

TELANA LIMITED – TERMS & CONDITIONS

1. INTERPRETATION

In these terms & conditions, unless the context otherwise requires, the following words have the following meanings:

- 1.1. **"Affiliate"** means in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party;
- 1.2. **"Telana", "We/Us/Our"** means Telana Limited, a company incorporated in England and Wales (Company Number 4830784), having its registered office at TOR, Saint-Cloud Way, Maidenhead, Berkshire, SL6 8BN;
- 1.3. **"Business Hours"** means 09.00 to 17.30 Monday to Friday, excluding English public holidays. **"Working Hours"** has the same meaning.
- 1.4. **"Commencement Date"** means the date set out in the Order Form;
- 1.5. **"Confidential Information"** means materials, data, information and know-how, regardless of form, transmitted to either party that the disclosing party has identified as being proprietary and/or confidential or which, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as proprietary and/or confidential;
- 1.6. **"Contract"** means the Order Form, Service Specific Terms (as applicable) and these terms and conditions;
- 1.7. **"Customer", "You/You/Your"** means the person, organisation or company who enters into an Order Form for the provision of Products, and any of its Affiliates named on the Order Form;
- 1.8. **"Customer Personal Data"** means the personal data processed by or on behalf of Telana pursuant to a Contract;
- 1.9. **"Data Incident"** means (a) any unlawful access to Customer Personal Data, or (b) unauthorized access to such Telana's systems, equipment, or facilities that results in loss, disclosure, or alteration of Customer Personal Data;
- 1.10. **"Data Protection Laws"** means any applicable law, statute, regulation or subordinate legislation and all policies, codes of conduct, direction, policy rule or order issued by any regulatory body having jurisdiction over a party that is from time to time in force including the Information Commissioner's Office, relating to data protection, privacy and the processing of Personal Data, including:
 - (a) the Data Protection Act 2018;
 - (b) Privacy and Electronic Communications (EC Directive) Regulations 2003;
 - (c) the GDPR; and
 - (d) any corresponding or equivalent national laws or regulations to any of the above and any applicable laws replacing, amending, extending, re-enacting or consolidating any of the above from time to time.
- 1.11. **"Data Subject Requests"** means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Laws;
- 1.12. **"EU GDPR"** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the

processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

- 1.13. **"Fee"** means the fee payable for the Products as set out in the Order Form, together with any import costs or taxes associated with the supply of Hardware;
- 1.14. **"GDPR"** means, as applicable: (a) the EU GDPR; and/or (b) the UK GDPR;
- 1.15. **"Hardware"** means the hardware, if any, to be provided by Telana to the Customer as set out in the Order Form;
- 1.16. **"High Risk Activities"** means uses such as the operation of nuclear facilities, air traffic control or life support systems, where failure of the Software could lead to death personal injury or environmental damage;
- 1.17. **"Microsoft Services"** is defined in clause 10.3;
- 1.18. **"Intellectual Property Rights"** means patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
- 1.19. **"Order Form"** means the order form, services schedule or electronic ordering confirmation entered into between the Parties that includes details of the Products to be provided, together with details of applicable Service Specific Terms;
- 1.20. **"Personal Data"**, **"processing"**, **"controller"** and **"processor"** shall have the meanings ascribed to them in the Data Protection Laws.
- 1.21. **"Products"** means the Software, Services, and/or Hardware to be provided by Telana to the Customer, as set out in the Order Form;
- 1.22. **"Renewal Term"** has the meaning set out in the applicable Order Form;
- 1.23. **"Service Specific Terms"** means the service specific terms, acceptable use policies or end user licence agreement(s), as applicable to the Software licensed under, or in connection with, this Agreement, as set out in the Order Form;
- 1.24. **"Services"** means the services to be provided by Telana (or its subcontractors) to the Customer, as detailed in the Order Form and which may consist of, amongst others, support services; cloud services; professional services; training services; and/or consultancy, software development and/or customisation services;
- 1.25. **"Software"** means the third party software operated and/or provided by a Third Party Software Provider, and licensed to the Customer under, or in connection with, this Agreement, as further detailed in an Order Form and subject always to the applicable Service Specific Terms referenced in the Order Form;
- 1.26. **"Term"** is set out in the Order Form in relation to each Product to be provided by Telana;
- 1.27. **"Third Party Software Provider"** means the third party provider of Software as specified in an Order Form;
- 1.28. **"Transfer Solution"** means a solution that enables the lawful transfer of personal data to a third country in accordance with Article 45 or 46 of the GDPR;



- 1.29. “**UK GDPR**” means the EU GDPR as amended and incorporated into UK law under the UK European Union (Withdrawal) Act 2018, if in force;

The headings in these Terms are for convenience only and shall not affect their interpretation.

