BRISTOL COMPUTER WORKSHOP

CONDITIONS FOR SOFTWARE & SERVICE SUBSCRIPTIONS

1. Interpretation

1.1 Definitions

Acceptable Use Policy	means the policy for the Customer's use of Services, as set out here and may be amended by Giacom from time to time;
Applicable Data Protection Laws	has the meaning given in clause 8.1;
Authorised Users	those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services, as further described in clause 4.2(d);
Business Day	means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
Change Order	has the meaning given in clause 7.6;
Charges	means each or both, as the context requires, of the Subscription Fees and Support Fees;
Conditions	means these terms and conditions set out in clause 1 to clause 19 (inclusive);
Confidential Information	all information obtained by one party from the other which is expressly marked as confidential or which is manifestly confidential or which is confirmed in writing to be confidential within seven (7) days of its disclosure;
Contract	has the meaning given to it in paragraph 1 of the Order Form;
Contract Date	means the date of the Contract, as set out in the Order Form;
Customer Equipment	has the meaning given to it in Clause 11.1(g);
Customer Materials	means the Customer's data loaded, received, maintained or transmitted on the System for the Customer under the Contract;
Customer Personal Data	has the meaning given to it in clause 8.2;
Go-Live Date	means the estimate date specified in the Order Form;
Initial Subscription Term	has the meaning given to it in the Order Form;
License Terms	means the licensing conditions and restrictions of the Software manufacturer, supplier or licensor, including (but not limited to): (a) in respect of the Microsoft Software, the licensing conditions set out here or available upon request; and (b) in respect of other Software, the licensing conditions are set out here, here and here, or available upon request;
Professional Services	means the services ordered by the Customer, from time to time, pursuant to clause 7;
Provider(s)	means any supplier, subcontractor, agent, distributor, or service provider utilised by BCW in provision of the Services, including Giacom and Microsoft;
Renewal Period	means the period specified as such in the Order Form;
Schedules	means the schedules to the Order Form;
Servers	means BCW's and/or the Provider's servers used for the purpose of providing the Services;
Service Description	means the description of component Services as set out at here;

Services	means the aggregate of component services to be provided by BCW to the Customer under the Contract, as detailed in the Order Form and to include any Professional Services Ordered pursuant to clause 7;
Software	means all machine readable data and instructions, including middleware and firmware and related updates and upgrades, licenses materials, user documentation, user manuals and operating procedures used for or in the provision of, or the for the Customer to access, the Services;
Statement of Work	has the meaning given in clause 7.1;
Subscription Fees	means the subscription fees payable by the Customer to BCW for the User Subscriptions, as detailed in the Order Form;
Subscription Term	has the meaning given in clause 2.1;
Support Fees	means the fees payable to BCW by the Customer for support and Professional Services, as detailed in the Order Form;
System	means the hardware and Software belonging to or used by BCW or its Providers, and which providers a link to the World Wide Web via the Internet;
User Subscription	the user subscriptions purchased by the Customer pursuant to clause 13.1 which entitle Authorised Users to access and use the Services in accordance with the Contract, the quantity of which, is specified in the Order Form as may be amended pursuant to clause 5;
VAT	means value added tax or any equivalent tax, chargeable in the UK; and
Virus	means any thing 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 **Interpretation:** In these Conditions:

(a) reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted;

(b) words importing the singular include the plural, words importing any gender include every gender and words importing persons include bodies corporate and unincorporated; and (in each case) vice versa;

(c) any reference to BCW or the Customer in the Contract includes a reference to their successors in title and permitted assigns;

(d) the headings to the clauses are for ease of reference only and shall not affect the interpretation or construction of the Contract;

(e) any reference to a clause means a clause in these Conditions unless the contrary is stated; and

(f) references to "written" (e.g. written consent or written notice) shall include by email.

2. Commencement and term

2.1 The Contract shall, unless otherwise terminated in accordance with clause 17, come into force on the Contract Date and shall continue for the Initial Subscription Term and, thereafter, the Contract shall be automatically renewed for successive Renewal Periods, unless:

(a) either party notifies the other party of termination, in writing, at least sixty (60) days before the end of the Initial Subscription Term or any Renewal Period, in which case the Contract 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**".

3. The Contract

3.1 The parties agree to use the relevant Contract number stated on the Order Form in respect of all correspondence relating to the Contract.

3.2 Any typographical, clerical or other error or omission in any sales literature, quotation, Subscription Fees list, acceptance of offer, invoice or other document or information issued by BCW shall be subject to correction without any liability on the part of BCW.

