MYSTIC.AI - TERMS & CONDITIONS v1.2

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement:

"**Agreement**" means these Terms & Conditions together with any other terms agreed by the Client when signing up for/paying for Services;

"**Applicable Data Protection Laws**" means: (a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data; and (b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data;

"**Authorised Users**" means those employees, agents and independent contractors of the Client who are authorised by the Client to use the Platform and the Documentation in accordance with this Agreement;

"**Business Day**" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

"**Business Hours**" means 9.00 am to 5.00 pm local UK time, each Business Day;

"**Client Cloud**" is managed by the Client and refers to any compute cluster on a proprietary or third party provider.

"**Client Content**" means the software, data and other materials uploaded to the Platform or otherwise provided by the Client, the Authorised Users, or any other party on the Client's or Authorised Users' behalf for the purpose of using the Platform or the Documentation or facilitating the Client's or Authorised Users' receipt of the Services, excluding the Client Personal Data;

"**Client Personal Data**" means personal data which the Supplier processes under or in connection with the Agreement in the capacity of processor on behalf of the Client;

"**Confidential Information**" has the meaning given to it in clause 9.1;

"**Contract Year**" means each 12 month period commencing on the Effective Date and each anniversary thereof; "**Documentation**" means the documents made available to the Client by the Supplier online via https://docs.mystic.ai/docs/or such other web address notified by the Supplier to the Client from time to time which sets out a description of the Platform and the user instructions for the Platform;

"**Effective Date**" means the date the Client signs up for the Services;

"**EU GDPR**" means the General Data Protection Regulation ((EU) 2016/679);

"**Force Majeure Event**" means events outside a party's reasonable control including: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (f) fire, explosion or accident; (g) any labour or trade dispute, strikes, industrial action or lockouts; (h) non-performance by suppliers or subcontractors; (i) interruption or failure of utility service;

"**Initial Subscription Term**" means the initial term of the Agreement, which will be 12 months or as detailed when the Client signs up for/pays for the Services;

"**Intellectual Property Rights**" means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"**Mystic Cloud**" is managed by the Supplier and refers to the compute cluster that contains the Supplier's docker registry, content storage, kubernetes cluster and database;

"**Platform**" means the Supplier's API and the Mystic Cloud that pass through requests and content between the Customer and the Client Cloud. This Platform is made available by the Supplier as part of the Services via https://www.mystic.ai or any other website notified to the Client by the Supplier from time to time as more particularly described in the Documentation.;

"**Renewal Period**" means a 12 month period unless agreed otherwise;

"**Representatives**" means, in relation to a party, its employees, officers, contractors, subcontractors, representatives and advisers;

"**Services**" means the services provided by the Supplier to the Client under this Agreement including the provision of the Platform (as applicable);

"**Subscription Fees**" means the subscription fees payable by the Client as detailed when the Client signs up for/pays for the Services;

"**Subscription Term**" means the Initial Subscription Term together with any subsequent Renewal Periods;

"**Subscription Tier**" means the subscription package selected by the Client as detailed when the Client signs up for/pays for the Services;

"**Third Party IPR**" means intellectual property accessible through the Platform and/or Services which is owned or licensed by a third party which is not itself integrated into or used for the provision of the Platform and/or Services;

"**UK GDPR**" has the meaning given to it in the Data Protection Act 2018;

"**User Subscriptions**" means the user subscriptions purchased by the Client pursuant to its Subscription Tier which entitle Authorised Users to access and use the Platform and the Documentation in accordance with this Agreement;

"**Virus**" means any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices; and

"**Vulnerability**" means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be interpreted accordingly.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.

1.3 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.4 Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

1.5 References to clauses and schedules are to the clauses and schedules of this Agreement and references to paragraphs are to paragraphs of the Order Form.

1.6 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established. A reference to **writing** or **written** excludes fax but includes email.

1.7 Unless the context otherwise requires: (a) words in the singular shall include the plural and in the plural shall include the singular; and (b) a reference to one gender shall include a reference to the other genders.

