6.2.

“Documentation” means the Supporting Information and any other documentation in relation to the Services made available from time to time to the Customer by DRI.

“DRI” means Dynamic Risk Indicator Limited, a private limited company with registered number 11457021 and with a registered office address at 45/47 - 2nd Floor Newton Street, Manchester, United Kingdom, M1 1FT.

“DRI Materials” means all materials, equipment, documents and other property belonging to DRI.

“DRI Software” means the online software modules and apps elected for by the Customer in the Service Agreement and as more particularly described in the Documentation to be accessed by the Customer as part of the Software Services (including all future modifications, updates, upgrades, releases and new versions as may be made available to the Customer by DRI).

“Due Date” has the meaning given to that term in Condition 4.7.

“End User” means any person who is granted permission to use the Software Services by the Customer.

“End User Data” means:

(a) all data (including any Personal Data relating to the staff, customers or suppliers of any End User), documents, text, drawings, diagrams, images, audio or video material, in whatever medium or form, that is supplied by, inputted, and/or uploaded onto and/or stored within the DRI Software, by or on behalf of the End User from time to time; and

(b) all information related to any End User that is processed or stored by the DRI Software.

“Fees” means the fees as set out in the Service Agreement and payable in accordance with Condition 4.

“Force Majeure Event” means any event or circumstance beyond the reasonable control of DRI, including

(a) any strike, lock-out or industrial disputes (excluding any industrial dispute relating to DRI);

(b) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, sabotage,

terrorism or threat thereof;

(c) any act of state or other exercise of sovereign, judicial or executive prerogative by any competent government authority;

(d) any act of God, lightning, earthquake, tempest, flooding, fire, cyclone, hurricane, typhoon, tidal wave, whirlwind, storm and other extreme adverse weather conditions; and

(e) any failure of a utility service, telecommunication or transport network.

“Insolvency Event” means, in relation to a party:

(a) the passing of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for its winding-up or dissolution (except for the purposes of a solvent amalgamation or reconstruction);

(b) the making of an administration order or the appointment of a receiver or an administrative receiver over, or the taking possession or sale by a secured party of any of its assets;

(c) the making of an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally; or

(d) if a party threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business.

“Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, 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 right, topography rights, moral rights, rights in confidential information, 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.

“Minimum Committed Value” means the monetary value stated as the minimum committed value in the Service Agreement.

“Minimum Contract Term” means the period stated as the minimum contract term in the Service Agreement.

“Order” means any Customer order for the supply of Services (whether via an order form, purchase order or acceptance of a quotation provided by DRI or otherwise).

“Premises” means any of the Customer’s sites and properties from which the Services are to be performed.

“Privacy Policy” means DRI’s privacy policy available at <http://drindicator.com/privacy-policy> (as amended from time to time) which describes the way in which DRI collects, uses, maintains and discloses the personal data of customers and end users of the Services.

“Reseller” means a Customer that is granted the rights to be an authorised reseller of the Software Services (as indicated within the Service Agreement).

“RPI” means the Retail Prices Index as published by the Office of National Statistics (or such other replacement index or body).

“RRP” means the DRI Recommended Retail

Price for the Software Services.

“**Service Agreement**” means the service agreement between DRI and the Customer that contains a description of the Services to be supplied by DRI (including the DRI Software modules elected) and the fees payable.

“**Service Agreement Addendum**” means any addendum to the Service Agreement (if any) agreed between the parties.

“**Services**” means the services agreed to be supplied by DRI to the Customer as set out in the Service Agreement.

“**Software Services**” means the subscription services available at the Website or via the App utilising the DRI Software.

“**Supporting Information**” means the supporting information document available from DRI or supplied by DRI to the Customer from time to time.

“**Term**” means the duration of the Contract to include the Minimum Contract Term and each Additional Term until the Contract is terminated in accordance with these Conditions.

“**Territory**” means (in relation to a Reseller) the territory as stated in the Service Agreement.

“**VAT**” has the meaning given to that term in Condition 4.6.

“**Virus**” means any thing or device (including any software, code, file or program) 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 program or data, including the reliability of any program or data (whether by re-arranging, altering or erasing the program 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.

“**Website**” means DRI’s website at <https://app.drindicator.com> (or such alternative URL as DRI may notify to the Customer in writing from time to time).

2. Interpretation

2.1 Condition headings shall not affect the interpretation of these Conditions.

2.2 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.

2.3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

2.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

2.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

2.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and will include all subordinate legislation made from time to time under that statute or statutory provision.