2. Commencement and Duration

- 2.1. The Contract is formed when the Order Form has been signed by both Parties and shall continue for the Term unless terminated earlier in accordance with this Contract. Telana shall provide the Products set out in the Order Form to the Customer from the Commencement Date for the Term and any Renewal Terms as applicable.
- 2.2. Order Forms may contain specific termination rights applicable to the Order Form. These terms and conditions will not terminate until all Order Forms have been completed and/or terminated in accordance with their terms.

3. Software

- 3.1. Subject always to the Customer’s compliance with the terms of this Contract and the relevant Service Specific Terms, and in consideration for the Fee, Telana agrees to procure the grant to the Customer by the Third Party Software Provider of a non-exclusive, non-sublicensable licence to use the Software from the Commencement Date for the Term.
- 3.2. With regards to Service Specific Terms set out in the Order Form, the Customer acknowledges that such terms are hereby incorporated into and form part of this Contract, pursuant to requirements imposed on Telana by the Third Party Software Provider. The Customer agrees to review and comply with all applicable Service Specific Terms. It is the Customer’s responsibility, while using the Product(s) under this Contract, to periodically review the respective Service Specific Terms to ensure compliance with any updates. If the Customer or the Third Party Software Provider brings a claim against the other in relation to the Service Specific Terms, (a) Telana and the Customer agree that Telana or the Customer may disclose the amount of any fees paid or payable by the Customer for the applicable Software to the Third Party Software Provider, and (b) Telana and the Customer both agree to waive any claims that the disclosure of fees under clause 3.2(a) is a breach of the confidentiality obligations contained in this Contract.
- 3.3. The Customer is responsible for ensuring that the Software is suitable to meet its requirements and Telana makes no representation or warranty that the Software will meet any particular Customer requirements.
- 3.4. Any terms & conditions put forward by the Customer in any order which conflict with the Contract are not accepted by Telana and do not form part of this Contract.
- 3.5. Customer acknowledges that, unless stated otherwise, the Third Party Software Provider, rather than Telana, is the operator or service provider of the Software. Telana's sole responsibility in relation to the Software is to act as the agent of the Third Party Software Provider to collect payment on their behalf. As such, for the avoidance of doubt, Telana is in no way liable for any losses (whether direct or indirect) suffered by the Customer and arising as a result of or in connection with (a)

the Customer's use of the Software and/or (b) any lack of availability of the Software made available under this Contract.

- 3.6. In relation to Google Cloud Platform services, the Parties acknowledge that Telana may technically have the ability to suspend the Customer's Google Cloud Platform account (the "**GCP Account**") and may have, at the Customer's discretion, the ability to access the GCP Account, but that Telana will only suspend or access the GCP Account in accordance with this Contract, and Google will have no liability arising out of such suspension or access.
- 3.7. Telana will use reasonable efforts to arrange provisioning of the Software by the date quoted for provisioning but such date is not guaranteed nor shall the time for provisioning be of the essence.
- 3.8. Customer will not, and will not allow any person to: (a) copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble or otherwise attempt to extract any or all of the source code of the Software; (b) use or access the Software for High Risk Activities, or in any way in a manner intended to avoid recurring fees; (c) unless otherwise stated in any Service Specific Terms, use the Software to operate or enable the telecommunications service or in connection with any application that allows Customer end users to place calls or receive calls from any public switched telephone network; or (d) access or use the Software: (i) to create, transmit, process or store any Customer data that is subject to the International Traffic in Arms Regulations maintained by the Department of State, (ii) on behalf of or for the benefit of any entity or person who is legally prohibited from using the Software, or (iii) in the United States, to transmit, store, or process Protected Health Information (as defined in HIPAA) (unless both parties execute a HIPAA BAA) or (v) in a manner that breaches, or causes the breach of, applicable export control laws and regulations, including the Export Administration Regulations and sanctions laws, (e) use the Software to operate or enable any telecommunications service, or to place or receive calls from any public switched telephone network, including as part of a software application, or to use the Software to provide a hosting, outsourced or managed services solution to unaffiliated third parties, except as part of a software application that provides value distinct from the Software, (f) use the Software for any purpose other than its internal business purposes and not for any unlawful or unethical purpose. Customer agrees not to, on behalf of a hyperscale public cloud provider without the Third Party Software Provider's prior written consent, (i) conduct (directly or through a third party) any comparative or compatibility testing, benchmarking or evaluation (each, a "**Test**"), or to disclose the results of any Test.
- 3.9. Customer acknowledges and agrees that (i) Telana will be entitled to associate its Microsoft partner identity as the partner of record for any Microsoft Services received by the Customer in connection with this Agreement, and (ii) will use all reasonable endeavours to ensure that Telana is granted administrator access to those Microsoft Services.