2. PLATFORM USE

2.1 Subject to the Client's compliance with the terms of this Agreement, the Supplier grants to the Client a non-exclusive, non-transferable, revocable licence, without

the right to grant sublicences (other than to the Authorised Users), to permit the Authorised Users to use the Platform and the Documentation during the Subscription Term for the Client's business purposes.

2.2 In relation to the Authorised Users, the Client undertakes that:

(a) the maximum number of Authorised Users that it authorises to access and use the Platform and/or Documentation shall not exceed the number of User Subscriptions it has purchased;

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

(c) each Authorised User shall keep a secure password for their use of the Platform and Documentation and that each User shall keep their password confidential;

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

(e) it shall permit the Supplier or the Supplier's designated auditor to audit its use of the Platform in order to establish the name and password of each User and the Client's data processing facilities to audit compliance with this Agreement. Each such audit may be conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Client's normal conduct of business;

(f) if any of the audits referred to in clause 2.2(e) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Client shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and

(g) if any of the audits referred to in clause 2.2(e) reveal that the Client has underpaid Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Client shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the Subscription Fees in the Order Form within 10 Business Days of the date of the relevant audit.

2.3 The Supplier reserves the right, without liability or prejudice to its other rights to the Client, to disable the Client's (or its Authorised Users') access to the Platform at any time or for any reason.

2.4 The Client shall not (and shall ensure that its Authorised Users shall not) access, store, distribute or transmit any Viruses, or any material during the course of its use of the Platform that:

(a) is false, unlawful, harmful, threatening, abusive, defamatory, obscene, infringing, threatening, harassing or racially or ethnically offensive;

(b) conceals or misrepresents their identity or steals someone else's identity;

(c) is spam or is otherwise excessive in nature;

(d) facilitates illegal activity;

(e) depicts or promotes sexually explicit images;

(f) promotes unlawful violence or activities which may endanger life or lead to physical harm including suicide threats or instigations, intentional physical trauma, the use of illegal drugs, or excessive drinking;

(g) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

(h) is otherwise illegal or causes damage or injury to any person or property,

and the Supplier reserves the right, without liability or prejudice to its other rights to the Client, to disable the Client's access to the Platform and/or its account if: (a) it reasonably suspects the Client has breached this clause 2.4; or (b) it has received a complaint from any party in respect of the Client's use or misuse of the Platform or content it has uploaded to the Platform.

2.5 The Client shall not (and shall ensure that its Authorised Users shall not):

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

(i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform and/or Documentation (as applicable) in any form or media or by any means; or

(ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform;

(b) access all or any part of the Platform or Documentation in order to build a product or service which competes with the Platform and/or the Documentation; or

(c) use the Platform and/or Documentation to provide services to third parties (other than the Authorised Users); or in connection with any of the following: cryptocurrency mining or related blockchain related activities, denial of service attacks or peer-to-peer file sharing or;

(d) subject to clause 14.8, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Platform or Documentation available to any third party except the Authorised Users;

(e) manipulate identifiers to disguise or otherwise conceal the origin of messages or of the content posted;

(f) probe, scan or test the vulnerability of the Platform, including the services or any network connected to the Platform;

(g) breach or attempt to breach the security or authentication measures on the Platform, including the services or any network connected to it;

(h) attempt to disrupt or tamper with the technical infrastructure in a manner that harms or places an undue burden on the Platform or the Services;

(i) attempt to obtain, or assist third parties in obtaining, access to the Platform or Documentation, other than as provided under this clause 2;

(j) adopt any automated process to extract, harvest or scrape information, data and/or content from the Platform and/or the Services except where expressly permitted by the Supplier; or

(k) introduce or permit the introduction of, any Virus or Vulnerability into the Supplier's network and information systems.

2.6 The Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.

2.7 The rights provided under this clause 2 are granted to the Client only, and shall not be considered granted to any subsidiary or holding company of the Client.

2.8 The Client acknowledges and agrees that it is responsible for the acts and omissions of all persons (including Authorised Users) who access the Services and/or the Documentation under or in connection with this Agreement.

2.9 The Client acknowledges that its use of the Services may produce certain non-identifiable information related to their operation and use, including algorithms and metrics. The Supplier may use such non-identifiable information in any manner to develop the Platform and its other service offerings.

