

TERMS OF SERVICE

Terms and conditions that apply to the Heresafe platform.

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Heresafe is an ISO9001 and ISO27001 Certified Company

VAT No: 993 2148 96 | D&B DUNS: 216672692

Terms of Service

These are the Terms that apply to the supply by us of the Heresafe Platform and any Services to you. You agree to these terms when you submit an order to us.

1 INTERPRETATION OF WORDS AND PHRASES

- 1.1 The words and phrases in these Terms mean specific things. They are capitalised all the way through and explained in the defined terms section in Annex A of these Terms.

2 APPLICATION OF THESE TERMS

- 2.1 These Terms, the Order (including, where applicable, any Special Terms agreed between us) and the DPA apply to form the Agreement between us. They take precedence over any terms and conditions of supply previously supplied by us. You acknowledge and agree that you have read, understood and agree to each of the sections and documents listed above that form our Agreement. We recommend that you retain a copy of all the documents that make up our Agreement.
- 2.2 Each Order issued by you shall be an offer to access the Heresafe Platform and/or purchase the Services subject to these Terms.
- 2.3 We may accept or reject your Order request at our discretion. An Order shall not be accepted and no binding obligation to provide access to the Heresafe Platform and/or to supply the Services shall arise, until the earlier of:
 - 2.3.1 our written acceptance of the Order; or
 - 2.3.2 us providing you with access to the Heresafe Platform and/or commencing the performance of the Services or notifying you they are ready to be performed (as the case may be).
- 2.4 Rejection of an Order by us, including any communication given by us that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by you.
- 2.5 Each Order forms a separate, standalone agreement between us.
- 2.6 No terms or conditions delivered with or contained in your purchase conditions, order or other document will form part of our Agreement.
- 2.7 We may issue quotations to you from time to time. Quotations are invitations to treat only. They are not an offer to provide access to the Heresafe Platform and/or to supply the Services and are incapable of being accepted by you.
- 2.8 Marketing and other promotional material relating to the Heresafe Platform and/or the Services are illustrative only and do not form part of our Agreement.
- 2.9 If there is a conflict between any of the documents listed below, the order of priority, highest first, is:
 - 2.9.1 the DPA;
 - 2.9.2 the Order;
 - 2.9.3 the Special Terms; and
 - 2.9.4 the rest of these Terms.

3 WHEN OUR AGREEMENT BEGINS AND HOW LONG IT LASTS

- 3.1 Our Agreement starts on the Effective Date and will, unless one of us ends it (in a way that these Terms allow), carry on until the expiry of the Initial Term and shall automatically continue thereafter for further consecutive Additional Terms unless terminated by either of us giving the other written notice of not less than the Notice Period to terminate our Agreement, such notice to expire at the end of the Initial Term, or, as the case may be, the relevant Additional Term.

4 GENERAL PRINCIPLES

- 4.1 During the Term, we agree to supply, and you agree to purchase the Services and access to the Heresafe Platform on the terms set out in our Agreement.
- 4.2 We confirm we are a legal entity, authorised to agree our Agreement and provide the Services and access to the Heresafe Platform.
- 4.3 You confirm you are legally set up as a business, authorised to agree our Agreement and carry out your responsibilities under it. You confirm the individual signing the Order on your behalf is authorised to do so.

5 Heresafe PLATFORM AND OUR SERVICES GENERALLY

- 5.1 We will:
- 5.1.1 provide the Services with reasonable skill and care;
 - 5.1.2 provide you with access to the Heresafe Platform in accordance with the terms of our Agreement;
 - 5.1.3 comply with Law applicable to us;
 - 5.1.4 comply with our Information Security Policy; and
 - 5.1.5 report to you details about the Services and the provision of the Heresafe Platform in the manner and at the frequency as set out in this Agreement.
- 5.2 We use artificial intelligence and machine learning technologies in developing and improving the Heresafe Platform and the performance of our Services. As part of providing our Services, we will process and store your inputs as well as the outputs from the platform, for the purposes of training our models.
- 5.3 You retain ownership rights in the uploaded content (which is Your Material), but you grant us a limited licence to use, store, analyse and copy that content, and any content derived from it, so that we may provide the Services to you and for the purposes set out in 5.2 above. You agree that we will be free (during and after the term hereof) to (i) use such information and data (in aggregate or de-identified form) to improve and enhance the Heresafe Platform and Services; and (ii) for other development, diagnostic and corrective actions in relation to the Heresafe Platform and/or Services. You acknowledge that once Your Materials are ingested by the Heresafe Platform as permitted by this clause 5.3, that We are unable to delete such data.
- 5.4 We would encourage you to redact any Personal Data in the content that you upload. We will not use artificial intelligence for automated decision making in relation to Personal Data, and we will not disclose it to any unauthorised third parties in an unredacted or de-aggregated form.

6 WHAT YOU HAVE TO DO

- 6.1 You will:
- 6.1.1 perform your obligations in accordance with the terms of our Agreement;
 - 6.1.2 pay the Charges in the manner set out in clause 13;
 - 6.1.3 tell us the name(s) and contact details of the individual(s) authorised to act on your behalf for the Services, the Heresafe Platform, and technical and billing matters (Customer Contact). We may however accept instructions from a person who we reasonably believe is acting with your authority;
 - 6.1.4 cooperate with us and comply with any reasonable requests we make to help us provide any Service and/or the Heresafe Platform;

- 6.1.5 provide us with Your Material and any information, documents, materials, data or other items reasonably required by us, without undue delay, and you will make sure the same is accurate, up-to-date and complete;
- 6.1.6 inform us in a timely manner of any matters which may affect our performance of the Services and/or the Heresafe Platform;
- 6.1.7 obtain and maintain all necessary licences, permits and consents required to enable us to perform the Services and provide the Heresafe Platform for your benefit, and otherwise comply with our obligations under our Agreement;
- 6.1.8 comply with applicable Law, and make sure that your Representatives do as well;
- 6.1.9 prevent any unauthorised access to, or use of, the Deliverables and the Heresafe Platform and, in the event of any such unauthorised access or use, promptly notify us;
- 6.1.10 be responsible for your network connections, telecommunications links and all problems, conditions, delays and delivery failures arising from or relating to them;
- 6.1.11 promptly complete any preparation activities that we may request to enable you to receive any Service and/or the Heresafe Platform;
- 6.1.12 comply with any of your additional or special responsibilities and obligations specified in the Order or otherwise agreed between us from time to time; and
- 6.1.13 not do (or permit any person to do) anything that is likely to adversely interfere with our business, systems or operations, nor transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware, malware, ransomware or any other harmful programs or similar computer code designed to adversely affect the operation of any of our computer software, hardware or IT networks or systems.

7 DELAYS AND WHEN WE ARE NOT TO BLAME

- 7.1 We shall use reasonable endeavours to perform the Services and provide access to the Heresafe Platform in accordance with any agreed time schedule, or, if no time schedule has been agreed, within a reasonable time.
- 7.2 If any Services and/or the Heresafe Platform, in whole or in part, cannot be provided by us on a timely basis for reasons caused in whole or part by: (a) you, your Representatives and/or any of your subcontractors/suppliers; (b) anyone other than us, our Affiliates or suppliers doing something, or not doing something, they need to do; (c) a Relief Event; (d) or restriction or prevention by applicable Law, a court order, an application for interlocutory relief or injunction, then:
 - 7.2.1 we shall have no liability for Losses that are attributable to any of those circumstances and/or events;
 - 7.2.2 we shall be entitled to reimbursement of costs caused to us due to those circumstances and/or events; and
 - 7.2.3 any agreed timeframes for performance may be extended, if and where practicable, for a period equivalent to the period of the delay caused by those circumstances and/or events (however it may be longer at our discretion).

