# Terms and Conditions

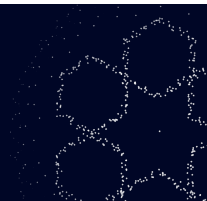
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**Agreed terms.**

## 1. Interpretation

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

**AI Output**: any shortlist, ranking, match rating, summary or other suggestion generated by AI Shortlisting.

**AI Provider**: any third party engaged by the Supplier to provide the artificial intelligence models or related services used to deliver AI Shortlisting.

**AI Shortlisting**: the functionality within the Software which uses artificial intelligence to compare the CVs and application information of Candidates who have applied for a Client Vacancy against the job specification for that Client Vacancy, and to suggest which of those Candidates may be the most suitable match, as further described in clause 3.4.

**AI Shortlisting Credits**: the units consumed on each use of AI Shortlisting, comprising Plan Credits and Top-Up Credits, as further described in clause 8.10.

**Authorised Users**: those employees, agents and independent contractors of the Client who are authorised by the Client to use the Services and the Contract Details, as further described in clause 2.2(b).

**Applicable Laws**: means:

a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom.

b) To the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject.

**Applicable Data Protection Laws**: means:

a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.

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

**Candidate**: an individual who has applied for a Client Vacancy, whose application is received into the Client's account on the Software.

**Confidential Information**: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.1.

**Conditions**: these terms and conditions as amended from time to time in accordance with Clause 16.

**Contract**: the contract between the Supplier and the Client for the supply of Services in accordance with these Conditions and the Contract Details.

**Contract Details**: form setting out the name of the Client, Subscription fees, Subscription Term and contact details.

**Client**: the person or firm who purchases Services from the Supplier.

**Client Vacancy**: a role advertised by or on behalf of the Client (including a role advertised by the Supplier under a separate contract for advertising services) for which applications are received into the Client's account on the

Software.

**Client Data**: the data inputted by the Client Authorised Users, or the Supplier on the Client's behalf for the purpose of using the Services or facilitating the Client 's use of the Services.

**Client Personal Data**: any personal data which the Supplier processes in connection with the Contract, in the capacity of a processor on behalf of the Client.

**EU GDPR**: the General Data Protection Regulation (*(EU) 2016/679*).

**Initial Subscription Term**: the initial term of this agreement as provided in the Contract Details.

**Mandatory Policies**: the Supplier's business policies listed in Schedule 1, as amended by notification to the Client from time to time.

**Normal Business Hours**: 8.00 am to 6.00 pm local UK time, each Business Day.

**Plan Credits**: the AI Shortlisting Credits included with the Client's Subscription tier for each billing period, as set out in the Contract Details.

**Purpose**: the purposes for which the Client Personal Data is processed, as set out in clause 4.6(a) and clause 4.8 (including the provision of AI Shortlisting)

**Renewal Period**: the period described in clause 13.1.

**Services**: the subscription services provided by the Supplier to the Client under these Conditions, as more particularly described in the Contract Details, including AI Shortlisting where it is included in the Client's Subscription tier or the Client holds AI Shortlisting Credits.

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

**Subscriptions**: the Subscriptions purchased by the Client pursuant to clause 8.1 which entitle Authorised Users to access and use the Services and the Contract Details in accordance with this agreement.

**Subscription Fees**: the subscription fees payable by the Client to the Supplier for the Subscriptions, as set out in the Contract Details.

**Subscription Term**: has the meaning given in clause 13.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

**Support Services Policy**: all support quires should be directed to support@bluetownai.co.uk in the first instance. We shall use reasonable endeavours to respond within 48 hours.

**Supplier**: BluetownAI Ltd incorporated and registered in England and Wales with company number 07464701 whose registered office is at 6 Hoxton Square, Hoxton Square, London, N1 6NU

**Supplier Personal Data**: any personal data which the Supplier processes **in connection with this agreement,** in the capacity of a controller.