4. Hardware

- 4.1. If Telana is providing any Hardware to the Customer, it shall use reasonable efforts to deliver the Hardware by any date quoted for delivery but such date is not guaranteed nor shall the time for delivery be of the essence. The Hardware may be delivered by Telana in advance of the quoted delivery date upon giving reasonable notice to the Customer, and/or, at Telana's discretion, in instalments.
- 4.2. The Customer agrees to provide Telana with (i) access to the Customer's premises, and (ii) assistance, both as reasonably required to enable Telana to deliver and/or install the Hardware. The Customer shall make available electrical connections, a secure environment and other facilities as are reasonably necessary to enable Telana to perform the Contract.

5. **Services**

- 5.1. Telana agrees to provide the Services to the Customer with reasonable skill and care and in accordance with best practice in its industry.
- 5.2. Telana will use reasonable endeavours to provide the Services on the dates set out in the Order Form but time is not of the essence and all dates are only estimated and not guaranteed.
- 5.3. Unless otherwise agreed in the Order Form, all Services are provided on a time and materials basis only.
- 5.4. The Customer shall allow Telana's employees, agents and/or subcontractors access to sufficient and adequate facilities, equipment, power supplies, computers and systems to allow Telana to provide the Services in accordance with the Contract.
- 5.5. Customer will take all reasonable steps to provide a safe working environment that complies with all health and safety laws and regulations for Telana's employees and/or subcontractors at the Customer's premises.

6. **Fee**

- 6.1. In consideration for the provision of the Software, Services, and/or Hardware, the Customer shall pay Telana the Fee in accordance with the Contract.
- 6.2. Unless otherwise agreed in an Order Form, Telana shall invoice the Customer at cost for travel, accommodation and/or any other reasonable expenses incurred whilst providing the Services.
- 6.3. Telana may alter the Fee on written notice to the Customer when required to reflect any material increase in Telana's costs associated with the performance of the Contract, including any increase in fees as set by a Third Party Software Provider in respect of the Software, due to any factor beyond the reasonable control of Telana.

7. **Invoicing and Payment Terms**

- 7.1. The Order Form will specify whether the Fee for specific Software products will be invoiced and/or payable in advance, or in arrears based on the volume of Software provided. Unless otherwise agreed in an Order Form, the Fee for Services, Hardware and/or Training Courses will be invoiced on the date that the Order Form is signed.
- 7.2. The Customer shall pay all invoices in full without deduction or set off in pounds sterling, unless otherwise stated in the Order Form within 30 days from the date of the invoice (the "**Due Date**") to a bank account nominated by Telana.

- 7.3. If the Customer fails to pay Telana any sum due by the Due Date and, provided it has still not been paid within 7 days of being notified by Telana to do so, in addition to any other remedies, Telana shall be entitled at its sole discretion to:
 - 7.3.1. subject always to clause 11.3.1, terminate the Contract in whole or in part, and/or suspend provision of the Software, Services, and/or Hardware; and/or
 - 7.3.2. charge interest on the balance outstanding of any invoice at the rate of 4% above the Bank of England base rate in force from time to time, and Telana may in addition charge the Customer the reasonable costs of any recovery action.
- 7.4. Notwithstanding that title to the Hardware has not passed, Telana will be entitled to an action on the Price.

