

PLANDEK LIMITED
TERMS AND CONDITIONS

PARTIES:

- (1) **PLANDEK LIMITED** a company registered in England and Wales with registration number 10857918, whose registered office is at Unit 10, 1 Luke Street, London, EC2A 4PX (“**Plandek**”, “**us**”, “**our**”, “**we**”); and
- (2) The company and/or legal entity entering this agreement and identified as Customer on the Order Form (the “**Customer**”, “**you**”, “**your**”).

IT IS HEREBY AGREED between the parties hereto as follows:

1. DEFINITIONS

“**Affiliate**” means an entity which, directly or indirectly, owns or controls, is owned or is controlled by or is under common ownership or control with a party, where “control” means the power to direct the management or affairs of an entity, and “ownership” means the beneficial ownership of 50% (or, if the applicable jurisdiction does not allow majority ownership, the maximum amount permitted under such law) or more of the voting equity securities or other equivalent voting interests of the entity;

“**Configuration Services**” means the configuration services as detailed in an Order Form, which may include the set-up of the Product and connection to the Content;

“**Content**” means any data made available by you for use in the Purpose;

“**Contributor**” shall have the meaning attributed at clause 2.4;

“**Data Protection Laws**” means as applicable and binding on you or us:

(a) in the United Kingdom:

- a. the Data Protection Act 2018 as may be amended or replaced (“Data Protection Act”);
- b. the GDPR, and/or any corresponding or equivalent national laws or regulations;

(b) in member states of the European Union: the Data Protection Act or the GDPR, once applicable, and all relevant member state laws or regulations giving effect to or corresponding with any of them;

(c) any applicable laws replacing, amending, extending, re-enacting or consolidating any of the above Data Protection Laws from time to time;

“**Data Source**” means the originating source of Content which you provide to us or otherwise permit us to access on your behalf in order to connect to and display such Content through the Hosted Services;

“**Data Source Access Credentials**” the relevant login details, passwords, APIs, permissions (technical or otherwise), or other access method(s) required in order to obtain access to the relevant Content, including the Data Source(s) either directly from you or via your permissions;

"Fee" means the monthly fee payable by you for use of the Product or Service, as specified in the applicable Order;

"GDPR" means the General Data Protection Regulations 2016/679;

"Hosted Service(s)" means the range of cloud based services made available by us to you to access from time to time pursuant to an Order Form;

"Intellectual Property Rights" means all intellectual property rights including without limitation, patents, utility models, trade and service marks, trade names, domain names, right in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how and in all cases whether or not registered or register able and including registrations and applications for registration of any of these and rights to apply for the same, and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

"Login Details" means the unique username and password required for all Users to access a Product;

"Metrics" are the calculations derived from the Content.

"Minimum Requirements" means any minimum specifications required to use the features and functionality of the Product, as may be specified in an Order Form;

"Monthly Uptime Percentage" is calculated by subtracting from 100% the percentage of minutes during the month in which the Hosted Services were Unavailable. Monthly Uptime Percentage measurements exclude downtime resulting directly or indirectly from any Plandek SLA Exclusion.

"Network" means the electronic communications network used by us to provide the Hosted Services;

"Output" means, where applicable, the Content as it appears once processed through a Hosted Service;

"Order" means the order agreed between you and us for the supply and use of a Product or Service through the Website from time to time as document by the order form ("**Order Form**");

"Plandek SLA Exclusion(s)" has the meaning set out in clause 6.7;

"Product(s)" means any Software or Hosted Service;

"Protected Data" means personal data received by us from or on your behalf in connection with the performance of our obligations under these Terms.

"Purpose" means to use, copy, compress, modify and transmit in order to provide you with the Products and Services and perform our obligations under these Terms;

"Scheduled Maintenance" means scheduled Unavailability of the Services for maintenance work announced by us 24 hours prior to the Hosted Services becoming Unavailable.

"Scope of Use" means your scope of use of the Product or Service specified in an Order Form including the information specified at clause 2.1;

"Services" means the configuration, support and maintenance and training services available in accordance with clause 8;

“**Software**” means the software products available for download through the Website from time to time pursuant to an Order;

“**Sub-processors**” means another data processor engaged by us for carrying out processing activities in respect of the Protected Data on your behalf.

“**Subscription Term**” means the duration of your Order;“

“**Terms**” means these terms and conditions;

“**Unavailable**” and “**Unavailability**” mean the Hosted Service is not running or not reachable solely due to Plandek’s fault, excluding unavailability resulting directly or indirectly from any Plandek SLA Exclusion.

“**User**” shall have the meaning attributed at clause 2.3 and who you have permitted to access and use the Product and who has been given the Login Details.

