Physiodiary Terms and Conditions of Use

TERMS AND CONDITIONS

Please read these Terms and Conditions carefully. All contracts that the Provider may enter into from time to time for the provision of the Hosted Services shall be governed by these Terms and Conditions, and the Provider will ask the Customer for the Customer's express written acceptance of these Terms and Conditions before providing any such services to the Customer.

1. Definitions

1.1 Except to the extent expressly provided otherwise, in these Terms and Conditions:

"**Account**" means an account enabling a person to access and use the Hosted Services, including both administrator accounts and user accounts;

"**Agreement**" means a contract between the parties incorporating these Terms and Conditions, and any amendments to that contract from time to time;

"**Business Day**" means any weekday other than a bank or public holiday in England;

"**Business Hours**" means the hours of 09:00 to 17:00 GMT/BST on a Business Day;

"**Charges**" means the following amounts:

(a) Standard charges for service delivery as specified in the Providers Website;

"**Customer**" means the person or entity using the Hosted Service;

"**Customer Confidential Information**" means:

(a) any information disclosed by the Customer to the Provider during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure:

(i) was marked as "confidential"; or

(ii) should have been reasonably understood by the Provider to be confidential; and

(b) the Customer Data;

"**Customer Data**" means all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Hosted Services by the Customer;

"**Customer Personal Data**" means any Personal Data that is processed by the Provider on behalf of the Customer in relation to the Agreement;

"**Data Protection Laws**" means all applicable laws relating to the processing of Personal Data including, while it is in force and applicable to Customer Personal Data, the General Data Protection Regulation (Regulation (EU) 2016/679);

"**Documentation**" means the documentation for the Hosted Services produced by the Provider and delivered or made available by the Provider to the Customer;

"**Effective Date**" means the date upon which the parties execute a hard-copy Services Order Form; or, following the Customer completing and submitting the online Services Order Form published by the Provider on the Provider's website, the date upon which the Provider sends to the Customer an order confirmation;

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"**Hosted Services**" means Physiodiary which will be made available by the Provider to the Customer as a service via the internet in accordance with these Terms and Conditions;

"**Hosted Services Specification**" means the specification for the Platform and Hosted Services set out in the Documentation;

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"**Maintenance Services**" means the general maintenance of the Platform and Hosted Services, and the application of Updates and Upgrades;

"**Personal Data**" has the meaning given to it in the Data Protection Laws applicable in the United Kingdom from time to time;

"**Platform**" means the platform managed by the Provider and used by the Provider to provide the Hosted Services, including the application and database software for the Hosted Services, the system and server software used to provide the Hosted Services, and the computer hardware on which that application, database, system and server software is installed;

"**Provider**" means James French Software Limited, a company incorporated in England and Wales (registration number 3969442) having its registered office at Delta 606, Welton Road, Delta Office Park, Swindon SN5 7XF;

"**Services**" means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under these Terms and Conditions;

"**Services Order Form**" means an online order form published by the Provider and completed and submitted by the Customer, or a hard-copy order form signed or otherwise agreed by or on behalf of each party, in each case incorporating these Terms and Conditions by reference;

"**Support Services**" means support in relation to the use of, and the identification and resolution of errors in, the Hosted Services, but shall not include the provision of training services;

"**Supported Web Browser**" means the current release from time to time of Microsoft Edge, Mozilla Firefox, Google Chrome or Apple Safari, or any other web browser that the Provider agrees in writing shall be supported;

"**Term**" means the term of the Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"**Terms and Conditions**" means all the documentation containing the provisions of the Agreement, namely the main body of these Terms and Conditions and Schedule 1 (Acceptable Use Policy), including any amendments to that documentation from time to time;

"**Update**" means a hotfix, patch or minor version update to any Platform software; and

"**Upgrade**" means a major version upgrade of any Platform software.

2.   Term

2.1   The Agreement shall come into force upon the Effective Date.

2.2   The Agreement shall continue in force whilst-ever a valid subscription is in place from the Customer and that all fees and payments required under the subscription are made by the Customer, subject to termination in accordance with Clause 16.

2.3   Unless the parties expressly agree otherwise in writing, each Services Order Form shall create a distinct contract under these Terms and Conditions.

3.   Hosted Services

3.1   The Provider shall ensure that the Platform will, on the Effective Date, automatically generate an Account for the Customer and provide to the Customer login details for that Account.

3.2   The Provider hereby grants to the Customer a worldwide, non-exclusive licence to use the Hosted Services by means of a Supported Web Browser for

the internal business purposes of the Customer in accordance with the Documentation during the Term.