3. **THE SUPPLIER'S OBLIGATIONS**

3.1 The Supplier shall, during the Subscription Term, provide the Services to the Client on and subject to the terms of this Agreement.

3.2 The Supplier undertakes that the Platform will be provided substantially in accordance with the Documentation for the relevant product and the Services shall be provided with reasonable skill and care.

3.3 The Supplier shall use commercially reasonable endeavours to make the Platform available 24 hours a day, seven days a week, except for during any maintenance periods provided that the Supplier has used reasonable endeavours to give the Client reasonable notice in advance.

3.4 The undertaking at clause 3.2 shall not apply to the extent any non-conformance is caused by any problems with the Client Cloud, the use of the Platform or Documentation contrary to the Supplier's instructions, or modification or alteration of the Platform by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Platform does not conform with the undertaking at clause 3.2, the Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Client's sole and exclusive remedy for any breach of the undertaking set out in clause 3.2.

3.5 The Supplier does not warrant: (a) that the Client's use of the Services will be uninterrupted or error-free; (b) that the Services, Documentation and/or the results obtained by the Client through the Services will meet the Client's requirements; (c) that the Platform will be free from Vulnerabilities or Viruses; or (d) the quality of the computing outputs from the Client Content.

3.6 The Supplier is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Platform and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities. In particular, the Supplier is not responsible in any way for the performance of the Client Cloud.

3.7 This Agreement shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

3.8 The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

3.9 The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Client Content caused by any third party.

4. DATA PROTECTION

4.1 For the purposes of this clause 4, the terms **controller, processor, data subject, personal data, personal data breach** and **processing** shall have the meaning given to them in the Applicable Data Protection Laws.

4.2 Each party shall comply with all applicable requirements of Applicable Data Protection Laws. This clause 4 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

4.3 The parties have determined that, for the purposes of Applicable Data Protection Laws, the Supplier shall process the personal data set out in Appendix 1 as a processor on behalf of the Client in respect of the processing activities set out in Appendix 1. If this determination changes, the parties shall work together in good faith to make any changes necessary to this clause 4 or Appendix 1.

4.4 Without prejudice to the generality of clause 4.2, the Client will ensure it has all necessary appropriate consents and notices in place to enable lawful transfer of the Client Personal Data to the Supplier and lawful collection of the same by the Supplier for the duration and purposes of the Agreement.

4.5 In relation to the Client Personal Data, Appendix 1 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject.

4.6 Without prejudice to the generality of clause 4.2 the Supplier shall, in relation to Client Personal Data:

(a) process the Client Personal Data only on the instructions of the Client, which shall be to process the Client Personal Data for the purposes set out in Appendix 1, unless the Supplier is required by applicable law to otherwise process that Client Personal Data. The Supplier shall inform the Client if, in the opinion of the Supplier, the instructions of the Client infringe Applicable Data Protection Laws;

(b) implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Client Personal Data and against accidental loss or destruction of, or damage to, the Client Personal Data, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that any personnel engaged and authorised by the Supplier to process Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidential;

(d) assist the Client insofar as this is possible (taking into account the nature of the processing and the information available to the Supplier), and at the Client's cost and written request, in responding to any request from a data subject and in ensuring the Client's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(e) notify the Client without undue delay on becoming aware of a personal data breach involving the Client Personal Data;

(f) at the written direction of the Client, delete or return Client Personal Data and copies thereof to the Client on termination of the agreement unless the Supplier is required by Applicable Law to continue to process that Client Personal Data. For the purposes of this provision, Client Personal Data shall be considered deleted where it is put beyond further use by the Supplier; and

(g) maintain records to demonstrate its compliance with this clause 4.

4.7 The Client hereby provides its prior, general authorisation for the Supplier to:

(a) appoint processors to process the Client Personal Data, provided that the Supplier:

(i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause 4;

(ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and

(iii) shall inform the Client of any intended changes concerning the addition or replacement of the processors, thereby giving the Client the opportunity to object to such changes provided that if the Client objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Client shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection;

(b) transfer Client Personal Data outside the UK, provided that the Supplier shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Client shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).