4. User subscriptions

4.1 Subject to the Customer purchasing the User Subscriptions in accordance with clause 5.3 and clause , the restrictions set out in this clause and the other terms and conditions of these Conditions, BCW hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services during the Subscription Term solely for the Customer's internal business operations.

4.2 In relation to the Authorised Users, the Customer undertakes that:

(a) the maximum number of Authorised Users that it authorises to access and use the Services shall not exceed the number of User Subscriptions it has purchased from time to time;

(b) it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;

(c) each Authorised User shall keep a secure password for their use of the Services, and such password shall be changed no less frequently than as required in the License Terms and that each Authorised User shall keep their password confidential; and

(d) it shall maintain a written, up to date list of current Authorised Users and provide such list to BCW within five (5) Business Days of BCW's written request at any time or times.

4.3 The Services are supplied subject to the condition that there will be no abuse or fraudulent use thereof. Abuse and fraudulent use of the Services shall include (without limitation):

(a) obtaining, or attempting to obtain, the Service by rearranging, tampering with, or making connection with any facilities of BCW or the Providers, or by any trick, scheme, false representation or false credit device, or by or through any other fraudulent means or devices whatsoever, with intent to avoid payment, in whole or in part, of the regular charges for the Services;

(b) attempting to, or actually obtaining, accessing, altering, or destroying the data files, programs, procedures and/or information of BCW, the Providers or the other customer of BCW or the Providers;

(c) using the Services in such a manner as to interfere unreasonably with the use of the Services by any other user or authorised person; and

(d) facilitating illegal activity,

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

4.4 The Customer shall not:

(a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Contract:

(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

(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 19.2(a), 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 ; or

(f) introduce or permit the introduction of, any Virus into BCW's network and information systems, or that of any Provider.

4.5 The Customer 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 BCW.

4.6 The rights provided under this clause 4 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

5. Additional user subscriptions

5.1 Subject to clause 5.2 and clause 5.3, the Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in the Order Form and BCW shall grant access to the Services to such additional Authorised Users in accordance with these Conditions.

5.2 If the Customer wishes to purchase additional User Subscriptions, the Customer shall notify BCW in writing. BCW shall evaluate such request for additional User Subscriptions and respond to the Customer with approval or rejection of the request and, if required by BCW, the Parties shall execute a new Order Form.

5.3 If BCW approves the Customer's request to purchase additional User Subscriptions, the Customer shall, within fourteen (14) days of the date of BCW's invoice, pay to BCW the relevant fees for such additional User Subscriptions. If such additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by BCW for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable) provided always that such prorated payment is permitted by the relevant Provider.

6. Services

6.1 BCW shall, during the Subscription Term, supply the Services in accordance with the applicable Service Description (and terms therein) for each component of the Services, and in accordance with these Terms.

6.2 BCW reserves the right to control, direct and establish technical procedures for the Servers and the provision of the Services and BCW may make reasonable operational changes to the Services without prior notice when necessary.

6.3 BCW or the Providers has obtained and shall use its reasonable endeavours to ensure that it retains all necessary consents, licenses or certifications required for the provision of the Services.

6.4 BCW shall, to protect the security of the Services and the Customer's Material, either on its own reasonable judgment or that of a Provider, or on request by the Customer, promptly suspend availability of the Services over the Internet. BCW shall likewise, on its own reasonable judgment or that of a Provider, or on request by the Customer, promptly resume the provision of the Services following such suspension.

6.5 BCW shall take reasonable steps to protect the Customer's information in accordance with the provisions of ISO 27001:2013, however the Customer acknowledges that the Internet is not secure and accordingly that BCW cannot guarantee the privacy of the Customer's information.

6.6 BCW at all times implement and use appropriate virus-protection procedures and software on Customer Material.

6.7 BCW, upon reasonable notice to the Customer, may upgrade the Services to a new version of the Services at any time.

7. Professional Services

7.1 Where required by the Customer, BCW shall provide professional services as agreed between BCW and the Customer (each a "**Statement of Work**") in addition to and to complement the Services.

7.2 The Statement of Work shall set out:

(a) the scope of the professional services to be provided by BCW;

(b) the deliverables to be provided by BCW to the Customer;

(c) the period during which the professional services are to be delivered or the date by which deliverables will be delivered to the Customer;

(d) the specification of the professional services to be delivered;

(e) the conditions upon which professional services will be delivered to the Customer by BCW;

(f) the acceptance tests to be carried out (if applicable) in respect of the professional services; and

(g) the Charges to be paid by the Customer to BCW for the supply of Professional Services.