**Top-Up Credits**: additional AI Shortlisting Credits purchased by the Client in accordance with clause 8.12.

**UK GDPR**: has the meaning given to it in the Data Protection Act 2018.

**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** excludes fax and email.

1.10 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

## 2. Subscription

2.1 Subject to the Client purchasing the Subscription in accordance with clause 8.1, the restrictions set out in this clause 2 and these Conditions, the Supplier hereby grants to the Client a non-exclusive, non-transferable right and licence, without the right to grant sublicences, to permit the Authorised Users to use the Services and the Contract Details during the Subscription Term solely for the Client's internal business operations.

2.2 In relation to the Authorised Users, the Client undertakes that:

(a) each Authorised User shall keep a secure password for their use of the Services, that such password shall be changed no less frequently than 3 months and that each Authorised User shall keep their password confidential;

(b) it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times;

(c) it shall permit the Supplier or the Supplier's designated auditor to audit the Services in order to establish the name and password of each Authorised User and the Client's data processing facilities to audit compliance with this agreement. Each such audit may be conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Client's Client normal conduct of business;

(d) if any of the audits referred to in clause 2.2(c) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Client shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and

(e) if any of the audits referred to in clause 2.2(c) reveal that the Client has underpaid Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Client shall pay to the Supplier an amount

equal to such underpayment as calculated in accordance with the prices set out in the Contract Details within 10 Business Days of the date of the relevant audit.

(f) each Authorised User is expected to utilise the Services in accordance with ethical standards, refraining from any misuse, exploitation, or illegal activities, and respecting the rights and privacy of others

2.3 The Client agrees to use the Service in accord with ethical principles and in full compliance with all applicable laws and regulations. During the course of its utilisation of the Services, the Client shall refrain from accessing, storing, distributing, or transmitting any Viruses, or any material 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.

The Supplier reserves the unequivocal right, without incurring liability or prejudicing its other rights against the Client, to disable the Client's access to any material that breaches the provisions of this clause. Furthermore, the Client shall not infringe the intellectual property rights of the Supplier or any third parties and shall abstain from any activities that could detrimentally affect the Supplier's reputation or business interests.

2.4 The Client 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 Software (as applicable) in any form or media or by any means; or

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

(b) access all or any part of the Services in order to build a product or service which competes with the Services; or

(c) use the Services 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 available to any third party except the Authorised Users, or

(e) attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 2; or

(f) introduce or permit the introduction of any Virus into the Services or the Supplier's network and information systems.

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

2.6 In no event shall the Supplier be held liable for any information or content provided by candidates (including any CV's or other documents uploaded to the Software).

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

## 3. Services

3.1 The Supplier shall, during the Subscription Term, provide the Services and make available the Contract Details to the Client on and subject to the terms of the Contract.

3.2 The Supplier shall use commercially reasonable endeavours to make the Services available during Normal Business Hours, except for planned maintenance.

3.3 The Supplier will, as part of the Services provide the Client with the Supplier's standard Client support services during Normal Business Hours in accordance with the Supplier's Support Services Policy in effect at the time that the Services are provided. The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time. The Client may purchase enhanced support services separately at the Supplier's then current rates.

3.4 Where AI Shortlisting is included in the Client's Subscription tier, or the Client holds AI Shortlisting Credits, the Supplier shall make AI Shortlisting available to the Authorised Users within the Software. AI Shortlisting:

(a) only processes the CVs and application information of Candidates who have applied for a Client Vacancy, and only compares them against the job specification for that same Client Vacancy;

(b) does not access, search or compare Candidate data held in any other client's account or in any database maintained by the Supplier;

(c) generates AI Output in the form of suggestions only, and does not reject, progress, contact or take any other action in relation to any Candidate; and

(d) does not make any recruitment decision on the Client's behalf.