8. Title to Goods – {NB: This section only applies if Hardware is part of the Contract}

- 8.1. Risk of damage to or loss of the Hardware shall pass to the Customer:
 - 8.1.1. in the case of Hardware to be delivered at Telana's premises, at the time when Telana notifies the Customer that the Hardware are available for collection; or
 - 8.1.2. in the case of Hardware to be delivered otherwise than at Telana's premises, at the time of delivery or, if the Customer fails to take delivery of the Hardware, the time when the delivery of the Hardware is attempted, and the Customer should make arrangements to insure accordingly.
- 8.2. Notwithstanding delivery and the passing of risk in the Hardware, title to the Hardware shall not pass to the Customer until Telana has received in cleared funds payment in full of the Fee and all sums due in respect of any other Hardware sold or provided by Telana to the Customer for which payment is then due.
- 8.3. Until such time as title to the Hardware passes to the Customer, the Customer shall hold the Hardware as Telana's fiduciary agent and bailee, and shall keep the Hardware separate from those of the Customer and third parties and properly stored, protected, insured and identified as Telana's property.
- 8.4. In the event of insolvency of the Customer or termination of the Contract, Telana's consent to the Customer's possession of the Hardware is automatically withdrawn and the Customer shall neither use nor install the Hardware until payment in full is received by Telana.
- 8.5. Until such time as title to the Hardware passes to the Customer (and provided that the Hardware are still in existence and have not been resold) Telana shall be entitled at any time to require the Customer to deliver up the Hardware to Telana and, if the Customer fails to do so immediately, to enter any premises of the Customer or any third party where the Hardware are stored and repossess the Hardware.

9. Warranties

- 9.1. So far as it is possible to do so and subject to the Third Party Software Provider's warranty terms, Telana passes to the Customer the benefit of all warranties, indemnities and/or service level agreements in respect of the Software as set out in the Service Specific Terms or otherwise. For the avoidance of doubt, Telana provides no warranties or indemnities whatsoever in respect of the Software and shall be under no liability in respect of such warranties and/or service level agreements as may be set out in the Service Specific Terms or otherwise given by the Third Party

Software Provider in respect of the Software. The service level agreements provided by the Third Party Software Provider set out the Customer's sole and exclusive remedy for any failure of the Third Party Software Provider to meet the requirements of the service level agreements and the Customer agrees that it shall raise any claim(s) relating to the service level agreements directly with the Third Party Software Provider.

- 9.2. Save as expressly provided in these terms & conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

10. Liability

- 10.1. The parties agree that:

- 10.1.1. if Telana fails to deliver the Hardware for any reason, its liability to the Customer shall be limited to the Fee paid or payable for the Hardware;
- 10.1.2. Telana's liability in respect of loss or damage caused directly by the Hardware shall, where repair or replacement of the Hardware does not remedy the direct loss suffered by the Customer, be limited to the Fee paid or payable by the Customer in relation to the Hardware;
- 10.1.3. Telana's liability in respect of loss or damage caused by Telana's breach of contract or negligence in providing the Software or Services shall not in any event exceed 125% of the Fee paid or payable by the Customer for the relevant Software or Services; and
- 10.1.4. subject to clause 10.3 and 10.4, each party's maximum liability in contract, tort or otherwise for physical damage to the other party's tangible personal property resulting from its negligence shall not exceed £1,000,000.

- 10.2. Telana shall not have any liability in respect of:-

- 10.2.1. any part not provided by Telana which is incorporated in the Hardware, except that any benefit obtainable or enforceable by Telana from or against the manufacturer of such part (without legal or other expenses whatsoever) shall be passed to the Customer;
- 10.2.2. any defect caused by accident, misuse, neglect, tampering with or unauthorised modification of the Hardware or any attempt at internal adjustment or repair by any person not authorised in writing by Telana;
- 10.2.3. any defect in the Hardware found after the expiry of any warranty period;
- 10.2.4. any loss, damage or expense, to the extent it is caused by compliance with the Customer's specifications, specific instructions, or any other information received from Customer or to the extent it relates directly to any third party AI foundational model used by Telana in providing the Services (unless caused by Telana's breach of contract or negligence);
- 10.2.5. any loss of income or profit, damage, costs, expenses or anticipated savings or indirect, special or consequential loss or other claims of any kind howsoever arising which arise out of or in connection with the Contract and/or the provision of the Products or their use by the Customer, except as expressly provided in these terms & conditions or the Contract.