7.3 No Statement of Work shall be binding until signed by both BCW and the Customer.

7.4 BCW shall perform the Professional Services in a professional manner and with due care and skill.

7.5 Each party acknowledges that the scope and specification of the Professional Services may be subject to change subsequent to the commencement of the Professional Services.

7.6 Variation to the Statement of Work shall be agreed between BCW and the Customer and confirmed in writing (each a "**Change Order**") by both parties.

7.7 Where BCW perform Professional Services at the Customer's site or another third party site, the Customer will pay BCW all travel and all out of pocket expenses on demand. For the avoidance of doubt, travel costs will be charged at 50 pence per mile, all other travel and subsistence expenses will be recharged at cost.

7.8 The Customer may cancel the Statement of Work by giving notice to BCW in writing. The following charges are payable upon cancellation:

(a) thirty (30) days' notice or more before commencement of the Statement of Work - no charge;

(b) fourteen (14) to twenty nine (29) days' notice before commencement of the Statement of Work – fifty percent (50%) of charges as per the Statement of Work; and

(c) less than fourteen (14) days' notice before commencement of the Statement of Work – one hundred percent (100%) of charges as per the Statement of Work.

8. Data Protection

8.1 In this clause, the terms "**controller**", "**processor**", "**data subject**", "**personal data**", "**processing**" (and "**process**") and "**special categories of personal data**" shall have the meanings given under the EU General Data Protection Regulation (Regulation

2016/679) and any and all applicable national data protection laws implementing or supplemental to that Regulation including UK the Data Protection Act 2018 ("**Applicable Data Protection Law**").

8.2 The Customer hereby notifies BCW that the Customer Materials contains personal data (the "**Customer Personal Data**") and the Customer (the controller) appoints BCW as processors to process the Customer Personal Data. Each party shall comply with the obligations that apply to it under Applicable Data Protection Law. If BCW becomes aware that processing the Customer Personal Data infringes Applicable Data Protection Law, it shall promptly inform the Customer.

8.3 The Customer shall not disclose (and shall not permit any data subject to disclose) any special categories of personal data to BCW or its Providers for processing.

8.4 The Customer warrants and undertakes to BCW:

(a) the Customer Personal Data has been obtained and processed (in so far as the Customer Personal Data has been processed) lawfully;

(b) the Services will be entirely consistent with and appropriate to the specified and lawful purposes for which the Customer has notified the data subject in respect of the Customer Personal Data (the "**Notified Purposes**");

(c) the Customer has not hitherto and will not during the continuance of these Conditions use or disclose the Customer Personal Data or any part thereof in a manner incompatible with the Notified Purposes;

(d) the Customer Personal Data is adequate, relevant and not excessive in relation to the Notified Purposes; and

(e) the Customer Personal Data is accurate and the Customer shall keep the Customer Personal Data fully up to date at all times during the continuance of the Contract.

8.5 Processor obligations:

(a) BCW shall not transfer the Customer Personal Data or Customer Material outside of the European Economic Area ("EEA") unless it has taken such measures as are necessary to ensure the transfer is in compliance with Applicable Data Protection Law.

(b) BCW ensure that any person it authorises to process the Customer Personal Data or Customer Material, including its Providers, (an "**Authorised Person**") shall protect the Customer Personal Data in accordance with BCW confidentiality obligations under these Conditions.

(c) BCW shall implement technical and organisational measures to protect the Customer Personal Data (i) from accidental or unlawful destruction, and (ii) loss, alteration, unauthorised disclosure of, or access to the Customer Personal Data or Customer Material (a "**Security Incident**").

(d) BCW shall provide reasonable and timely assistance to the Customer (at the Customer 's expense) to enable the Customer to respond to: (i) any request from a data subject to exercise any of its rights under Applicable Data Protection Law (including its rights of access, correction, objection, erasure and data portability, as applicable); and (ii) any other correspondence, enquiry or complaint received from a data subject, regulator or other third party in connection with the processing of the Customer Personal Data. In the event that any such request, correspondence, enquiry or complaint is made directly to BCW, BCW shall promptly inform the Customer providing full details of the same.

(e) BCW shall provide reasonable cooperation to the Customer (at the Customer's expense) in connection with any data protection impact assessment that may be required under Applicable Data Protection Law in relation to the processing of Customer Personal Data.

