Exclaimer Reseller Agreement

This Exclaimer Reseller Agreement (the **Agreement**) forms a legally binding agreement between the Exclaimer group entity set out in Section 15.9 below (**We**, **Us**, or **Our**) and the individual or organisation accepting them by: (a) clicking a box indicating acceptance; (b) registering through Our partner portal; or (c) signing them or a Quote that refers to them (**you**, **your**). It applies to the exclusion of terms you seek or have sought to impose or incorporate (including on a purchase order, invoice or other document), or which are implied by trade, custom, practice or course of dealing. In this Agreement: (a) the words: including, includes, such as, without limitation, e.g. or similar expressions are illustrative and do not limit the scope of words following them; (b) references to writing or written include email; and (c) an obligation not to do something includes an obligation not to allow that thing to be done. THE INDIVIDUAL ACCEPTING THIS AGREEMENT WARRANTS AND REPRESENTS THAT THEY HAVE AUTHORITY TO BIND THE COUNTERPARTY TO THIS AGREEMENT. IF THEY DO NOT HAVE SUCH AUTHORITY, THEY MUST NOT ACCEPT THIS AGREEMENT.

1. DEFINITIONS

Access Right: the right for one Email Address to access and use the Subscription Services under a Customer Subscription.

Affiliate: an entity that directly or indirectly, through one or more entities, controls, is controlled by, or is under common control, with the relevant party to this Agreement (where **control** means ownership of more than 50% of voting securities or equivalent ownership interest).

Confidential Information: any information, however communicated or presented, that relates to the discloser's: business; affairs; operations; finances; customers; suppliers; investments; budgets; opportunities; IPR; Services; road maps; strategies; Non-GA Services (and their existence); documentation; specifications; infrastructure; security measures; performance data; operations; processes; know-how, and any other information designated by the discloser as confidential (whether or not marked as such), or which ought reasonably to be considered confidential.

Customer: a company or other organisation that has an active Subscription.

Documentation: the user manuals and other information available https://support.exclaimer.com/hc/en-gb from time to time.

DPL: data protection/privacy/security laws applicable to activity under and in relation to this Agreement and/or the Subscription Services.

Email Address: a unique email address using a business domain that a Customer either owns or is authorized to use by the domain owner and which is permitted to use the Subscription Services.

Fees: the fees payable by you to Us.

IPR: patents and rights to inventions; trademarks; service marks; tradenames; business names; domain names; social media identifiers; copyrights and topography rights; rights in computer software; rights in trade secrets; rights in designs (both registered or unregistered); databases; rights protecting get-up, trade dress, goodwill and reputation; rights to sue for passing off or unfair competition; rights in, to use and to protect Confidential Information; and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world (which subsist now or in the future), and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights.

Materials: physical or digital materials and publications of whatever nature that We make available to you from time to time.

NFR Subscription: a 'not-for-resale' right for your employees and fixed-term contractors that We may provide to you for them to access and use the Subscription Services for: (a) your internal business purposes only; or (b) to demonstrate the Subscription Services to Customers during the shorter of: (i) the period that We make the NFR Subscription Services available to you; or (ii) the duration of this Agreement.

Partner Code: Our code of conduct for Our Partners available at www.exclaimer.com/legal/partner-code-of-conduct (as updated from time to time), which is incorporated by reference.

Partner Programme: Our partner programme that permits third-party distributors, resellers and managed service providers to be authorised to resell Subscriptions in accordance with the terms and requirements of the programme set out in the Partner Programme Book.

Partner Programme Book: the documentation relating to the Partner Programme, a copy of which is available in the partner portal (as updated from time to time through notice).

Prospect: a potential Customer for the Subscription Services that is identified and properly registered by you with Us in accordance with the relevant requirements of the Partner Programme. Prospects may include Customers who are looking to purchase additional Subscriptions.

Sub-Processors: the companies listed https://trust.exclaimer.com/ from time to time.

Subscription: the right for a Customer to access and use the Subscription Services for a specified number of Email Addresses during a Subscription Term.

Subscription Term: the period during which a Customer has a valid active Subscription.

Subscription Services: the services provided or made available by Us for access and use by Customers (including all software and Third-Party Software necessary for us to make them available).

Term: the Initial Term together with any Renewal Term (as such terms are given in Section 9.1).

Terms of Service: Our standard terms of service at www.exclaimer.com/legal/terms-of-service from time to time.

Territory: the geographic region(s) where you are authorised to resell the Services, as set out in the Onboarding Form.

Third-Party Software: software proprietary to third-parties that We licence and which may be included within the Subscription Services to provide functionality.

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Tiers: different reward and incentive models and levels within one or more parts of the Partner Programme, movements between which may affect the level of commission or other benefits that a partner is entitled to receive or access.

Trademarks: Our registered and unregistered trademarks referred to in the Partner Code from time to time.

