

## BETA PROGRAM PARTICIPATION TERMS AND CONDITIONS

The Platform (as defined below) is owned and operated by the Company (as defined below). The terms and conditions set forth herein (“**Agreement**”) form the agreement between the Company and the Client (as defined below) that govern access to and use of the Platform by the Client.

KEY AGREEMENT DETAILS	
<b>Company</b>	<b>Questionardo Limited (Company Number 12823944)</b> <b>Address:</b> 3rd Floor 5-11 Worship Street, London, United Kingdom, EC2A 2BH <b>Contact Email:</b> <a href="mailto:info@qudo.ai">info@qudo.ai</a>
<b>Client</b>	Means a person, who has been accepted by the Company as a user for the Private Beta Testing Program (as defined below), or who has signed up with the Company for the Open Beta Testing Program (as defined below), as applicable.
<b>Platform</b>	Qudo.ai Precision Activation Engine (“ <b>Qudo.ai</b> ”) SaaS Platform provides quality segmentation, creative recommendations and easy access to multiple Ad networks (e.g., Facebook and Google).
<b>Platform subscription type</b>	Beta Access
<b>Platform subscription access</b>	Client will be given one Account to access the Platform. The Client or an Authorised User may use the Account and must use their associated work email for this purpose.

THE CLIENT AGREES TO BE BOUND BY THIS AGREEMENT, AS AMENDED FROM TIME TO TIME, WHICH FORM A LEGALLY BINDING AGREEMENT BETWEEN THE CLIENT AND THE COMPANY THAT WILL CONTINUE UNTIL TERMINATED IN ACCORDANCE WITH THESE TERMS.

If a person is agreeing to these Terms on behalf of the Client, the person agreeing on behalf of the Client warrants that he/she/they has/have the irrevocable authority and agreement of the Client to be bound by these Terms.

### 1. DEFINITIONS AND INTERPRETATION

- (a) In this Agreement, the following rules of interpretation apply:
- (i) (**singular and plural**) words in the singular includes the plural (and vice versa),
  - (ii) (**gender**) words indicating a gender includes the corresponding words of any other gender;
  - (iii) (**defined terms**) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
  - (iv) (**person**) a reference to “person” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
  - (v) (**party**) a reference to a party includes that party’s successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
  - (vi) (**this Agreement**) a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this Agreement;

- (vii) **(document)** a reference to a document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (viii) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (ix) **(includes)** the word “includes” and similar words in any form is not a word of limitation;
- (x) **(“in writing” or “written”)** means communication in writing including by email; and
- (xi) **(adverse interpretation)** no provision of this Agreement will be interpreted adversely to a party because that party was responsible for the preparation of this Agreement or that provision.

In this Agreement, capitalised terms have the meaning given to them in the following phrases have the meaning set out as follows.

TERM	DEFINITION
<b>Account</b>	means an account enabling the Client and an Authorised User to access and use the Platform.
<b>Authorised User</b>	means an authorised user of the Platform and services who has been validly granted access to the Platform by the Client in accordance with this Agreement.
<b>Beta Term</b>	has the meaning given clause 3.1(a) of this Agreement.
<b>Business Days</b>	means a day (other than a Saturday, Sunday or any other day which is a public holiday) on which banks are open for general business in London, United Kingdom.
<b>Confidential Information</b>	means information of or provided by a party that is by its nature is confidential information, is designated by that party as confidential, or that the other party knows or ought to know is confidential and includes without limitation, Intellectual Property Rights, software and product information, trade secrets, methods, strategies, client lists, pricing, and other business processes (in any medium or form) but does not include information which is or becomes, without a breach of confidentiality, public knowledge.
<b>Client Data</b>	all data, files, works and materials posted on the Platform by the Client (or Authorised Users), transmitted by the Platform at the instigation of the Client (or Authorised Users), or supplied by the Client (or Authorised Users) to the Company for transmission by the Platform.
<b>Intellectual Property Rights</b>	means any and all present and future intellectual and industrial property rights throughout the world (whether registered or unregistered), including copyright, trademarks, designs, patents, moral rights, semiconductor and circuit layout rights, trade, business, company and domain names, and other proprietary rights, trade secrets, know-how, technical data, confidential information and the right to have information kept confidential, or any rights to registration of such rights (including renewal), whether created before or after the Commencement Date.
<b>Materials</b>	means all materials, documentation and information (whether reduced to written form or otherwise) provided to the Client by the Company at any time.
<b>Personnel</b>	means, in respect of a party, its directors, officers, advisors, employees, contractors (including subcontractors) and agents.