2.7 A reference to “written” or “in writing” includes emails, but excludes faxes and all content sent by any text message, instant messaging or similar platform.

2.8 If there is an inconsistency between any of the documents comprising the Contract, the following order of precedence shall prevail: (a) the

Service Agreement; (b) the Service Agreement Addendum (if any); (c) these Conditions; and (d) any other sections of the Supporting Information.

2.9 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.

3. Commencement and Term

3.1 The Contract will begin on the Commencement Date and will continue in force for the Minimum Contract Term. After the Minimum Contract Term the Contract will automatically renew for further successive periods of the same duration as the Minimum Contract Term (each an “Additional Term”) unless and until the Customer or DRI terminate the Contract in accordance with these Conditions. The price payable for the Services for each Additional Term is set in in Condition 4.

3.2 Either party can terminate the Contract for any reason whatsoever with effect on (but not before) the expiry date of the Minimum Contract Term, or as relevant, an Additional Term, if it notifies the other party in writing of the termination by no later than two (2) full calendar months before the end of the Minimum Contract Term, or as relevant, the then Additional Term.

4. Fees and Payment

4.1 The Fees payable by the Customer for the Services during the Minimum Contract Term will be set out in the Service Agreement. Unless otherwise agreed in writing, the Fees payable by the Customer for the Services during each successive Additional Term will be the Fees payable during the Minimum Contract Term, plus a percentage increase equal to the increase in the RPI, to be applied at the start of each Additional Term and each twelve (12) month anniversary of such date.

4.2 The Fees for set-up shall be payable by the Customer in one instalment and shall be invoiced by DRI to the Customer on or around the Commencement Date.

4.3 All other Fees shall be payable by the Customer upon invoice in accordance with the selected payment frequency option set out in the Service Agreement. Invoices shall be issued in advance of, or on the commencement of, the relevant payment period, with the first invoice issued by DRI on or around the Commencement Date. For Resellers, Fees will be invoiced based on actual consumption subject to a de-minimis of the amount of the Minimum Committed Value.

4.4 DRI may require advance payment of the Fees (or an instalment in advance) before it commences any of the Services and it reserves the right to withhold performance of the Services until such payment is made in cleared funds. Unless otherwise agreed in writing, the Customer must pay each invoice submitted by DRI within thirty (30) days of the date of invoice in full and in cleared funds to the bank account nominated in writing by DRI.

4.5 In addition to the Fees, provided such expenses have been agreed in advance with the Customer, DRI shall be entitled to charge the Customer for expenses reasonably incurred by DRI and its representatives (including but not limited to costs of materials, travelling expenses, subsistence costs and third party service costs).

4.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (“VAT”). Where any taxable supply for VAT

purposes is made under the Contract by DRI, the Customer shall, on receipt of a valid VAT invoice from DRI, pay to DRI such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

4.7 Without preventing DRI from relying on any other right or remedy, if the Customer fails to make any payment due to DRI under the Contract by the due date for payment (“Due Date”), DRI will have the right to charge the Customer interest on the overdue amount at the rate of 4 per cent per year accruing on a daily basis from the Due Date until the date of actual payment.

4.8 The Customer must pay all amounts due under the Contract in full without any deduction or withholding except as required by law. The Customer may not assert any credit, set-off or counterclaim against DRI in order to justify withholding payment of any amount in whole or in part. DRI may, without preventing it from relying on any other rights or remedies, reduce any amount payable by DRI to the Customer by the amount owed to DRI by the Customer.

5. The Contract

5.1 Any Order constitutes an offer by the Customer to purchase Services in accordance with and subject to these Conditions. Unless DRI expresses in writing to the Customer otherwise, a Contract will only be deemed binding on the parties when DRI has received a copy of the Service Agreement signed by the Customer within the period specified at Condition 5.5.

5.2 These Conditions apply to the Contract to the exclusion of any other terms that the Customer may wish to impose or incorporate, or which are implied by trade, custom or practice.

5.3 The Contract constitutes the entire agreement between DRI and the Customer. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of DRI that is not set out in these Conditions or the Service Agreement.

5.4 Any samples, drawings, descriptive matter or advertising DRI issues (including any descriptions of the Services contained on any website) are issued or published for the sole purpose of giving an approximate idea of the Services. They do not form part of the Contract and are not binding on us.

5.5 Any Service Agreement or quotation DRI issues to the Customer is only valid for a period of 40 Business Days from the date of issue by DRI or signature by an authorised DRI representative of the Service Agreement. Any Service Agreement signed by the Customer and returned to DRI outside of the aforementioned 40 Business Days shall not be binding on DRI.