Usage Data: data such as event name, event timestamps, browser information, data types, file sizes and diagnostic data that is obtained in connection with the performance, operation, support or use of the Subscription Services, or otherwise relates to such activity.

2. APPOINTMENT AND YOUR RIGHTS

2.1 Appointment as a reseller. Subject to the terms of this Agreement, We: (a) appoint you as an authorised non-exclusive reseller of the Subscription Services within the Territory during the Term; (b) grant you a non-exclusive, non-transferable, non-sublicensable right during the Term to: (i) market, promote and resell Subscriptions to Prospects and Customers in the Territory on a per Email Address basis; (ii) use Our Trademarks solely as permitted by the Partner Code; and (iii) describe yourself in marketing activation related to this Agreement as an "*authorised Exclaimer reseller*" or "*Exclaimer Reseller Partner*" of the Subscription Services. YOU ARE NOT APPOINTED AS AN AGENT OF US, NOR ARE YOU PERMITTED OR AUTHORISED TO COMMIT US TO ANY CONTRACTS OR INCUR ANY OBLIGATION OR LIABILITY ON OUR BEHALF.

2.2 Non-exclusive. You acknowledge that your appointment under this Agreement within the Territory is non-exclusive. Nothing in this Agreement will prevent or restrict Us granting the same or similar rights to any third-party.

2.3 Demo Account and NFR access rights. We may provide you with access to: (a) a demonstration account; and/or (b) NFR Subscriptions, each in accordance with the Partner Code. No rights are granted to access and use the demonstration account and/or NFR Subscriptions for any purpose other than: (i) demonstration of the Subscription Services to Prospects and Customers; (ii) your internal business purposes. Access rights in and to the demonstration account are licensed, not sold. You will not, nor attempt to, sell or otherwise allow a third-party to access or use any demonstration account or NFR Subscription. Demonstration accounts and NFR Subscriptions ARE PROVIDED "AS IS" AND WE DISCLAIM ALL GUARANTEES, CONDITIONS, WARRANTIES AND REPRESENTATIONS (WHERE IMPLIED, STATUTORY OR OTHERWISE) IN RELATION TO THEM.

3. SERVICE DELIVERY AND REPORTING

3.1 In carrying out your obligations under this Agreement, you shall: (a) pro-actively market the Subscription Services at your sole cost and expense in order to engage with Prospects and Customers and create pipeline for the Subscription Services; (b) provide a representative sample of any promotional, marketing or advertising materials relating to your activity under this Agreement for Our written approval. We will acknowledge your request within 14 calendar days of receipt and use reasonable endeavours to review, comment and approve your material within a further 7 calendar days. Where We do not respond within that 21 calendar day period, approval shall be deemed granted for the materials as submitted, unless We notify you of a specific reason for delay within that period; (c) provide Us with accurate and complete information regarding Prospects and Customers; (d) maintain professional and respectful conduct at all times, acting in accordance with good business practice and in a manner that reflects favourably on Our good name and reputation and that of the Subscription Services; (e) comply with your warranty obligations in Sections 11.3 and 11.4; (f) promptly notify Us of any issues, bugs or errors with the Subscription Services that you identify; and (g) ensure that Customers are aware of Terms of Service and include a link to them on your paperwork with all Prospects and Customers.

3.2 Training. You are responsible for ensuring that your personnel involved in delivery of sales, marketing and activity under or relating to this Agreement: (a) are appropriately trained to enable them to properly and effectively describe, discuss, sell, and demonstrate the Subscription Services; and (b) maintain knowledge of the industry and competitive services so that they can confidently competitively sell the Subscription Services against Our competitors. This includes ensuring that your personnel are aware of the functionality, performance, capability, delivery models, value and issue solving of the Subscription Services.

3.3 Prohibited behaviours. In carrying out your obligations under this Agreement, you shall not: (a) misrepresent the Subscription Services to Customers (including their functionality and performance); (b) engage in any deceptive, unfair or unethical practices; (c) make representations, warranties or claims about the Subscription Services other than those set out in Our Terms of Service; (d) advertise, promote or market the Subscription Services with any marks or logos other than the Trademarks; (e) use the Trademarks in any way that could cause confusion or mistake, or that may otherwise affect the distinctiveness, validity or ownership of the Trademarks by Us and Our Affiliates; or (f) knowingly do or permit to be done any act or omission which could impact upon the reputation of either Us, Our Affiliates and/or the Subscription Services.

3.4 Partner Portal. We may make an electronic portal available to you through which sales opportunities and Prospects can be registered and tracked. Use of any such portal will be subject to Our website terms of use and privacy notice (which are incorporated by reference). Rights to access the portal are licensed, not sold. We recommend that sales opportunities and Prospects are registered through the partner portal. If registered and accepted by Us through the portal you may have a limited period of time to close the sale, during which other partners may not register or pursue the same Prospect opportunity on the partner portal. You must not issue any quotations prior to acceptance of an opportunity by Us (whether via the portal or otherwise)

3.5 Change of Channel. In respect of any of Our existing Customers (whether contracted directly with Us or through one of Our other partners buying direct from Us but not through a three-tier model such as another

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distributor or channel partner (hereinafter referred to as **Change of Channel**), you may not move that existing Customer away from Us or Our partner during the Customer's current Subscription Term. Change of Channel pricing shall only apply if/when you move that existing Customer to you at the end of their then current Subscription Term.