5. CLIENT'S OBLIGATIONS

5.1 The Client shall:

(a) provide the Supplier with:

(i) all necessary co-operation in relation to this Agreement; and

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

in order to provide the Services, including but not limited to the Client Content;

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

(c) carry out all other Client responsibilities set out in this Agreement in a timely and efficient manner;

(d) ensure that the Authorised Users use the Platform and the Documentation in accordance with the terms and conditions of this Agreement and shall be responsible for any User's breach of this Agreement;

(e) obtain and shall maintain all necessary licences, consents, and permissions necessary for it to perform its obligations under this Agreement;

(f) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and

(g) be, responsible for the operation, maintenance and availability of the Client Cloud and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from the Client Cloud to the Mystic Cloud, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client Cloud, Client's network connections or telecommunications links or caused by the internet.

5.2 The Client shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Client Content. Client confirms to the Supplier that it has all necessary rights, licences, consents and permissions to provide the Client Content to the Supplier under or in connection with this Agreement.

5.3 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, the Supplier shall not be liable for such delay or non-performance and shall be allowed an extension of time to perform its obligations equal to the delay caused by the Client.

6. POLICIES AND CONTENT MODERATION

6.1 The Client shall comply with the reasonable instructions of the Supplier in respect of its use of the Services.

6.2 The Client acknowledges that the Supplier shall be responsible only for the provision of the Platform and the Documentation and shall have no responsibility for the acts or omissions of the Authorised Users when using the

Platform. The Supplier shall have no obligation to moderate or test any Client Content.

6.3 The Supplier may without liability to the Client remove, delete, block or rectify any content the Client uploads at its own discretion and without prior notice if: (a) it suspects such content is in breach of the terms of this Agreement; (b) it suspects such content infringes the rights of any party; (c) it receives a complaint in respect of such content; (d) it is required to do so by law or competent authority; or (e) such content presents a risk to the Platform, the availability of the Services or a third party.

6.4 The Client shall indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with: (a) the Client Content and; (b) any act or omission of the Authorised Users on the Platform.

7. **CHARGES AND PAYMENT**

7.1 The Client shall pay the Subscription Fees to the Supplier on sign up and in accordance with this clause 7 .

7.2 On or about the Effective Date, the Client shall provide to the Supplier valid, up-to-date and complete payment details (including card details) or approved purchase order information acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and, if the Client provides:

(a) payment card details to the Supplier, the Client hereby authorises the Supplier to bill such payment card at the payment frequency set out in the Subscription Tier; or

(b) its approved purchase order information to the Supplier, the Supplier shall invoice the Client at the payment frequency set out in the Subscription Tier and the Client shall pay each invoice within 30 days after the date of such invoice.

7.3 If the Supplier has not received payment within 14 days after the due date, and without prejudice to any other rights and remedies of the Supplier:

(a) the Supplier may, without liability to the Client, disable the Client's account and access to all or part of the Platform and Documentation and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

(b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

7.4 All amounts and fees stated or referred to in this Agreement:

(a) shall be payable in US dollars (USD) unless otherwise specified in the Order Form; and

(b) are (unless otherwise stated in the Order Form) exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

7.5 The Supplier shall be entitled to: a) increase the Subscription Fees; or b) move the Client onto another Subscription Tier on at least 30 days' prior written notice to the Client and the Agreement shall be deemed to have been amended accordingly. If the Client objects to the change, it must notify the Supplier of its objection within 14 days of receiving the notice of the increase, in which case the then-current Fees or Subscription Tier (as applicable) shall continue to apply and the Agreement will terminate immediately.

8. **PROPRIETARY RIGHTS**

8.1 The Client shall own all right, title and interest (including Intellectual Property Rights) in the Client Content.

8.2 The Supplier shall own all right, title and interest (including Intellectual Property Rights in the Platform (**Supplier IPR**).