2. ORDERS

2.1 Each Order Form will specify your Scope of Use for the applicable Product or Service, which may include: (a) number and type of Users and Contributors; (b) storage or capacity (for a Hosted Service only); (c) numbers of licenses, copies or instances (in respect of Software only); or (d) other restrictions. Unless otherwise specified in an Order, the term “Scope of Use” extends only to use of the applicable Product for your organisation’s own internal business purposes.

2.2 The term “**Order**” also includes any renewals, or purchases you make to increase or upgrade your Scope of Use.

2.3 Only the specific Users for whom you have paid the required Fees and whom you designate through the applicable Product may access and use the Product. Some Products may allow you to designate different types of Users, in which case pricing and functionality may vary according to the type of User. “Users” may be your (or your Affiliates’) employees, representatives, consultants, contractors, agents, or other third parties who you permit to access and use the Product (subject to the limits in your Order Form), provided they are acting for your benefit and on your behalf, and you acknowledge that you shall be responsible for all use of the Product by Users and shall ensure that these Terms are brought to the attention of all Users. You shall be liable for breach of these Terms by a User as if it were a breach by you. We reserve the right to suspend the access of any User we believe, acting reasonably, is not using a Product for your benefit and on your behalf.

2.4 “Contributors” may be your (or your Affiliates’) employees, representatives, consultants, contractors, agents, or other third parties who you permit (subject to the limits in your Order) to contribute Content. For the avoidance of doubt, in order to access and use a Product, a Contributor must also be designated a User. A Contributor who is not designated a User is not permitted to access or use any Product.

2.5 You may increase the number of Users and/or Contributors by placing a new Order or, in some cases, directly through the Product. In all cases, you must pay the applicable Fees for the increased number of Users and/or Contributors. All use of Products by you and your Users must be within the applicable Scope of Use and solely for your benefit.

3. DURATION AND TERMINATION OF YOUR ORDERS

3.1 Each Order shall, once signed by both parties and together with these Terms, constitute an 'Agreement' between us based on the terms set out in the Order and these Terms. Each Agreement shall commence on the date specified in the Order Form (“**Effective Date**”) and shall terminate on the date specified in the Order Form, unless terminated by you or us in accordance with these Terms..

- 3.2 We may suspend or terminate your Agreement immediately on notice to you in the event that:
- 3.2.1 you commit a material breach of this Agreement provided that if the breach is capable of remedy the notice may only be given if you have not remedied the same within 30 days of having been given notice in writing specifying the breach and requiring it to be remedied;
 - 3.2.2 we believe (acting reasonably) that there has been fraudulent use, misuse or abuse of features and functionalities of any of our Products or Services (in whole or in part); or
 - 3.2.3 we believe that you have provided us with any false, inaccurate or misleading information in respect of your account set up.

and for the avoidance of doubt, no Fees shall be refunded to you in the event of termination by us in accordance with the foregoing.

- 3.3 You may terminate this Agreement in the event that:
- 3.3.1 we commit a material breach of this Agreement provided that if the breach is capable of remedy the notice may only be given if we have not remedied the same within 30 days of having been given notice in writing specifying the breach and requiring it to be remedied;
 - 3.3.2 we wilfully, repeatedly breach any of the terms of this Agreement in such a manner as to constitute a repudiatory breach of this Agreement;
 - 3.3.3 we enter into compulsory or voluntary liquidation (other than for the purpose of effecting a reconstruction or amalgamation in such manner that the company resulting from the reconstruction or amalgamation if a different legal entity shall agree to be bound by and assume our obligations under this Agreement) or compounds with or convenes a meeting of our creditors or has a receiver or manager or an administrative receiver or an administrator appointed over any of our assets or ceases for any reason to carry on business or takes or suffers any similar action which in the reasonable opinion of the Customer means that we may be unable to pay our debts, as they fall due;
- and for the avoidance of doubt, without prejudice to any other remedies available to you, any Fees in respect of the unexpired period of this Agreement shall be refunded to you (on a pro rata basis) in the event of termination by you in accordance with the foregoing.

- 3.4 Upon termination of any Agreement, your and any User's access to the applicable Product and/or Service shall cease and any Metrics will no longer be accessible through the Product. We may retain copies of your Metrics and/or other data as may be required by us to comply with applicable law. The obligations of confidentiality in this Agreement shall continue to apply post termination.

4. USE OF SOFTWARE

- 4.1 Subject to these Terms, we grant you a non-exclusive, non-transferable (without a right to sub-licence) license to install and use the Software referred to in your Order during the applicable Subscription Term, in accordance with these Terms and the applicable Scope of Use.
- 4.2 Unless otherwise specified in your Order Form, for each Software license that you purchase, you may install one production instance of the Software on systems owned or operated by you (or your third party service providers so long as you remain responsible for their compliance with these Terms).