3.6 Costs. You are solely responsible for all costs, fees, charges and other expenses incurred by you, your personnel and representatives in relation to activity under this Agreement (including travel, subsistence, accommodation, marketing and event expenses).

4. COMPLIANCE STANDARDS

4.1 Anti-Corruption. You shall not, and shall ensure that your Affiliates shall not, directly or indirectly receive, solicit, demand, offer, promise or give any illegal or improper bribe, kickback, payment, gift or other thing of value to or from any individual in relation to this Agreement violation of anti-bribery and corruption laws (including the UK Bribery Act and the US Foreign Corrupt Practices Act).

4.2 Compliance with laws. Both parties will comply with all laws and regulations applicable to their respective obligations under this Agreement, including those relating to antitrust, fair competition and anti-boycotting.

4.3 Conflict of interest. You shall avoid scenarios that could cause a conflict of interest, or the appearance of a conflict of interest in relation to this Agreement.

4.4 Export and Sanctions. The Subscription Services may be subject to export laws and trade sanctions of the United States and/or other jurisdictions (**Compliance Laws**). Each party separately represents that it is not: (a) on any U.S. government or other jurisdiction's denied-party list, or directly or indirectly (at least 50%) owned or controlled by any organisation or individual located in an Embargoed Region or on any U.S. government or other jurisdiction's denied-party list (an **Embargoed Entity**); or (b) located in any embargoed country or region, including those set out at https://exclaimer.com/legal/territory-restrictions/ (**Embargoed Regions**). You will not resell Subscriptions to, nor provide or upload any data relating to, or seek to place an order on behalf of: (i) anyone within an Embargoed Region; or (ii) by any Embargoed Entity (nor, in either case, anyone acting on behalf of such an entity). You are solely responsible for complying with Compliance Laws when using or reselling the Services. We shall not be liable for a failure to perform Our obligations if you, or an Affiliate or beneficial owner of you, become(s) an Embargoed Entity. You will give Us prompt notice if any of the foregoing change. We may terminate or suspend the Subscription Services and/or the Agreement in response to a breach of this Section. You represent and warrant that you will not misrepresent or attempt to conceal the identity of a party receiving access to or use of the Subscription Services, or making payment for such access to or use.

4.5 Financial Compliance. You shall, and shall ensure that your Affiliates shall, have and maintain systems and record keeping to ensure compliance with anti-money laundering and anti-corruption laws (including the UK Economic Crime and Corporate Transparency Act, and UK Anti-Money Laundering Regulations).

4.6 Payments. Payments made to Us by you or any Affiliate must be in funds and through banking channels not blocked or frozen by any authority. You represent and warrant that: (a) all payments under this Agreement will be made by your legal entity (or that of your Affiliate that may be identified on an invoice); and (b) you will not misrepresent or attempt to conceal the identity of the party paying for access to or use of the Subscription Services.

4.7 Third parties. You will not conduct your activities under this Agreement through, or otherwise engage, sub-distributors to assist you in the performance of your obligations under this Agreement without obtaining Our prior written consent (which may be withheld in Our sole discretion).

4.8 Notices. If you become aware of any scenario, breach or possible breach of this Section 4 you must immediately notify Us at legal@exclaimer.com.

4.9 Termination. We may terminate or suspend the Subscription Services and/or this Agreement in response to a breach of this Section 4 or where We believe a breach may be about to occur. We reserve the right to audit, or otherwise request attestations of, your compliance with: (a) this Section 4; and/or (b) the Partner Code annually. Partners will respond promptly to, and co-operate with, any such request at no cost to Us.

5. DATA PROTECTION

5.1 You will comply with your data protection obligations set out in the Partner Code.

5.2 You will: (a) comply with all applicable laws in relation to the data and information you provide. This includes, where appropriate: (i) gaining consent from individual data subjects to being part of the data provided to Us by you; (ii) enabling individuals to identify, and be informed of, the recipients of their data (including Us); (b) ensure that personal data that you provides to Us, or otherwise collect, store, process, upload and transfer to Us has been obtained fairly, lawfully and in a transparent manner; (c) provide all necessary notices to data subjects at the time of collection of their personal data which notify them of the processing activities that will be undertaken by recipients of their personal data; (d) check all data and information provided to Us for accuracy; (e) enable individuals to exercise rights given to them by law; (f) ensure that you are legally able to transfer and disclose each data subject's personal data to Us and for Us to be able to use it for the purposes of the Partner Programme, (including contacting them by electronic means); and (g) ensure that you have all necessary registrations with any relevant authorities in relation to data privacy compliance.