TERM	DEFINITION
Platform	has the meaning given in the Key Agreement Details.

## 2 BETA USE OF THE PLATFORM

- (a) The Company is offering the Client access to the Platform as part of the Beta Testing program (“**Beta Program**”). The basis of the Beta Program is to enable the Client to use and trial the Platform and provide feedback and ideas to the Company, which the Company is then able to use to enhance the Platform.
- (b) The Platform is a software solution that provides the Client with quality insights and analytics to run digital and promotional campaigns on social media platforms like Facebook and Google. The Beta Program includes access to premium product features without charge, but does not include special projects, or customized solutions, except as set forth in section 3.2(c).
- (c) The Platform is available only to persons who can form legally binding contracts under applicable laws.
- (d) The Beta Program will be divided into two components:
  - (i) A private Beta Testing program, which will comprise of a select group of users screened and selected by the Company (“**Private Beta Testing Program**”); and
  - (ii) An open Beta Testing program, which will be accessible to any user who has signed up for the Beta Program on the Company’s website (“**Open Beta Testing Program**”).
- (e) The Private Beta Testing Program will launch on 16 January 2023 and continue till 15 April 2023, unless extended by the Company for a further period of time.
- (f) The Open Beta Testing Program will launch in mid-April 2023 and will continue until mid-July 2023.

## 3 SUBSCRIPTION TO THE PLATFORM

### 3.1 SUBSCRIPTION TERM

- (a) This Agreement shall commence and will become binding on the Client upon: (a) the Client clicking on the checkbox on the Platform; or (b) the Client giving instructions to the Company to proceed; or (c) the Client accessing the Platform. for Private Beta Testing Program or the Open Beta Testing Program, as the case may be (“**Commencement Date**”) and continue for the respective duration of these programs (“**Beta Term**”).
- (b) The Company may alter the Beta Term, by providing a written notice to the Client.
- (c) This Agreement will automatically expire at the end of the Beta Term (unless extended by the Company in accordance with subsection 3.2, below).

### 3.2 SUBSCRIPTION FEE

- (a) The Private Beta Testing Program shall be free of charge for the initial Term. At the end of the Beta Term, Client’s access to the Platform will end, unless or until Client and Company enter into an agreement to extend such access (for a fee) or agree to allow Client’s Beta Program to continue.
- (b) The Private Beta Testing Program and the Open Beta Testing Program do not, at any stage, include access to any special projects, or customized solutions. The Client reserves the right to charge the Client a fee for any special projects, or customized

solutions. Client and Company will agree in advance in writing on the pricing for such additional projects, or solutions.

- (c) During the Private Beta Testing Program, the Company will not charge the Client a fee for premium product features. During the Open Beta Testing Program however, the Company reserves the right to charge the Client a fee for any of its premium product features.
- (d) At the end of the Client's Beta Term, the Company at its sole discretion, and on a case-by-case basis, may offer incentives (e.g., advertising credits or extended free usage) to the Client as a reward for completing the Participant Feedback and Client Obligations set forth in sections 3 and 4, respectively, below.
- (e) The Client acknowledges and agrees that the commercial terms for a subscription to the Platform may differ from this Agreement.

### 3.3 SUBSCRIPTION ACCESS AND LIMITATIONS

- (a) Subject to the Client's compliance with this Agreement, the Company, as of the Commencement Date, grants to the Client a non-exclusive, non-transferable, revocable right and license to use the Platform during the Term in accordance with this Agreement.
- (b) The right to use the Platform as granted under this clause 2.3(a) is granted to the Client and its Authorised Users only and is subject to any restrictions and limitations as specified in this Agreement. The Client agrees to comply with any restrictions or limitations placed on its Account during the Term.
- (c) All Authorised Users of the Platform must agree to and will be bound by this Agreement, and the Client is solely responsible for ensuring that they do so and is solely responsible for all actions and omissions of all Authorised Users (and any other person that uses the Client's access). In the event the Client or any Authorised Users do not agree to this Agreement, the Client may not allow them to use, and they may not use the Platform. A breach by any Authorised User of this Agreement will be deemed a breach by the Client.
- (d) The Client is strictly prohibited from granting access to any other person (other than the Authorised Users). Client represents and warrants that it will not provide access to the Platform to any competitor of the Company (including any person or entity who carries on similar business as that of the Company).

### 3.4 ACCESS RESTRICTIONS

- (a) Except to the extent expressly permitted in this Agreement, the right granted by the Company to the Client under clause 2.3(a) is subject to the following prohibitions:
  - (i) the Client must only sub-license its right to access and use the Platform to its Authorised Users in accordance with and subject to this Agreement;
  - (ii) the Client must use the Platform only as it is intended;
  - (iii) the Client must not directly or indirectly copy, reproduce, share, republish, frame, download, transmit, distribute, sell, reverse engineer, decompile, translate, alter, modify, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Platform or any software or product information, documentation or data related to the Platform or the Company (except to the extent expressly permitted by Company in writing or authorised within the Platform);
  - (iv) the Client must not create derivative works based on the Platform (except to the extent expressly permitted by Company in writing or authorised within the Platform); and
  - (v) the Client must not make any alteration to the Platform.

## 4 PARTICIPANT FEEDBACK

### 4.1 CLIENT'S FEEDBACK OBLIGATIONS

In consideration of the Company offering participation in the Beta Program to the Client, the Client agrees to and shall:

- (a) test and evaluate the Platform, and provide results of same to the Company;
- (b) complete and deliver in a timely manner all the product related tasks and checks ("**Beta Testing Tasks**") requested by the Company, which may include without limitation the following:
  - (i) Online surveys;
  - (ii) Usability tests;
  - (iii) One-one interviews;
  - (iv) Focus groups; and
  - (v) Campaign A/B testing;
- (c) use the Platform in accordance with the demonstrations provided by the Company;
- (d) promptly notify the Company of all functional flaws, errors, anomalies, problems or other bugs with the Platform;
- (e) promptly respond to all reasonable requests, questionnaires, surveys and other test documents provided by the Company;
- (f) provide reasonable, true and real feedback regarding their use and experience of the Platform;
- (g) co-operate with the Company and its Personnel and provide collaborative feedback to the Beta Testing Tasks;
- (h) if requested by the Company, make itself available for collaboration in the writing of a "use case"; and
- (i) if selected by the Company and the applicable terms and conditions are agreed with the Client, provide A/B testing performance metrics.

### 4.2 RIGHTS IN THE FEEDBACK

- (a) Any feedback, ideas, modifications, suggestions, improvements and similar by the Client or its Authorised Users with respect to the Platform ("**Feedback**") shall be the property of the Company on and from its creation and shall be the Company's Confidential Information. To the extent necessary to give effect to this provision, the Client (and must procure its Authorised Users to) assigns all rights, title and interest in such Feedback to the Company.

## 5 CLIENT'S OBLIGATIONS

### 5.1 CLIENT ACKNOWLEDGEMENTS

- (a) The Client acknowledges and agrees that it will:
  - (i) only use the Platform in accordance with the terms of this Agreement; and
  - (ii) not use the Platform in any way that causes, or may cause, damage to the Platform or impairment of the availability or accessibility of the Platform.
- (b) The acts and omissions of any Authorised User are deemed to be the acts and omissions of the Client and the Client is liable for its Authorised Users and must ensure that they comply with the Client's obligations in respect of the use of the Platform.
- (c) The Client's use of the Platform, including the information submitted on the Platform, must not (and they must ensure that its Authorised Users use and information must not):

- (i) be false, inaccurate, misleading, fraudulent, deceptive or unlawful;
  - (ii) be in any manner which could damage, disable, overburden, or impair the Platform or interfere with any other party's use and enjoyment of this Platform;
  - (iii) be in any manner to phish or deceptively obtain information of product and its specifications;
  - (iv) impersonate or otherwise misrepresent the Client's identity or affiliation with any other person or entity;
  - (v) infringe any third party's rights or violate any applicable laws;
  - (vi) contain any viruses or similar which could affect the integrity, operation or security of the Platform;
  - (vii) create liability for the Company or cause the Company to lose (in whole or in part) the services or custom of its other clients or users;
  - (viii) damage the credibility or integrity of the Platform or the Company, or dilute, tarnish, or otherwise harm the Company's brand in any way; or
  - (ix) interfere with or disrupt the Platform or servers or networks connected to the Platform, or disobey any requirements, procedures, policies, or regulations of networks connected to the Platform.
- (d) While using the Platform, the Client must not, and must ensure that its Authorised Users do not:
- (i) attempt to gain unauthorised access to the Platform or networks connected to the Platform through any means;
  - (ii) collect, store, input, upload, post, disclose or transmit personal information or data about others, including, without limitation email addresses;
  - (iii) breach or violate any of the Company's policies;
  - (iv) copy, store or otherwise access or use any information contained on the Platform for purposes not expressly permitted by this Agreement;
  - (v) use the Platform for any purposes that are not permitted by this Agreement or in any way that is inconsistent with the purpose of the Platform, or in a manner that falsely implies the Company's endorsement, partnership or otherwise misleads others as to the Client's affiliation with the Company;
  - (vi) damage or modify the Platform or the Platform or any part thereof; or
  - (vii) circumvent, disable or otherwise attempt to interfere with any security related features.

## 5.2 COMPLIANCE WITH LAWS

The Client agrees that during the Term, it will not in respect of its use of the Platform:

- (a) breach any applicable laws, rules or regulations (including any applicable privacy laws); or
- (b) infringe the Intellectual Property Rights or other rights of Company or any third party or breach any duty of confidentiality.

## 5.3 EXPORTATION

If Client is located in the U.S. or U.S Territories, the following applies: neither the Client or its Authorized Users may use or otherwise export or reexport any data or information gleaned or obtained from the Platform except as authorized by and under United States law. Such data or information gleaned or obtained from the Platform may not be exported or re-exported: **(a)** into any U.S. embargoed countries; or **(b)** to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By accessing the Platform, the Client represents and warrants to the Company that the Client does not have any locations and does not have any Authorized Users located in any such country or identified on any such list.

## 6 INTELLECTUAL PROPERTY AND DATA

### 6.1 THE PLATFORM AND MATERIALS

- (a) The Company shall at all times retain all title, rights and interest in and to the Platform and Materials including:
  - (i) the Intellectual Property Rights subsisting in each;
  - (ii) information or data, source codes and other information technology relating to or connected with the Platform or Materials;
  - (iii) the Feedback;
  - (iv) marketing information relating to or connected with the Platform or Materials; and
  - (v) technical information, including trade secrets, drawings, plans, encryptions, codes and product descriptions and information relating to or connected with the Platform, however, excludes the Client Data.
- (b) No right, title and interest in any of the Platform and Materials is transferred or granted to the Client except so far as expressly stated in this Agreement. The Client must not use the Platform in any way that is inconsistent with the Company's ownership.
- (c) For the avoidance of doubt, the Client has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.

### 6.2 CLIENT DATA

- (a) The Client retains ownership of all Client Data.
- (b) The Client grants to the Company (and its Personnel) a perpetual, non-exclusive, royalty free, worldwide and irrevocable licence to use Client Data to the extent reasonably required to provide and improve the Platform (including for promoting the Platform and using it for promotional and marketing purposes in its promotional and marketing materials), even following expiry or termination of this Agreement.
- (c) During the continuance of the Beta Program and conditional on agreement of A/B testing and terms thereon with the Company, the Client shall make its social media dashboard available to the Company whether through an application programming interface (API) or via any other medium, as requested by the Company.
- (d) The Client:
  - (i) warrants that the Company's use of Client Data will not infringe any third-party Intellectual Property Rights; and
  - (ii) (II) indemnifies Company from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement.

## 7 WARRANTIES

### 7.1 COMPANY WARRANTIES

**THE CLIENT SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE PLATFORM, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR REPRESENTATIONS CONCERNING MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS AS TO ANY THIRD-PARTY SOFTWARE OR CONTENT THAT MAY BE CONTAINED IN THE PLATFORM. COMPANY SPECIFICALLY AND EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WHATSOEVER**

## **REGARDING THE PLATFORM AND ANY SERVICES THE COMPANY PROVIDES RELATED THERETO.**

### 7.2 CLIENT WARRANTIES

The Client warrants:

- (a) that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement;
- (b) that it has not relied upon any representations, warranties or conditions offered or made by or on behalf of the Company except to the extent expressly set out in this Agreement.