8.3 Subject to the Client's compliance with the terms of the Agreement, the Supplier grants to the Client a worldwide, non-sublicensable (other than to the Authorised Users), revocable, non-transferable licence to use the Supplier IPR for the duration of the Subscription Term solely to the extent necessary for the Client to use the Platform in accordance with the Agreement.

8.4 The Client grants to the Supplier a worldwide, sublicensable, fully paid up, royalty-free, non-exclusive licence to use, access, store, copy, modify, distribute, transmit and/or publish the Client's Content to the extent necessary for the Supplier to provide the Platform and otherwise perform its obligations under the Agreement.

8.5 The Client acknowledges that it may use the Platform to access Third Party IPR over which the Supplier has no control and that its use of the Third Party IPR may be subject to additional terms set by the provider of the Third Party IPR. If the Client accesses Third Party IPR using the Platform, it does so at its own risk and the Supplier shall not be responsible for the Third Party IPR. The Client shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Client's and/or its Authorised Users' use of Third Party IPR.

9. **CONFIDENTIALITY**

9.1 **"Confidential Information"** means all confidential information (however recorded or preserved) disclosed by a party or its Representatives to the other party and that party's Representatives in connection with the Agreement, whether before or after the date of the Agreement, including:

(a) the existence and terms of the Agreement;

(b) information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs;

(c) any information developed by the parties in the course of carrying out this Agreement and the parties agree that details of the Platform, the Documentation, the Services and the results of any performance tests in relation to the Platform, shall constitute the Supplier's Confidential Information; and

(d) any other information that would reasonably be regarded as confidential by a reasonable business person.

9.2 The provisions of this clause 9 shall not apply to any Confidential Information which:

(a) is or becomes generally available to the public (other than as a result of the receiving party or its Representatives breaching this clause 9);

(b) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;

(c) was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by obligations of confidentiality or otherwise prohibited from disclosing the information to the receiving party;

(d) the parties agree in writing is not confidential or may be disclosed; or

(e) is developed by or for the receiving party independently of the information disclosed by the disclosing party.

9.3 Each party shall keep the other party's Confidential Information secret and confidential and shall not: (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement; or (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 9.

9.4 A party may disclose the other party's Confidential Information to those of its Representatives on a need to know basis, provided that: (a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and (b) it is at all times responsible for such Representatives' compliance with the confidentiality obligations set out in this clause 9.

9.5 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible.

9.6 On termination or expiry of this Agreement, subject to clause 4, each party shall:

(a) destroy or if requested to do so return to the other party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information;

(b) erase all the other party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable); and

(c) if requested to do so, certify in writing to the other party that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority.

9.7 The provisions of this clause 9 shall continue to apply after termination or expiry of this Agreement.

10. INDEMNITY

10.1 The Client shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Client's and/or its Authorised Users' use of the Services and/or Documentation in breach of this Agreement.

10.2 The Supplier shall defend the Client, its officers, directors and employees against any claim that the Client's use of the Platform in accordance with this Agreement infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Client for any amounts awarded against the Client in judgment or settlement of such claims, provided that:

(a) the Supplier is given prompt notice of any such claim;

(b) the Client does not make any admission, or otherwise attempt to compromise or settle the claim and provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and

(c) the Supplier is given sole authority to defend or settle the claim.

10.3 In the defence or settlement of any claim, the Supplier may procure the right for the Client to continue using the Platform, replace or modify the Platform so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 2 Business Days' notice to the Client without any additional liability or obligation to pay liquidated damages or other additional costs to the Client.

10.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Client to the extent that the alleged infringement is based on:

(a) a modification of the Platform or Documentation by anyone other than the Supplier; or

(b) the Client's use of the Platform or Documentation in a manner contrary to the instructions given to the Client by the Supplier; or

(c) the Client's use of the Platform or Documentation after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

10.5 The foregoing and clause 11.4 state the Client's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability for infringement of any third party's Intellectual Property Rights.

11. LIMITATION OF LIABILITY

11.1 Subject to clause 11.2, except as expressly provided in this Agreement:

(a) the Client assumes sole responsibility for results obtained from the use of the Services by the Client, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Client in connection with the Services, or any actions taken by the Supplier at the Client's direction;

(b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and

(c) the Services and the Documentation are provided to the Client on an "as is" basis.

11.2 Nothing in this Agreement limits or excludes the liability of a party:

(a) for death or personal injury caused by its negligence;

(b) for fraud or fraudulent misrepresentation; or

(c) any other liability which cannot be limited or excluded by applicable law.

11.3 Subject to clause 11.2, the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for:

(a) loss of profits;

(b) loss of sales or business;

(c) loss of anticipated savings;

(d) loss of agreement or contracts;

(e) depletion of goodwill and/or similar losses;

(f) loss or corruption of data or information (other than breach of clause 4);

(g) pure economic loss; or

(h) any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement.

11.4 Subject to clause 11.2, the Supplier's total aggregate liability in each Contract Year whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising under or in connection with this Agreement shall be limited to the greater of the total Fees paid to the Supplier in that Contract Year.

11.5 Nothing in this Agreement excludes the liability of the Client for any breach, infringement or misappropriation of the Supplier's Intellectual Property Rights.

12. TERM AND TERMINATION

12.1 The Agreement shall commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, shall be automatically renewed for successive Renewal Periods unless:

(a) either party gives the other thirty (30) days' written notice of termination, exercisable at any time; or

(b) it is otherwise terminated in accordance with the provisions of this Agreement.

12.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

(a) the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment; or

(b) the other party commits a material breach of any other term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so.

12.3 For the purposes of clause 12.2(b), any breach by the Client of clauses 2.4 or 2.5 shall constitute an irremediable material breach.

12.4 On termination or expiry of this Agreement for any reason:

(a) except where otherwise specified, all licences granted under this Agreement shall immediately terminate and the Client shall immediately cease all use of the Services and the Documentation;

(b) each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party;

(c) the Supplier shall be entitled to invoice for any Fees which have been incurred since the Client's last payment date and the Client shall promptly pay such invoice in accordance with clause 7;

(d) without prejudice to the Supplier's obligations under clause 3.4 (data protection):

(i) the Supplier may destroy or otherwise dispose of any of the Client Content in its possession unless the Supplier receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to the Client of the then most recent back-up of the Client Content;

(ii) the Supplier shall use reasonable commercial endeavours to deliver the back-up to the Client within 30 days of its receipt of such a written request, provided that the Client has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination); and

(iii) the Client shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Client Content; and

(e) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

12.5 If the Supplier becomes entitled to terminate the Agreement under clause 12.2, the Supplier may, without limiting or affecting any other right or remedy available to it and without liability to the Client, elect to suspend the Services and/or the Client's account on the Platform for the period in which the relevant termination right is exercisable by the Supplier. In the event of any suspension by the Supplier pursuant to this provision, the Client shall continue to pay the Fees during such period of suspension.

13. NOTICES

13.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be sent by email to the email address in the Order Form in the case of the Client, or in the case of the Supplier, to the following email address:

MYSTIC AI: contact@mystic.ai

13.2 Any notice shall be deemed to have been received if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume, provided in each case no bounceback message is received.

13.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14. GENERAL

14.1 **Survival.** Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect, including clauses 1, 2.9, 4, 7, 8, 9, 11, 12.3, 13, 14.

14.2 **Force majeure.** The Supplier shall not be liable for any failure or delay in performing any of its obligations under this Agreement if such delay or failure result from a Force Majeure Event, in which case the time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 90 days, the unaffected party may terminate this Agreement by giving written notice to the other party.

14.3 **Variation.** Other than in accordance with clause **Error! Reference source not found.**, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

14.4 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

14.5 **Rights and remedies.** Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

14.6 **Severance.** If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is deemed deleted under this clause 14.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

14.7 **Entire agreement:**

(a) this Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter;

(b) each party acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement; and

(c) each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

14.8 **Assignment.** The Client shall not, without the prior written consent of the Supplier, assign, novate, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement. The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

14.9 **No partnership.** Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

14.10 **Third party rights.** This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

14.11 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement. No counterpart shall be effective until each party has provided to the other at least one executed counterpart.

14.12 **Governing law.** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England.

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