- 10.3. Solely to the extent that the Software or Services include Software or Services provided by Microsoft to the Customer ("**Microsoft Services**"), the following exclusions apply to those Microsoft Services:
- 10.3.1. to the maximum extent permitted by applicable law, Telana disclaims and excludes, on their behalf, and on behalf of their suppliers and subcontractors, all representations, warranties and conditions, whether express, implied or statutory, including, but not limited to, representations, warranties or conditions of title, non-infringement, satisfactory condition, merchantability and fitness for a particular purpose, with respect to any services, service deliverables, hotfixes, products and or other materials or information; and
 - 10.3.2. to the maximum extent permitted by applicable law, notwithstanding anything to the contrary contained in this Agreement, neither party nor their contractors, will be liable for any indirect, consequential (including without limitation, damages for business interruption, or loss of business information), special, or incidental damages or damages for loss of profits or revenues arising in connection with the agreement, services, service deliverables, hotfixes, products or other materials or information, even if advised of the possibility of such damages or if such possibility was reasonably foreseeable. In any event, whatever the legal basis for the claims. Telana's total liability (and that of our suppliers and subcontractors) will be limited under this clause 10.3, to the maximum extent permitted by applicable law to direct damages up to the amount paid in aggregate for the services giving rise to the claims.
- 10.4. The Customer agrees to indemnify Telana for any losses, costs, damages or expenses that it incurs as a result of the Customer's use of the Software, or the Customer's breach of any Service Specific Terms.
- 10.5. Nothing in the Contract excludes or limits either party's liability for: (a) death, personal injury or tangible personal property damage resulting from its negligence or the negligence of its employees or agents; (b) its fraud or fraudulent misrepresentation; (c) its payment obligations under the Contract or (d) any matters (other than 10.4 (a) and (b)) for which liability cannot be excluded or limited under applicable law.
- The parties agree the provisions of this clause are reasonable and a fair apportionment of risk bearing in mind the amount being charged by Telana for the Products.

11. Termination

- 11.1. Either party may terminate the Contract and any associated Order Forms immediately upon written notice to the other party in the event of any material breach, which if remediable has not been remedied within thirty (30) days of receipt of notice to do so.
- 11.2. Telana may terminate the Contract immediately upon written notice to the Customer if the Customer becomes insolvent, enters into liquidation, passes a resolution for its winding up, has a receiver, manager, trustee or similar officer appointed over the whole or any part of its business or assets, enters into administration, makes any

composition or arrangement with its creditors or takes or suffers any similar action in consequence of its debt, or ceases or threatens to cease to trade.

- 11.3. Telana may, by giving the Customer not less than 14 days' written notice, terminate:
 - 11.3.1. the Contract or all or any part of the Services or provision of the Software or any Order Form if the Customer fails to pay the Fees by the Due Date;
 - 11.3.2. the Contract or any Order Form in the event that (or Telana reasonably believes that) the Customer breaches (or has breached) any of the terms of any applicable Service Specific Terms; and/or
 - 11.3.3. the Contract or all or any part of the Services or provision of the Software or any Order Form if the Third Party Software Provider no longer sells or makes available the relevant Software, or if the contract between the Customer and the Third Party Software Provider relating to the provision of the Software is terminated for any reason whatsoever, or if the agreement between Telana and the Third Party Software Provider under which Telana has the right to resell the Software, is terminated.
- 11.4. On the termination of the Contract all rights and obligations of the parties under these Terms shall automatically terminate except for such rights of action as shall have accrued prior to such termination and any obligations which expressly or by implication are intended to come into or continue in force on or after such termination.
- 11.5. On termination of the Contract the Customer will pay Telana all sums due or otherwise invoiced and not yet due.
- 11.6. Should the Customer's licence to use the Software terminate for any reason preventing Telana from performing any of the Services or continued provision of the Services as set out in the Contract, the Customer shall not be entitled to a refund of any Fee (or portion thereof) paid in advance and will indemnify Telana for any loss it suffers as the result of such early termination.