5.6 At DRI’s sole discretion it can update these Conditions from time to time with effect from the date it publishes a revised version on the Website.

6. Customer Obligations

6.1 The Customer shall:

(a) provide all reasonably required access to the Premises and its facilities for DRI’s representatives to perform the Services during the normal business hours of the Premises or as otherwise agreed with the Customer;

(b) in advance of the attendance of any DRI representatives at the Premises, make such preparations to the Premises as are reasonably required by DRI;

(c) provide such assistance (including access to documentation and information) at the Premises

that DRI may reasonably require to perform the Services and will take reasonable steps to verify that such information is accurate in all material respects;

(d) co-operate with DRI in all matters relating to the performance of the Services;

(e) in good time before the Services are due to start (and thereafter at all times during the Term), ensure that it has in place all necessary licenses, consents, and permissions necessary for the performance of its obligations under the Contract and DRI's performance of the Services; and

(f) take all reasonable steps to ensure that any reasonable advice or instruction given by DRI to protect the health and safety of any of DRI's representatives using the Premises during or after the provision of the Services is followed and the Customer will indemnify DRI and hold DRI harmless from any liability or damage suffered by DRI and its representatives as a result of the Customer's failure to comply with this Condition 6.1(f); and

(g) keep and maintain any DRI Materials at the Premises in safe custody at the Customer's risk of loss or damage, maintain the DRI Materials in good condition until returned to DRI, and not dispose of or use the DRI Materials other than in accordance with DRI's written consent.

6.2 If DRI's performance of any of its obligations in respect of the Services is prevented or delayed by an act or omission of the Customer or a failure by the Customer to perform of its obligations (a "Default"), then without prejudice to any other rights and remedy available to DRI:

(a) it shall have the right to suspend performance of the Services until the Customer remedies the Default;

(b) it shall not be liable for any costs or losses sustained by the Customer arising from DRI's failure or delay to perform any of its obligations that have been so prevented or delayed; and

(c) the Customer shall reimburse DRI on written demand for any costs, expenses and losses DRI incurs that directly relate to the Default.

6.3 The Customer is responsible for making all arrangements necessary to enable End Users to access the Services.

7. Performance of Services

7.1 DRI shall:

(a) provide the Services to the Customer in accordance with the Contract in all material respects;

(b) provide the Services with the degree of skill, care, prudence, efficiency, foresight and timeliness that would reasonably be expected from a person skilled and experienced in providing services similar to the Services; and

(c) use reasonable efforts to meet any performance dates for the Services agreed in writing with the Customer, it being agreed that such dates given are good faith estimates and are not binding on DRI.

7.2 If the Services do not conform to the commitments at Condition 7.1, DRI will, at its own expense, use all reasonable commercial efforts to correct the non-conformance promptly or provide the Customer with an alternative means of accomplishing the desired performance. This correction or substitution is the Customer's sole and exclusive remedy for any breach of the commitment given in Condition 7.1.

8. Software Services

8.1 Subject to the additional provisions set out in Condition 8.2 (which shall apply specifically to

the DRI Software) and the Customer's payment of the Fees to DRI, DRI grants to the Customer a non-exclusive non-transferable licence (without the right to grant sub-licences, subject to Condition 9 applicable to Resellers) for the Term:

(a) to use the Software Services and the Documentation in accordance with these Conditions and the Supporting Information;

(b) to maintain the DRI Software.

8.2 Save as otherwise expressly set out in the Contract, the Customer shall not (and shall procure that each End User shall not):

(a) commercialise the Software Services;

(b) use the DRI Software, the Software Services and/or the Documentation other than as specified in the Contract;

(c) allow the DRI Software, the Software Services or the Documentation to become the subject of any charge, lien or encumbrance; or

(d) deal in any other manner with any or all of its rights and obligations under the Contract in a manner which is inconsistent with the Contract; without the prior written consent of DRI.

8.3 The Customer undertakes that it will not allow or suffer any End User to use or benefit from the DRI Software, the Software Services and the Documentation at any location other than the Authorised Locations.

8.4 The Customer shall notify DRI as soon as it becomes aware of any unauthorised use of the DRI Software, the Software Services and/or the Documentation by any person or upon any knowledge or suspicion that any person may be infringing the Intellectual Property Rights of DRI in respect of the DRI Software.

8.5 The Customer shall not (and shall procure that End Users shall not) access, store, distribute or transmit any Viruses or any material during using the Software Services that:

(a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; or

(b) facilitates illegal activity; or

(c) depicts sexually explicit images;

(d) promotes unlawful violence;

(e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

(f) in a manner that is otherwise illegal or causes damage or injury to any person or property.