5.3 We reserve the right to request evidence of data privacy notices at any time. You must provide these within 7 calendar days of the date of Our request.

6. OUR RIGHTS AND OBLIGATIONS

6.1 To enable Us to fulfil Our role in the delivery of the Subscription Services, We will retain access to the Subscription Services consistent with the terms of this Agreement, the Terms of Service, Our privacy notices and/or as required by law. This will include access to your, and Customers, accounts. In accordance with the Terms

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of Service We also reserve the right to contact, work with and communicate directly with Customers.

6.2 We will provide: (a) the Subscription Services in accordance with this Agreement and the Terms of Service; and (b) you with access to Documentation and Materials. You are responsible for ensuring that use of the Documentation and Materials is compliant with local laws; and (c) updates to you regarding new features and functionality of the Subscription Services.

6.3 We reserve the right at any time to: (a) modify, add or change any features or specifications of all or part of the Subscription Services; (b) withdraw and/or discontinue all or any part of the Subscriptions Services (provided that such withdrawal or discontinuance shall not affect the rights of Customers until their then current Subscriptions expire).

7. LICENCES; PROPRIETARY RIGHTS

7.1 Reservation of Rights. Subject to the limited rights set out in this Agreement, We own all rights (including current and future developed IPRs), title, and interest in and to the Subscription Services, Our support, Documentation, Materials and Our Confidential Information, including if created in response to Feedback. Nothing in this Agreement grants you or any third-party any IPR or other right, title or interest to any of the Subscription Services, Our support, Documentation, Materials or Our Confidential Information, nor the right to grant or convey any ownership right in any of Our IPR. This Agreement is not a work made-for-hire agreement (as defined by U.S. or other laws). All rights and licences granted under this Agreement are not, and shall not be deemed, rights or licences to 'intellectual property' (as defined in Section 365(n) of the US Bankruptcy Code).

7.2 Statistical reports. We may compile statistical reports from Usage Data. We may make information using Usage Data publicly available or share it with third-parties. We retain all IPR in Usage Data and any such reports.

7.3 Feedback. You grant Us a fully-paid up, royalty free, worldwide, perpetual, irrevocable, transferable, sub-licensable right to use, modify, distribute and incorporate into the Subscription Services without attribution any suggestions, requests, recommendations, corrections or other feedback provided relating to the Subscription Services, Our support, Documentation and Materials (**Feedback**).

7.4 Trademarks. You must not remove proprietary notices from the Subscription Services, Documentation, Materials or Our Confidential Information. You agree not to display or use Our Trademarks other than in accordance with the Partner Code. We may reference you as a partner and use your name and logo for that purpose, and you grant Us a non-exclusive, worldwide, royalty-free licence to do so. You may withdraw such consent at any time through notice to legal@exclaimer.com.

7.5 Third-Party Software. Use of Third-Party Software is subject to this Agreement and it may only be used in conjunction with the Subscription Services, not separately. Some Third-Party Software or components within the Subscription Services may be offered under an open-source license.

7.6 U.S. Government End User Notice. The Subscription Services are made commercially available and are deemed to be commercial items within the meaning of any applicable civilian and military Federal acquisition regulations. If access to and/or use of the Subscription Services is acquired by or on behalf of an agency, department, employee or other entity of the United States Government, it is acknowledged that: (a) the Subscription Services and their IPR are and were developed solely by Us and our licensors at Our expense for Our commercial use; and, (b) use, duplication, reproduction, release, modification, disclosure, or transfer of the Subscription Services (or any part of them) is governed solely by this Agreement (as between Us and you), and by the Terms of Service (as between Us and a Customer).

8. FEES; INVOICING; PAYMENT

8.1 Fees; payment. Quotes are valid up to and including any date indicated. We will invoice you for the total value of the 'partner buy price' of the Subscriptions in accordance with: (a) the terms appliable to your role within the Partner Programme; and (b) any additional terms relevant to your role in the Partner Programme. Payments are due within 30 calendar days of the date of the invoice and in the currency shown on the invoice. Fees are invoiced in full in advance unless otherwise agreed in writing. Fees are based on purchased Access Rights and not usage or deployment. The number of Access Rights Subscribed cannot be reduced during a Subscription Term or Renewal (changes may be made prior to a Renewal). Renewal Fees are invoiced in full before the date of a Customer's renewal. You will pay any bank charges assessed by your bank. If you dispute any Fees you must notify Us within 10 calendar days of the invoice date. We will work with you to resolve the dispute. Fees are non-cancellable and, except as set out in Section 9.4, non-refundable. We may change Our Fees at Our sole discretion by providing not less than 30 calendar days' prior written notice to you. Fees are Our Confidential Information. You bear all credit risk regarding and are solely responsible for, collecting payment for all sales of Subscriptions. Your failure or inability to collect payment from a Customer for any Subscriptions does not affect your obligation to pay Us. Our pricing is Our Confidential Information.