- 4.3 You shall not, and shall procure that Users shall not, except as expressly permitted in these Terms (i) modify, translate, create or attempt to create derivative copies of or copy the Software in whole or in part; (ii) reverse engineer, decompile, disassemble or otherwise reduce the object code of the Software to source code form; (iii) distribute, sub-licence, assign, share, timeshare, sell, rent, lease, transmit, grant a security interest in or otherwise transfer the Software or your right to use the Software.
- 4.4 The Software may include code and libraries licensed to us by third parties, including open source software. Open source software may be used according to the terms and conditions of the specific licence under which the relevant open-source software is distributed, but is provided "as is" and expressly subject to the disclaimer in clause 9.4.

5. ACCESS TO HOSTED SERVICES

- 5.1 In consideration for payment of the applicable Fees, we hereby grant to you a non-exclusive, non-transferable (without a right to sub-licence) licence to access and use, and permit Users to access and use, the Hosted Service referred to in your Order Form for the Subscription Term in accordance with these Terms and the applicable Scope of Use.
- 5.2 You acknowledge that you shall be responsible for all use of the Hosted Service by Users and shall ensure that these Terms are brought to the attention of all Users. You shall be liable for breach of these Terms by a User as if it were a breach by you.
- 5.3 We shall use reasonable endeavours to make the Hosted Service available to you and the Users at all times, but we cannot guarantee an uninterrupted or fault free service. We undertake that the Services will be performed substantially in accordance with the Order using reasonable care and skill.
- 5.4 Our ability to provide the Hosted Service may be impaired by conditions or circumstances that are beyond our control, including, without limitation third party service providers, geographic or atmospheric conditions, local physical obstructions, software and hardware features or functionality of your personal computer, operating system and the number of other users logging onto the Hosted Service, server and/or Network at the same time. We shall take reasonable action to minimise the disruption caused by such circumstances but you acknowledge, agree and accept that some such interruptions may not be avoidable. Notwithstanding the foregoing we shall escalate any issues with the Hosted Service to the relevant third party providers in accordance with the terms of our contract with the relevant third party provider to ensure that the issues are resolved as soon as possible and other contractual protections and remedies available under those contracts (if any) are enforced. We shall also endeavour to keep you updated of the progress in resolving any issues.
- 5.5 The Network is not controlled by us and may from time to time be upgraded, modified, subject to maintenance work or otherwise amended by the owner of the Network. Such circumstances may result in the Hosted Service being temporarily unavailable. We will take reasonable action to minimise the disruption caused by such circumstances and notify you in advance where any maintenance is scheduled in advance, but some such interruptions may not be avoidable.
- 5.6 We use industry standard security measures to protect against the loss, misuse and alteration of the information, data, and/or content handled by our Hosted Service including anti-virus and malware software and other industry standard practice software, processes and procedures to prevent viruses, or other things or devices which may allow access to or unauthorised viewing of the Content. However, you acknowledge and agree that we cannot guarantee complete security of such information, data, and/or content or that such security measures will prevent hacks, worms, bugs, trojans or such other similar devices that may allow access to or unauthorised viewing of such information, data, and/or content.

- 5.7 We reserve the right to make changes to the Hosted Service or part thereof, from time to time at our sole discretion, and we may from time to time update, add, remove, modify and/or vary any features or functionalities of the Hosted Service. Such changes shall not however, remove any material element of functionality previously available as part of the Hosted Service.
- 5.8 You shall not, and shall procure that Users shall not, except as expressly permitted in these Terms: (i) modify, translate, create or attempt to create derivative copies of or copy the Hosted Service in whole or in part; (ii) reverse engineer, decompile, disassemble or otherwise reduce the object code of the Hosted Service to source code form; (iii) distribute, sub-licence, assign, share, timeshare, sell, rent, lease, transmit, grant a security interest in or otherwise transfer the Hosted Service or your right to use the Hosted Service.
- 5.9 In the event that any of the Hosted Services are unavailable (i.e. you are unable to access the Hosted Service or use any features or functionality and such unavailability is not caused by any of your own software, hardware or network connections or any breach by you of this Agreement or any event of Force Majeure) to you and Users for a continuous period of 24 hours or more ("**No Service**") then you shall be entitled to a pro rata refund for the period of No Service. In the event that there are three or more periods of No Service in any three month period, then you shall be entitled to terminate immediately on written notice to us.

6. SERVICES

Configuration Services

- 6.1 We shall provide you with such Configuration Services as agreed with you pursuant to an Order.
- 6.2 We shall use our reasonable endeavours to complete any Configuration Services in accordance with any timescales or milestones in the Order, but you acknowledge that such timescales are estimates only.

Service Commitment

- 6.3 We will use commercially reasonable efforts to provide a Monthly Uptime Percentage to you of at least 99.9% (the "**Service Commitment**").

Support and maintenance services

We shall provide the Services/Products you have purchased in accordance with the Service Commitment and upon explicit request provide you with a report to evidence the meeting or otherwise of the Services/products in accordance with the Service Commitment.

Support Levels

Subject to receiving a description of the Fault in accordance with the table below, we shall respond to the User in respect of the Fault (and use reasonable endeavours to keep the User updated) in accordance with the table set out below:

Priority	Description of the Fault	Standard Support response time	Premium Support response time
Urgent (P1)	Used for service interruptions where Users are unable to access or use the Product, or when significant and substantial adverse operational	4 hours	2 hours

	impact occurs preventing any useful work from being done. There is no possible alternative.		
High (P2)	Used for service interruptions where use of the Product is severely impaired or degraded for the majority of Users, preventing major functions from being performed. No acceptable alternative is available.	4 hours	2 hours
Normal (P3)	Used for service interruptions where the use of a non-critical or non-essential function of the Product is disabled or hard to use by the Users. A workaround or similar functionality may be available.	1 business day	4 hours
Low (P4)	Used for service interruptions where a minimal number of Users are affected, or the use of a non-critical or non-essential function of the Product is affected. A workaround or similar functionality is available.	2 business days	1 business day

We provide support services purchased in an Order between 9am – 5pm, UK time, Monday to Friday (excluding UK bank and public holidays) for the duration of the Subscription Term in respect of your use of Products, which comprises of:

6.3.1 advice on access and use of the Product; and

6.3.2 diagnosis of any cessation, interruption or degradation to the usual functionality of the Product (“**Fault**”),

in each case by e-mailing us at support@plandek.com.

6.4 Fault diagnosis is subject to you or any User providing a clear and accurate description of any Fault requiring support, including the circumstances in which it arose, the area of the Product to which the Fault relates and any other information reasonably required by us to remedy the Fault.

6.5 The support detailed in this clause 6 shall not include the diagnosis and rectification of any Fault resulting from:

6.5.1 use of the Product other than in accordance with these Terms or the Scope of Use;

6.5.2 changes you make to your Content or Data Source;

6.5.3 a fault in your or a third party’s software, hardware, network connections or application or any upgrade in respect thereof; or

6.5.4 a fault in the equipment or in any other software operating in conjunction with or integrating with the Product.

Training services

6.6 We will provide training services purchased in an Order in accordance with the descriptions and conditions for those services set forth in the Order Form and the accompanying service descriptions. We shall retain all right, title and interest in and to any materials, deliverables, modifications, derivative works or developments related to any training services we provide (“**Training Materials**”). Any Training Materials

provided to you may be used only in connection with the applicable Product. If applicable, you will reimburse us for reasonable travel and lodging expenses we incur in the provision of training services, provided these have been authorised in advance with you and are otherwise incurred in accordance with your expenses policy.

6.7 **Plandek SLA Exclusions:**

The Service Commitment does not apply to any unavailability, suspension or termination of the Hosted Services, or any other Service performance issue:

6.7.1 That results from a loss of password, suspension, payment dispute, or contract dispute of any kind;

6.7.2 Caused by factors outside of our reasonable control, including any force majeure event, Internet access, or problems beyond the demarcation point of the Plandek network;

6.7.3 That results from any actions or inactions of you or any third party;

6.7.4 That results from the equipment, software or other technology of you or any third party (other than third party equipment within our direct control);

6.7.5 That results from failures of Hosted Services not attributable to Unavailability; or

6.7.6 That results from any Scheduled Maintenance.

7. **YOUR OBLIGATIONS**

7.1 You are responsible for ensuring that any Content is not deemed to be offensive, illegal, inappropriate or that in any way:

7.1.1 contains any virus or other thing or device which may prevent, impair or otherwise adversely affect the operation of the Website; or

7.1.2 infringes any Intellectual Property Rights or any other proprietary rights of any third party.

7.2 You hereby grant to us a non-exclusive, worldwide royalty free licence to use the Content and all other materials submitted by you or any User for the Purpose.

7.3 You acknowledge that the Products do not verify the rights and restrictions applicable to any Content. Where you do not own the Content, you are solely responsible for checking the relevant licence rights and restrictions applicable to any Content. We shall not be liable to you for any losses, damages, costs or expenses incurred by you arising out of or in connection with your use of any Content through the Products.

7.4 You warrant and represent:

7.4.1 that you own, are licensed or otherwise have a right to use any and all the Intellectual Property Rights in any Content;

7.4.2 the Content does not and will not contravene or breach any applicable law, regulation code of practice or directive; and

7.4.3 the Content and its use through the Products does not and will not infringe any right, title or interest (including any Intellectual Property Rights) of any third party.