3.3 The licence granted by the Provider to the Customer under Clause 3.2 is subject to the following limitations:

(a) the Hosted Services may only be used by the officers, employees, agents and subcontractors of the Customer.

3.4 Except to the extent expressly permitted in these Terms and Conditions or required by law on a non-excludable basis, the licence granted by the Provider to the Customer under Clause 3.2 is subject to the following prohibitions:

(a) the Customer must not sub-license its right to access and use the Hosted Services;

(b) the Customer must not permit any unauthorised person to access or use the Hosted Services;

(c) the Customer must not permit any person other than the Customer itself to access or use the Hosted Services using the Customers own credentials;

(d) the Customer must not use the Hosted Services to provide services to third parties;

(e) the Customer must not republish or redistribute any content or material from the Hosted Services; and

(f) the Customer must not make any alteration to the Platform, except as permitted by the Documentation.

(g) the Customer must not disclose his username and/or password to any other person

3.5 The Customer shall use reasonable endeavours, including reasonable security measures relating to Account access details, to ensure that no unauthorised person may gain access to the Hosted Services using an Account.

3.6 The Provider shall use reasonable endeavours to maintain the availability of the Hosted Services to the Customer at the gateway between the public internet and the network of the hosting services provider for the Hosted Services, but does not guarantee 100% availability.

3.7 For the avoidance of doubt, downtime caused directly or indirectly by any of the following shall not be considered a breach of the Agreement:

(a) a Force Majeure Event;

(b) a fault or failure of the internet or any public telecommunications network;

(c) a fault or failure of the Customer's computer systems or networks;

(d)   any breach by the Customer of the Agreement; or

(e)   scheduled maintenance carried out in accordance with the Agreement.

3.8   The Customer must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.

3.9   The Customer must not use the Hosted Services:

(a)   in any way that is unlawful, illegal, fraudulent or harmful; or

(b)   in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

3.10   For the avoidance of doubt, the Customer has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.

3.11   The Provider may suspend the provision of the Hosted Services if any amount due to be paid by the Customer to the Provider under the Agreement is overdue.

4.   Maintenance Services

4.1   The Provider shall where practicable give to the Customer at least 5 Business Days' prior written notice of scheduled Maintenance Services that are likely to affect the availability of the Hosted Services or are likely to have a material negative impact upon the Hosted Services, without prejudice to the Provider's other notice obligations under this main body of these Terms and Conditions.

5.   Support Services

5.1   The Provider shall provide the Support Services to the Customer during the Term.

5.2   The Provider shall provide the Support Services with reasonable skill and care.

5.3   The Provider shall respond promptly to all requests for Support Services made by the Customer.

5.4   The Provider may suspend the provision of the Support Services if any amount due to be paid by the Customer to the Provider under the Agreement is overdue,.

6.   Customer Data

6.1   The Customer hereby grants to the Provider a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under the Agreement. The Customer also grants to the Provider the right to sub-license these rights to its hosting, connectivity and telecommunications service

providers to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under the Agreement, subject always to any express restrictions elsewhere in the Agreement.

6.2 The Customer warrants to the Provider that the Customer Data will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.

6.3 The Provider shall create a back-up copy of the Customer Data at least daily, shall ensure that each such copy is sufficient to enable the Provider to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days.

6.4 Within the period of 5 Business Days following receipt of a written request from the Customer, the Provider shall use all reasonable endeavours to restore to the Platform the Customer Data stored in any back-up copy created and stored by the Provider in accordance with Clause 6.3. The Customer acknowledges that this process will overwrite the Customer Data stored on the Platform prior to the restoration.

7. No assignment of Intellectual Property Rights

7.1 Nothing in these Terms and Conditions shall operate to assign or transfer any Intellectual Property Rights from the Provider to the Customer, or from the Customer to the Provider.

8. Charges

8.1 The Customer shall pay the Charges to the Provider in accordance with these Terms and Conditions.

8.2 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated inclusive of any applicable value added taxes.

8.3 The Provider may elect to vary any element of the Charges by giving to the Customer not less than 30 days' written notice of the variation expiring on any anniversary of the date of execution of the Agreement.

9. Payments

9.1 The Customer must pay the Charges by debit card or credit card (using such payment details as are notified by the Provider to the Customer from time to time).

10. Provider's confidentiality obligations

10.1 The Provider must:

(a)   keep the Customer Confidential Information strictly confidential;

(b)   not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality approved in writing by the Customer;

(c)   use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Provider uses to protect the Provider's own confidential information of a similar nature, being at least a reasonable degree of care;

(d)   act in good faith at all times in relation to the Customer Confidential Information; and

(e)   not use any of the Customer Confidential Information for any purpose other than *[specify purposes]*.

10.2   Notwithstanding Clause 10.1, the Provider may disclose the Customer Confidential Information to the Provider's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Customer Confidential Information for the performance of their work with respect to the Agreement and who are bound by a written agreement or professional obligation to protect the confidentiality of the Customer Confidential Information.

10.3   This Clause 10 imposes no obligations upon the Provider with respect to Customer Confidential Information that:

(a)   is known to the Provider before disclosure under these Terms and Conditions and is not subject to any other obligation of confidentiality;

(b)   is or becomes publicly known through no act or default of the Provider; or

(c)   is obtained by the Provider from a third party in circumstances where the Provider has no reason to believe that there has been a breach of an obligation of confidentiality.

10.4   The restrictions in this Clause 10 do not apply to the extent that any Customer Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of the Provider on any recognised stock exchange.

10.5   The provisions of this Clause 10 shall continue in force for a period of 5 years following the termination of the Agreement, at the end of which period they will cease to have effect.

11.   Data protection

11.1   Each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.

11.2 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with the Agreement.

11.3 The Provider shall only process the Customer Personal Data during the Term and for not more than 30 days following the end of the Term, subject to the other provisions of this Clause 11.

11.4 The Provider shall only process the Customer Personal Data on the documented instructions of the Customer (including with regard to transfers of the Customer Personal Data to any place outside the European Economic Area), as set out in these Terms and Conditions or any other document agreed by the parties in writing.

11.5 The Provider shall promptly inform the Customer if, in the opinion of the Provider, an instruction of the Customer relating to the processing of the Customer Personal Data infringes the Data Protection Laws.

11.6 Notwithstanding any other provision of these Terms and Conditions, the Provider may process the Customer Personal Data if and to the extent that the Provider is required to do so by applicable law. In such a case, the Provider shall inform the Customer of the legal requirement before processing, unless that law prohibits such information.

11.7 The Provider shall ensure that persons authorised to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

11.8 The Provider and the Customer shall each implement appropriate technical and organisational measures to ensure an appropriate level of security for the Customer Personal Data.

11.9 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Customer with the fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.

11.10 The Provider shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws. The Provider shall report any Personal Data breach relating to the Customer Personal Data to the Customer within 24 hours following the Provider becoming aware of the breach. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 11.10.

11.11 The Provider shall make available to the Customer all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 11 and the Data Protection Laws.

11.12 The Provider shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services relating to the processing, and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Data.

11.13 The Provider shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer in respect of the compliance of the Provider's processing of Customer Personal Data with the Data Protection Laws and this Clause 11. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 11.13.

11.14 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under these Terms and Conditions, then the parties shall use their best endeavours promptly to agree such variations to these Terms and Conditions as may be necessary to remedy such non-compliance.

12. Warranties

12.1 The Provider warrants to the Customer that:

(a) the Provider has the legal right and authority to enter into the Agreement and to perform its obligations under these Terms and Conditions;

(b) the Provider will comply with all applicable legal and regulatory requirements applying to the exercise of the Provider's rights and the fulfilment of the Provider's obligations under these Terms and Conditions; and

(c) the Provider has or has access to all necessary know-how, expertise and experience to perform its obligations under these Terms and Conditions.

12.2 The Provider warrants to the Customer that the Hosted Services, when used by the Customer in accordance with these Terms and Conditions, will not infringe the Intellectual Property Rights of any person in any jurisdiction and under any applicable law.

12.3 If the Provider reasonably determines, or any third party alleges, that the use of the Hosted Services by the Customer in accordance with these Terms and Conditions infringes any person's Intellectual Property Rights, the Provider may at its own cost and expense:

(a) modify the Hosted Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or

(b)   procure for the Customer the right to use the Hosted Services in accordance with these Terms and Conditions.

12.4 The Customer warrants to the Provider that it has the legal right and authority to enter into the Agreement and to perform its obligations under these Terms and Conditions.

12.5 All of the parties' warranties and representations in respect of the subject matter of the Agreement are expressly set out in these Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.

13.   Acknowledgements and warranty limitations

13.1 The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of these Terms and Conditions, the Provider gives no warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.

13.2 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of these Terms and Conditions, the Provider gives no warranty or representation that the Hosted Services will be entirely secure.

13.3 The Customer acknowledges that the Hosted Services are designed to be compatible only with that software and those systems specified as compatible in the Hosted Services Specification; and the Provider does not warrant or represent that the Hosted Services will be compatible with any other software or systems.

13.4 The Customer acknowledges that the Provider will not provide any legal, financial, accountancy or taxation advice under these Terms and Conditions or in relation to the Hosted Services; and, except to the extent expressly provided otherwise in these Terms and Conditions, the Provider does not warrant or represent that the Hosted Services or the use of the Hosted Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.

14.   Limitations and exclusions of liability

14.1 Nothing in these Terms and Conditions will:

(a)   limit or exclude any liability for death or personal injury resulting from negligence;

(b)   limit or exclude any liability for fraud or fraudulent misrepresentation;

(c)   limit any liabilities in any way that is not permitted under applicable law; or

(d)   exclude any liabilities that may not be excluded under applicable law.

14.2 The limitations and exclusions of liability set out in this Clause 14 and elsewhere in these Terms and Conditions:

(a) are subject to Clause 14.1; and

(b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.

14.3 Neither party shall be liable to the other party in respect of any losses arising out of a Force Majeure Event.

14.4 Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.

14.5 Neither party shall be liable to the other party in respect of any loss of revenue or income.

14.6 Neither party shall be liable to the other party in respect of any loss of use or production.

14.7 Neither party shall be liable to the other party in respect of any loss of business, contracts or opportunities.

14.8 The Provider shall not be liable to the Customer in respect of any loss or corruption of any data, database or software; providing that this Clause 14.8 shall not protect the Provider unless the Provider has fully complied with its obligations under Clause 6.3 and Clause 6.4.

14.9 Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

15. Force Majeure Event

15.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

15.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Agreement, must:

(a) promptly notify the other; and

(b) inform the other of the period for which it is estimated that such failure or delay will continue.

15.3 A party whose performance of its obligations under the Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

16. Termination

16.1 Either party may terminate the Agreement immediately by giving written notice of termination to the other party if the other party commits a material breach of these Terms and Conditions.

16.2 Either party may terminate the Agreement immediately by giving written notice of termination to the other party if:

(a) the other party:

(i) is dissolved;

(ii) ceases to conduct all (or substantially all) of its business;

(iii) is or becomes unable to pay its debts as they fall due;

(iv) is or becomes insolvent or is declared insolvent; or

(v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or

(d) if that other party is an individual:

(i) that other party dies;

(ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or

(iii) that other party is the subject of a bankruptcy petition or order.

17. Effects of termination

17.1 Upon the termination of the Agreement, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 3.10, 10, 11.1, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 11.9, 11.10, 11.11, 11.12, 11.13, 11.14, 14, 17, 20 and 21.

17.2 Except to the extent that these Terms and Conditions expressly provides otherwise, the termination of the Agreement shall not affect the accrued rights of either party.

18. Notices

18.1 Any notice from one party to the other party under these Terms and Conditions must be given by one of the following methods (using the relevant contact details set out in Clause 18.2):

(a)   by email; or

(b)   by an internal message within the Hosted Service,

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

18.2 The Provider's contact details for notices under this Clause 18 are those used to register for the Hosted Service.

18.3 The addressee and contact details set out in Clause 18.2 may be updated from time to time by a party giving notice of the update to the other party in accordance with this Clause 18.

19.   Subcontracting

19.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Provider may subcontract any of its obligations under the Agreement.

19.2 Notwithstanding the provisions of this Clause 19 but subject to any other provision of these Terms and Conditions, the Customer acknowledges and agrees that the Provider may subcontract to any reputable third party hosting business the hosting of the Platform and the provision of services in relation to the support and maintenance of elements of the Platform.

20.   General

20.1 No breach of any provision of the Agreement shall be waived except with the express written consent of the party not in breach.

20.2 If any provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

20.3 The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

20.4 The Customer hereby agrees that the Provider may assign the Provider's contractual rights and obligations under the Agreement to any third party. The Customer must not without the prior written consent of the Provider assign, transfer or otherwise deal with any of the Customer's contractual rights or obligations under the Agreement.

20.5 The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.

20.6 Subject to Clause 14.1, a Services Order Form, together with these Terms and Conditions and any Schedules, shall constitute the entire agreement between the parties in relation to the subject matter of that Services Order Form, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

20.7 The Agreement shall be governed by and construed in accordance with English law.

20.8 The courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

21. Interpretation

21.1 In these Terms and Conditions, a reference to a statute or statutory provision includes a reference to:

(a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b) any subordinate legislation made under that statute or statutory provision.

21.2 The Clause headings do not affect the interpretation of these Terms and Conditions.

21.3 References in these Terms and Conditions to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

21.4 In these Terms and Conditions, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

SCHEDULE 1 (ACCEPTABLE USE POLICY)

1. Introduction

1.1 This acceptable use policy (the "**Policy**") sets out the rules governing:

(a) the use of the service, any successor website, and the services available on that website or any successor website (the "**Services**"); and

(b) the transmission, storage and processing of content by you, or by any person on your behalf, using the Services ("**Content**").