8.2 Independence. You determine the pricing that you propose to Customers independently of Us. You are solely responsible for negotiating such pricing and payment terms with them (save that you must resell in line with any applicable minimum Email Address numbers for the solution selected and billing cycles – e.g. annual in advance).

8.3 Taxes. Fees are exclusive of sales tax, tariffs, use taxes, withholding taxes or any similar government assessment in any jurisdiction (**Tax**). You are responsible for, and will add, charge, collect and remit any and all Taxes due under this Agreement. Should you be required under any law or regulation of any government entity or authority outside the UK to withhold or deduct any portion of payments due, then you will co-operate with Us and pay Us such amounts as are necessary so that the net amount received by Us is equal to the amount then due and

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payable under this Agreement. We will provide you with any tax forms reasonably requested in order to reduce the amount of any withholding or deduction for taxes. If We have a legal obligation to pay or collect Taxes for which you are responsible, We will invoice you and you will pay that amount. You will not be responsible for taxes based on Our net income, employment or real estate.

8.4 Interest. Without prejudice to Our rights and remedies, if you are late paying undisputed Fees We may: (a) charge interest at the rate of 4% per annum above the Bank of England base rate (calculated from the date payment was due until it is made), together with all reasonable collection expenses and legal fees). You shall pay interest and fees together with the overdue Fees; and (b) make shorter payment terms a condition of future renewal or purchases.

9. TERM; SUSPENSION; TERMINATION

9.1 Term. This Agreement comes into force on the date of second signature below and, subject to earlier termination in accordance with its terms, continues in force for a period of 12-months from that date (the **Initial Term**). This Agreement will automatically renew for further 12-month periods (each, a **Renewal Term**) unless and until terminated by either party through not less than 30 calendar days' prior written notice.

9.2 Suspension. Without prejudice to Our rights and remedies We can suspend access to and use of the Subscription Services and/or your appointment and rights under this Agreement: (a) if We have a right to terminate this Agreement; (b) to comply with law, government, regulator or court order; or (c) to respond to emergencies, security risks or fraudulent activity, or prevent damage or impact to the Subscription Services. Suspension may be to you, one, a number of, or all your Customers. Suspension will not prevent later termination. During suspension under (a) you remain responsible for payment of Fees. We will use commercially reasonable efforts to promptly resolve any issue causing the suspension that is within Our control. Once the reason for suspension has been resolved, We will restore your appointment and rights under this Agreement and/or access to the Subscription Services to relevant Customer(s) (as applicable).

9.3 Termination. Either party may terminate this Agreement: (a) without cause for convenience through not less than 30 calendar days' prior written notice; (b) immediately if the other party materially breaches this Agreement and does not cure the breach within 30 days of receipt of written notice from the other party specifying the breach. A second notice on expiry of the cure period is required for termination to be effective; (c) immediately if: (i) the other party ceases, or threatens to cease, its business operations; (ii) there is an order or resolution for the liquidation, administration, dissolution or winding-up of the other party (except for the purpose of solvent reconstruction), or the other party has an administrator or receiver, manager, liquidator or similar officer appointed over all or a substantial part of its assets, or enters into or proposes any composition or arrangement with its creditors, or is subject to an analogous event in any applicable jurisdiction); or (d) as provided in this Agreement. We may terminate this Agreement immediately if: (A) required to comply with law, government, regulator or court order; (B) you materially breach this Agreement and it is not capable of remedy; (C) you have failed to pay Us after a reminder to do so; and (D) if you have not closed a new Customer or renewal under this Agreement for a period of 90 consecutive calendar days or more during the Term.

9.4 Effect of Termination or expiry. Upon termination or expiry of this Agreement: (a) all rights and licences granted shall cease immediately; (b) each party will return or destroy all Confidential Information pursuant to Section 10 below; (c) you will pay to Us all Fees for Subscription Services ordered up to the date of termination. We will raise an invoice, payable immediately, in respect of Fees for which We have not previously invoiced; (d) you will cease use of the Subscription Services, and will cease providing or attempting to provide services to Prospects and Customers; (e) you will cease all marketing activity relating to the Subscription Services, including any and all use of Our Trademarks and other IPR and including stopping holding yourself out as an authorised distributor of Us and the Subscription Services. Fees paid in advance by you to Us will not be refunded unless you are terminating in accordance with your right to do so under Sections 9.3(b) or 11.1, or by Us under Section 12.1. Any such Fees will be refunded within 30 calendar days.

9.5 Transfer of Customers. Upon termination of this Agreement, you must provide contact information for all Customers. Prior to doing so, you must ensure that you have any and all consents necessary for you to lawfully pass this information to Us. We will contact Prospects and Customers to transfer them to Us or to another of Our channel partners. You will co-operate as necessary with Us with all activity under this Section.

9.6 Commercial Agents Regulations 1993. If the Commercial Agents (Council Directive) Regulations 1993 apply to your engagement with Us under this Agreement (or to any relationship or activity arising from it), we both agree that Regulation 17(3) (indemnity) shall apply on termination of this Agreement rather than Regulation 17(6) (compensation).