8.6 The Customer shall not, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties, and except to the extent expressly permitted under these Conditions:

(a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the DRI Software and/or Documentation (as applicable) in any form or media or by any means; or

(b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the DRI Software; or

(c) access all or any part of the DRI Software, the Software Services or Documentation in order to build a product or service which competes with the same; or

(d) not license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the DRI Software, the Software Services and/or the Documentation available to any third party except the End Users, or

(e) attempt to obtain, or assist third parties in obtaining, access to the DRI Software, the Software Services and/or Documentation, other than as expressly permitted under the terms of the Contract.

8.7 The Customer shall permit DRI to have access to and/or copies of any records kept by the Customer in connection with the Services and the Contract, for the purposes of ensuring that the Customer is complying with the terms of the Contract, provided that DRI gives reasonable advance notice to the Customer of such access which shall take place at reasonable times during normal business hours.

8.8 During the Term, DRI shall have the right to make changes to the Software Services at its discretion including the right to:

(a) issue new releases, improvements, modifications, updates, patches, bug fixes, and similar items at any time; and

(b) add, replace or remove features of the Software Services,

provided that DRI shall not materially modify the Software Services without giving the Customer at least thirty (30) days prior written notice.

8.9 DRI warrants to the Customer that:

(a) the Software Services will operate substantially in accordance with, and perform, the material functions and features as set out in the Documentation;

(b) it shall use commercially available anti-virus software in the provision of the Software Services.

8.10 The Customer agrees that:

(a) DRI will not be responsible for any use, misuse or loss of any usernames and/or passwords required for use of the Software Services;

(b) it is responsible for making all arrangements necessary to enable End Users to access the Software Services and the Documentation;

(c) it is responsible for ensuring that End Users are made aware of DRI's and the Customer's Privacy Policy;

(d) it shall not knowingly introduce material to the DRI Software which is malicious or technologically harmful to the DRI Software or attempt to gain unauthorised access to the DRI Software, the server on which the DRI Software is stored or any server, computer or database connected to the DRI Software. In the event of such a breach, the Customer's right to use the DRI Software, the Software Services and the Documentation may cease immediately at the option of DRI; and

(e) it shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the DRI Software, the Software Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify DRI.

8.11 DRI reserves the right, without liability or prejudice to its other rights, to disable access to the DRI Software, the Documentation and the Software Services following the introduction by the Customer or an End User of any material that breaches the provisions of the Contract.

8.12 To the extent required by the Customer (as notified to DRI in writing) at the Customer's cost and expense and subject to the payment by the Customer of all escrow agents' fees, DRI shall take such steps as are reasonably required to enable the Customer to benefit from DRI's then current escrow arrangements for the DRI Software.

9. Resellers

9.1 This Condition 9 applies to Customers that are a Reseller.

9.2 The Reseller shall be permitted to combine the Software Services with its own products and services and resell the combination to customers in the Territory on the terms of the Contract. The Reseller shall not resell the Software Services other than as combined with the Reseller's own products and services. If the proportion of Software Services to non-Software Services in the Reseller's combination is less than 50% of the overall costs, then the resale price of the Software Services must be equal to or greater than the DRI Recommended Retail Price (RRP). The Reseller's appointment only grants to the Reseller a licence to distribute the Software Services, and does not transfer any right, title or interest to any such Software Services to the Reseller or its End Users.

9.3 The Reseller shall be permitted to resell the Software Services subject to compliance with the following terms:

(a) the Reseller may only grant such licences an End User upon terms which contain equivalent terms, prohibitions and restrictions in relation to use of the Software Services to those contained within these Conditions (provided however that each End User shall be prohibited from further reselling or sub-licencing of the Software Services); and

(b) the Reseller shall be primarily responsible to DRI for any breach by an End User of its licence terms and the Reseller shall, upon request by DRI, enforce the same against the relevant End User.

9.4 The rights of the Reseller are personal to the Reseller and it shall not sell the Software Services through a sales agent or to a sub-distributor or reseller without the prior express written permission of DRI.

9.5 The Reseller shall be entitled to describe itself as an "Authorised Reseller" of the Software Services but shall not represent itself as an agent of DRI for any purpose, nor pledge DRI's credit or give any condition or warranty or make any representation on DRI's behalf or commit DRI to any contracts. Further, the Reseller shall not without DRI's prior written consent make any representations, warranties, guarantees or other commitments with respect to the specifications, features or capabilities of the Software Services which are inconsistent with those contained in the promotional material supplied by DRI or otherwise incur any liability on behalf of DRI howsoever arising.