7.5 You further agree that at all times, you shall, and procure that any User shall:

- 7.5.1 not use Login Details with the intent of impersonating another individual;
 - 7.5.2 not allow any other person other than a User to use your Login Details;
 - 7.5.3 not do anything likely to impair, interfere with or damage or cause harm or distress to any persons using the Products;
 - 7.5.4 not use the Products, the content therein and/or do anything that will infringe any intellectual property right or other rights of any third parties;
 - 7.5.5 not use any information obtained using the Products otherwise than in accordance with these Terms;
 - 7.5.6 comply with all our instructions and policies from time to time in respect of the Website and your use of the Products;
 - 7.5.7 co-operate with any reasonable security or other checks or requests for information made by us from time to time; and
 - 7.5.8 use the information made available to you using the Products and on the Website at your own risk.
- 7.6 You shall:
- 7.6.1 promptly notify us in the event of a breach of security or any unauthorised use of Login Details;
 - 7.6.2 ensure all Users keep confidential the Login Details;
 - 7.6.3 be liable for all access to and use of the Products under your account whether authorised by the you or not.
- 7.7 You shall:
- 7.7.1 provide us with access to the Data Source Access Credentials required by us to provide the applicable Hosted Service;
 - 7.7.2 ensure that you are not prohibited nor restricted from sharing the Data Source Access Credentials as contemplated by these Terms;
 - 7.7.3 provide alternative Data Source Access Credentials in the event that any Data Source Access Credentials do not allow access to the Data Source and/or access an incorrect Data Source and/or result in errors in the Output;
 - 7.7.4 provide us with advance notice of any intention to change or update the Data Source Access Credentials.

8. FEES, PAYMENT AND RENEWAL

- 8.1 All Fees are payable annually in advance and are non-refundable, save as expressly stated in these Terms.
- 8.2 Your Order shall continue for the Subscription Term and automatically renew at the end of each Subscription Term for additional periods equal to the expiring Subscription Term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least sixty (60) days before the end of the relevant Subscription Term. The renewal Fee during any automatic renewal term will be the same as that during the immediately prior term unless we have given you written notice of a pricing increase at least 60 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter. Any such pricing increase will not exceed

7% of the pricing for the applicable Product in the immediately prior Subscription Term, unless the pricing in the prior term was designated in the relevant Order Form as promotional or one-time. The number of Users subscribed during any automatic renewal term shall be the number of Users subscribed at the end of the previous term.

- 8.3 You shall notify us immediately in the event you cease to comply with any of the restrictions applicable to your then current Order. In the event we receive your notice, or we deem acting reasonably that you have exceeded the restrictions of your Order, we reserve the right to change your Order, which may result in additional Fees being payable by you.
- 8.4 Any invoices are payable within thirty (30) days of the invoice date. If we do not receive your payment after the applicable due date and us giving you written notice of our intention to withhold access and/or terminate your Order, we reserve the right to withhold access and/or terminate your Agreement.
- 8.5 All Fees payable hereunder are exclusive of VAT or other sales tax, which will be added at the applicable rate.

9. EXCLUSION OF WARRANTIES AND LIMITATION OF LIABILITY

- 9.1 You hereby warrant that (a) all Users are at least 18 years old; (b) you have the right and capacity to enter into and be bound by these Terms; and (c) you shall comply with all applicable laws regarding the use of any Products.
- 9.2 The Products should not be used as a back-up facility. You should ensure that you and the Users have adequate back-up facilities for any Content and we shall not be liable for any losses or damages incurred by you or any Users arising out of or in connection with your failure to implement adequate back-up facilities in respect of any Content.
- 9.3 Links to third party websites may appear on the Website from time to time. Such third party websites are not our responsibility and we accept no liability for the availability, suitability, reliability or content of such third party websites and third party software.
- 9.4 No oral or written information or advice given by us shall or shall be deemed to create a warranty. We do not warrant or represent that any specific results will be produced by the Products, nor do we guarantee that the Products or any Output will be fault free. You acknowledge that the quality, completeness and accuracy of the Output is directly dependent on the quality, completeness and accuracy of your Content (including the Data Sources). Therefore, the Output will inherently contain any errors and inaccuracies set out in, and will be as complete or incomplete as, the Content (including the data from the Data Sources).
- 9.5 All warranties, representations, guarantees, conditions and terms other than those expressly set out herein whether express or implied by statute, common law, trade usage or otherwise, and whether written or oral are hereby expressly excluded to the fullest extent permissible by law. Consequently all information, advice, suggestions and recommendations made available to you are provided to you on an "as is" basis.
- 9.6 Nothing in these Terms shall be deemed to exclude, restrict or limit liability for the following categories:
 - 9.6.1 death or personal injury resulting from negligence;
 - 9.6.2 any liability for fraudulent misrepresentation; or
 - 9.6.3 breach of a party's confidentiality obligations under this Agreement.
- 9.7 Subject to clause 9.6, neither party shall be responsible for any:

- 9.7.1 loss of profits, sales, business, or revenue;
- 9.7.2 loss or corruption of data, information or software;
- 9.7.3 loss of business opportunity;
- 9.7.4 loss of anticipated savings;
- 9.7.5 loss of goodwill; or
- 9.7.6 special, indirect or consequential loss,

whether such losses, damages, costs and expenses resulted from your or our negligence, failure to comply with these Terms or otherwise.