9.7 Survival. The following Sections shall survive termination or expiry of this Agreement for any reason: Sections 3.2, 4, 5, 7, 8, 9, 10, 11, 13, 14 and 15'. Termination or expiry shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry.

10. CONFIDENTIALITY

10.1 Confidentiality. Each party may receive Confidential Information from the other during the Term. Each party will keep the other's Confidential Information in confidence using the same degree of care that it uses to protect its own Confidential Information (but not less than reasonable care) and: (a) not use or exploit it in any way except for the purpose of this Agreement; (b) only disclose it to its and its Affiliates' directors, personnel, representatives, agents, advisors and sub-processors who need to know it for the purpose of this Agreement. Where such disclosure is made by a party it will be responsible for ensuring that suitable confidentiality obligations are in place with the receiving party; (c) unless

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disclosable under this Section 10 not make it available to any third party; and (d) on request, destroy or return all copies of the other's Confidential Information in its control.

10.2 Exclusions. Information is not Confidential Information if it is: (a) known to the receiving party without restriction before disclosure; (b) publicly available through no fault of the receiving party; (c) disclosed to the receiving party by a third-party not under a duty of confidence; or (d) independently developed by the receiving party without use of the disclosing party's Confidential Information.

10.3 Compelled disclosure. If a party receives a valid and binding request or order from a court or governmental body relating to the other's Confidential Information, it will attempt to re-direct the requestor to seek disclosure from the owning party (and may provide the owning party's basic contact information to enable them to do this). If, notwithstanding those efforts, the party is compelled to disclose the requested information then, provided it is allowed to do so, it will provide notice to the owning party so that it may seek a protective order or other remedy.

11. WARRANTIES

11.1 Our warranty. We warrant to you that: (a) the Subscription Services will materially conform to the then-current Documentation. If We breach this warranty your sole and exclusive remedy will be for Us to repair, replace or re-perform the non-conforming part of the Subscription Services within 30 days of your notice to Us describing the issue. If We are unable to cure the non-performing part of the Subscription Services within this period We may terminate this Agreement and, in such circumstances, will provide a pro-rated refund for the unusable portion of the Subscription Services to you. You must notify Us promptly of any alleged non-compliance, describing the issue in sufficient detail so that We can confirm the breach. We shall have no obligation or liability under this Section if: (i) your use of the Subscription Services is not materially in accordance with this Agreement; or (ii) the issue arises from your or a relevant Customer's failure to follow Our instructions or the Documentation.

11.2 EXCEPT FOR SECTION 11.1, THE SUBSCRIPTION SERVICES ARE PROVIDED "AS IS". WE DO NOT WARRANT THAT THE SUBSCRIPTION SERVICES WILL BE ERROR-FREE OR THAT FAULTS WILL BE CORRECTED. YOU ACCEPT WE HAVE NO CONTROL OVER CONTENT TRANSMITTED FROM THE SUBSCRIPTION SERVICES. WE ARE NOT RESPONSIBLE FOR DELAYS, FAILURES, LOSS OR DAMAGE RESULTING FROM THE INTERNET AND YOU ACKNOWLEDGE THE SUBSCRIPTION SERVICES MAY EXPERIENCE LIMITATIONS, DELAYS AND ISSUES INHERENT TO ITS USE. TO THE FULLEST EXTENT PERMISSIBLE BY LAW WE EXCLUDE AND DISCLAIM: (A) LIABILITY OF ANY KIND ARISING FROM THE TRANSMISSION OF INFORMATION THROUGH THE SUBSCRIPTION SERVICES; AND (B) ALL GUARANTEES, CONDITIONS, WARRANTIES AND REPRESENTATIONS, IMPLIED, STATUTORY OR OTHERWISE (INCLUDING IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND SATISFACTORY QUALITY).

11.3 Your warranties. You warrant that: (a) you possess the necessary expertise, experience, capacity and resources to perform your obligations under this Agreement; (b) you will ensure your personnel involved or engaged in the activity relating to this Agreement will be, and remain at all times, suitably trained on the Subscription Services; (c) you will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform your activities under this Agreement; (d) you will perform the services with due care, skill and diligence in a professional and workmanlike manner consistent with best industry practice; (e) you will, and will ensure that your Affiliates and representatives will, comply at all times with Our Partner Code; and (f) you have not entered into, and will not enter into, any arrangement that would prevent you from complying with your obligations under this Agreement.

11.4 Mutual warranties. Each party represents it has validly entered into this Agreement and has the power to do so. Each party warrants that it: (i) will comply with all binding laws, rules and regulations applicable to its activity under this Agreement; and (ii) has and will maintain all necessary certifications, credentials, registrations, authority, rights, licences, consents and permissions to enable it to perform its obligations under this Agreement.