### 7.3 PLATFORM USE

Without limiting clause 7.1, the Client acknowledges and agrees that:

- (a) as the Platform is in Beta Testing stage, a number of changes will occur and it is expected that the Platform may have bugs, and be down for extended periods;
- (b) the Company does not guarantee continuous, uninterrupted or secure access to its Platform or that any information provided by the Company is up to date and accurate;
- (c) the Company does not warrant that the use of the Platform will result in the Client or its Authorised Users achieving any specific result;
- (d) the Company makes no representations about the suitability of the Platform for any purpose;
- (e) the Company makes no guarantees that there will be no loss or corruption of Client Data at any time;
- (f) the Company reserves the right to withdraw, or amend, update or change the functionality or content of the Platform at any time, without notice;
- (g) complex software is never wholly free from defects, errors and bugs, and the Company gives no warranty or representation that the Platform will be wholly free from defects, errors and bugs; and
- (h) the Company will maintain appropriate technical and organisational measures to protect the security of the Client Data. However, the Company does not guarantee that unauthorized third parties will never be able to defeat those measures to access the Client Data for improper purposes. The Client acknowledges that there are risks inherent in internet connectivity that could result in the loss of privacy, confidential information and Client Data.

### 7.4 EXPERT ADVICE

- (a) **The Client should not construe or rely on any information, content or other material provided by the Platform or the Company as professional, financial or industry-specific expert advice.**

## **8 LIMITATION OF LIABILITY**

### 8.1 EXCLUSION OF LIABILITY

- (a) To the extent permitted by applicable law, the Company is not liable in any way to the Client, Authorised Users or anyone else for direct, indirect, special, consequential or other losses arising in any way in connection with the Platform or its use and/or the services and/or this Agreement, including but not limited to any losses suffered as a result of or in relation to:
  - (i) any planned or foreshadowed system downtime of the Platform;
  - (ii) non-performance of the Platform;



- (iii) any reliance on the Platform (or any information provided from the Platform) including any performance results from A/B testing ;
  - (iv) any incorrect data entry or information made by the Client or Authorised Users on the Platform;
  - (v) any incorrect data or content, errors, mistakes or inaccuracies on the Platform;
  - (vi) any loss or corruption of Client Data at any time;
  - (vii) any defects, errors and bugs in the Platform;
  - (viii) any unauthorised access to or use of the Platform;
  - (ix) any interruption or cessation of transmission to or from the Platform;
  - (x) any viruses, trojan horses or other harmful code or communications which may be transmitted to or through the Platform by any third party; and/or
  - (xi) loss of privacy and confidential information.
- (b) The Company will not be liable for any indirect, incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with this Agreement or any services provided by the Company, except to the extent this liability cannot be excluded under the applicable law.

## **9 TERMINATION**

### **9.1 EXPIRATION OF THE TERM**

- (a) Subject to subsection 6.1- (a) above, any premium services may be accessed by the Client paying for those services separately.

### **9.2 TERMINATION WITHOUT CAUSE**

- (a) Either party may terminate this Agreement at any time during the relevant Term without cause by giving a prior 5 days' written notice to the other party of its intention to terminate.

### **9.3 TERMINATION FOR BREACH**

- (a) The Company has the right to terminate this Agreement or the Client's Account immediately by written notice to the Client if the Client:
  - (i) fails to provide Feedback on the Beta Testing (including failure to complete Beta Testing Tasks in a prompt or timely manner as outlined in clause 3.1) during the Term;
  - (ii) breaches the confidentiality and data protection obligations under this Agreement; or
  - (iii) breaches any provision of this Agreement and either:
    - (A) fails to remedy such breach within 14 days of receiving a written notice from the Company requiring it to remedy such breach; or
    - (B) that breach is not capable of remedy.

### **9.4 EFFECTS OF TERMINATION**

- (a) On termination of this Agreement, or the expiry of the Term:
  - (i) the right to use the Platform is revoked and the Client's access will be terminated;
  - (ii) the Client must cease using, and must ensure its Authorised Users cease using the Platform or any embed codes as they relate to the Platform.

- (b) Any clause of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to confidentiality obligations, warranty disclaimers, and limitations of liability.

## 10 CONFIDENTIALITY

- (a) Each party undertakes that it and its respective Personnel will not, without the prior written consent of the other party:
  - (i) disclose the Confidential Information of the other party to any person; or
  - (ii) use the Confidential Information of the other party for their own or a third party's gain or benefit.
- (b) Each party must take all reasonable steps to ensure that the Confidential Information of the other party is only disclosed to such of its personnel as require that information in order to enable the performance of this Agreement.
- (c) If requested by either party the other party must return all Confidential Information and any copies of the Confidential Information to the other party.
- (d) This clause does not apply to:
  - (i) information which is generally available to the public (other than as a result of a breach of this Agreement or another obligation of confidence);
  - (ii) information required to be disclosed by any law; or
  - (iii) information disclosed by the Company to its subcontractors, employees or agents for the purposes of providing the Platform or undertaking its obligations under this Agreement.