- 9.8 Subject to clause 9.6 and 9.9 , the total amount of each party's liability to the other per claim or series of related claims shall not exceed 100% of the Fees paid and payable by you to us in the calendar year under the Order pursuant to which the claim arose.
- 9.9 Notwithstanding clauses 9.8 :
 - 9.9.1 each party's maximum aggregate liability to the other relating to breach of clause 10 (Intellectual Property Rights) shall not exceed £5,000,000; and
 - 9.9.2 our maximum aggregate liability to you relating to breach of clause 11 (Data Protection) shall not exceed £10,000,000.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 We and/or our licensors own all rights in the Intellectual Property Rights relating to the Products, Services and the Website. All right, title and interest in and to the Products, Services and the Website will remain exclusively with us and/or our licensors.
- 10.2 You are expressly prohibited from:
 - 10.2.1 reproducing, copying, editing, transmitting, uploading or incorporating into any other materials, any of the Products or the Website; and
 - 10.2.2 removing, modifying, altering or using any registered or unregistered marks/logos/design owned by us and/or its licensors, and doing anything which may be seen to take unfair advantage of our reputation and goodwill or could be considered an infringement of any of the rights in the Intellectual Property Rights owned by and/or licensed to us.
- 10.3 You and/or your licensors own all rights in the Intellectual Property Rights relating to the Content. All right, title and interest in and to the Content will remain exclusively with you and/or your licensors.
- 10.4 Save where expressly permitted under these Terms, we are expressly prohibited from:
 - 10.4.1 reproducing, copying, editing, transmitting, uploading or incorporating into any other materials, any of the Content; and
 - 10.4.2 removing, modifying, altering or using any registered or unregistered marks/logos/design owned by you and/or your licensors, and doing anything which may be seen to take unfair advantage of your reputation and goodwill or could be considered an infringement of any of the rights in the Intellectual Property Rights owned by and/or licensed to you.

10.5 From time to time, you may choose to submit comments, information, questions, data, ideas, description of processes, or other information to us, (“**Feedback**”). We may in connection with any of our Products or Services freely use, copy, disclose, license, distribute and exploit any Feedback in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. No Feedback will be considered your Confidential Information, and nothing in these Terms limits our right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

11. DATA PROTECTION

11.1 In relation to the processing of Protected Data on your behalf, you and Plandek acknowledge and agree that:

11.1.1 you are the data controller; and

11.1.2 Plandek is the data processor;

in relation to the processing.

11.2 When used in this Agreement, the following terms shall have the same meaning as in the Data Protection Laws: (i) personal data; (ii) data controller; (iii) data processor; (iv) data subject; (v) process and processing; (vi) supervisory authority.

11.3 We shall process your Protected Data in compliance with the obligations of data processors under Data Protection Laws in respect of the performance of our obligations under this Agreement.

11.4 You shall comply with all Data Protection Laws in connection with the collection, storage and processing of your Protected Data (which shall include you providing all of the required fair processing information to, and obtaining all necessary consents from, data subjects), and the exercise and performance of your respective rights and obligations under this clause 14, including all instructions given by you to us and maintaining all relevant regulatory registrations and notifications as required under Data Protection Laws.

11.5 In relation to the processing of Protected Data under these Terms, we shall:

11.5.1 process your Protected Data only on and in accordance with your documented instructions as set out in this clause 11 (as updated from time to time by agreement between the parties), unless required to do so by applicable law; in such a case, we shall inform you of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;

11.5.2 ensure that persons authorised to process the Protected Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

11.5.3 take all measures required pursuant to Article 32 of the GDPR;

11.5.4 promptly refer all data subject requests we receive to you and, taking into account the nature of the processing, assist you by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR;

11.5.5 assist you in ensuring compliance with the obligations pursuant to Articles 32 to 36 of GDPR, taking into account the nature of processing and the information available to us and only in the event you cannot reasonably be

expected to comply with the requirements of Article's 32-36 without our information and/or assistance; (e.g. you do not possess or otherwise have access to the information requested). We may charge our reasonable costs on a time and materials basis in providing you with such assistance to you;