1.2 References in this Policy to "you" are to any customer for the Services and any individual user of the Services (and "your" should be construed accordingly); and references in this Policy to "us" are to James French Software Limited (and "we" and "our" should be construed accordingly).

1.3 By using the Services, you agree to the rules set out in this Policy.

2. General usage rules

2.1 You must not use the Services in any way that causes, or may cause, damage to the Services or impairment of the availability or accessibility of the Services.

2.2 You must not use the Services:

(a) in any way that is unlawful, illegal, fraudulent, deceptive or harmful; or

(b) in connection with any unlawful, illegal, fraudulent, deceptive or harmful purpose or activity.

2.3 You must ensure that all Content complies with the provisions of this Policy.

3. Unlawful Content

3.1 Content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).

3.2 Content, and the use of Content by us in any manner licensed or otherwise authorised by you, must not:

(a) be libellous or maliciously false;

(b) be obscene or indecent;

(c) infringe any copyright, moral right, database right, trade mark right, design right, right in passing off, or other intellectual property right;

(d) infringe any right of confidence, right of privacy or right under data protection legislation;

(e) constitute negligent advice or contain any negligent statement;

(f) constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;

(g) be in contempt of any court, or in breach of any court order;

(h) constitute a breach of racial or religious hatred or discrimination legislation;

(i) be blasphemous;

(j) constitute a breach of official secrets legislation; or

(k) constitute a breach of any contractual obligation owed to any person.

3.3 You must ensure that Content is not and has never been the subject of any threatened or actual legal proceedings or other similar complaint.

4. Graphic material

4.1 Content must be appropriate for all persons who have access to or are likely to access the Content in question.

4.2 Content must not depict violence.

4.3 Content must not be pornographic.

5. Factual accuracy

5.1 Content must not be untrue, false, inaccurate or misleading.

5.2 Statements of fact contained in Content and relating to persons (legal or natural) must be true.

6. Etiquette

6.1 Content must be appropriate, civil and tasteful, and accord with generally accepted standards of etiquette and behaviour on the internet.

6.2 Content must not be offensive, deceptive, threatening, abusive, harassing, menacing, hateful, discriminatory or inflammatory.

6.3 You must not use the Services to send any hostile communication or any communication intended to insult, including such communications directed at a particular person or group of people.

6.4 You must not use the Services for the purpose of deliberately upsetting or offending others.

6.5 You must not unnecessarily flood the Services with material relating to a particular subject or subject area, whether alone or in conjunction with others.

6.6 You must at all times be courteous and polite to other users of the Services.

7. Marketing and spam

7.1 You must not without our written permission use the Services for any purpose relating to the marketing, advertising, promotion, sale or supply of any product, service or commercial offering.

7.2 Content must not constitute or contain spam, and you must not use the Services to store or transmit spam - which for these purposes shall include all unlawful marketing communications and unsolicited commercial communications.

7.3 You must not send any spam to any person using any email address or other contact details made available through the Services or that you find using the Services.

7.4 You must not use the Services to promote, host or operate any chain letters, Ponzi schemes, pyramid schemes, matrix programs, multi-level marketing schemes, "get rich quick" schemes or similar letters, schemes or programs.

7.5 You must not use the Services in any way which is liable to result in the blacklisting of any of our IP addresses.

8. Regulated businesses

8.1 You must not use the Services for any purpose relating to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.

8.2 You must not use the Services for any purpose relating to the offering for sale, sale or distribution of drugs or pharmaceuticals.

8.3 You must not use the Services for any purpose relating to the offering for sale, sale or distribution of knives, guns or other weapons.

9. Monitoring

9.1 You acknowledge that we may actively monitor the Content and the use of the Services.

10. Data mining

10.1 You must not conduct any systematic or automated data scraping, data mining, data extraction or data harvesting, or other systematic or automated data collection activity, by means of or in relation to the Services.

11. Hyperlinks

11.1 You must not link to any material using or by means of the Services that would, if it were made available through the Services, breach the provisions of this Policy.

12. Harmful software

12.1 The Content must not contain or consist of, and you must not promote, distribute or execute by means of the Services, any viruses, worms, spyware,

adware or other harmful or malicious software, programs, routines, applications or technologies.

12.2 The Content must not contain or consist of, and you must not promote, distribute or execute by means of the Services, any software, programs, routines, applications or technologies that will or may have a material negative effect upon the performance of a computer or introduce material security risks to a computer.