12. Confidential Information

- 12.1. Each party shall retain in confidence and require its employees, agents and contractors, to retain in confidence all Confidential Information.
- 12.2. The receiving party shall retain Confidential Information in as secure a manner as reasonably possible, but in no event less secure than the receiving party retains its own Confidential Information. Confidential Information shall remain the sole property of the disclosing party and shall not be disclosed to any third party without the express written consent of the disclosing party (except, solely for the receiving party's internal business needs, to consultants or advisors who are bound by a written agreement with the receiving party to maintain the confidentiality of such Confidential Information in a manner consistent with this Agreement).
- 12.3. Confidential Information shall not include any information that:
 - 12.3.1. is at the time of disclosure or subsequently becomes publicly available without the receiving party's breach of any obligations owed to the disclosing party; or
 - 12.3.2. the receiving party can demonstrate was known to it prior to the disclosing party's disclosure of such information to the receiving party; or

12.3.3. became known to the receiving party from a source other than the disclosing party other than by the breach of an obligation of confidentiality owed to the disclosing party; or

12.3.4. is independently developed by the receiving party; or

12.3.5. is produced in compliance with applicable law or a court order, provided the other party is given reasonable notice of such law or order and an opportunity to attempt to preclude or limit such production.

12.4. This clause shall survive termination of the Contract.

13. **Data Processing Obligations**

13.1. Both Parties shall comply with their data processing obligations set out in Appendix One.

14. **Intellectual Property Rights**

14.1. Other than the limited licence granted, or procured, in connection with this Contract, the Customer does not own or obtain any Intellectual Property Rights in the Software.

14.2. Each party owns, or has the rights to use, all Intellectual Property Rights owned or used by it prior to the date of this Agreement ("**Background IPR**"). Each party (or its licensors) shall retain ownership of all Intellectual Property Rights in their Background IPR.

14.3. All Intellectual Property Rights in the results of the Services ("**Foreground IPR**") shall be owned by Telana, and Telana hereby grants the Customer a non-exclusive, perpetual, non-sublicensable licence to use the Foreground IPR to the extent necessary to benefit from the Services.

14.4. The Customer acknowledges that Telana provides similar Services as those provided under the Contract to other customers and that nothing in this Contract shall be construed to prevent Telana from using its learnings, ideas and knowledge (even if acquired through providing the Services) from carrying out such business activities, or from acquiring, licensing, marketing, distributing, developing for itself or others, or have others develop for it, similar products, services or materials performing the same or similar functions to the Services contemplated by this Contract or any Order Form. Telana has the right to retain and use copies of the output of the Services, but acknowledges that its rights do not include rights to distribute, disclose or create derivative works from the Customer's confidential information that is incorporated into the results of the Services.

15. **Force Majeure**

15.1. Telana shall not be liable for any delay or for the consequences of any delay in performing any of its obligations under the Contract if such delay is due to any cause whatsoever beyond its reasonable control (which shall include but not be limited to default of suppliers or sub-contractors, power or telecommunications failures or outages, equipment failure) and Telana shall be entitled to a reasonable extension of the time for performing such obligations. If such delay or failure persists for more than six (6) weeks then either party may terminate the Contract without further liability.

16. Assignment and other Dealings

16.1. The Contract is personal to Customer and Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

16.2. Telana may assign this Contract at any time on written notice to the Customer.

17. Notices

17.1. Any notice to a party under these Terms shall be in writing, signed by or on behalf of the party giving it, and shall, unless delivered to a party personally, be left at, or sent by prepaid first class post, prepaid recorded delivery or email to the address of the party as set out in the Contract or as otherwise notified in writing from time to time and shall have effect 2 days after posting or or after one (1) day if sent by email.

18. Non-Solicit

18.1. Customer shall not, during the term of the Contract, and for a further period of six (6) months after the termination or expiry of the Contract, solicit any person employed by Telana who has been actively involved in the performance of the Services without the express prior written consent of Telana.

19. Variation

19.1. No variation of these Terms shall be binding unless agreed in writing between the authorised representatives of Telana and Customer.

20. Waiver of remedies

20.1. No failure or delay by either party in exercising any of its rights under these Terms shall be deemed to be a waiver of that right, and no waiver by either party of any breach of these Terms by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

21. Severability

21.1. In the event that all or any part of these Terms shall be determined by any competent authority shall be invalid, unlawful or unenforceable to any extent such term, condition or provision shall to that extent be severed from the remaining Terms which shall continue to be valid and enforceable to the fullest extent permitted by law.