3.5 The Client acknowledges and agrees that:

(a) AI Output is generated by automated means, is provided only to assist the Client's own review of Candidates, and may be inaccurate or incomplete, or may fail to identify suitable Candidates;

(b) it shall ensure that appropriately trained Authorised Users meaningfully review the AI Output and the underlying Candidate applications before taking any decision in relation to a Candidate, and that those Authorised Users have the authority to disagree with, override or disregard any AI Output;

(c) it shall not rely solely on AI Output to make any decision which has a legal or similarly significant effect on a Candidate, including a decision to reject a Candidate;

(d) all decisions in relation to Candidates (including whether to shortlist, interview, reject or make an offer to a Candidate) are made by the Client, and the Client is solely responsible for them; and

(e) it shall ensure that its job specifications, and any criteria it provides for use by AI Shortlisting, are lawful, relevant to the role and do not discriminate, directly or indirectly, on the grounds of any protected characteristic under the Equality Act 2010.

3.6 The Supplier shall use reasonable endeavours to design and monitor AI Shortlisting with a view to reducing the risk of inaccurate or biased AI Output and shall, on the Client's reasonable request, provide such information about how AI Shortlisting works as the Client reasonably requires to explain its use to Candidates and to complete any data protection impact assessment.

3.7 The Supplier shall not use Client Data or Client Personal Data (including Candidate CVs) to train, or permit any AI Provider to train, any artificial intelligence model.

3.8 The Supplier may modify, improve or replace the artificial intelligence models and AI Providers used to deliver AI Shortlisting from time to time, subject to clause 4.7(a) where the change involves a new processor.

## 4. Data protection

4.1 For the purposes of this clause 4, the terms **controller**, **processor**, **data subject**, **personal data**, **personal data breach** and **processing** shall have the meaning given to them in the UK GDPR.

4.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 4 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

4.3 The Client acknowledges that they will be provided with candidates' CVs and expressly consent to the sharing of the candidate data with other prospective employers. Following a period of 6 months, the candidate will be invited by the Supplier to provide their CV to the Supplier's data base.

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

4.5 Without prejudice to the generality of clause 4.2, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Supplier Personal Data and Client Personal Data to the Supplier or lawful collection of the same by the Supplier for the duration and purposes of this agreement.

4.6 Without prejudice to the generality of clause 4.2 the Supplier shall, in relation to Client Personal Data:

(a) process that Client Personal Data only on the documented instructions of the Client, which shall be to process the Client Personal Data, unless the Supplier is required by Applicable Laws to otherwise process that Client Personal Data. Where the Supplier is relying on Applicable Laws as the basis for processing Client Processor Data, the Supplier shall notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Provider from so notifying the Client on important grounds of public interest. The Supplier shall inform the Client if, in the opinion of the Supplier, the instructions of the Client infringe Applicable Data Protection Laws;

(b) implement the necessary technical and organisational measures to protect against unauthorised or unlawful processing of Client Personal Data and against accidental loss or destruction of, or damage to, Client Personal Data, which the Client has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that any personnel engaged and authorised by the Supplier to process Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

(d) assist the Client insofar as this is possible (taking into account the nature of the processing and the information available to the Supplier), and at the Client cost and written request, in responding to any request from a data subject and in ensuring the Clients compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(e) notify the Client without undue delay on becoming aware of a personal data breach involving the Client Personal Data;

(f) at the written direction of the Client delete or return Customer Personal Data and copies thereof to the Client on termination of the agreement unless the Supplier is required by Applicable Law to continue to process that Client Personal Data. For the purposes of this clause 4.6(f) Client Personal Data shall be considered deleted where it is put beyond further use by the Supplier; and

(g) maintain records to demonstrate its compliance with this clause 4.

**4.7** The Client hereby provides its prior, general authorisation for the Supplier to:

(a) appoint processors to process the Client Personal Data, provided that the Supplier:

(i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause 4;

(ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and

(iii) shall inform the Client of any intended changes concerning the addition or replacement of the processors, thereby giving the Client the opportunity to object to such changes provided that if the Client objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Client shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.