## 11 DATA PROTECTION

- (a) The Client agrees to the Company's Privacy Policy, [here](#), which is incorporated into this Agreement by reference. Please read the Privacy Policy carefully as it governs the Company's collection, use and disclosure of personal information.
- (b) Words and phrases in this clause shall have the meaning given to them by applicable data protection and privacy laws, including U.S. state and federal data privacy laws and regulations, the UK General Data Protection Regulation ("GDPR"), and the Data Protection Act 2018 (collectively, "**Data Protection Legislation**") and the terms "controller", "processor", "process" and "personal data" shall have the meanings given to those terms (or an equivalent term) in such Data Protection Legislation.
- (c) During and after the use of the Platform and the associated services, the Client agrees that the Company will be processing personal data for its own purposes and as such will be a controller under the Data Protection Legislation and this includes (but is not limited to) the following purposes:
  - (i) the Company providing the Platform and the associated services under this Agreement;
  - (ii) the Company may process and transfer personal data for promotional and marketing purposes;
  - (iii) the Company may process personal data concerning its other clients and contacts in other ways for its own business purposes;
  - (iv) the Company may process and transfer personal data as necessary to effect a re-organisation of its business; and
  - (v) the Company may share personal data with other legal or professional advisers or consultants used by it to provide the Client with legal or professional advice.
- (d) During and after the use of the Platform and the associated services, there may be limited occasions where the Company may process personal data on the Client's behalf as a

processor. The Company will advise the Client in writing where the Company believes the Company may act as a processor and any such processing shall be in accordance with, and subject to, the Client's instructions.

- (e) Before performing the processing, the Company shall document within the instructions the subject matter and duration of the processing, the nature and purpose of the processing, the types of personal data and categories of data subjects and the other terms prescribed by the Data Protection Legislation. The Company will ensure that all appropriate technical and organisational measures are taken to protect any personal data supplied by the Client to the Company against unauthorised or unlawful processing, accidental loss, destruction or damage, including when the Company subcontract any processing (for example, in the case of external storage of data).
- (f) The Client's instructions are taken to include the use by the Company, where appropriate, of independent contractors and third-party partners appointed by it for functions such as data and file storage, back-up, destruction and the like, in accordance with the foregoing.
- (g) By accepting this Agreement, the Client gives positive consent for the Company to obtain, store and process information about the Client as described in the preceding clauses. The Client agrees that where necessary the Client will have satisfied relevant statutory ground under the Data Protection Legislation in connection with the above-described categories of processing, before providing the Company with personal data. It is also a term of this Agreement that any personal data supplied by the Company to the Client about employees or independent contractors of the Company and/or any third parties may only be used for the express purposes for which that information is provided to the Client under this Agreement.

## 12 NOTICES

- (a) A notice or other communication to a party under this Agreement must be:
  - (i) in writing and in English; and
  - (ii) delivered via email to the other party, to the email address specified in this Agreement or on the Platform, or if no email address is specified in this Agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this Agreement ("**Email Address**"). The parties may update their Email Address by a written notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
  - (i) 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the United Kingdom, in which case the notice will be taken to be given on the next occurring Business Day; or
  - (ii) when replied to by the other party,whichever is earlier.

## **13 GENERAL**

### **13.1 GOVERNING LAW AND JURISDICTION**

If Client is located in the U.S. or U.S Territories, this Agreement is governed by the laws of Delaware, and each party irrevocably submits to the exclusive jurisdiction of the U.S. District Court for the District of Delaware and waives any objection based on forum non conveniens. If the Client is located in the United Kingdom, this Agreement is governed by the laws of England and Wales and each party irrevocably submits to the exclusive jurisdiction of the courts of England and irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

### **13.2 WAIVER**

No party to this Agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

### **13.3 SEVERANCE**

Any term of this Agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this Agreement is not limited or otherwise affected.

### **13.4 RIGHTS OF THIRD PARTIES**

There are no third-party beneficiaries under this Agreement.

### **13.5 ASSIGNMENT**

The Client may not assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the Company.

### **13.6 COSTS**

Except as otherwise provided in this Agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

### **13.7 ENTIRE AGREEMENT**

This Agreement (including the Key Agreement Details) constitute the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this Agreement.