(f) If BCW becomes aware of a confirmed Security Incident, BCW shall inform the Customer without undue delay and shall provide reasonable information and cooperation to the Customer so that the Customer can fulfil any data breach reporting obligations it may have under (and in accordance with the timescales required by) Applicable Data

Protection Law. BCW shall further take such any reasonably necessary measures and actions to remedy or mitigate the effects of the Security Incident and shall keep the Customer informed of all material developments in connection with the Security Incident.

(g) Upon termination or expiry of the Contract, BCW shall (at the Customer's election) destroy or return to the Customer all Customer Personal Data in its possession or control. This requirement shall not apply to the extent that BCW is required by applicable law to retain some or all of the Customer Personal Data, or to Customer Personal Data it or its Providers has archived on back-up systems, in which event BCW or its Providers shall securely isolate and protect from any further processing except to the extent required by such law until deletion is possible.

8.6 The Customer consents to BCW engaging third party subprocessors to process the Customer Personal Data which, for the avoidance of doubt includes the Providers, provided that: (i) BCW maintains an up-to-date list of its subprocessors, which it shall update with details of any change in subprocessors at least fourteen (14) days prior to any such change; (ii) BCW imposes data protection terms on any subprocessors it appoints that require it to protect the Customer Personal Data to at least the standard required by Applicable Data Protection Law; and (iii) BCW remains liable for any breach of this clause that is caused by an act, error or omission of its subprocessor. The Customer may object to replacement of a subprocessor prior to its appointment or replacement, provided such objection is based on reasonable grounds relating to data protection. In such event, BCW will either not appoint or replace the subprocessor or, if this is not possible, the Customer may suspend or terminate the Services (without prejudice to any fees incurred by the Customer prior to suspension or termination).

8.7 The Customer acknowledges that Giacom is regularly audited against the ISO 27001 standards by independent third-party auditors. Upon request, BCW shall supply a summary copy of Giacom's certificate(s) to the Customer, which shall be subject to the confidentiality provisions of the Contract.

8.8 In performing its Services BCW may process for diagnostic or investigative purposes only personal data belonging to the Customer. BCW hereby warrants to the Customer that in such circumstances it will, in respect of such personal data, observe all the obligations pertaining to a data processor under Applicable Data Protection Law and will indemnify the Customer against all breaches of the said laws by BCW in respect of the Customer's data

9. Third Party Providers

The Customer 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. BCW 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 Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not BCW. BCW recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. BCW does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

10. BCW's obligations

10.1 BCW shall use reasonable care and skill when providing Services but does not guarantee that the Services shall be continually available to the Customer. There may be occasions when Services are disrupted through an error or act of the Customer or another third party or, circumstances outside the reasonable control of BCW or the Providers.

10.2 BCW is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

10.3 BCW warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Contract.

11. Customer's obligations

11.1 The Customer shall:

(a) provide BCW with:

(i) all necessary co-operation in relation to the Contract; and

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

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

(b) without affecting its other obligations under the Contract, comply with all applicable laws and regulations with respect to its activities under the Contract;

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

(d) ensure that all Authorised Users accept the License Terms applicable to each component of the Services and shall be responsible for any Authorised User's breach of the Contract. The Customer acknowledges that all Software made available for use by BCW and the Providers under these Conditions, is provided subject to the License Terms and the Acceptable Use Policy;

(e) keep BCW fully informed of any matters relating to defects or alleged defects in the Services;

(f) except where expressly specified in this Contract as being the responsibility of BCW, obtain and shall maintain all necessary licences, consents, and permissions necessary for BCW, its contractors and agents to perform their obligations under the Contract, including without limitation the Services;

(g) be responsible for obtaining and maintaining the Customer's own compatible computer system being all such equipment, software and communications lines, including any public lines required by the Customer to access the Services ("**Customer Equipment**"). BCW and the Providers have no responsibility for or liability with respect to the Customer Equipment; and

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

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

11.3 The Customer acknowledges that:

(a) it is a condition of use of the Services, that the Customer use an up-to-date virus-scanning program on all Customer Material and Customer Equipment; and

(b) BCW and the Providers do not operate or exercise control over, and accepts no responsibility for the content of Customer Material.

12. Indemnity

12.1 The Customer shall indemnify BCW against all losses, liabilities, costs (including legal costs on an indemnity basis) damages and expenses arising out of or a breach of any of the customer's obligations (including negative obligations) under the Contract.