9.6 The Reseller shall provide to its End Users a pre- and after-sale support service in respect of the Software Services on terms at least as favourable as the pre- and after-sale support service the Reseller provides in respect of its own products and services, including, without limitation, the provision of necessary and useful configuration and set-up assistance and consultation on the use of Software Services; timely responses to End User's general questions concerning use of the Software Services; and assistance to End Users in the diagnosis and correction of problems encountered in using the Software Services.

9.7 The Reseller shall:

(a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");

(b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

(c) have and shall maintain in place throughout

the term of the Contract policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;

(d) promptly report to DRI any request or demand for any undue financial or other advantage of any kind received by the Reseller in connection with the performance of the Contract;

(e) immediately notify DRI (in writing) if a foreign public official becomes an officer or employee of the Reseller and/or acquires a direct or indirect interest in the Reseller (and the Reseller warrants that it has no foreign public officials as officers or employees and/or direct or indirect owners at the Commencement Date);

(f) within three (3) months of the Commencement Date, and annually thereafter, certify to DRI in writing signed by an officer of the Reseller, compliance with this Clause 9.7 by the Reseller and all persons associated with it.

9.8 The Reseller shall ensure that any person associated with the Reseller who is performing services or providing goods in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Reseller in Clause 9.7 ("Relevant Terms"). The Reseller shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms, and shall in all circumstances be directly liable to DRI for any breach by such persons of any of the Relevant Terms howsoever arising.

9.9 DRI may terminate the Contract upon a change of Control of the Reseller.

10. Intellectual Property Rights

10.1 All Intellectual Property Rights in or arising out of or in connection with the Website, the Services and the DRI Software (including all modifications and updates thereto and any and all developments and improvements made to the Services), with the exception of Intellectual Property Rights in the End User Data, will be owned absolutely by DRI or its licensors.

10.2 Other than as expressly set out in these Conditions, neither party grants any licence of, right in or makes any assignment of any of its Intellectual Property Rights.

11. Confidentiality

11.1 Each party (each a "Recipient") will keep in strict confidence all Confidential Information and will not use any Confidential Information for any purpose other than to perform obligations under the Contract.

11.2 A Recipient of Confidential Information may disclose it to its employees, officers, representatives, subcontractors or professional advisers who need to know such information for the purposes of carrying out the Recipient's obligations under the Contract but not otherwise and at all times subject to the obligations of confidentiality outlined in this Condition 11. A Recipient will be liable for any breach of this Condition 11 by such persons.

11.3 Each party reserves all rights in its Confidential Information. No rights or obligations other than those expressly stated in the Contract are granted to the other party, or are to be implied from the Contract.

11.4 On termination of the Contract, each party shall without undue delay:

(a) destroy or return to the other party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information;

(b) erase all the other party's Confidential Information from its computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable); and

(c) certify in writing to the other party that it has complied with the requirements of this Condition, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority.

11.5 This Condition 11 shall survive termination of the Contract.

12. End User Data

12.1 DRI acknowledges that all End User Data is the property of the Customer and/or the End User and the Customer and/or the End User reserves all Intellectual Property Rights which may, at any time, subsist in the End User Data.

12.2 The Customer is solely responsible for the legality, reliability, integrity, accuracy and quality of the End User Data.

12.3 DRI shall:

(a) not alter, delete, add to otherwise interfere with, store, copy, disclose or use the End User Data, except as may be reasonably required for the performance of the Software Services or as otherwise expressly described within the Supporting Information;

(b) comply with the archiving procedures for End User Data as set out in the Back-Up Policy. In the event of any loss or damage to End User Data, the Customer's sole and exclusive remedy will be for DRI to use reasonable commercial efforts to restore the End User Data that is lost or damaged from the latest back-up of End User Data maintained by DRI in accordance with the archiving procedure described in the Back-Up Policy. DRI will not be responsible for any loss, destruction, alteration or disclosure of End User Data caused by any third party (except those third parties sub-contracted by DRI to perform services related to End User Data maintenance and back-up).

12.4 The Customer grants DRI a licence during the Term and thereafter to anonymise End User Data for its own internal business purposes including for use in bench marking, statistical analysis and report development.

13. Data Protection

13.1 When used in these Conditions, the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data" and "Process" will have the same meaning given to them in the Data Protection Legislation.