(b) transfer Client Personal Data outside of the UK as required for the Purpose, provided that the Supplier shall ensure that all such transfers are affected in accordance with Applicable Data Protection Laws. For these purposes, the Client shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).

**4.8** Where an Authorised User initiates AI Shortlisting, the Client instructs the Supplier to process the relevant Client Personal Data (including Candidate CVs and application information) using AI Shortlisting for the purpose of comparing Candidates against the job specification for the relevant Client Vacancy and generating AI Output. Such processing forms part of the Purpose and of the Client's documented instructions for the purposes of clause 4.6(a).

**4.9** The Client acknowledges that AI Shortlisting is delivered using one or more AI Providers, details of which are available from the Supplier on request, and authorises the Supplier to appoint such AI Providers as processors of Client Personal Data in accordance with clause 4.7(a). The Supplier shall ensure that the terms on which it engages each AI Provider prohibit that AI Provider from using Client Personal Data to train its models and from retaining Client Personal Data for longer than is necessary to provide AI Shortlisting.

**4.10** As controller of Candidate personal data, the Client shall be responsible for:

(a) ensuring that it has a lawful basis for the processing of Candidate personal data using AI Shortlisting;

(b) informing Candidates, in its privacy notice or otherwise, that their applications may be reviewed with the assistance of artificial intelligence;

(c) carrying out any data protection impact assessment required by Applicable Data Protection Laws in relation to its use of AI Shortlisting; and

(d) responding to any request from a Candidate to obtain information about, or contest, the Client's use of AI Output, with the Supplier's assistance in accordance with clause 4.6(d).

## 5. Third party providers

The Client acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. The Supplier makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any Contract entered into by the Client, with any such third party. Any Contract entered into and any transaction completed via any third-party website is between the Client and the relevant third party, and not the Supplier. The Supplier recommends that the Client refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Supplier does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

## 6. Supplier's obligations

6.1 The Supplier shall perform the Services with reasonable skill and care.

6.2 The Supplier's obligations at clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the terms of clause 7.1, the Supplier will, at its expense, use reasonable commercial endeavours to correct any such non-conformance promptly. Such correction constitutes the Client's sole and exclusive remedy for any breach of the undertaking set out in clause 6.1.

6.3 The Supplier:

(a) does not warrant that:

(i) the Client's use of the Services will be uninterrupted or error-free;

(ii) The Software or the Services will be free from Vulnerabilities or Viruses.

(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 Client acknowledges that the Services may be subject to limitations, delays, and other problems inherent in the use of such communications facilities.

6.4 The Contract shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling, or licensing Contract Details, products and/or services which are similar to those provided under these Terms and Conditions.

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

6.6 The Supplier shall not be responsible for any loss, destruction, alteration, or disclosure of Client Data.

## 7. Client's obligations

7.1 The Client shall:

(a) provide the Supplier with:

(i) all necessary co-operation; and

(ii) all necessary access to such information as may be required by the Supplier;

in order to provide the Services, including but not limited to Client Data, security access information and configuration services;

(b) without affecting its other obligations under these Terms and Conditions, comply with all applicable laws and regulations with respect to its activities under this agreement;

(c) carry out all other Client responsibilities set out in the Contract in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

(d) ensure that the Authorised Users use the Services in accordance with these Conditions and shall be responsible for any Authorised User's breach of the Contact;

(e) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under the Contract, including without limitation the Services;

(f) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and

(g) be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

7.2 The Client shall own all right, title and interest in and to all of the Client Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of all such Client Data.

## 8. Charges and payment

8.1 The Client shall pay the Subscription Fees to the Supplier for the Subscription in accordance with this clause 8 and the Contract Details.

8.2 In accordance with the Contract Details, the Client will be presented with a choice of Subscription tiers (which may include a free tier), each of which includes the features and number of Plan Credits (if any) set out in the Contract Details. The Client shall promptly notify the Supplier of their chosen tier.

