

Unique IQ

Software Services Agreement

1. Interpretation

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

Access Licences: the access licences purchased by the Customer pursuant to clause 9.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement.

Active Authorised Users: those Authorised Users who have accessed the Services (including the Platform) at any time during the relevant calendar month.

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as further described in clause 3.1(d).

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

Change of Control: a change in 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.

Charges: all Charges for the Services as detailed in [Schedule 1](#).

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.6 or clause 11.7.

Customer Data: the data inputted by the Customer, Authorised Users, or Unique IQ on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services (including all data relating to third parties).

Documentation: the document(s) made available to the Customer by Unique IQ online via the Platform or such other web address notified by Unique IQ to the Customer from time to time, which sets out a description of the Services and the user instructions for the Services.

Effective Date: the date of this agreement.

Initial Subscription Term: the initial term of this agreement as set out in [Schedule 2](#).

Mandatory Policies: Unique IQ's business policies listed in [Schedule 3](#), as amended by notification to the Customer from time to time.

Modifications: all fixes, updates, new releases and new versions of the Software and/or Platform, relevant to the Services purchased by the Customer, as described in [Schedule 5](#).

Normal Business Hours: 08:30 to [17:30](#) local UK time, each Business Day.

Platform: the cloud, mobile and desktop-based platforms provided by Unique IQ, accessible through the world wide web, a telephone system, mobile app or a similar electronic network, provided by Unique IQ as part of the Services.

Renewal Period: any renewal period(s) following the Initial Subscription Term as set out in [Schedule 2](#).

Services: the subscription services provided by Unique IQ to the Customer under this agreement via the Platform or any other website notified to the Customer by Unique IQ from time to time, including all Software and Modifications, as more particularly described in the [Documentation](#).

Software: the software applications available online and via a telephone system which are provided by Unique IQ as part of the Services, and any Modifications of the same, as set out in [Schedule 1](#).

Subscription Fees: the subscription fees payable by the Customer to Unique IQ for the Access Licences and Active Authorised Users, as set out in Schedule 1.

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

Support Services: the support services described in [Schedule 5](#).

Trial Period: the period set out in [Schedule 2](#).

Virus: anything or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2. Clause, [schedule](#) and paragraph headings shall not affect the interpretation of this agreement.
- 1.3. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

- 1.5. Unless the context otherwise requires, words in the singular shall include the plural, and in the plural, shall include the singular.
- 1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7. A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
- 1.8. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.9. A reference to writing or written includes e-mail.
- 1.10. Where the phrases "such as", "for example", "including" and other similar phrases are used in this agreement, the interpretation of following words and phrases shall not be limited.
- 1.11. References to clauses and **schedules** are to the clauses and **schedules** of this agreement; references to paragraphs are to paragraphs of the relevant **schedule** to this agreement.

2. Services

- 2.1. In consideration for the Customer paying the Charges and complying with the terms and conditions of this agreement, Unique IQ shall, during the Subscription Term, provide the Services via the Platform and make available the Documentation to the Customer on and subject to the terms of this agreement.
- 2.2. Subject to the Customer paying the Subscription Fees and complying with the restrictions and other terms in this agreement, Unique IQ hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's internal business operations.
- 2.3. Unique IQ will confirm to the Customer in writing when the Services and Documentation are available 'live' for the Customer to access.
- 2.4. Unique IQ shall use commercially reasonable endeavours to make the Services (including access to the Platform) available 24 hours a day, seven days a week, except for:
 - (a) planned maintenance carried out during the **maintenance window of 10.00 pm to 2.00 am** UK time; and
 - (b) unscheduled maintenance performed outside Normal Business Hours, provided that Unique IQ has used reasonable endeavours to give the Customer at least **6 Normal Business Hours** **notice in advance**.
- 2.5. Where the Customer experiences less than 99% availability of the Platform over a calendar month (which is attributable to a fault with DSI's platform or systems), the Customer shall be entitled to a service credit equivalent to one day's Subscription Fee, for every hour that the Platform is

unavailable, save where the Platform is undergoing maintenance as referred to in clause 2.5(a) and clause 2.5(b). The Customer shall not be entitled to such service credits where the Platform is unavailable due to an event of Force Majeure (as described in clause 15) or through the fault of the Customer's systems.

- 2.6. Notwithstanding clause 2.6, the maximum service credits the Customer shall be entitled to each calendar month shall be no more than the Subscription Fees paid by the Customer for that calendar month.
- 2.7. Unique IQ will, as part of the Services and at no additional cost to the Customer, provide the Customer with Unique IQ's standard customer Support Services during Normal Business Hours, as set out in **Schedule 5** or as otherwise confirmed in writing by Unique IQ from time to time.
- 2.8. The Customer may purchase premium support services separately at Unique IQ's then current rates.
- 2.9. Unique IQ will, as part of the Services, provide standard remote implementation of the Platform and Documentation for all Authorised Users. Additional training either on-site or remotely may be provided by Unique IQ as agreed between the parties and at the fees set out in **Schedule 1**, or if no fees are stated, at Unique IQ's then current rates.

3. Access licences

- 3.1. In relation to the Authorised Users, the Customer undertakes that:
 - (a) the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of Access Licences it has purchased from time to time;
 - (b) it will not allow or suffer any Access Licences to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;
 - (c) each Authorised User shall keep a username and secure password and telephone access code, for his use of the Services and Documentation, and that such password and access code shall be changed no less frequently than quarterly and that each Authorised User shall keep his password and access code confidential;
 - (d) it shall maintain a written, up to date list of current Authorised Users and Active Authorised Users and provide such lists to Unique IQ within 5 Business Days of Unique IQ's written request at any time or times;
 - (e) it shall permit Unique IQ to audit the Services in order to establish the name and password of each Authorised User and the number of Active Authorised Users. Such audit may be conducted no more than once per quarter, at Unique IQ's expense, and this right shall be

exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;

- (f) if any of the audits referred to in clause 3.1(e) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Unique IQ's other rights, the Customer shall promptly disable such passwords and Unique IQ shall not issue any new passwords to any such individual; and
- (g) if any of the audits referred to in clause 3.1(e) reveal that the Customer has underpaid Subscription Fees to Unique IQ for Active Authorised Users, then without prejudice to Unique IQ's other rights, the Customer shall pay to Unique IQ an amount equal to such underpayment as calculated in accordance with the prices set out in **Schedule 1** within 10 Business Days of the date of the relevant audit.

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

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

and Unique IQ reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

3.3. The Customer shall not:

- (a) 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 this agreement:
 - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform, Software and/or Documentation (as applicable) in any form or media or by any means; or
 - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform and/or Software; or
- (b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

- (c) use the Services and/or Documentation to provide services to third parties; or
 - (d) subject to clause 22.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
 - (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 3.
- 3.4. The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Unique IQ.
- 3.5. The Customer shall ensure that computer systems belonging to the Customer are not connected to a third-party platform or other similar service, communications system or network in such a way that the Services may be accessed by unauthorised third parties.
- 3.6. The rights provided under this clause 3 are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.

4. Additional access licences

- 4.1 Subject to clause 4.2 and clause 4.3, the Customer may, from time to time during any Subscription Term, purchase additional Access Licences in excess of the number set out in **Schedule 1** and Unique IQ shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of this agreement.
- 4.2 If the Customer wishes to purchase additional Access Licences, the Customer shall notify Unique IQ in writing. Unique IQ shall evaluate such request for additional Access Licences and respond to the Customer with approval or rejection of the request (such approval not to be unreasonably withheld). Where Unique IQ approves the request, Unique IQ shall activate the additional Access Licences within 1 Business Day of its approval of the Customer's request.
- 4.3 If Unique IQ approves the Customer's request to purchase additional Access Licences, the additional Access Licence fees (as set out in **Schedule 1**), shall be added to the Customer's usual monthly invoice (pro-rata if activated part way through a calendar month), along with any additional fees for Active Authorised Users.

5. Customer data

- 5.1. The Customer shall own all right, title and interest in and to all of the Customer Data (except where title to such data is owned by a third party) and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Customer Data.
- 5.2. Each party shall comply with its respective obligations and may exercise its respective rights and remedies, under **Schedule 4 (Data Protection)**.

- 5.3. Without prejudice to the generality of clause 5.2, the Customer warrants that it has all necessary appropriate consents and notices in place to enable lawful uploading and transfer of the Personal Data to Unique IQ and/or the Platform for the duration and purposes of this agreement so that Unique IQ may lawfully store, use, process and transfer the Personal Data in accordance with this agreement on the Customer's behalf.
- 5.4. Unique IQ shall, in providing the Services, comply with its Privacy Policy relating to the privacy and security of the Customer Data available at Unique IQ's principal website or on request by the Customer, as such document may be amended from time to time by Unique IQ in its sole discretion.
- 5.5. Unique IQ may, at any time following a change in regulatory requirements, and upon giving notice to the Customer, revise this clause 5 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

6. Third party providers

The Customer acknowledges that the Services may enable or assist it to access applications and/or software owned and provided by third parties and that it does so solely at its own risk. Unique IQ makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the availability, functionality or use of, any such third-party applications and/or software. Unique IQ does not endorse or approve any third-party software or application nor the content of the same made available via the Services.