8 PROFESSIONAL SERVICES

- 8.1 We will provide you with the Professional Services agreed between us in the Order or otherwise in writing.
- 8.2 Unless we agreed something different between us in writing:
 - 8.2.1 each Deliverable (other than software) shall be deemed delivered to you on the day which we perform the Professional Services referable to it or (if later) the actual date we deliver the Deliverable; and
 - 8.2.2 any software Deliverable will be deemed delivered when deployed into a staging, development or production environment (as applicable) or when it is otherwise made accessible to you.
- 8.3 Where we agreed between us in writing that a software Deliverable is subject to acceptance, within 3 Business Days (unless a different period is agreed between us in writing) after delivery of any Deliverable to you in accordance with clause 8.1, you will:

- 8.3.1 carry out agreed Acceptance Tests (if any) on it;
 - 8.3.2 notify us in writing of any Errors; and
 - 8.3.3 if no Errors are found, approve (i.e., accept) the Deliverable by an email to us stating this.
- 8.4 Acceptance of a Deliverable shall be deemed on the earliest of:
- 8.4.1 when you inform us of the acceptance of the Deliverable in writing;
 - 8.4.2 when we have demonstrated that we corrected all Errors reported by you in accordance with clause 8.3;
 - 8.4.3 if you do not provide us with written notice of any Errors or acceptance within the time period specified in clause 8.3;
 - 8.4.4 2 Business Days after you have used the Deliverable or a part of it in a production environment (whether or not any Acceptance Tests have been agreed or, if agreed, carried out) unless you have notified us of an Error within that time; or
 - 8.4.5 you otherwise use the Deliverable or a part of it in the normal course of your business.
- 8.5 If you identify an Error before a Deliverable is deployed into a production environment or you use the Deliverable or a part of it in the normal course of your business or within the period referred to in clause 8.3 unless you elect to take the Deliverables into live production use together with known Errors, such Errors will be moved into our product backlog for, at our discretion, repair or replacement.
- 8.6 Any errors that have only occurred once, and which we cannot reproduce, shall not be Errors.
- 8.7 If you reject a Deliverable based on:
- 8.7.1 a factor that is not identified in any agreed Acceptance Test;
 - 8.7.2 issues caused by misuse, improper testing, unauthorised attempts to repair, modifications or customisations to a Deliverable by you or any third party;
 - 8.7.3 issues caused by any cause beyond the range of the intended use of a Deliverable; and/or
 - 8.7.4 any Third-Party Software or Your Materials,
- we may submit details of the work required to alter the Deliverable as a Change Request and you may choose to accept or reject that Change Request. If you do not accept the Change Request the Deliverable shall be deemed accepted.
- 8.8 If you report an issue with a Deliverable that we are not responsible for, you agree to pay us on request for our reasonable costs in connection with the investigation and other work related to such error on a time and materials basis at our then current hourly rates (unless we agree something different between us).

9 HERESAFE PLATFORM AND SUPPORT SERVICES

Operation of the Heresafe Platform

- 9.1 Subject to the terms of our Agreement, we grant you a non-exclusive, non-transferable, personal right to:
 - 9.1.1 allow Authorised Users to use the Heresafe Platform; and
 - 9.1.2 copy and use the Documentation,in each case, as strictly necessary for your use of the Heresafe Platform during the Term for the Permitted Purpose.
- 9.2 You acknowledge that the provision of the Heresafe Platform does not include any services, systems or equipment required to access the internet (and that you are solely responsible for procuring access to the internet and for all costs and expenses in connection with internet access, communications and data transmission charges incurred by you in connection with use of the Heresafe Platform).
- 9.3 You warrant and represent that you and all others acting on your behalf (including systems administrators) shall, keep confidential and not share with any third party (or with other individuals except those with administration rights as necessary for use of the Heresafe Platform) their password or access details for the Heresafe Platform.

- 9.4 You will:
- 9.4.1 inform us immediately if an Authorised User's ID or password has, or is likely to, become known to an unauthorised person, or is being or may be used in an unauthorised way;
 - 9.4.2 prevent unauthorised access to the Heresafe Platform;
 - 9.4.3 satisfy our security checks if a password is lost or forgotten; and
 - 9.4.4 change any or all passwords or other systems administration information used in connection with the Heresafe Platform if we request you to do so in order to ensure the security or integrity of the Heresafe Platform;
 - 9.4.5 distribute, manage and maintain access profiles, passwords and other systems administration information relating to the control of Authorised Users' access to the Heresafe Platform;
 - 9.4.6 not perform scans or electronic testing of any kind on the Heresafe Platform, our networks, and our servers including, without limitation, vulnerability scanning or testing, penetration scanning or testing or any other type of scanning or testing of the Heresafe Platform, our networks, and our servers, unless we provide you with specific written consent, which we will not unreasonably withhold;
 - 9.4.7 ensure the security and proper use of all valid Authorised User access profiles, passwords and other systems administration information used in connection with the Heresafe Platform; and
 - 9.4.8 where we provide the Heresafe Platform for access by a specified number of Authorised Users, ensure that the maximum number of Authorised Users that you authorise to access and use the Heresafe Platform will not exceed the number of Authorised Users permitted by us; and
 - 9.4.9 not allow any Authorised User account to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User.

- 9.5 You will:
- 9.5.1 be liable for the acts and omissions of the Authorised Users as if they were your own;
 - 9.5.2 only provide Authorised Users with access to the Heresafe Platform via the access method provided by us and shall not provide access to (or permit access by) anyone other than an Authorised User; and
 - 9.5.3 procure that each Authorised User is aware of, and complies with, the obligations and restrictions imposed on you under our Agreement, including all obligations and restrictions relating to our Confidential Information.

- 9.6 You acknowledge and accept, we:
- 9.6.1 may carry out Maintenance. We will use reasonable endeavours to carry out Maintenance during a time that minimises any disruption to the Services, however you agree that emergency Maintenance may need to be performed during business hours;
 - 9.6.2 will be entitled to modify the features and functionality of the Heresafe Platform (for example, patches, bug fixes or to add functionality) in our sole discretion (and without following the process set out in clause 11) provided that any such modification or addition shall not result in any material adverse reduction in the features, functionality, characteristics or performance of the Heresafe Platform. For the avoidance of doubt, before giving you access to any additional functionality in the Heresafe Platform, we may amend the Charges with your written consent beforehand. If the both of us cannot agree the revised Charges, you will not be given access to the new functionality unless we tell you otherwise; and
 - 9.6.3 may issue planned Maintenance that results in the Services being unavailable to you, however, we will provide you with reasonable notice before doing so.

Support Services

- 9.7 We will provide the Support Services to you in accordance with Annex B, unless agreed otherwise in the Order.

Acceptable use of the Heresafe Platform

- 9.8 As a condition of use of the Heresafe Platform, you agree not to use the Heresafe Platform nor permit it to be used:

- 9.8.1 for any purpose that is unlawful under any applicable Law or prohibited by our Agreement;
 - 9.8.2 to commit any act of fraud;
 - 9.8.3 to distribute any virus, disabling code (including code intended to limit or prevent any use any software or system) or other malicious software (including malware, trojan horses, ransomware and spyware);
 - 9.8.4 to simulate communications from us or another service or entity in order to collect identity information, authentication credentials, or other information ('phishing');
 - 9.8.5 in any manner that disrupts our operations, business, equipment, websites or systems or any other person or entity (including any denial of service and similar attacks);
 - 9.8.6 to gain unauthorised access to or use of any computers, data, systems, accounts or networks of any person;
 - 9.8.7 to attempt to circumvent any security controls or mechanisms;
 - 9.8.8 to attempt to circumvent any password or user authentication methods of any person;
 - 9.8.9 in any manner inconsistent with our Agreement or the Documentation; or
 - 9.8.10 in any manner which does not comply with the provisions relating to Intellectual Property Rights contained in our Agreement.
- 9.9 Your Data and any communication made on or using the Heresafe Platform by any person must conform to appropriate and lawful standards of accuracy, decency and lawfulness. In particular, your warrant and undertake that Your Data and each such communication shall at all times be:
- 9.9.1 submitted lawfully and without infringement of any Intellectual Property Rights of any person;
 - 9.9.2 free of any virus, disabling code (including code intended to limit or prevent any use any software or system) or other malicious software (including malware, trojan horses, ransomware and spyware) at the point of entering the Heresafe Platform or our systems; and
 - 9.9.3 provided with the necessary consent of any third party.