22. Relationship of the parties

- 22.1. Nothing in these Terms is intended to, or shall be deemed to, establish any agency relationship, partnership or joint venture between the parties or the Third Party Software Provider. Telana, the Customer and the Third Party Software Provider are independent contractors with respect to the resale of the Products.
- 22.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23. Promotional material

- 23.1. Subject to prior approval by Customer via email or in an Order Form, Telana may use Customer's name and brand features in online or offline promotional materials, including in its list of current customers.

24. Exclusion of third party rights

- 24.1. The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.

25. Governing law and jurisdiction

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

Appendix One

Data Processing Agreement

1. The parties agree and acknowledge that the Data Protection Laws apply to the processing of personal data.
2. Customer warrants that it has complied with and shall continue to comply with all provisions of the Data Protection Laws, including without limitation, that Customer has provided and will continue to provide the necessary notices to, and obtained and will continue to obtain all necessary consents from, relevant individuals whose personal data Customer provides or makes available to Telana or the Third Party Software Provider for their use in accordance with this Contract.
3. For the purposes of the provision of Services and in respect of Customer Personal Data, the parties agree that Customer shall be the controller and Telana shall be a processor. Telana shall comply with its obligations as a processor under the Data Protection Laws.
4. If the Data Protection Laws apply to the processing of Customer Personal Data and Customer is a processor, Customer warrants to Telana that Customer's instructions and actions with respect to that Customer Personal Data, including its appointment of Telana as a sub-processor, has been authorized by the relevant controller.
5. For the avoidance of doubt, where Telana procures the grant of a Software licence to the Customer by a Third Party Software Provider, Telana is acting as reseller and is not a service provider and is not a processor under the terms of the Data Protection Laws with respect to any Customer Personal Data held or otherwise processed through use of the Software. In that case, the Third Party Software Provider is the processor. For any personal data that the Customer submits directly to Third Party Software Provider through use of the Software or Services, the Customer acknowledges that the responsibility remains between itself and the Third Party Software Provider for complying with all Data Protection Laws, including with respect to putting in place all documentation as required, regarding the processing, storage and transfer of such personal data. The data processing and security terms governing the processing of such personal data are as set out and agreed between the Customer and the Third Party Software Provider and as may be referred to in the Service Specific Terms.
6. Telana shall process Customer Personal Data solely as necessary for Telana to provide the Services, which will be more specifically described in the Order Form; and in accordance with obligations of data processors under the Data Protection Laws, as set out below.
- 6A. Customer shall notify individual users of any Microsoft Services that, to the extent required by applicable laws, their personal data may be processed for the purpose of disclosing it to law enforcement or other governmental authorities and Customer shall obtain the individual users' consent to this processing.
7. Customer acknowledges and agrees that, as part of the Services, Telana may provide the Third Party Software Provider with certain data, some of which may contain Customer Personal Data, as follows: (a) contact details for the Customer to allow the Third Party Software Provider to use such details to communicate directly with the Customer for the following purposes: (i) as required to execute any non-standard Customer requests, (ii) for purposes related to the

provisioning of the Product(s) to Customers' accounts, including in relation to any Product updates or security incidents; (iii) as required to ensure Customers are notified of available options to maintain continuity in Product provisioning; (iv) to conduct customer service and satisfaction surveys; and (v) to inform Customers about new or additional products related to the Product(s) Customers are using; (b) information about contract status, billing account metadata, usage reports as requested by the Third Party Software Provider, comprising Customer company name, project IDs associated with the Customer, and country of Customer headquarters and postal code; and (c) as reasonably required for the Third Party Software Provider to provide technical support to Telana in connection with the Customer's support issues regarding the Product.

8. Telana will process Customer Personal Data only in accordance with Customer's documented instructions as set out in this Appendix One and in the Order Form as updated in writing from time to time.

9. Telana will implement and maintain appropriate technical and organisational measures to protect Customer Personal Data against accidental loss, destruction of or damage to Customer Personal Data, such measures to be appropriate to the harm that might result from the unauthorised or unlawful processing or accident 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 ("**Security Measures**"). Telana may update or modify the Security Measures from time to time provided that such updates and modifications do not result in the degradation of the overall security of Customer Personal Data.

10. Telana will take appropriate steps to ensure security of processing by its employees, contractors and sub-processors to the extent applicable to their scope of performance, including ensuring that all persons authorized to process Customer Personal Data have entered into written obligations of confidentiality or are under an appropriate statutory obligation of confidentiality.