12. INDEMNITIES

12.1 IPR. We will defend and indemnify you from and against any third-party claim filed against you alleging that the Trademarks, Documentation and/or Materials infringe or misappropriate any third-party copyright, patent, trademark or registered design right. We will pay any amounts awarded against you in judgment or pursuant to a settlement of such a claim. In defence or settlement of a claim We may at Our expense and discretion: (a) obtain the right for you to continue using the allegedly infringing material; (b) replace or modify the Trademarks, Documentation and/or Materials so they no longer infringe; or (c) terminate this Agreement through notice to you. This Section states Our sole and exclusive obligation and liability for claims that the Trademarks, Documentation and/or Materials infringe or misappropriate third-party copyright, trademark, patents or registered design rights.

12.2 Exclusions. We will have no obligation under Section 12.1: (a) to the extent a claim is based on: (i) modification of the Trademarks, Documentation and/or Materials other than by Us; (ii) a combination with third-party IPR; (iii) your breach of this Agreement; (iv) your failure to implement updates to the Trademarks, Documentation and/or Materials issued by Us; or, (v) claims of infringement of IPR in which you have an interest; or (b) where the claim arises from your intentional tortious act or negligence; or, (c) where you have compromised or settled the claim.

12.3 Indemnification by you. You will defend, indemnify and hold Us and Our Affiliates harmless from and against any third-party claims, complaints, actions, disputes, suits and hearings (and all associated fees, costs, expenses, including reasonable legal fees) arising from: (a) your use of Our Trademarks, brands, or information about the Subscription Services on any website, or in any content that infringes third-party IPR; (b) your breach of Sections

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3.2 or 4, or Our Partner Code; and (c) any unauthorised activity in relation to the Subscription Services and/or this Agreement.

12.4 Obligations of the indemnified party. The foregoing indemnities are contingent upon the party indemnified: (a) providing prompt notice of the claim and co-operating with the indemnifying party's defence or settlement of it at the indemnifying party's cost; (b) not making any admission or statement in relation to the claim or attempt to settle it; (c) mitigating losses or costs that it does, or may otherwise, incur. The indemnifying party will have sole authority to control the defence and settlement of any claim provided that it may not settle any claim against the indemnified party without the indemnified party's prior written consent unless it unconditionally releases the indemnified party and its Affiliates from liability and does not impose penalties or obligations on the indemnified party or its Affiliates or admit fault on their behalf.

13. LIABILITY

13.1 IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOSS OF PROFITS, SALES, GOODWILL, OR REVENUE, OR OTHER INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUBJECT TO THE FOREGOING, THE TOTAL LIABILITY OF EITHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED THE TOTAL FEES PAID BY YOU TO US IN THE 12 MONTHS IMMEDIATELY PRECEDING THE EVENT OR SERIES OF CONNECTED EVENTS GIVING RISE TO THE CLAIM. The foregoing limitations of liability for direct damages do not apply to: (a) your indemnity obligations in Sections 12.3(a) and (b); (b) either party's misappropriation or infringement of the other party's IPRs; (c) either party's gross negligence or wilful misconduct; or (d) your payment obligations.

13.2 You are responsible for ensuring that each Customer understands that: (a) email disclaimer text made available within the Subscription Services is for example purposes only; and (b) they are responsible for ensuring that the Subscription Services are fit for their individual purpose and operate in their technology environments. You must not make any representation, nor give any warranty, undertaking or covenant, to the contrary.

13.3 Independent Allocations of Risk. Both parties agree that the: (a) disclaimers of warranties in Section 11.1, and the limitations of liability and the exclusion of losses and damages in Section 13, represent the agreed, bargained-for understanding of the parties and are reflected in the Fees; and (b) the terms of Sections 11.1 and this Section 13 are intended to apply regardless of whether a specific remedy in this Agreement has failed in its essential purpose.

13.4 Exceptions. If any exclusion or limitation set out above is not permitted in a specific jurisdiction, the parties' liability will be limited to the greatest extent permitted by law in that jurisdiction. Nothing in this Agreement excludes or limits liability that cannot be excluded or limited by law.

14. DISPUTE RESOLUTION

14.1 Both of us shall attempt to resolve any dispute relating to this Agreement in good faith by negotiation between authorised personnel. Notwithstanding this, we will both be entitled to enforce our respective IPRs, to protect Confidential Information and to seek equitable or injunctive relief at any time. If a dispute is not resolved within 30 calendar days of the first written request to do so, then each party may pursue any available remedies.

15. GENERAL

15.1 Order of precedence. This order of precedence applies: (a) Our invoices (for pricing and commercial terms only); (b) the Partner Code; (c) this Agreement; and (d) the Partner Programme Book.

15.2 Benchmarking etc. No access to the Subscription Services is permitted for: (a) monitoring their availability, performance or functionality; (b) competitive or benchmarking purposes; or (c) to determine if they are within the scope of patents. Our direct competitors are prohibited from accessing the Subscription Services except with Our prior written consent.