7. Unique IQ's obligations

- 7.1. Unique IQ undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
- 7.2. The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Unique IQ's instructions, or modification or alteration of the Services by any party other than Unique IQ or Unique IQ's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Unique IQ will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1. Notwithstanding the foregoing, Unique IQ:
 - (a) does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

- (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 7.3. Unique IQ will promptly inform the Customer of any Modifications to the Services and will promptly make those Modifications available to the Customer (at no additional cost to the Customer) on the same terms as this agreement. The Customer will be required to pay additional Charges for any software providing new or altered Platform features for the Customer, which are over and above those provided under the Customer's current Subscription Fees.
- 7.4. Unique IQ may agree to create bespoke software or features for the Customer. Such development will be at the Customer's own cost and may result in additional Charges as agreed in writing with the Customer. Unique IQ shall own all intellectual property rights in any bespoke software or features created for the Customer.
- 7.5. This agreement shall not prevent Unique IQ from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.
- 7.6. Unique IQ warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

8. Customer's obligations

- 8.1. The Customer shall:
 - (a) provide Unique IQ with:
 - (i) all necessary co-operation in relation to this agreement; and
 - (ii) all necessary access to such information as may be required by Unique IQ;in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
 - (b) comply with all applicable laws and regulations with respect to its activities under this agreement;
 - (c) carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Unique IQ may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - (d) ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;

- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Unique IQ, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
 - (f) ensure that its network and systems comply with the relevant specifications provided by Unique IQ from time to time;
 - (g) be solely responsible (at no cost to Unique IQ) for implementation and testing of any Modifications to the Services made accessible to the Customer by Unique IQ from time to time;
 - (h) ensure that it upgrades the Software and Services with all Modifications released by Unique IQ from time to time; and
 - (i) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Unique IQ's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.
- 8.2. The Customer shall be responsible for ensuring that all Authorised Users are appropriately trained to use the Services, and this shall be at the Customer's cost.
- 8.3. The Customer is solely responsible for its use of the Services, including the conduct of the Authorised Users and must ensure that all use is in accordance with this agreement.
- 8.4. The Customer shall notify Unique IQ immediately of any breaches of this agreement by any Authorised Users or of any access by a third party who is not an Authorised User.

9. Charges and payment

- 9.1. The Customer shall pay the Charges to Unique IQ in accordance with this clause 9 and **Schedule 1**.
- 9.2. The Subscription Fees are payable monthly and all other Charges are payable as stated in **Schedule 1**.
- 9.3. Unique IQ shall invoice the Customer monthly for Subscription Fees and as stated in **Schedule 1** for all other Charges and the Customer shall pay each invoice within 30 days after the date of such invoice either by BACS payment or regular direct debit payment.
- 9.4. If Unique IQ has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Unique IQ:
- (a) Unique IQ may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and Unique IQ shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 9.5. All amounts and fees stated or referred to in this agreement:
 - (a) shall be payable in pounds sterling, unless otherwise stated within **Schedule 1**;
 - (b) are, subject to clause 13.3(b), non-cancellable and non-refundable;
 - (c) are exclusive of value added tax, which shall be added to Unique IQ's invoice(s) at the appropriate rate.
- 9.6. If, at any time whilst using the Services, the Customer exceeds the amount of disk storage space specified in the Documentation, Unique IQ shall charge the Customer, and the Customer shall pay, Unique IQ's then current excess data storage fees. Unique IQ's excess data storage fees current as at the Effective Date are set out in **Schedule 1**.
- 9.7. Subject to clause 9.8, Unique IQ shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional Access Licences purchased pursuant to clause 4.3, premium support fees payable pursuant to clause 2.6 and/or the excess storage fees payable pursuant to clause 9.6 at the start of each Renewal Period upon 90 days' prior notice to the Customer and **Schedule 1** shall be deemed to have been amended accordingly. Any increase in Charges made by Unique IQ under this clause, shall amount to no more than 20% of the current Charges.
- 9.8. Unique IQ shall not increase the Charges referred to in clause 9.7 during the Initial Subscription Term.

10. Proprietary rights

- 10.1. The Customer acknowledges and agrees that Unique IQ and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.
- 10.2. Unique IQ confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.
- 10.3. The Customer shall not either during the term or after the expiry of this agreement, permit or cause to occur any infringement of any proprietary rights covered by this clause 10 and where the Customer either suspects or is aware of any breach of such proprietary rights, it shall immediately inform Unique IQ.
- 10.4. Neither party shall use the other's trade marks or logos except as permitted under this agreement.