- 11.5.6 at your choice, delete (and confirm such deletion in writing) or return all the Protected Data to you after the end of the provision of services relating to processing, and delete existing copies unless applicable law requires storage of the Protected Data;
 - 11.5.7 make available to you all information necessary to demonstrate compliance with the obligations laid down in Article 28(3) and allow for and contribute to audits, including inspections, conducted by you or another auditor mandated by you provided: (i) you give us at least 7 days prior notice of an audit or inspection being required; (ii) you give us a reasonable period of time to comply with any information request; (iii) ensuring that all information obtained or generated by you or your auditor(s) in connection with such information requests, inspections and audits is kept strictly confidential; (iv) ensuring that such audit or inspection is undertaken during normal business hours, with minimal disruption to our business; (v) no more than one audit and one information request is permitted per calendar year; and (vi) paying our reasonable costs for assisting with the provision of information and allowing for and contributing to inspections and audits.
 - 11.5.8 we shall take reasonable steps to ensure the reliability of anyone who we allow to have access to your Protected Data, ensuring in each case that access is limited to those individuals who need to know / access the relevant Protected Data, as necessary for the purposes of the Terms; and
 - 11.5.9 we shall notify you without undue delay and if possible within 24 hours upon us or any sub-processor becoming aware of a personal data breach affecting your Protected Data, providing you with sufficient information to allow you to meet any obligations to report or inform data subjects of the personal data breach.
- 11.6 You hereby gives us consent to engage Sub-processors for processing of Protected Data on your behalf. We shall inform you before transferring any Protected Data to a new Sub-processor. Following receipt of such information you shall notify us if you object to the new Sub-processor. If you do not object to the Sub-processor within seven calendar days of receiving the information, you shall be deemed to have accepted the Sub-processor. If you have raised a reasonable objection to the new Sub-processor, and the parties have failed to agree on a solution within reasonable time, you shall have the right to terminate these Terms with a notice period determined by you, without prejudice to any other remedies available under law or contract. During the notice period, we shall not transfer any Protected Data to the Sub-processor.
- 11.7 We shall enter into appropriate written agreements with all of its Sub-processors on terms substantially similar to these Terms. We shall remain primarily liable to you for the performance or non-performance of the Sub-processor's obligations.
- 11.8 Upon your request, we are obliged to provide information regarding any Sub-processor, including name, address and the processing carried out by the Sub-processor.
- 11.9 We will not transfer your Protected Data to a country outside of the European Union which is not recognised by the European Commission to have an adequate level of protection in accordance with Data Protection Law unless the transfer by us of your Protected Data is effected by such legally enforceable mechanism(s) for transfers of Protected Data as may be permitted under Data Protection Laws from time to time.

Data Protection Particulars:

11.10 Unless otherwise specified in the Order Form:

11.10.1 **Scope of processing.** We shall process personal data exclusively within the scope of the provision of the Products and/or Services.

11.10.2 **Purpose of the processing.** We shall process personal data only for the purposes of enabling you to use and obtain the benefit of the Products and Services we provide under these Terms.

11.10.3 **Categories of data subjects.**

Existing / former employees

Possibly (Existing, potential or former) suppliers and other business partners

11.10.4 **Types of personal data.**

Work contact information (name, address, email, phone)

Electronic logs/activities of engineering & DevOps related activities

11.10.5 **Processing activities.**

Data storage, access & analysis

11.10.6 **Duration of the processing.** Personal data shall not be processed for a period longer than is necessary for serving its purpose. In respect of all processing activities, the processing shall cease within 30 days of expiry or termination of these Terms.

12. AUDITING

12.1 We shall allow you, or an auditor acting on your behalf (no more than once per calendar year), to access any of our premises, personnel and relevant records as may be reasonably required in order to undertake verification that we are compliant with our obligations under this Agreement or in order to identify suspected fraud and you shall:

12.1.1 give us no less than 14 days prior notice of such audit and/or inspection being required;

12.1.2 ensure that all information obtained or generated in connection with such inspections and/or audits is kept strictly confidential (save for disclosure as otherwise required by applicable law);

12.1.3 ensure that such audit or inspection is undertaken during normal working hours, with minimal disruption to our business and the business of our other customers; and

12.1.4 pay our reasonable costs and expenses (including time spent by our personnel calculated in accordance with our time and materials rate), incurred in connection with our contribution to such inspection and/or audits.

13. PUBLICITY AND MARKETING

13.1 Subject to your prior approval, we may in any of our marketing material refer to you as our customer and refer to the type of services that we have provided to you.

13.2 Subject to your prior approval, we may publish and circulate a case study describing the Products supplied by us to you, including aggregate figures relating to your use of

the Products and the benefits it has brought to your business (for use by us as a marketing tool).

14. CONFIDENTIALITY

14.1 Each party (the "Receiving Party") shall keep confidential all information and documentation disclosed by the other party (the "Disclosing Party") to the Receiving Party or of which the Receiving Party becomes aware which in each case relates to any operations, products, processes, dealings, trade secrets or the business of the Disclosing Party or which is identified by the Disclosing Party as confidential ("**Confidential Information**") and will not use any Confidential Information for any purpose other than the performance of its obligations under these Terms . Other than to its employees and sub-contractors to the extent that it is reasonably necessary for the purpose of performing its obligations under this Agreement, the Receiving Party shall not disclose Confidential Information to any third party without the prior written consent of the Disclosing Party.