13.2 Each party shall comply with its respective obligations under the Data Protection Legislation.

13.3 If and to the extent DRI is required to Process any Personal Data on the Customer's or an End User's behalf when performing any of its obligations or the Services under the Contract, the parties agree that the Customer or End User will be the Data Controller and DRI will be the Data Processor of such Personal Data ("Relevant Personal Data").

13.4 DRI shall Process Relevant Personal Data for purposes of, and as required to, provide the Customer the Services. The period of the Processing of Relevant Personal Data shall be for the Term of the Contract. It is agreed that DRI may Process the following Relevant Personal Data:

(a) for Incident Module: names of persons involved in the incident such as staff and witnesses, dates, the specifics of any incident raised by the End Users using the Software Services (including health and medical reports relating to any incident);

(b) for Registry Module: data within certificates stored as part of the Software Services which may include names, contact details and other specifics to manage key certification and assets;

(c) for Audit, Fire Risk Assessment and Risk Assessment Services: names of individuals involved in the performance of the relevant Services;

(d) Training Services: training records of individuals including names and certification details;

(e) for all Services: names, contact details, job titles and other Relevant Personal Data as reasonably required to perform the Services and relating to individuals that are the Customer's clients, customers or guests or are employed or engaged by the Customer, the Customer's service providers, suppliers or contractors.

13.5 Without limiting the application of Condition 13.2, the Customer will ensure that the Customer has all necessary appropriate consents and notices in place to enable the lawful transfer of the Relevant Personal Data to DRI for the duration and purposes of the Contract.

13.6 DRI will Process the Relevant Personal Data only to the extent, and in such a manner, as is necessary in order to meet its obligations under the Contract and in accordance with the Customer's written instructions from time to time, unless the Processing is required by applicable law (in which case DRI will notify the Customer before such Processing unless applicable law prevents DRI from doing so). The Customer acknowledges that necessary Processing of the Relevant Personal Data carried out in the normal course of the Services is done to the Customer's documented instructions.

13.7 DRI will implement and maintain appropriate technical and organisational measures, to ensure a level of security appropriate to the risk in respect of the Relevant Personal Data, against accidental, unauthorised or unlawful loss, destruction, alteration, disclosure of or access to Relevant Personal Data having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Relevant Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Relevant Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by DRI).

13.8 DRI will ensure that all of its personnel and representatives who have access to and/or Process Relevant Personal Data are obliged to keep the Relevant Personal Data confidential.

13.9 Without prejudice to the Processing by DRI under Condition 13.4 or otherwise in a manner not incompatible with the Contract, DRI will only Process the Relevant Personal Data as reasonably required in the provision of the Services and not for any other purpose.

13.10 Where appropriate taking into account the nature of the Processing, at the Customer's cost and expense, DRI will assist the Customer in respect of

(a) any requirement for the Customer to notify

any supervisory authority or Data Subject of a personal data breach in respect of the Relevant Personal Data; and

(b) any data privacy impact assessment which the Customer may from time to time be required to undertake in accordance with applicable law with regard to the Relevant Personal Data and/or the Services; and (c) the Customer's obligation under the Data Protection Legislation to respond to requests of any Data Subject in relation to the Relevant Personal Data in so far as possible by using appropriate technical and organisational measures.

13.11 DRI may transfer and/or Process the Relevant Personal Data outside the European Economic Area and the Customer consents to such transfer and Processing provided that such transfer and Processing is undertaken in a manner compliant with Chapter V of the GDPR. The Customer and DRI agree that unless the relevant transfer is to a third party based in a country confirmed as having adequate data protection safeguards by the European Commission, or unless the relevant transfer is to a US-based third party which is validly certified under the Privacy Shield (or such other European Commission approved mechanism) from time to time, the standard contractual clauses for data export as stipulated from time to time by the European Commission, insofar as and for so long as such contractual clauses remain legally valid and enforceable will be adopted.

13.12 Following the termination of any Services which involve the Processing of Relevant Personal Data and subject to Condition 13.4, the Customer may by written notice to DRI require DRI and each sub-processor of the Relevant Personal Data engaged by DRI to delete or return all copies of the Relevant Personal Data and DRI will comply with such request. DRI may charge a reasonable administration fee to the Customer for dealing with any request it makes to DRI for the return or deletion of the Relevant Personal Data. This Condition 13.12 shall not apply to Relevant Personal Data that DRI or the sub-processor is required to continue to store under applicable laws or for any other lawful or legitimate reason and DRI will be the data controller of such Personal Data and delete it in accordance with its retention policies.