12.2 BCW shall indemnify the Customer against all losses, liabilities, costs (including legal costs on an indemnity basis) damages and expenses arising out of or in connection with any claim by a third party that the use by the Customer of Software infringes the third party's intellectual property rights subject to the following conditions:

(a) the Customer will notify BCW of any claim arising pursuant to this clause as soon as reasonably practicable after becoming aware of it;

(b) the Customer shall not make any admissions nor admit any liability;

(c) the Customer shall allow BCW and the Providers to conduct and/or settle all negotiations and litigation resulting from such claim or action; and

(d) the Customer shall provide BCW with such reasonable assistance (at BCW's cost) in relation to the defence of the claim or action as BCW shall request.

13. Charges and payment

13.1 The Customer shall pay the Subscription Fees and Support Fees (together the **Charges**) to BCW in accordance with this clause 13 and the Order Form.

13.2 The Price excludes amounts in respect of VAT, which the Customer shall additionally be liable to pay to BCW at the prevailing rate (if applicable), subject to the receipt of a valid VAT invoice.

13.3 Unless otherwise agreed in the Order Form, BCW may invoice the Customer:

(a) in respect of Charges other than Professional Services, on or at any time after the Contract Date;

(b) in respect of Professional Services, upon completion or acceptance of such professional services, whichever is the earlier, unless stated otherwise in the Statement of Work.

13.4 BCW shall ensure that the invoice includes the Contract number, invoice number and BCW's VAT registration number.

13.5 The Customer shall pay invoices in full in cleared funds within fourteen (14) days of the invoice date. Payment shall be made to the bank account nominated in writing by BCW.

13.6 If the Customer fails to make any payment due to BCW under the Contract by the due date for payment, then, without limiting BCW's remedies under clause :

(a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and

(b) BCW may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and BCW shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid.

13.7 All amounts due under the Contract from the Customer to BCW shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). BCW may at any time, without limiting any of its other rights or remedies, set off any amount owing to it against any amount payable by BCW to the Customer.

13.8 All amounts and fees stated or referred to in the Contract:

(a) shall be payable in pounds sterling; and

(b) are, except as otherwise stated in clause 7.8, non-cancellable and non-refundable.

13.9 BCW may vary all or any of the Charges by giving sixty (60) days written notice to the Customer, save for the passing through of any increased charges by a third party service provider or licensor in which case the Charges may be varied by giving twenty five (25) days' notice at any time.

14. Limitation of liability

14.1 Except as specified in the Service Description, BCW shall not be liable to the Customer for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the supply of the Services, the System, the connectivity to the Internet, any Software or its use, application, support or otherwise, except to the extent to which it is unlawful under the applicable laws and regulations to exclude such liability.

14.2 In no event shall either party be liable to the other party or any other person or entity for any special, exemplary, indirect, incidental, consequential or punitive damages of any kind or nature whatsoever arising under the Contract, even if such party has been informed in advance of the possibility of such damages or such damages could have been reasonably foreseen by such party. In no event shall either party's liability to the other party or any other person or entity arising out of or in connection with the Contract, in the aggregate, the total Charges paid by the Customer to BCW under the Contract.

14.3 BCW does not exclude liability for death or personal injury to the extent only that the same arises as a result of the negligence of BCW its employees, agents or authorised representatives and further to the extent BCW is not able to exclude such liability by law.

15. Intellectual Property Rights

15.1 BCW acknowledges and agrees that the copyright, trademarks, trade names, patents and all other intellectual property rights vesting in the Customer shall remain vested in the Customer and nothing in the Contract shall operate as an assignment to BCW of such intellectual property rights.

15.2 The Customer acknowledges and agrees that the copyright, trademarks, trade names, patents and all other intellectual property rights vesting in BCW, the Providers or their licensor shall remain vested in such party and nothing in the Contract shall operate as an assignment to the Customer of such intellectual property rights.

16. Compliance with relevant laws and policies

BCW shall not be liable under the Contract if, as a result of complying with applicable laws, statutes and regulations from time to time in force, it is in breach of any of its obligations under the Contract.

17. Termination

17.1 The Contract may be terminated by either party by giving at least three months' notice in writing in advance. In the event the Customer exercises this right during the Subscription Term, the Customer shall still be liable to pay the Charges for the remaining duration of the Subscription Term.

17.2 The Contract may be terminated forthwith by either party on giving notice in writing to the other if the other party shall have a receiver or administrative receiver appointed or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the other party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or a bankruptcy petition presented to the court or shall cease or threaten to cease to carry on business.