14.2 The obligations contained in Clauses 14.1 shall not apply to any Confidential Information which is:

14.2.1 in the public domain other than through breach of this Agreement by the Receiving Party;

14.2.2 furnished to the Receiving Party without restriction by a third party having a bona fide right to do so;

14.2.3 required to be disclosed by the Receiving Party by law or regulatory requirements of any stock exchange, provided that the Receiving Party shall give the Disclosing Party as much notice as reasonably practicable of the requirement for such disclosure.

14.3 Each party shall procure that its employees, contractors and any third party that has access to the Disclosing Party's Confidential Information pursuant to this Agreement are subject to similar obligations as are set out in clause 14.1. Each party acknowledges that a general confidentiality obligation in the Receiving Party's employee or contractor terms and conditions shall satisfy the requirements of this clause 14.3. The Receiving Party acknowledges that it shall be liable for any failure of such employees, contractors and third parties to comply with its obligations of confidentiality to the Receiving Party.

15. DISPUTE RESOLUTION

15.1 In the event of any dispute between the parties, then:

15.1.1 the parties will attend a meeting to attempt to resolve the dispute. Unless agreed otherwise between the parties at the time, this meeting will be treated as being conducted on a "without prejudice" and "subject to contract" basis;

15.1.2 if the parties are unable to resolve the dispute via a meeting, then the parties will try and resolve the claim through mediation under the auspices of the Centre for Dispute Resolution ("CEDR") in London, by reference to the CEDR Model Mediation Procedure, on the basis that the language of the mediation shall be English,

and this process being referred to as the "Dispute Resolution Procedure"). Nothing in this clause 15 shall prevent the parties from immediately seeking from any court of competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.

16. GENERAL

- 16.1 If either party is prevented or delayed from performing any of its obligations under this Agreement by acts of God, war, hostilities, riot, fire, explosion, accident, flood, sabotage, lack of adequate power or labour, strike, lock-out or injunction, compliance with governmental laws, regulations or orders or any other cause which affects performance of this Agreement arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of the party affected ("Force Majeure") its obligations under this Agreement (or, where the Force Majeure only affects some of the Products and/or Services, such obligations as relate to those Products and/or Services) shall be suspended for so long as the Force Majeure continues and to the extent that that party is so prevented, hindered or delayed. If any Force Majeure prevails for a continuous period in excess of 30 days, either party shall be entitled to terminate this Agreement in its entirety (if all Products and Services are affected by Force Majeure) or in part (insofar as it relates to the Product and/or Services affected by Force Majeure) by giving notice in writing to the other party.
- 16.2 If either of us fail at any time to insist upon strict performance of our respective obligations under these Terms, or if either of us fail to exercise any of the rights or remedies to which we are respectively entitled to under these Terms, this will not constitute a waiver of any such rights or remedies and shall not relieve you or us (as relevant) from compliance with such obligations.
- 16.3 You shall comply with all foreign and local laws and regulations which apply to your use of the Website in whatever country you are physically located, including without limitation, export control laws and regulations.
- 16.4 Neither party will be responsible for delays resulting from circumstances beyond the reasonable control of such party, provided that the non-performing party uses reasonable efforts to avoid or remove such causes of non-performance and continues performance hereunder with reasonable dispatch whenever such causes are removed.
- 16.5 A waiver by either of us of any default shall not constitute a waiver of any subsequent default.
- 16.6 No waiver by either of us of any of the Terms shall be effective unless it is expressly stated to be a waiver and is communicated to the other in writing.
- 16.7 All notification and communication should be sent to the contact details set out on the Order Form (in the case of Plandek) or the contact details given by you in the online registration form on the Website. A notice or communication is deemed given: (i) if delivered personally, when left at the relevant party's address; (ii) if sent by post, two working days after posting it; (iii) if sent by e-mail on completion of its transmission.
- 16.8 If any of these Terms are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent, be severed from the remaining terms, conditions and provisions which shall continue to be valid to the fullest extent permitted by law.
- 16.9 This Agreement represents the entire agreement between you and us in respect of your use of the Website and shall supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.
- 16.10 You acknowledge that in entering into this Agreement, you have not relied on any representations, undertaking or promise given by or implied from anything said or written whether on the Website, the Internet or in negotiation between us (whether made innocently or negligently) except as expressly set out in this Agreement.
- 16.11 These Terms are governed by and construed in accordance with English law. The Courts of England shall have exclusive jurisdiction over any disputes arising out of these Terms.