11. Confidentiality and compliance with policies

- 11.1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving party;
 - (b) was in the other party's lawful possession before the disclosure;
 - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - (d) is independently developed by the receiving party, which independent development can be shown by written evidence.
- 11.2. Subject to clause 11.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.
- 11.3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.
- 11.4. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 11.5. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 11.6. The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Unique IQ's Confidential Information.
- 11.7. Unique IQ acknowledges that the Customer Data is the Confidential Information of the Customer.
- 11.8. No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 11.9. The above provisions of this clause 11 shall survive termination of this agreement, however arising.
- 11.10. In performing its obligations under this agreement, Unique IQ shall comply with the **Mandatory Policies**.

12. Indemnities

- 12.1. The Customer shall defend, indemnify and hold harmless Unique IQ against 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 Customer's use of the Services and/or Documentation, provided that:
- (a) the Customer is given prompt notice of any such claim;
 - (b) Unique IQ provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
 - (c) the Customer is given sole authority to defend or settle the claim.
- 12.2. Unique IQ shall defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any United Kingdom intellectual property rights effective as of the Effective Date, including copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
- (a) Unique IQ is given prompt notice of any such claim;
 - (b) the Customer provides reasonable co-operation to Unique IQ in the defence and settlement of such claim, at Unique IQ's expense; and
 - (c) Unique IQ is given sole authority to defend or settle the claim.
- 12.3. In the defence or settlement of any claim, Unique IQ may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.
- 12.4. In no event shall Unique IQ, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
- (a) a modification of the Services or Documentation by anyone other than Unique IQ; or
 - (b) the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by Unique IQ; or
 - (c) the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from Unique IQ or any appropriate authority.
- 12.5. The foregoing and clause 13.3(b) states the Customer's sole and exclusive rights and remedies, and Unique IQ's (including Unique IQ's employees', agents' and sub-contractors') entire

obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

- 12.6. The Customer shall indemnify Unique IQ in full and on demand against all claims, interest, loss, damages, penalties, fines, costs (on a full indemnity basis and including reasonable legal expenses) awarded against or paid by Unique IQ as a result of or in connection with:
- (a) any breach by the Customer of clause 3 (Access Licences);
 - (b) any breach by the Customer of clause 5 and **Schedule 4** (Data Protection); and
 - (c) any breach by the Customer of clause 11 (Confidentiality).

13. Limitation of liability

13.1. Except as expressly and specifically provided in this agreement:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. Unique IQ shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Unique IQ by the Customer in connection with the Services, or any actions taken by Unique IQ at the Customer's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and
- (c) the Services and the Documentation are provided to the Customer on an "as is" basis.

13.2. Nothing in this agreement excludes the liability of either party:

- (a) for death or personal injury caused by that party's negligence; or
- (b) for fraud or fraudulent misrepresentation.

13.3. Subject to clause 13.1 and clause 13.2:

- (a) Unique IQ shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and
- (b) Unique IQ's total aggregate liability in contract (including in respect of the indemnity at clause 12.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the total Subscription Fees paid for the Access Licences and Active Authorised Users during the 6 months immediately preceding the date on which the claim arose.

14. Term and termination

14.1. This agreement shall commence on the Effective Date and, unless otherwise terminated as provided in this clause 14, shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods equivalent to the Renewal Period, unless:

- (a) either party notifies the other party of termination, in writing, at least 60 days before the end of the Initial Subscription Term or the end of any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of this agreement;

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

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

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

- (g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2(c) to clause 14.2(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (l) any warranty given by the other party in this agreement is found to be untrue or misleading.

14.3. Without affecting any other right or remedy available to it, Unique IQ may terminate this agreement with immediate effect by giving written notice to the Customer if:

- (a) the Customer repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (b) the Customer is in breach of any of the provisions of clause 3 (Access Licences);
- (c) there is a change of control of the Customer.

14.4. On termination of this agreement for any reason:

- (a) all licences granted under this agreement shall immediately terminate and the Customer shall immediately cease all access and use of the Services and/or the Documentation;
- (b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- (c) Unique IQ may destroy or otherwise dispose of any of the Customer Data in its possession unless Unique IQ receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Unique IQ shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Unique IQ in returning or disposing of Customer Data; and

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

15. Force majeure

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

16. Conflict

If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.

17. Variation

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

18. Waiver

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

19. Rights and remedies

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

20. Severance

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

21. Entire agreement

- 21.1. This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 21.2. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 21.3. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 21.4. Nothing in this clause shall limit or exclude any liability for fraud.

22. Assignment

- 22.1. The Customer shall not, without the prior written consent of Unique IQ, assign, transfer, charge, sub contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 22.2. Unique IQ may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

23. No partnership or agency

Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24. Third party rights

This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

25. Notices

- 25.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this agreement.
- 25.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in Normal Business Hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

26. Governing law

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

27. Jurisdiction

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

This agreement has been entered into on the date stated at the beginning of it.