13.13 DRI will only engage a third party to process Relevant Personal Data with the Customer's prior specific or general written consent and provided also that there is a written contract in place between DRI and such sub-processor under which the sub-processor is required to comply with the same or equivalent terms as DRI is required to comply with under Conditions 13.6 to 13.12. For the purpose of the Contract, the Customer grants to DRI a general written consent for DRI to appoint those sub-processors listed on the Website and DRI will update the Website and notify the Customer in writing with any intended additions or replacements and give the Customer no less than ten (10) Business Days to object to the changes. The Customer acknowledge that an objection may mean that DRI can no longer provide the Services (or part of them) to the Customer and in this event DRI can terminate the Contract on seven (7) days' written notice to the Customer without any liability to the Customer.

13.14 DRI may anonymise Relevant Personal Data following termination of the Contract. To do so such data will be aggregated within certain non-identifying criteria, and all references to individual Data Subjects will be deleted, and such data will no longer constitute Relevant Personal

Data, and in such circumstances DRI will retain such data in aggregated form for statistical, research and/or benchmarking purposes only.

14. Indemnity

14.1 The Customer will defend and indemnify DRI, its officers, directors and employees on demand against all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the use of the Services and/or the Documentation by the Customer, the End Users and/or by any person under the Customer's direction or control (whether or not an employee and whether or not acting in the course of their employment or engagement), provided that:

(a) the Customer is given prompt notice of any matter for which DRI wish to be indemnified;

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

(c) the Customer is given sole authority to defend or settle any relevant claim, provided that no settlement may be made by the Customer which prejudices DRI's rights or places DRI under any additional obligations without DRI's prior written consent (which cannot unreasonably withheld or delayed).

14.2 DRI will defend the Customer, its officers, directors and employees on demand against any claim that the Services and/or the Documentation infringes any United Kingdom patent effective as at the Commencement Date, copyright, trade mark, database right or right of confidentiality ("IPR Claim"), and will indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of an IPR Claim, provided that:

(a) DRI is given prompt notice of the IPR Claim;

(b) the Customer provides reasonable co-operation to DRI in the defence and settlement of the IPR Claim, at DRI's expense; and

(c) DRI is given sole authority to defend or settle the IPR Claim, provided that no settlement may be made by DRI which prejudices the Customer's rights or places the Customer under any additional obligations without the Customer's prior written consent (which cannot unreasonably withheld or delayed).

14.3 In the defence or settlement of an IPR Claim, DRI may obtain the right for the Customer to continue using the Services and/or Documentation, replace or modify the Services and/or Documentation so that it becomes non-infringing or, if such remedies are not reasonably available, terminate the Contract on two (2) Business Days' written notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

14.4 In no event will DRI, its employees, agents and sub-contractors be liable to the Customer to the extent that an alleged infringement (whether or not the subject of an IPR Claim) is based on:

(a) a modification of the Services or Documentation by anyone other than DRI or an authorised third party; or

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

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

14.5 This Condition 14 states the Customer's

sole and exclusive rights and remedies, and DRI's (including its employees', agents' and sub-contractors') entire obligations and liability, in relation to any infringement or alleged infringement of any patent, copyright, trade mark, database right or right of confidentiality resulting from the Services or the Documentation.

15. Limit of Liability

15.1 Except where the Contract expressly and specifically states otherwise:

(a) the Customer takes sole responsibility for results obtained from its use of the Services and for conclusions drawn from such use;

(b) DRI will have no liability to the Customer for any damage caused by errors or omissions in any End User Data or any action DRI takes at the Customer's direction or instruction;

(c) provided that DRI complies with Condition 8.9(b), DRI will not be liable for any loss or damage caused by any Virus accessed, stored, distributed or transmitted due to use of the Services;

(d) the Services and the Documentation are provided to the Customer on an 'as is' basis, DRI does not warrant that use of the Services and/or the Documentation will be uninterrupted, available at all times, or error-free or that the Services, the Documentation and/or the information obtained by use of the same will meet the Customer's requirements; and

(e) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract.

15.2 Nothing in the Contract limits any liability which cannot legally be limited, including either party's liability for (i) for death or personal injury caused by it or the negligence of its employees, agents or subcontractors, (ii) fraud or fraudulent misrepresentation, (iii) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982.

15.3 Subject to Condition 15.2, DRI will under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution, or otherwise, for any (i) loss of profit, (ii) loss of business, (iii) loss of sales or business, (iv) loss of anticipated savings, (v) depletion of goodwill, (vi) loss of use or corruption of software, data or information, (vii) pure economic loss, or (viii) any special, indirect or consequential loss, costs, damages, charges, liabilities or expenses, in each case however arising under or in connection with the Contract.