15.3 Entire Agreement. This Agreement (together with documents referred to in this Agreement) constitutes the entire agreement between us relating to its subject matter, superseding all prior discussions agreements, understandings of every kind and nature. The terms of a separate non-disclosure agreement do not apply to our relationship under this Agreement or to the Services. We both agree we have not been induced to enter into this Agreement in reliance on, nor do we have any remedy in respect of, any undertaking, promise, statement, representation or understanding of any nature not expressly set out in it. This Section does not limit or exclude liability for fraud or fraudulent misrepresentation.

15.4 Assignment. You may only assign this Agreement in its entirety to a successor in interest in the event of a sale or merger of your business provided that: (a) you give written notice to Us not less than 30 days prior to the proposed assignment date; and (b) the successor in interest is able to comply with this Agreement. You may not otherwise assign, novate, transfer, charge, sub-contract or deal with this Agreement in any way without Our prior written consent. This Agreement will be binding on any permitted successors and assigns.

15.5 Notices. Notices relating to this Agreement shall, unless not permitted by law, be sent by: (a) you to legal@exclaimer.com; and (b) Us to the email address then associated with your administration account. Notices will be effective when sent provided that no failure or non-delivery message is received. If by law notice is not permitted to be given solely by email, notices must be sent by you to Our relevant address below, and by Us to the address at the top of this Agreement. Notices will be deemed delivered at the time it would have been delivered in the normal course of post if sent by overnight delivery, pre-paid first-class post or recorded delivery post; or immediately if delivered by hand (unless in each case delivery is not during working hours, in which case

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delivery will be effective at 9am on the next working day). Each of us may change our address to another through 10 calendar days' prior written notice.

15.6 Force Majeure. Neither party will be liable for any delay in performance or failure to perform our respective obligations under this Agreement due to a cause or event outside its reasonable control except that you cannot claim relief in respect of your payment obligations.

15.7 Miscellaneous. Failure or delay in exercising a right or remedy in this Agreement or by law will not waive it and will not prevent or restrict further exercise of it. If part of this Agreement is found by a court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal (in whole or in part), the other terms will remain in force. Any invalid, unenforceable or illegal term will, where possible, be interpreted to give effect to our commercial intention, or if not possible, will be severed leaving the rest in full force. We are both independent contractors. Nothing in this Agreement shall be construed to establish a partnership, joint venture, agency or employment between us, or authorise either of us to act as agent for or to bind the other. There are no third-party beneficiaries under this Agreement except that Our Affiliates and licensors may enforce Section 7 to the extent necessary to protect their respective IPR. Any amendment or variation to this Agreement must be in writing (not email) and signed by both of our respective authorised representatives (except that this does not apply to documents or information referred to in this Agreement at a URL which We may update at any time).

15.8 Insurance. You shall maintain such insurance coverage as is required by law or regulation and that is appropriate in respect of your obligations under this Agreement. Such coverage shall be equal to or in excess of these minimum amounts: (a) Americas: (i) Commercial General Liability – not less than $1,000,000 per incident, $2,000,000 annual aggregate; (ii) Errors and Omissions (including cyber and privacy) - $5,000,000 annual aggregate; and (iii) Workers Compensation Coverage – as required by applicable law; or (b) ROW: (i) Professional Indemnity coverage - £5,000,000 per claim; (ii) Employers Liability - £5,000,000 per claim; (iii) Cyber coverage - £5,000,000 annual aggregate; and (iv) Public and Products Liability - £5,000,000 per claim. You shall provide Us with a Certificate of Insurance evidencing such coverage annually (or following Our written request at any time).

15.9 Governing Law; Jurisdiction. The Exclaimer entity entering into this Agreement, the address to which you should direct notices, the law that will apply in any dispute or lawsuit arising out of or in connection with this Agreement, and the courts that have jurisdiction over any such dispute or lawsuit, depend on where you are domiciled. Details are set out in the table that follows. Notwithstanding the foregoing, We will be able to bring action in any jurisdiction relevant to the protection of Our IPR or that within Third-Party Software. We both disclaim application of the United Nations Convention on the International Sale of Goods, and the Uniform Commercial Code.

Where your contracting entity is domiciled	Exclaimer entity entering into this Agreement	Governing law	Courts with exclusive jurisdiction
North America, South America, Canada	**Exclaimer LLC**, Floor 33, 100 Federal Street, Boston, MA 02110, United States	State of Delaware (without regard to choice or conflict of law rules)	Delaware Court of Chancery EACH PARTY IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, CASE, DISPUTE OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE AGREEMENT.
EU and EEA	**Exclaimer Europe B.V**, Schiphol Boulevard 127, 1118BG Schiphol	Netherlands	Amsterdam
UK and rest of the World	**Exclaimer Limited**, company number: 04938619. 250 Fowler Avenue, Farnborough, Hampshire, GU14 7JP, United Kingdom	England and Wales (including non-contractual disputes and claims)	England and Wales (including non-contractual disputes and claims)

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