Our promises about the Heresafe Platform

- 9.10 Subject to clauses 9.11 to 9.15, we will seek to ensure that the Heresafe Platform shall operate materially in accordance with the Description when used in accordance with our Agreement under normal use and normal circumstances during the Term.
- 9.11 If we breach the warranty in clause 9.10, we agree to use commercially reasonable efforts to modify the Heresafe Platform in accordance with the terms of Annex B so that the Heresafe Platform conforms to that warranty. To the maximum extent permitted by law, this clause 9.11 sets out your sole and exclusive remedy (however arising, whether in contract, negligence or otherwise) for any breach of any of the warranties in clause 9.10.
- 9.12 The warranty in clause 9.10 shall not apply to the extent that any Incident in the Heresafe Platform arises as a result of:
- 9.12.1 incorrect operation or use of the Heresafe Platform by you or any Authorised User including any failure to follow the Documentation or failure to meet the Compatibility Requirements or the use of the Heresafe Platform with other software, devices or services or on equipment with which it is incompatible;
 - 9.12.2 use of any part of the Heresafe Platform other than for the purposes for which it is intended;
 - 9.12.3 any act by any third party;
 - 9.12.4 any modification of the Heresafe Platform (other than that undertaken by us or at our direction);
 - 9.12.5 any Third-Party Software, Your Materials or any other third-party software incorporated into, compiled with or linked to any part of the Heresafe Platform; or
 - 9.12.6 any breach of our Agreement by you.
- 9.13 You acknowledge that:
- 9.13.1 neither we nor our third-party providers control your equipment or the transfer of data over communications facilities (including the Internet or via SMS);

- 9.13.2 the Heresafe Platform may be subject to limitations, interruptions, delays, cancellations, and other problems inherent in the use of those communications facilities; and
- 9.13.3 we and our third-party providers are not responsible for any interruptions, delays, cancellations, delivery failures, data loss, content corruption, packet loss, or other damage resulting from the interruptions described in clauses 9.13.1 and 9.13.2.
- 9.14 You hereby acknowledge and agree that we cannot, therefore, guarantee:
 - 9.14.1 that any communications component(s) of the Heresafe Platform will be available to you at all times or free from faults or interruptions;
 - 9.14.2 the receipt by any intended recipient of any message and/or other form of communication sent using any relevant communications component(s) of the Heresafe Platform (as applicable); or
 - 9.14.3 the retrieval by any intended recipient of any message and/or other form of communication using any relevant communications component(s) of the Heresafe Platform (as applicable).
- 9.15 You also acknowledge that no liability or obligation is accepted by us (howsoever arising whether under contract, tort, in negligence or otherwise):
 - 9.15.1 that the operation of the Heresafe Platform shall not be subject to minor errors or defects; or
 - 9.15.2 that the Heresafe Platform shall be compatible with any other software or service or with any hardware or equipment except to the extent expressly referred to as compatible in the Compatibility Requirements.

Third Party Data

- 9.16 We do not make any warranty or representation (whether express or implied), to you or any other person or entity as to the accuracy, timeliness, completeness, merchantability or fitness for any particular purposes of any Third-Party Data.
- 9.17 Subject to clause 25.1 and to the fullest extent permitted under applicable Law, we disclaim any and all liability with regard to your use of and reliance on any Third-Party Data.
- 9.18 You acknowledge and accept:
 - 9.18.1 your use of Third-Party Data may be subject to the requirements imposed by the relevant Third-Party Data provider, and you agree to comply with those requirements;
 - 9.18.2 that access to some Third-Party Data may be subject to approval by the relevant Third-Party Data provider and/or the direct grant of a licence to you. Where any Third-Party Data provider requires you to enter into a direct agreement with them in respect of the Third-Party Data licence you shall do so promptly;
 - 9.18.3 all Third-Party Data is proprietary to the Third-Party Data provider that supplies it (and/or its licensors); and
 - 9.18.4 certain types of misuse or misappropriation of Third-Party Data may cause a Third-Party Data provider irreparable harm, with respect to which such Third-Party Data provider may be entitled to injunctive or other equitable relief.

10 CONTRACT MANAGEMENT AND CO-OPERATION

- 10.1 Each of us shall appoint a representative to act as the main point of contact for the other party in respect of all day-to-day matters relating to the supply of the Services, the Heresafe Platform and our Agreement.
- 10.2 We both shall ensure that our respective representatives meet at such intervals agreed between them to discuss the progress being made in relation to the provision of the Services and the Heresafe Platform, as well as any issues which may arise.

- 10.3 We may be required to liaise or interact with Customer Third-Party Service Providers or other third parties that supply services or products to you in connection with your receipt of the Services and/or the Heresafe Platform. We will reasonably co-operate with such Customer Third-Party Service Providers and third parties appointed by you, and you will procure that such Customer Third-Party Service Providers and other third parties co-operate and provide all necessary and timely support, inputs, information and materials that are accurate and reliable, and other assistance to us, that we reasonably require in order to provide the Services and/or the Heresafe Platform to you in accordance with our Agreement.
- 10.4 You acknowledge and agree that if you make use of any such Customer Third-Party Service Providers or third parties we shall act on any instructions and requests from the relevant Customer Third-Party Service Provider or third party as if they were provided to or given by you and shall be effective as if you provided such instructions or requests, whether or not these were in fact authorised by you.

11 CHANGE CONTROL MANAGEMENT

- 11.1 Where you or we see a need to change our Agreement, the Heresafe Platform or any of the Services, we may at any time request, and you may at any time recommend, such Change and a Change Request shall be submitted by the one of us requesting/recommending (as applicable) the Change to the other. Such Change shall be agreed only once the Change Request is agreed by both of us. For the avoidance of doubt, if the Change affects the agreed Charges, we may amend the Charges to reflect the Change.
- 11.2 Except as set out elsewhere in our Agreement, until such Change is made in accordance with clause 11.1, both of us shall, unless otherwise agreed in writing, continue to perform our Agreement in compliance with its terms prior to such Change.
- 11.3 Any discussions which may take place between us in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either of us.
- 11.4 In spite of clauses 11.1 to 11.3:
- 11.4.1 we may make changes to the Heresafe Platform as set out in clause 9.6.2; and
- 11.4.2 at any time, if we undertake work at your request that is not part of our Agreement (e.g. any work pursuant to a Change Request where we each have not agreed it or work that is otherwise outside the scope of Services), such work shall be deemed to be Services under our Agreement which you agree to pay us for on a time and materials basis, calculated per hour in accordance with our then current rates.

12 CHARGES

- 12.1 Our Charges shall be as set out in the Order or, if they are not set out in the Order, they will be calculated in accordance with our scale of charges in force from time to time. Professional Services are provided on either a time-and-materials or fixed fee basis. Any amount set forth in a time-and-materials basis is solely a good-faith estimate for your budgeting and our resource-scheduling purposes and is not a guarantee that the work will be completed for that amount. The actual amount may be higher or lower. If the estimated amount is expended, we will continue to provide Professional Services under the same rates and terms. We will periodically update you on the status of the Professional Services and the fees accrued when we apply a time-and-materials fee. We also charge an offboarding fee as set out in your Order.
- 12.2 The amounts payable by you under our Agreement are exclusive of VAT. Where it applies, you will pay us VAT (at the prevailing rate when the payment is due to be made by you) on the sums payable under our Agreement. To avoid doubt, we may vary the Charges at any time to take account of any change in VAT and all other taxes during the Term.
- 12.3 We will be entitled to be reimbursed by you for all out-of-pocket expenses incurred by us or any of our personnel in the proper provision of the Services and/or the Heresafe Platform, subject to the production of corresponding receipts and we will include those expenses on our invoices.

- 12.4 We may increase the Charges for the provision of the Support Services and access to the Heresafe Platform at any time following the expiry of the Initial Term.
- 12.5 In spite of clause 12.4, we may increase any Charges with immediate effect by written notice to you where there is an increase in the costs charged to us by any third-party supplier that is involved in the supply of any part of the Services and/or the Heresafe Platform. Further, we may increase the rates used by us to calculate the Charges for Professional Services at any time on giving you written notice.

13 PAYMENT

- 13.1 Unless otherwise agreed with you in writing or in the Order:
- 13.1.1 we will invoice you the Charges for:
- 13.1.1.1 the Professional Services charged on a: (i) time-and-materials basis, monthly in arrears; and (ii) fixed fee basis, in advance;
- 13.1.1.2 the Support Services and provision of access to the Heresafe Platform yearly in advance on the Delivery Date and each anniversary of that date during the Term;
- 13.1.1.3 for investigating Incidents that you report to us where we find no Incident or that the Incident is caused by something for which we are not responsible under our Agreement, or any other Charges incurred by us monthly in arrears; and
- 13.1.2 you will pay each of our invoices:
- 13.1.2.1 within 30 days of our invoice date;
- 13.1.2.2 to the bank account nominated by us; and
- 13.1.2.3 in full and in clear funds, without deduction or set-off.
- 13.2 If you do not pay any of our invoices by the due date, without limiting our other rights, we may:
- 13.2.1 charge you interest on the unpaid amount at 4 per cent a year above the Bank of England's base rate from time to time in force (or if the Bank of England's base rate drops below zero, then at 4 per cent a year). That interest will compound on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgement; and
- 13.2.2 restrict or suspend the Services and/or access to the Heresafe Platform under clause 21.
- 13.3 You will pay us any reasonable costs that we incur when recovering any amount you owe us.
- 13.4 We may on giving you written notice reduce the number of days you have to pay each invoice:
- 13.4.1 where:
- 13.4.1.1 you issue a profit warning; or
- 13.4.1.2 any credit agency reduces your credit rating; and
- 13.4.2 we reasonably consider that this will affect your ability to pay our invoices.
- 13.5 As part of our credit management procedures, we may at any time:
- 13.5.1 require you to pay a deposit, pay the Charges in advance, or provide a guarantee as security for payment of future invoices by the means requested by us; and
- 13.5.2 carry out a credit check on you. You will provide us or our agents with any information we or they may reasonably require for this.
- 13.6 Where applicable, you are liable for any Withholding Taxes on payments to us, so that the net amount we receive is not less than the amount invoiced to you.
- 13.7 If you do not, acting in good faith, agree with something in an invoice we send you:
- 13.7.1 before you have made payment, you will give us written notice within 7 days after the date of the invoice; and

- 13.7.2 after you have made payment, you will give us written notice of that dispute within three months after the date of the invoice.
- 13.8 We will both settle an invoice dispute in accordance with clause 24 and you will pay the amount we both finally agree on within five days of both of us agreeing it. You will always pay the undisputed amount of an invoice on the due date for payment.
- 13.9 We may still charge you interest in accordance with clause 13.2 for any amount that we both agree is payable under clause 13.8.

14 INTELLECTUAL PROPERTY RIGHTS

- 14.1 All Intellectual Property Rights in and to the Services and the Heresafe Platform (including in the Documentation, Description, Deliverables, the Heresafe Platform Code and all Heresafe Provided Materials) belong to and shall remain vested in us or our licensors, as applicable (the Heresafe IPR).
- 14.2 Otherwise to the extent specifically agreed by us or allowed by applicable Law, you may not (nor permit others) to at any time:
 - 14.2.1 use the Heresafe IPR for any purpose other than that permitted by our Agreement;
 - 14.2.2 access all or any part of the Heresafe IPR in order to build a product or service which competes with all or any part of the Heresafe IPR; or
 - 14.2.3 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make all or any part of the Heresafe IPR available for the benefit of third parties.
- 14.3 Where we have agreed to customise, configure, integrate, support or otherwise manage any Third-Party Software for you, then you acknowledge and agree that:
 - 14.3.1 the software licences for such Third-Party Software are to be purchased separately and independently by you directly from such third-party owners or licensors under and in accordance with our Agreement of such owners or licensors;
 - 14.3.2 our authority to execute, perform and deliver our obligations under our Agreement are dependent upon you obtaining the required licences and permissions for relevant Third-Party Software which shall be your sole responsibility and liability; and
 - 14.3.3 we will have no liability or responsibility for such Third-Party Software except to the extent otherwise specifically agreed between us in writing.
- 14.4 You grant to us and our Affiliates a worldwide, royalty-free, transferable, non-exclusive right and licence, to:
 - 14.4.1 use, copy, host, store, display, modify, adapt and reproduce Your Materials and develop derivative works for the purposes of providing the Services and the Heresafe Platform for your benefit or otherwise to exercise our rights, remedies and obligations under our Agreement;
 - 14.4.2 use your logo and brand name to place on our website and associated marketing content, with the intention of informing viewers that you are a present or past client, or a present or past trial user of our Services, should we wish to do so;
 - 14.4.3 where necessary, sub-licence (or otherwise make available) Your Materials to any subcontractors or suppliers used by us, but only as required for the provision of the Services and the Heresafe Platform; and
 - 14.4.4 utilise Your Materials in an anonymised and aggregated form for our business purposes (such as statistical information to improve the functionality of the Heresafe Platform).
- 14.5 You will:
 - 14.5.1 obtain and maintain all necessary licences and consents required for us and you to use Your Materials and any Third-Party Data in respect of which you have a direct licence with the relevant Third-Party Data provider; and
 - 14.5.2 be solely responsible for the population, accuracy, completeness, design, appropriateness, creation, maintenance, and updating of all Your Materials in the use of the Heresafe Platform.

- 14.6 You acknowledge and agree that:
- 14.6.1 we will not be liable for any errors or inaccuracies in Your Materials or any changes or modifications to Your Materials by us due to your instructions; and
 - 14.6.2 we will not be held responsible in any way for any Intellectual Property Right infringement, the violation of any other person's rights or the violation of any laws, arising out of or related to Your Materials.
- 14.7 You warrant, undertake and represent to us that:
- 14.7.1 all licences and consents have been and shall be obtained and maintained in respect of the Your Materials and any Third Party Data and any Third Party Software in respect of which you have a direct licence with the relevant Third Party Data or Third Party Software provider while we have a need to use them for the purposes of our Agreement; and
 - 14.7.2 Your Materials, any other material provided by you (or on your behalf) to us, and any Third Party Data and any Third Party Software in respect of which you have a direct licence with the relevant Third Party Data or Third Party Software provider shall not infringe the rights of any third party (including any Intellectual Property Rights).
- 14.8 We may use any feedback and suggestions for improvement relating to the Services and/or the Heresafe Platform provided by you without charge or limitation (Feedback). You hereby assign (or shall procure the assignment of) all Intellectual Property Rights in the Feedback with full title guarantee (including by way of present assignment of future Intellectual Property Rights) to us at the time the Feedback is first provided to us.
- 14.9 Except for the rights expressly granted in our Agreement, you will not acquire in any way any title, rights of ownership, or Intellectual Property Rights of whatever nature in the Services and the Heresafe Platform and no Intellectual Property Rights of either party are transferred or licensed as a result of our Agreement.

15 INTELLECTUAL PROPERTY RIGHTS INDEMNITY FROM US

- 15.1 Subject to clauses 15.2, 15.3 and 15.4, we will defend you from any damages awarded against you by a court of competent jurisdiction or agreed upon in settlement by us as a result of or in connection with any Infringement Claim.
- 15.2 Clause 15 is contingent on you:
- 15.2.1 providing us with prompt written notice of the Infringement Claim;
 - 15.2.2 permitting us to fully control the defence and settlement of the Infringement Claim;
 - 15.2.3 refraining from entering into any settlement or compromise of any such Infringement Claim without our written agreement;
 - 15.2.4 providing us with reasonable information and assistance for the defence or settlement of the Infringement Claim; and
 - 15.2.5 using all commercially reasonable endeavours to mitigate any loss, damage or costs related to the Infringement Claim.
- 15.3 In the event that a court holds, or if we believe a court may hold, that the Deliverables and/or the Heresafe Platform (or any part of them) infringes any third-party Intellectual Property Right, we may, at our option:
- 15.3.1 modify the infringing parts of the Deliverables and/or the Heresafe Platform so that they cease to be infringing without loss of substantial functionality;
 - 15.3.2 replace infringing parts of the Deliverables and/or the Heresafe Platform with non-infringing parts;
 - 15.3.3 procure for you the right to continue using the infringing parts of the Deliverables and/or the Heresafe Platform; or

- 15.3.4 if in our opinion none of the possibilities set out above are commercially feasible: (a) terminate your rights to use any infringing Deliverables and/or the Heresafe Platform; (ii) remove them from you; and (iii) reimburse to you any proportion of Charges paid during the 3 month period preceding the date of the Infringement Claim for the use of the infringing Deliverables or the Heresafe Platform (or both).
- 15.4 Clause 15 shall not apply where the Infringement Claim results from:
- 15.4.1 use of any Deliverables or the Heresafe Platform otherwise than in accordance with our Agreement;
- 15.4.2 modifications to the Deliverables, the Heresafe Platform Code or the Heresafe Platform other than by us;
- 15.4.3 use of the Heresafe Platform (or any part) in combination with any software, hardware or data that has not been supplied or expressly authorised by us;
- 15.4.4 Your Materials;
- 15.4.5 any breach of our Agreement by you; or
- 15.4.6 Third Party Data and any Third-Party Software in respect of which you have a direct licence with the relevant Third-Party Data or Third-Party Software provider, or any other products or services added, embedded, used or accessed through the Deliverables and/or the Heresafe Platform at your request.
- 15.5 This clause 15 is your exclusive remedy and our entire liability in respect of any Infringement Claim.

16 PERSONAL DATA

- 16.1 Each of us agrees to its respective obligations, and may exercise its respective rights and remedies, set out in the DPA.

17 YOUR DATA

- 17.1 Your Data will remain your property.
- 17.2 Except to the extent that we have direct obligations under applicable data protection Laws, you acknowledge that we have no control over any Your Data hosted as part of the provision of the Heresafe Platform and may not actively monitor or have access to the content of the Your Data. You shall ensure (and are exclusively responsible for) the accuracy, quality, integrity and legality of the Your Data and that your use (including use in connection with the Heresafe Platform) complies with all applicable Laws and Intellectual Property Rights.
- 17.3 We agree to use: (i) firewalls and other technology generally used in the trade to seek to prevent unauthorised third-party access to our computer systems storing Your Data; and (ii) available encryption technology generally used in the trade to prevent unauthorised third-party access to Your Data transmissions. However and regardless of any other terms of our Agreement, we will not be liable to you in the event that: (i) our use of firewalls and other technology used by us fails to prevent unauthorised third party access to Your Data; or (ii) our use of encryption technology used by us fails to prevent unauthorised third party access to Your Data transmissions.
- 17.4 If we receive any request for disclosure of Your Data by a law enforcement authority, we will, unless prevented by Law:
- 17.4.1 notify you prior to making any such disclosure in order to enable you to take such steps as you deem reasonably necessary in order to maintain the confidentiality of Your Data; and
- 17.4.2 agree the timing and exact content of any such disclosure with you in advance of it being made.
- 17.5 We will back up Your Data in accordance with our Back-Up Policy. In the event of any loss or damage to Your Data, as your exclusive remedy and our entire liability, we will restore Your Data that has been lost or damaged the latest back-up. We will not be responsible for any loss, destruction, alteration or disclosure of Your Data caused by any third party (excluding our subcontractors).

18 KEEPING THINGS CONFIDENTIAL

- 18.1 We will both keep all Confidential Information confidential and neither of us will disclose it, unless one of us needs to do that:
- 18.1.1 to meet its responsibilities or to receive any benefit under our Agreement, and then only to its Affiliates, its Representatives and Representatives of its Affiliates and, for us only, our subcontractors and suppliers, who need to know about the Confidential Information; or
 - 18.1.2 because applicable Law, a government or regulatory authority, or court of competent jurisdiction says it has to and the party disclosing it will give the other as much notice as reasonably possible before any disclosure.
- 18.2 The party receiving the Confidential Information in accordance with clause 18.1 will ensure that the people it discloses the information to in accordance with clause 18.1 comply with this clause 18.
- 18.3 Nothing in our Agreement will prevent us from using any techniques, ideas and other know-how gained during the performance of our Agreement to the extent that such use does not result in a disclosure of your Confidential Information in breach of this clause 18.
- 18.4 This clause 18 will continue without limitation of time.

19 INSURANCE

- 19.1 Each of us will maintain, at its own expense during the Term, insurance appropriate to its obligations under our Agreement.

20 ANTI-BRIBERY AND ANTI SLAVERY

- 20.1 The expressions adequate procedures and associated with shall have the meanings set out in the Bribery Act 2010 and legislation or guidance published under it.
- 20.2 Each of us will comply with the Modern Slavery Act 2005 and the Bribery Act 2010 including ensuring that it has in place adequate procedures to prevent modern slavery and bribery and use all reasonable endeavours to ensure that:
- 20.2.1 all of that party's personnel;
 - 20.2.2 all others associated with that party; and
 - 20.2.3 all of that party's sub-contractors;
- involved in performing our Agreement also comply.
- 20.3 Without limiting clause 20.2, neither of us shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 20.4 Each party shall immediately notify the other as soon as it becomes aware of a breach of any of the requirements in this clause 20.

21 RESTRICTING OR SUSPENDING A SERVICE

- 21.1 We may restrict or suspend any Service and/or your access to the Heresafe Platform if:
- 21.1.1 you do not pay us any sums under our Agreement on time and in the way described in clause 13;
 - 21.1.2 if you do not pay what you owe us under any other contract that you have entered into with us, as set out in that other contract;
 - 21.1.3 if we need to do Maintenance;
 - 21.1.4 to implement a Change under clause 11; or
 - 21.1.5 if we need to or reasonably believe we need to in order to protect the integrity or security of our Network, the Heresafe Platform or any of the Services.

- 21.2 If we decide to restrict or suspend the Service for any of the reasons in clause 21.1, we will let you as soon as we reasonably can.

22 TERMINATING OUR AGREEMENT WHEN SOMETHING GOES WRONG

- 22.1 Either of us may terminate our Agreement in whole or in part immediately by giving the other party written notice if:
- 22.1.1 the other party materially breaches our Agreement, and such breach cannot be remedied;
 - 22.1.2 the other party materially breaches our Agreement, and such breach can be remedied but the other party has not remedied the breach within 30 days after receiving the written notice; or
 - 22.1.3 the other party suffers an Insolvency Event.
- 22.2 The right to terminate our Agreement under clause 22.1.3 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the one of us that undergoes the amalgamation, reconstruction or merger agrees to adhere to our Agreement.
- 22.3 We may terminate our Agreement in whole or in part immediately by giving you written notice to terminate if you do not pay what you owe us under our Agreement or any other contract that you have entered into with us on due date for payment.

23 WHAT HAPPENS WHEN OUR AGREEMENT IS TERMINATED

- 23.1 On termination of our Agreement for any reason:
- 23.1.1 your right to receive the Services and your access to the Heresafe Platform will cease immediately;
 - 23.1.2 it will not affect any rights that either of us have up to that point;
 - 23.1.3 you shall immediately pay us all our outstanding invoices and interest and the Termination Charges;
 - 23.1.4 we will invoice you for all Services performed, access to the Heresafe Platform provided and other Charges not yet invoiced and payment for such invoices shall be due immediately on receipt by you;
 - 23.1.5 provided you are up to date in the payment of all Charges, you may request with 14 days of termination of our Agreement that we provide you with a copy of any Your Data in an agreed format subject to you paying us on a time and material basis at our then current rates for the provision of Your Data or otherwise the fee set out in any Order;
 - 23.1.6 if our Agreement is terminated by you under clause 22.1, we will refund you pre-paid Charges covering the remainder of the Term. If our Agreement is terminated in any other circumstances, we may retain payment of any pre-paid Charges;
 - 23.1.7 each of us will return or destroy any of the other's Confidential Information within a reasonable time (except for any Confidential Information which it is necessary for a party to keep in order to comply with applicable Law); and
 - 23.1.8 any part of our Agreement which expressly or by implication is intended to survive termination or expiry will do so.

24 DISPUTE RESOLUTION

- 24.1 We will both do what we reasonably can to settle any dispute or claim that occurs under or in relation to our Agreement, and to avoid having to involve the courts or any other authority.
- 24.2 We will both use the following dispute resolution process:
- 24.2.1 whichever of us is affected will provide written notice of the complaint that clearly sets out the full facts and includes relevant supporting documents;
 - 24.2.2 we will both use reasonable endeavours to settle the dispute within 14 days of getting the complaint and will make sure to give regular updates to the other during the 14 days; and

- 24.2.3 if the dispute is not settled after 14 days (or any other period agreed by both of us in writing), the dispute can be escalated to a senior executive of either of us (someone at director level or above).
- 24.3 Nothing in clauses 24.1 or 24.2 stops either of us:
 - 24.3.1 seeking interlocutory or other immediate relief if one of us is at risk of imminent harm;
 - 24.3.2 going to a court of competent jurisdiction if either of us considers it reasonable; or
 - 24.3.3 doing anything else our Agreement lets us do.

25 HOW FAR WE EACH ARE RESPONSIBLE

- 25.1 Nothing in our Agreement excludes or limits the liability of either of us for:
 - 25.1.1 death or personal injury caused by either of us being negligent;
 - 25.1.2 fraud or fraudulent misrepresentation; or
 - 25.1.3 any other liability that cannot be excluded or limited by applicable law.
- 25.2 Subject to clause 25.1, we will not be held liable under or in connection with our Agreement and whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution, or in any other way (including under any indemnity), for any special, indirect or consequential loss or damage.
- 25.3 Subject to clause 25.1, we will be not be held liable under or in connection with our Agreement and whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution, or in any other way (including under any indemnity), for any of the following losses, no matter if those losses are direct or indirect: loss of profit, revenue or anticipated savings; loss of business, contracts or commercial opportunity; loss or corruption of software or systems; harm to reputation or loss of goodwill; loss from wasted expenditure, wasted time or business interruption; loss, destruction or corruption of data; or any liability to third parties.
- 25.4 Subject to clauses 25.1, our total liability to you under or in connection with our Agreement, and whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution, or in any other way (including under any indemnity), will be limited to, where the first incident giving rise to any claim under our Agreement occurs:
 - 25.4.1 in the first Contract Year, the Charges that were paid or payable by you, or would have been paid or payable by you had the incident not occurred, for the first 12 months from the Effective Date; and
 - 25.4.2 at any other time, the mean of the monthly Charges that were paid or payable by you from the Effective Date to the date when the first incident occurred, multiplied by 12.
- 25.5 To the maximum extent permitted by law, we shall not be liable (under any legal theory, including negligence) for any breach, delay or default in the performance of our Agreement to the extent the same (or the circumstances giving rise to the same) arises or was contributed to by: (a) any Relief Event; (b) the failure of any network, hardware, software or service which is not under our control; (c) any unauthorised access to or use of the Heresafe Platform, save to the extent this is due to our breach of our security obligations under our Agreement; (d) links to third party websites or the transfer of data to third party servers (other than by us); or (e) denial of service attacks (other than where we have failed to provide appropriate security measures for an environment we control).
- 25.6 No claim under our Agreement may be brought against us more than 6 months after you discovered the basis for the claim.
- 25.7 We exclude from our Agreement, as far as the law allows, any warranties, conditions or other terms that might be implied by statute or common law.
- 25.8 This clause 25 shall survive the termination or expiry of our Agreement.

26 NOTICES

- 26.1 If one of us needs to give the other notice, they will do it in writing, in English and:
- 26.1.1 send it by email;
 - 26.1.2 deliver it by hand; or
 - 26.1.3 send it by first class post, recorded delivery or courier where you are located in the UK; or
 - 26.1.4 send it by airmail, where you are located outside the UK.
- 26.2 Notices need to be sent to:
- 26.2.1 us, at the postal or email address shown on the Order or any other address that we tell you to send notices to; or
 - 26.2.2 you, at the address that you ask us to send invoices to, your primary email address or your registered office address as of the date of the notice or any other address or email address you tell us to use by giving notice to us.
- 26.3 The recipient of the notice is deemed to have received the notice on the date (or if the date is not a Business Day, then on the next Business Day):
- 26.3.1 of transmission, if it is an email;
 - 26.3.2 the notice is left at the address or someone signs for it on behalf of the addressee, if it is delivered by hand or sent by courier;
 - 26.3.3 two days after posting, if it is sent by first-class post or recorded delivery; or
 - 26.3.4 five days after posting, if it is sent by airmail.

27 NON-SOLICITATION

- 27.1 In order to protect our legitimate business interests, during the Restricted Period you shall not, either directly or indirectly, by or through yourself, any of your Affiliates, agents or otherwise, or in conjunction with your any of your Affiliates, agents or otherwise, whether for your own benefit or for the benefit of any other person:
- 27.1.1 solicit, entice or induce, or endeavour to solicit, entice or induce, any Restricted Person of ours with a view to employing or engaging the Restricted Person, or
 - 27.1.2 employ or engage, or offer to employ or engage a Restricted Person of ours, without our prior written consent beforehand.
- 27.2 In spite of clause 27.1 you may employ or engage a Restricted Person of ours who has responded directly to a bona fide recruitment drive either through a recruitment agency engaged by you or via an advertisement placed publicly by you (either in the press, social media, online or in trade and industry publications).

28 PERSONNEL TRANSFERS

- 28.1 You warrant that, as a result of us providing the Services and/or the Heresafe Platform, there is no person whose contract of employment will have the effect as if it was originally made between that person and us in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 or otherwise.
- 28.2 You will indemnify us and keep us indemnified from and against any liabilities that we suffer or incur arising from the transfer to us of the contract of employment of any person in breach of the warranty given in clause 28.1 including, without limitation, any liabilities suffered or incurred in connection with:
- 28.2.1 any employment costs of any such person; or
 - 28.2.2 the employment or termination of employment of any such person prior to, on or after the date we commence supply of the Services.

29 OTHER GENERAL TERMS

- 29.1 The Terms, the Order, the DPA, where applicable, any Special Terms and any other documents referenced in any of those documents set out the terms agreed between both of us and replace any previous communication between us. By agreeing to our Agreement, each of us acknowledges they have not relied on any representation, warranty, collateral contract or other assurance (made negligently or innocently) except for the ones in our Agreement.
- 29.2 Except as set out otherwise in our Agreement, a person who is not a party to our Agreement will not have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any its terms.
- 29.3 Our Agreement is personal to you. To the fullest extent permitted by applicable Law, if you want to assign, subcontract or transfer your rights and obligations under our Agreement (as applicable), you need to get our written permission beforehand.
- 29.4 Except where our Agreement provides otherwise, our Agreement does not create any partnership, exclusive arrangement or joint venture between us, or authorise either of us to enter any commitments for, or on the behalf of, the other.
- 29.5 We may:
- 29.5.1 assign the benefit of our Agreement to another entity or person by notifying you in writing;
- 29.5.2 novate our Agreement to one of our Affiliates by notifying you in writing. If we do, all our rights, responsibilities and liabilities will transfer to that Affiliate, and you will need to deal with that Affiliate instead of us as we will no longer be a party to our Agreement; and
- 29.5.3 subcontract our responsibilities under our Agreement to another person or entity, but if we do, we will still be responsible to you.
- 29.6 If either of us does not do, or delays doing, something that our Agreement allows, they will not have waived their right to do it.
- 29.7 You agree we may refer to you as our customer in our internal and external communications and use your logos and identifying marks for such purpose.
- 29.8 If we are affected by a Force Majeure Event, we will:
- 29.8.1 not be liable for failing to do something we should have done, or for not doing it completely or on time to the extent this is caused by the Force Majeure Event; and
- 29.8.2 have a reasonable amount of extra time to perform the obligation that is affected by the Force Majeure Event.
- 29.9 The language of our Agreement is English. All documents, notices, waivers, variations and other written communications relating to our Agreement shall be in English. If our Agreement and any document relating to it is translated, the English version shall prevail.
- 29.10 If any court of competent jurisdiction finds that any part of our Agreement is illegal, invalid or unenforceable, that part will be considered removed, but no other part of our Agreement will be affected. If any illegal, invalid or unenforceable part of our Agreement would be legal, valid or enforceable if part of it were removed, we both will negotiate in good faith to change our Agreement, so it reflects what we both originally intended as much as possible.
- 29.11 Unless otherwise agreed between us in writing, the laws of England and Wales will apply to our Agreement and any disputes or claims in connection with it or our relationship, including non-contractual ones.
- 29.12 Unless otherwise agreed between us in writing, we both agree if you are incorporated:
- 29.12.1 in the United Kingdom, the courts of England and Wales will have exclusive jurisdiction over any disputes or claims connected to our Agreement or our relationship; and

29.12.2 outside the United Kingdom, any disputes or claims connected to our Agreement or our relationship will be referred to and finally resolved by arbitration in accordance with the rules from time to time in force of the London Court of International Arbitration (Rules) which rules are deemed to be incorporated by reference into this clause and: (a) the arbitration shall be conducted by a sole arbitrator agreed between us, or in default of agreement appointed by the President of the London Court of International Arbitration or any person who the President has from time to time delegated his power to make such appointments; (b) the seat or legal place of the arbitration shall be in Leeds, England; and (c) the language to be used in the arbitration shall be English.

ANNEX A - DEFINED TERMS

This document contains definitions which are written with a capital letter. These definitions have the following meanings:

Acceptance Tests means the tests (if any) mutually agreed between us to demonstrate that a Deliverable meets the functionalities agreed between us for it.

Additional Term means, unless the Order says something different, the same period as agreed for the Initial Term. So, for example, if the Initial Term is 12 months, each Additional Term shall be 12 months.

Affiliates means any entity that directly or indirectly Controls or is Controlled by, or is under common Control with, another entity.

Agreement means the agreement between you and us for the supply and purchase of Services and/or the supply and provision of access to the Heresafe Platform, in each case, incorporating these Terms, the Order, the DPA, the Special Terms (if applicable) and any other documents referenced in these Terms or the Order.

Authorised Users means users authorised by you to use the Heresafe Platform in accordance with the terms of our Agreement.

Back-Up Policy means our data back-up policy (as updated from by us time to time) which we will make available to you on request.

Business Day means a day other than a Saturday, Sunday or bank or public holiday in England.

Change means any change to our Agreement or to any Orders (but excluding where clause 9.6.2 applies).

Change Request means a written request submitted by one of us to the other to effect a Change.

Charges means the fees and charges that you pay us in relation to each Service, for access and use of the Heresafe Platform, text message communications and otherwise in connection with the performance of our obligations under our Agreement.

Compatibility Requirements means the document which sets out the Heresafe Platform's compatibility requirements in terms of operating systems, hardware devices, software systems, browsers and their versions made available by us to you (as updated by us from time to time).

Confidential Information means any information that is confidential in nature concerning one of either of us including, details of either of its businesses, affairs, customers, suppliers, plans, Intellectual Property Rights or strategies, no matter how it is recorded, stored or disclosed, but it does not include:

- a) information that is available to the public, or becomes available, unless it is because one of us breaches its obligations of confidentiality;
- b) information that was already available to the one of us receiving the information on a non-confidential basis; or
- c) information we both agree in writing is not confidential information.

Control means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and Controls and Controlled shall be interpreted accordingly.

Contract Year means a period of 12 months commencing on the Effective Date and each 12-month period after that during the Term (except that the last Contract Year shall be from the anniversary of the Effective Date until the date our Agreement terminates or expires).

Customer Contact has the meaning given in clause 6.1.3.

Customer Third-Party Service means any services (or elements of such services) that are not provided by us and are instead provided by a third party provider and in respect of which you or one of your Affiliates have entered or will enter into a direct agreement (whether in writing or otherwise) with the relevant third party provider in respect of those services.

Customer Third-Party Service Provider means a third party that provides Customer Third-Party Services to you.

Deliverables means any materials made, created, developed, modified, adapted or customised by us, our Affiliates or subcontractors, for you as part of the Professional Services but not including Third Party Software, Your Materials or the Heresafe Platform.

Delivery Date means the date when access to the Heresafe Platform is granted to the Customer.

Description means the description of the Heresafe Platform made available by us to you (as updated by us from time to time).

Documentation means any relevant instructions as to how to use the Heresafe Platform made available by us to you (as updated by us from time to time).

DPA means the data protection provisions set out here or such data processing agreement adopted and agreed by each of us, if such adoption is required by local applicable laws.

Effective Date means the date given to that term in the Order.

Error means a material performance anomaly related to the functionalities of a Deliverable, in any Acceptance Test or agreed during the development of the Deliverable (including a defect, failure, malfunction, bug or nonconformity in the Deliverable that prevents the Deliverable from materially complying with, or operating in accordance with any applicable Acceptance Test) but excluding any errors which:

- a) insignificantly affect your use of the Deliverable;
- b) are immaterial in respect of the intended use of the Deliverable;
- c) are due to the Deliverable being used other than for its intended purpose;
- d) are due to the Deliverable being modified or changed by anyone other than us;
- e) are due to you or your subcontractors or suppliers;
- f) are due to you not having the necessary hardware, software or other equipment to use the Deliverable as intended;
- g) are in or due to third party products or systems;
- h) result from you not providing accurate and complete information to us; and/or
- i) result from you selecting inappropriate, incomplete or inaccurate acceptance criteria and/or test data, or result from you providing, or using, false or faulty system requirements.

Feedback has the meaning given to that term in clause 14.8.

Force Majeure Event means an event or sequence of events beyond our reasonable control.

Incident means an unplanned interruption to, or a reduction in the quality of, the performance of the Heresafe Platform.

Information Security Policy means our information security policy (as updated from by us time to time) which we will make available to you on request.

Infringement Claim any action brought against you by a third party (but not your Affiliates) alleging that the proper and authorised possession, use, or maintenance of the Deliverables and/or the Heresafe Platform (or any part of them) by you in accordance with the terms of our Agreement is a direct infringement of Intellectual Property Rights (except patent rights) of a third party in the United Kingdom.

Initial Term means, unless the Order says something different, 12 months.

Insolvency Event means if a party:

- a) stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
- b) is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 (IA 1986);
- c) becomes the subject of a company voluntary arrangement under IA 1986;
- d) becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;
- e) becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;
- f) becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;
- g) has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
- h) has a resolution passed for its winding up;
- i) has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- j) is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;
- k) has a freezing order made against it;
- l) is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;
- m) is subject to any events or circumstances analogous to those in (a) to (l) above in any jurisdiction.

Intellectual Property Rights means copyright, rights related to copyright such as moral rights and performers' rights, patents, rights in inventions, rights in Confidential Information, Know-how, trade secrets, trademarks, geographical indications, service marks, trade names, design rights, rights in get-up, database rights, databases, data exclusivity rights, domain names, business names, rights in computer software, the right to sue for infringement, unfair competition and passing off, and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing.

Know-how means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, the results and procedures for experiments and tests, reports, component lists, manuals, instructions, designs, sketches, drawings, information relating to customers and suppliers (whether written or in any other form and whether confidential or not).

Law means any laws and regulations, as may be amended from time to time, which apply to the provision or receipt of a Service and/or the Heresafe Platform.

Losses means any debt, claim, obligation, costs (including legal costs, deductibles or increased premiums), expense, loss, damage, compensation, charge, remedy or liability of any kind, prospective or contingent and whether or not currently ascertainable.

Maintenance means any work on our Network or the Heresafe Platform, including to maintain, repair or improve the performance of our Network or the Heresafe Platform.

Materials means all services, data, information, content, Intellectual Property Rights, websites, software and other materials.

Network means any part of a communications network used by us to provide any part of the Service and/or the Heresafe Platform.

Notice Period means, unless the Order says something different, three months.

Order means the order for the supply of the Services and/or access to the Heresafe Platform from us placed by you.

Permitted Purpose means use of the Heresafe Platform by you for your internal business operations in accordance with the applicable Documentation and our Agreement. Permitted Purpose expressly excludes any of the following to the maximum extent permitted by law:

- a) copying, reproducing, publishing, distributing, redistributing, broadcasting, transmitting, modifying, adapting, editing, abstracting, storing, archiving, displaying publicly or to third parties, selling, licensing, leasing, renting, assigning, transferring, disclosing (in each case whether or not for charge) or in any way commercially exploiting any part of the Heresafe Platform or Documentation;
- b) permitting any use of the Heresafe Platform or Documentation in any manner by any third party without our written consent beforehand;
- c) combining, merging or otherwise permitting the Heresafe Platform (or any part of it) to become incorporated in any other program or service, or arranging or creating derivative works based on it (in whole or in part); or
- d) attempting to reverse engineer, observe, study or test the functioning of or decompile the Heresafe Platform (or any part),

except as expressly permitted under our Agreement.

Personal Data has the meaning given to the that term in the DPA.

Professional Services means any development, configuration, integration, business analysis, testing, implementation, training or other services we agree in writing to provide to you under any Order (excluding the Support Services and the provision of the Heresafe Platform).

Relief Event means:

- a) any breach of our Agreement by you; or
- b) any Force Majeure Event.

Representatives means employees, officers, representatives or advisers.

Restricted Period means the Term and a period of six months after the Term.

Restricted Persons means any person employed or engaged by us at any time during the Term in relation to the provision of the Services and/or the Heresafe Platform who has or had material contact or dealings with you.

Service means those Support Service and Professional Services that we have agreed to provide you under our Agreement, as set out in the Order.

Terms means our terms and conditions of supply set out in this document.

Special Terms means any variations to these Terms and/or additional and/or specific terms agreed between us in the Order.

Support Services means the support services to be provided by us to you as set out in Annex B.

Term means the Initial Term and each Additional Term.

Termination Charges means: i) any hardware or software acquisition and/or development costs, and/or any implementation, set-up, data feed/licence/hosting and/or other costs incurred by us which would have been amortised by us and paid by you had our Agreement continued for the full Term; and/or ii) any other compensatory charges payable by you to us on termination of our Agreement as set out in the Order.

Third-Party Data means any data provided by Heresafe directly or obtained from third parties that are not proprietary of Heresafe.

Third-Party Software means third party software included (or to be included) or linked to the Heresafe Platform as a result of either your request or our recommendation and which is licensed directly to you or which we have procured specifically on your behalf.

VAT means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the supply of the Services and/or the provision of access to the Heresafe Platform.

Heresafe IPR has the meaning given to that term in clause 14.1.

Heresafe Provided Materials means all of the Materials provided or made available by us or on our behalf, but excluding all Your Data, Your Materials and Third-Party Data.

Heresafe Platform means our cloud-based contractor management platform to which you have subscribed.

Heresafe Platform Code means the source code for the Heresafe Platform (or any relevant part of it).

we, us, our and Heresafe means Heresafe which is a trading name of Heresafe Limited, DMC02, County Way, Barnsley, South Yorkshire, S70 2AG registered in England with company number 07209070 except where it is clear from the context that references to “we” or “our” means both of us.

Withholding Tax means any tax, deduction, levy or similar payment obligation that is required to be deducted or withheld from a payment under Applicable Law.

you and your means the person identified as the customer in the Order.

Your Data means all data owned by you that is uploaded or hosted on any part of the Heresafe Platform by you (but excluding Feedback as defined in clause 14.8).

Your Materials any data (including Your Data), materials, information, software, equipment or other resources controlled, owned by or licensed to you.

In these Terms, unless the context otherwise requires:

- a) the words ‘include’, ‘including’ or ‘for example’ do not limit something to just the examples that follow;
- b) any reference to a specific law or regulation in these Terms includes that law or regulation as amended, replaced or extended;
- c) any obligation on us under our Agreement to comply or ensure compliance by any person or the Services and/or the Heresafe Platform with any law shall be limited to compliance only with laws as generally applicable to businesses and to providers of software as a service solution. Such obligations shall not be construed to create any obligation on us (or anyone acting on our behalf) or any part of the Services and/or the Heresafe Platform to comply with any laws or regulations which apply solely to specific commercial or other activities (such as insurance, legal advice or banking or other professional services) or which apply

solely to a specific commercial or non-commercial sector (or part thereof) (such as the public, legal, accountancy, actuarial, insurance, banking or financial service sectors);

- d) any reference to a 'party' or one of us includes that party's personal representatives, successors and permitted assigns;
- e) any reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns; and
- f) any headings in these Terms are included for convenience. They will not have any effect on the interpretation of our Agreement.

ANNEX B – SUPPORT SERVICES

1 SUPPORT SERVICES

Additional Defined Terms

- 1.1 Words that are capitalised but have not been defined in this Annex have the meanings given to them in the Terms. In addition, in this Annex the following definitions have the meanings given below:
 - 1.1.1 Downtime has the meaning given to that term in paragraph 1.8.2.
 - 1.1.2 Minutes has the meaning given to that term in paragraph 1.8.1.
 - 1.1.3 Priority Level(s) shall be interpreted in accordance with Table B below.
 - 1.1.4 Service Desk means the helpdesk that you are able to contact to submit Incident reports.
 - 1.1.5 Service Hours means 09:00 to 17:30 London time.
 - 1.1.6 Target Resolution shall be interpreted in accordance with Table A below.
 - 1.1.7 Ticket has the meaning given to that term in paragraph 1.2.3.
- 1.2 Where you become aware of an Incident:
 - 1.2.1 you will ensure that the Customer Contact will take Incident reports from Authorised Users;
 - 1.2.2 the Customer Contact will then report Incidents to the Service Desk and, where possible, provide evidence on the Incident, such as printed documentation and/or screen shots of the Heresafe Platform interfaces to assist us in resolving the Incident. We will not be required to accept Incident reports from any person that is not a Customer Contact;
 - 1.2.3 following receipt of the Incident report, we will give you a unique reference number for the Incident (a Ticket) and designate a Priority Level to the Incident;
 - 1.2.4 we will let you know when we believe the Incident is cleared and will close the Ticket when the Incident has been resolved or a workaround deployed.
- 1.3 Where we:
 - 1.3.1 confirm there is an Incident, we will aim to repair the Incident within the relevant Target Resolution time. The Target Resolution time will start when the Service Desk receives details on the Incident from the Customer Contact during the applicable Service Hours; and
 - 1.3.2 confirm the Incident report is invalid (for example because the issue was caused by Your Data) and the Heresafe Platform is functioning correctly, we will close the Ticket any may charge you on a time and materials basis at our current hourly rates for the time spent dealing with the issue.
- 1.4 For the avoidance of doubt, a change in functionality required by you shall not be an Incident and shall be dealt with through a Change Request.
- 1.5 We each agree:
 - 1.5.1 an Incident report made by you before the start of Service Hours will be treated as having been received at the start of Service Hours;
 - 1.5.2 an Incident report made by you after the end of Service Hours will be treated as having been received at the start of the next Service Hours; and
 - 1.5.3 when you report an Incident to us during Service Hours, the Target Resolution times will start when the Service Desk receives details on the Incident from the Customer Contract, will pause at the end of the then current Service Hours and will recommence at the start of the next scheduled Service Hours.
- 1.6 All Priority Levels will be determined by us after the Service Desk receives details on the Incident from the Customer Contact.

Service Levels

- 1.7 Heresafe Platform availability set out in Table A shall be calculated each calendar month according to the following formula:

$$\text{Availability (\%)} = \frac{\text{Minutes} - \text{Downtime}}{\text{Minutes}} \times 100$$

Example: Minutes = 43,200 (in a 30-day month)

Downtime = 60 minutes

$$\text{Availability (\%)} = \frac{43,200 - 60}{43,200} \times 100 = 99.86\%$$

- 1.8 Where:
- 1.8.1 Minutes means the total number of minutes in the relevant calendar month.
 - 1.8.2 Downtime means the sum of the length (in minutes) that an Incident is ongoing.
 - 1.8.3 Unavailability of the Heresafe Platform shall not constitute Downtime where such unavailability is due to:
 - 1.8.3.1 Maintenance;
 - 1.8.3.2 Your Data;
 - 1.8.3.3 problems caused by your own systems or networks, a carrier's systems or networks or any other third-party networks, or by hardware, software, firmware or media not supplied by us;
 - 1.8.3.4 unauthorised action or inaction on your part or the part of your employees, agents, contractors or customers;
 - 1.8.3.5 unauthorised access to the Heresafe Platform using your access credentials, or failure by you to follow appropriate security practices;
 - 1.8.3.6 attempting to access the Heresafe Platform other than via a compatible browser, otherwise failing to adhere to required configurations, use supported platforms or follow applicable policies or using the Heresafe Platform in a manner inconsistent with the features and functionality of the Heresafe Platform (including faulty input or instructions from you) or which is inconsistent with published guidance;
 - 1.8.3.7 attempts to perform operations exceeding prescribed quotas notified to you or issues arising from our throttling of suspected inappropriate use;
 - 1.8.3.8 use of the Heresafe Platform by you after you were asked by us to modify your use of the Heresafe Platform but failed to do so; or
 - 1.8.3.9 a Relief Event or other circumstance where we are entitled to suspend the Services and/or access to the Heresafe Platform in accordance with our Agreement.

1.9 Availability shall be measured at the boundary at which our Network meets the internet.

TABLE A

Availability	98% aggregated over a 3-month rolling period
Priority Level	Target Resolution
1	Within 4 hours during Service Hours
2	Within 2 Business Days
3	Within 5 Business Days
4	As soon as reasonably practicable
5	As soon as reasonably practicable

Table B

Priority Level	Definition
1	Total loss of service
2	Partial loss of service or workarounds in place
3	Inconvenience caused by parts of the system not operating as expected
4	Minor defects affecting usability
5	Cosmetic defect affecting look and feel