15.4 Subject to Condition 15.2, DRI's total liability to the Customer in respect of all losses, costs, damages, charges, liabilities or expenses arising under or in connection with the Contract whether in contract (including indemnities), tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise, during each contract year (being each twelve (12) month period commencing on the Commencement Date and each anniversary of it) will in no circumstances exceed the price paid or payable under the Contract during that contract year.

15.5 This Condition 15 will survive termination of the Contract.

16. Termination

16.1 DRI shall have the right, without prejudice to any other right or action, to terminate the Contract or suspend the performance of the Services (in whole or part) immediately upon

written notice at any time if:

(a) the Customer fails to observe and perform any of the terms of the Contract; or

(b) an Insolvency Event occurs in respect of the Customer (or in the case of a suspension of the Services, DRI reasonably believes that the Customer is about to become subject to an Insolvency Event); or

(c) the Customer fails to pay any undisputed charges due under the Contract on the Due Date and such failure continues for 30 Business Days from receipt of a written notice of non-payment from DRI; or

(d) any proceedings occur with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent to any of the events mentioned in this Condition 16.1.

16.2 The Customer shall have the right, without prejudice to any other right or action, to terminate the Contract immediately upon written notice at any time if:

(a) DRI is in material default of the Contract and such default is not remedied within 30 Business Days of a notice being served on DRI requiring it to remedy the default; or

(b) DRI is in material default of the Contract, which is irremediable; or

(c) an Insolvency Event occurs in respect of DRI.

16.3 Termination of the Contract, for any reason shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

17. Consequences of Termination

On termination of the Contract for any reason:

(a) DRI shall prevent the Customer's use and access to the Software Services;

(b) to the greatest extent practicable and subject to Condition 12.4, DRI shall permanently delete the End User Data;

(c) DRI may submit an invoice to the Customer for all Services performed and not yet invoiced;

(d) the Customer will immediately pay to DRI all of its unpaid invoices together with interest (where it applies); and

(e) conditions which expressly or by implication have effect after termination shall continue in full force and effect.

18. Force Majeure

18.1 DRI shall not be liable to the Customer as a result of any delay or failure to perform any of its obligations under the Contract as result of a Force Majeure Event.

18.2 If a Force Majeure Event prevents DRI from providing any of the Services for a period more than 40 Business Days, either party may, without limiting its other rights or remedies, terminate the Contract immediately by giving written notice to the other party.

19. Non Solicitation

Neither party shall (except with the prior written consent of the other) during the term of the Contract and for a period of one year thereafter, solicit the employment of any staff member of the other party with a salary in excess of £25,000 per annum which have been engaged in the provision of the Services or the management of the Contract or any significant part either as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of the other party. If a party is in breach of this Condition it shall pay to the other party a fee for

the introduction of that individual by the other party equivalent to 25% of the individual's first year's gross guaranteed earnings subject to a minimum of £20,000.

20. Assignment

20.1 The Customer shall not assign, transfer, charge or deal in any other manner with all or any of its rights under the Contract without the prior written consent of DRI.

20.2 DRI may at any time assign, transfer, charge, or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations to any third party provided always that DRI shall be responsible for the actions and omissions of its subcontractors engaged in the provision of the Services.

21. Notices

21.1 Any notice to be given to the Customer relating to the Contract shall be in writing and shall be sent by hand or by first class mail to the address appearing in the Service Agreement (or any such address as shall be notified in writing to DRI for the purpose of this Condition).

21.2 Any notice to be given to DRI relating to the Contract shall be in writing and shall be sent by hand or by first class mail to 47 Newton Street, Northern Quarter, Manchester, M1 1FT (or any such address as shall be notified in writing to the Customer for the purpose of this Condition).

21.3 Any notice will be deemed to have been given at the time of actual delivery if delivered by hand and on the second Business Day from dispatch if delivered by first class mail.

22. Variations

No variation of the Contract shall be binding unless it is confirmed in writing by a director of both DRI and the Customer.

23. Severance

23.1 If a court or any other competent authority finds that any provision of the Contract (or party of any provision) is invalid, illegal or unenforceable, that provision or shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

23.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

24. Third Party Rights

No person who is not a party to the Contract, or its successors and permitted assignees, shall have any rights to enforce any term of the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

25. Governing Law and Jurisdiction

25.1 The Contract 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 laws of England and Wales.

25.2 The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).