17.3 BCW may cease to supply the Services forthwith and/or terminate the Contract, without giving notice to the Customer, if:

(a) the Customer is in material breach of the Contract or the License Terms, and has failed to rectify such breach (in the case of a breach capable of being remedied) within ten (10) days of receiving a written notice requiring it to do so, which shall include failure to pay the Charges by the due date;

(b) the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(c) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy;

17.4 Any termination under this clause 17 shall discharge BCW from any liability for further performance of the Services but either party's rights to make any claim for any antecedent breaches shall remain in force.

17.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

18. Consequences of Termination

18.1 In the event of expiry or termination of the Contract, the Customer shall:

(a) within 7 (seven) days of the date of any such expiry or termination, cease using and return to BCW or otherwise dispose of as BCW may instruct all marketing and other materials relating to the Services or to the business of BCW which the Customer may have in its possession or under its control;

(b) not do (or omit to do) anything which may adversely affect the reputation or goodwill of BCW or its Providers; and

(c) cease to use any intellectual property attributable to the Services.

18.2 In the event of termination or expiry of the Contract, BCW shall provide assistance to the Customer for migration to a new provider, provided that:

(a) the Customer pays BCW's professional services fees incurred in providing such assistance, which will be charged at its then prevailing rates;

(b) such replacement provider executes non-disclosure agreements with BCW on commercially reasonable terms;

(c) BCW shall not be obligated to disclose its Confidential Information to a competitor business.

18.3 The expiry or termination of the Contract shall be without prejudice to any other rights or remedies which either party may be entitled to under the Contract or at law and shall not affect any rights or liabilities which have already accrued to either of the parties under the Contract.

19. General

19.1 Force majeure. Notwithstanding clause 10.1, BCW will not be responsible for any delay in, or failure of, the Services or the Internet due to any occurrence, event or cause beyond BCW's reasonable control, which may prevent or hinder the performance of BCW of any of its obligations under the Contract.

19.2 Assignment and other dealings.

(a) The Customer shall not assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of BCW.

(b) BCW may at any time assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights under the Contract.

19.3 Confidentiality.

(a) Each party undertakes that it shall not, at any time during the term of the Contract, and for a period of two (2) years after termination or expiry, disclose to any person any confidential information concerning the business, affairs, customers, clients or BCWs of the other party, except as permitted by clause 19.3(b).

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, contractors, sub-contractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, sub-contractors or advisers to whom it discloses the other party's confidential information comply with this clause 19.3; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

19.4 Entire agreement. Each party on behalf of itself and as agent for each of its related persons acknowledges and agrees with the other party (each such party acting on behalf of itself and as agent for each of its related persons) that:

(a) the Contract constitutes the entire and only agreement between the parties and their respective related persons relating to the subject matter of the Contract;

(b) neither it nor any of its related persons has been induced to enter into the Contract in reliance upon, nor has any such party been given, any warranty, representation, statement, assurance, covenant, agreement, undertaking, indemnity or commitment of any nature whatsoever other than as are expressly set out in the Contract and, to the extent that any of them have been, it (acting on behalf of itself and as agent on behalf of each of its related persons) unconditionally and irrevocably waives any claims, rights or remedies which any of them might otherwise have had in relation thereto,

PROVIDED THAT the provisions of this clause 19.4 shall not exclude any liability with any of the parties or, where appropriate, their related persons would otherwise have to any other party or, where appropriate, to any other party's related persons or any right which any of them may have in respect of any statements made fraudulently by any of them prior to the execution of the Contract or any rights which any of them may have in respect of fraudulent concealment by any of them.

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

19.6 Waiver. The waiver by either party of a breach or default of any of the provisions of the Contract by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

19.7 Severance.

(a) If any part of the Contract is found by a court of competent jurisdiction or other competent authority to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of the Contract and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.

(b) The Parties agree to substitute for any invalid or unenforceable provision a valid or enforceable provision that achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

19.8 Notices.

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered by hand, or sent by pre-paid first class post or other next Business Day delivery service or email.

(b) A notice or other communication shall be deemed to have been received: if delivered by hand, when left at the address referred in clause 19.8(a); if sent by pre-paid first class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting; or, if sent by email, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

19.9 Third party rights. BCW and the Customer confirm their intent not to confer any rights on any third parties by virtue of the Contract and accordingly the Contracts (Rights of Third parties) Act 1999 shall not apply.

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

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