8.3 Should the Client choose for a paid tier, they are required to further specify their payment preference, either monthly in advance or annually:

(a) In the event of monthly payments, the Client retains the flexibility to terminate the Subscription at any time with no obligation to pay further monthly payments

(b) Opting for annual payments obligates the Client to a one-year commitment. The Client may terminate the Subscription but shall be not be entitled to a refund.

The Supplier retains the right to terminate this clause 8.3 in accordance with clause 13.

8.4 In the event that the Subscription is to be paid on an annual basis, the Supplier shall extend to the Client a discount as outlined in the Contract Details.

8.5 Upon selection of the paid tier, the Client shall, on the Effective Date provide to the Supplier valid, up-to-date and complete credit card details acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and, if the Client provides:

(a) its credit card details to the Supplier, the Client hereby authorises the Supplier to bill such credit card:

(i) on a monthly basis in advance; or

(ii) annually.

(iii) subject to clause 13.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period;

(b) they shall pay the Subscription Fee immediately in advance.

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

(a) the Supplier may, on no less than 5 Business Days' notice to the Client and without liability to the Client, disable the Client's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

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

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

(a) shall be payable in pounds sterling;

(b) are, subject to clause 12.3(b), non-cancellable and non-refundable;

(c) are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

8.8 If, at any time whilst using the Services, the Client exceeds the amount of disk storage space specified in the Contract Details, the Supplier shall charge the Client.

8.9 The Supplier shall be entitled to increase the Subscription Fees and shall give the Client 30 days' notice to the Client and the Contract Details shall be deemed to have been amended accordingly.

8.10 Each use of AI Shortlisting shall consume AI Shortlisting Credits at the rate set out in the Contract Details or displayed within the Software at the time of use. The Software shall show the Client's remaining balance of AI Shortlisting Credits. If the Client does not hold enough AI Shortlisting Credits, AI Shortlisting will not be available until further AI Shortlisting Credits are allocated or purchased.

8.11 Plan Credits shall be allocated to the Client's account at the start of each billing period of its Subscription. Unless otherwise stated in the Contract Details, unused Plan Credits shall expire at the end of the billing period in which they were allocated and shall not roll over.

8.12 The Client may purchase Top-Up Credits at any time during the Subscription Term at the Supplier's then current prices. Top-Up Credits are payable in advance at the time of purchase and are valid for 12 months from the date of purchase, after which any unused Top-Up Credits shall expire.

8.13 Plan Credits shall be used before Top-Up Credits, and Top-Up Credits shall be used in the order in which they were purchased.

8.14 AI Shortlisting Credits:

(a) have no cash value and, subject to clause 8.15, are non-refundable;

(b) may only be used on the Client's account and are not transferable; and

(c) are separate from, and may not be exchanged for or used as, any credits purchased under any other contract with the Supplier, including credits for the Supplier's advertising services.

8.15 If the Client changes its Subscription tier, the Plan Credits for the new tier shall apply from the start of the next billing period. Top-Up Credits shall remain available until they expire, provided the Client's Subscription remains in force. On termination or expiry of the Contract for any reason, all unused AI Shortlisting Credits shall lapse without refund, save where the Client terminates the Contract under clause 13.2 as a result of the Supplier's breach, in which case the Supplier shall refund the price paid for any unexpired Top-Up Credits.

## 9. Proprietary rights

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

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

## 10. Confidentiality

10.1 **Confidential Information** means all confidential information (however recorded or preserved) disclosed by a party or its Representatives (as defined below) to the other party and that party's Representatives whether before or after the date of the Contract including but not limited to:

(a) the existence and terms of the Contract;

(b) any information that would be regarded as confidential by a reasonable business person relating to:

(i) the business, assets, affairs, clients, suppliers, plans, intentions, or market opportunities of the disclosing party [(or of any member of the group of companies to which the disclosing party belongs); and

(ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party;

(c) any information developed by the parties in the course of carrying out this agreement and the parties agree that:

(i) details of the Services, and the results of any performance tests of the Services, shall constitute Supplier Confidential Information; and

(ii) Client Data shall constitute Client Confidential Information;

**Representatives** means, in relation to a party, its employees, officers, contractors, subcontractors, representatives and advisers.

10.2 The provisions of this clause shall not apply to any Confidential Information that:

(a) is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause);

(b) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;

(c) was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise

prohibited from disclosing the information to the receiving party; or

(d) the parties agree in writing is not confidential or may be disclosed.

10.3 Each party shall keep the other party's Confidential Information secret and confidential and shall not:

(a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this agreement); or

(b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 10.

10.4 A party may disclose the other party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:

(a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and

(b) at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this clause.

10.5 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 (including, without limitation) 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.

10.6 A party may, provided that it has reasonable grounds to believe that the other party is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose Confidential Information to the Serious Fraud Office without first informing the other party of such disclosure.

10.7 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this agreement are granted to the other party, or to be implied from the Contract.

10.8 On termination of the Contract, each party shall:

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

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

(c) certify in writing to the other party that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority. The provisions of this clause shall continue to apply to any such documents and materials retained by a recipient party, subject to clause 13 (Termination).

10.9 No party shall make, or permit any person to make, any public announcement concerning the Contract 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.

10.10 Except as expressly stated in the Contract, no party makes any express or implied warranty or representation concerning its Confidential Information.

10.11 The above provisions of this clause 10 shall continue to apply after termination of the Contract.

10.12 In performing its obligations under the Contract the Client shall comply with the Mandatory Policies.

## 11. Indemnity

11.1 The Client shall defend, indemnify, and hold harmless the Supplier 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 Client's use of the Services provided that:

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

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

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

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

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

(b) the Client does not make any admission, or otherwise attempt to compromise or settle the claim and provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and

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

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

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

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

(b) the Client's use of the Services in a manner contrary to the instructions given to the Client by the Supplier; or

(c) the Client's use of the Services after notice of the alleged or actual infringement from the Supplier or any appropriate authority; or

(d) the Client's breach of the Contract.

11.5 The foregoing state the Client's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trademark, database right or right of confidentiality.

## 12. Limitation of liability

**WARNING: you are strongly advised to read this clause.**

12.1 Except as expressly and specifically provided in the Contract:

(a) the Client assumes sole responsibility for results obtained from the use of the Services by the Client, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or

omissions in any Client Data, information, instructions or scripts provided to the Supplier by the Client in connection with the Services, or any actions taken by the Supplier at the Client'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;

(c) the Services are provided to the Client on an "as is" basis; and

(d) AI Output is provided on an "as is" basis. The Supplier gives no warranty that any AI Output is accurate, complete or free from bias, or that any Candidate identified (or not identified) in AI Output is suitable for a Client Vacancy, and the Supplier shall have no liability for any decision made by the Client in reliance on AI Output.

12.2 Nothing in this agreement excludes the liability of the Supplier:

(a) for death or personal injury caused by the Supplier's negligence; or

(b) for fraud or fraudulent misrepresentation.

12.3 Subject to clause 12.1 and clause 12.2:

(a) the Supplier shall have no liability for any:

(i) loss of profits,

(ii) loss of business,

(iii) wasted expenditure,

(iv) depletion of goodwill and/or similar losses,

(v) loss or corruption of data or information, or

(vi) any special, indirect or consequential loss, costs, damages, charges or expenses; and

(b) the Supplier's total aggregate liability to the Client, in respect of all breaches of duty occurring within any Contract year shall not exceed 12 months of the Subscription Fee payable by the Client.

12.4 References to liability in this clause 12 include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

12.5 Nothing in this agreement excludes the liability of the Client for any breach, infringement or misappropriation of the Supplier's Intellectual Property Rights.

## 13. Term and termination

13.1 The Contract shall, unless otherwise terminated as provided in this clause 13, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, the Contract shall be automatically renewed for successive periods of 12 months (each a **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 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 the Contract;

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

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

(a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

(b) the other party commits a material breach of any other term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 7 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 (**IA 1986**) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;

(d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(e) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;

(f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);

(h) the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

(i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

(j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

(k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2(c) to clause 13.2(j) (inclusive);

(l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

(m) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy;

13.3 On termination of the Contract for any reason:

(a) all licences granted under the Contract shall immediately terminate and the Client shall immediately cease all use of the Services;

(b) each party shall return and make no further use of any equipment, property, and other items (and all copies of them) belonging to the other party;

(c) the Supplier may destroy or otherwise dispose of any of the Client Data in its possession unless the Supplier receives, no later than ten days after the effective date of the termination of the Contract, a written request for

the delivery to the Client of the then most recent back-up of the Client Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Client within 30 days of its receipt of such a written request, provided that the Client 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 Client shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Client 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.

## 14. Fair Usage Policy

14.1 The Services are intended for reasonable use, including use of the Software, advertising and candidates uploading their CV's. Data and SMS charges form part of the fees charged to the Client subject to reasonable use. By using the Services, the Client agrees to comply with this clause 14.

14.2 The Client is provided with a specified data allowance of 100 Video Questionnaires per month and SMS usage allowance of 150 per month. If, in the Supplier's reasonable opinion, the Client is exceeding such allowances, the Client may be subject to additional charges which shall be invoiced and payable immediately. The Supplier may also suspend or disconnect the Clients access to the Software and the Services.

14.3 The Supplier monitors data and SMS text usage, and if the Client frequently exceeds their data and SNS text allowances, the Supplier may contact the Client to discuss an appropriate increase in the fees charged to the Client.

## 15. Force majeure

Neither party shall be in breach of the Contractor otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 6 months, the party not affected may terminate the Contract by giving14days' written notice to the affected party.

## 16. Conflict

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

## 17. Variation.

Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

Notwithstanding the above, the Supplier may amend these Conditions, the features of the Services (including AI Shortlisting) and the rate at which AI Shortlisting Credits are consumed by giving the Client not less than 30 days' notice in writing, which for the purposes of this clause may be given by email or by a notice displayed within the Software. If the Client does not agree to an amendment, it may terminate the Contract by giving written notice to the Supplier before the amendment takes effect. Continued use of the Services after the amendment takes effect shall constitute acceptance of it.

## 18. Waiver

18.1 A waiver of any right or remedy is only effective if given in writing. and shall not be deemed a waiver of any subsequent right or remedy.

18.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

## 19. Rights and remedies

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

## 20. Severance

20.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

20.2 If any provision or part-provision of the Contract is deemed deleted under clause 20.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## 21. Entire agreement

(a) The Contract 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.

(b) Each party acknowledges that in entering into the Contract 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 the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

(c) Nothing in this clause shall limit or exclude any liability for fraud.

## 22. Assignment

22.1 The Client shall not, without the prior written consent of the Supplier, assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

22.2 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract, provided that it gives prior written notice of such dealing to the Client.

## 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

24.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

24.2 The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.

## 25. Notices

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); .

(b) Any notice or communication shall be deemed to have been received:

(i) if delivered by hand, at the time the notice is left at the proper address;

(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

(i) if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause Business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

25.2 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## 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 interpreted 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 the Contract or its subject matter or formation (including non-contractual disputes or claims).

## Schedule 1 Mandatory Policies

The Mandatory Policies are:

- Compliance Policy Statement
- Modern Slavery and Human Trafficking Policy
- Corporate Social Responsibility Policy
- Information Security Policy
- Anti-Bribery and Corruption Policy
- Equal Opportunities Policy
- Business Continuity Plan