11. Sub-processors. Customer authorises Telana to appoint sub-processors where the sub-processor is capable of providing the level of protection for Customer Personal Data required by this Contract and the processing is governed by a written contract including terms which offer at least the same level of protection for Customer Personal Data as those set out in this Contract and meet the requirements of article 28(3) of the GDPR; and any Transfer Solution. A list of current sub-processors are at www.telana.com/subprocessors. Customer consents to Telana engaging such sub-processors provided that Telana:

11.1 provides to Customer details of any new sub-processor appointed during the lifetime of the Contract; 11.2 notifies Customer in advance of any change in a sub-processor. Customer may object to any change in the sub-processor and in such circumstances Telana shall be entitled to address the objection through one of the following options at its sole discretion:

- 11.2.1. cease to use the relevant sub-processor;
- 11.2.2. take steps suggested by Customer to address the objection; and
- 11.2.3. cease to provide the particular Services which involve the relevant sub-processor.

12. Data Subject Requests. If Telana receives a Data Subject Request in relation to Customer Personal Data, Telana will promptly refer it to Customer, and Customer will be responsible for handling the Data Subject Request at Customer's cost. Telana will provide assistance to



Customer in fulfilling any obligation to respond to Data Subject Requests in accordance with its obligations under Data Protection Laws taking into account the nature of processing and the information available to Telana;

13. Data Deletion and Data Export. Unless otherwise required by law, Telana will either delete or return all personal data to Customer at the termination or expiry of the Contract. If Customer requests the return of Customer Personal Data, Telana may charge a fee (based on Telana's reasonable costs) for any data export if such costs are not specifically provided for in the Contract. Telana will provide Customer with further details of any applicable fee, and the basis of its calculation, in advance of any such review or audit.

14. Data Protection Impact Assessment and Prior Consultation. Telana will at the cost of Customer provide assistance to Customer with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Customer reasonably considers to be required in accordance with Data Protection Laws, in each case solely in relation to processing of Company Personal Data by, and taking into account the nature of the processing and information available to, Telana.

15. Audits. Telana will allow Customer or an independent auditor appointed by Customer to conduct audits (including inspections) to verify Telana's compliance with its obligations under this Appendix One. Telana may charge a fee (based on Telana's reasonable costs) for any audit. Telana will provide Customer with further details of any applicable fee, and the basis of its calculation, in advance of any such review or audit. Customer will be responsible for any fees charged by any third party appointed by Customer to execute any such audit.

16. Data Incidents. If Telana becomes aware of a Data Incident, Telana will: (a) notify Customer of the Data Incident promptly and without undue delay; and (b) promptly take reasonable steps to minimise harm and secure Customer Personal Data. Telana will not assess the contents of Customer Personal Data in order to identify information subject to any specific legal requirements. Customer is solely responsible for complying with Data Incident notification requirements applicable to Customer under Data Protection Laws and fulfilling any third party notification obligations related to any Data Incident(s). Telana's notification of or response to a Data Incident will not be construed as an acknowledgement by Telana of any fault or liability with respect to the Data Incident.

17. Customer's Security Assessment. Customer is solely responsible for evaluating for itself whether the Software, the Services, the Security Measures and Telana's commitments under this Appendix One will meet Customer's needs, including with respect to any security obligations of Customer under the Data Protection Laws or other legislation as applicable. Customer acknowledges and agrees that (taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of Customer Personal Data as well as the risks to individuals) the Security Measures implemented and maintained by Telana provide a level of security appropriate to the risk in respect of the Customer Data.

18. International Data Transfers. Telana will only transfer Customer Personal Data outside the European Economic Area, Switzerland and the United Kingdom where Telana has complied with its obligations under Data Protection Laws in ensuring adequate safeguards in relation to such transfer, that is, by implementing the SCCs (together with UK Addendum, where applicable), an International Data Transfer Addendum in accordance with section 119A of Data Protection Act



2018, or such other appropriate safeguards, or derogations (to the limited extent appropriate), specified or permitted under Data Protection Laws.

19. Customer shall indemnify and keep indemnified Telana against any third party claim in relation to the processing of Customer Personal Data by Telana and/or the Third Party Software Provider, including arising from any breach by Customer of this Appendix One, Data Protection Laws and/or any fine or levy imposed by a Supervisory Authority.

Company

By:

Print Name:

Title:

Date:

Telana Limited

By:

Print Name:

Title:

Date: