

Effective starting: June 12, 2023

BDQ

GENERAL TERMS AND CONDITIONS

These General T&Cs apply to all BDQ services, except to the extent specified otherwise below.

1. Definitions

1.1 In these General T&Cs (and elsewhere in the Agreement, unless specified otherwise):

"Access Credentials" means the usernames, passwords and other credentials enabling the Customer to access any Services;

"Affiliate" means an entity that Controls, is Controlled by, or is under common Control with the relevant entity;

"Agreement" means the agreement between the parties set out in:

- (a) one or more Orders;
- (b) these General T&Cs; and
- (c) any other applicable BDQ terms and conditions specified in the Order or in these General T&Cs;

"Anti-Corruption Laws" means all applicable anti-bribery and anti-corruption laws (including the Bribery Act 2010);

"Anti-Slavery Laws" means all applicable anti-slavery and anti-human trafficking laws (including the Modern Slavery Act 2015);

"Anti-Tax Evasion Laws" means all applicable anti-tax evasion laws (including the Criminal Finances Act 2017);

"Atlassian" means Atlassian Pty Ltd, Atlassian, Inc. and any Affiliate(s) of either company;

"BDQ" means Business Data Quality Limited, a company incorporated in England and Wales (registration number 04497196) having its registered office at Leytonstone House, 3 Hanbury Drive, Leytonstone, London E11 1GA;

"BDQ Confidential Information" means:

- (a) any information disclosed by or on behalf of BDQ to the Customer during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by the Customer (acting reasonably) to be confidential;
- (b) the financial terms of each Order;
- (c) any information relating to other customers of BDQ that is disclosed by BDQ to the Customer; and

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- (d) any information relating to the business plans or technical plans of BDQ that is disclosed by BDQ to the Customer;

"BDQ Indemnity Event" has the meaning given to it in Clause 17.1;

"BDQ Representatives" means any person or persons identified as such in the relevant Order, and any additional or replacement persons that may be appointed by BDQ giving to the Customer written notice of the appointment;

"BDQ Software" means any software created and maintained by BDQ and either licensed by BDQ to the Customer under an Order or used by BDQ to provide BDQ Software Services;

"BDQ Software Services" means any hosted BDQ Software-based services to be provided by BDQ to the Customer in accordance with an Order;

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

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

"CCN" means a change control notice issued in accordance with Clause 10;

"CCN Consideration Period" means the period of 10 Business Days following the receipt by a party of the relevant CCN from the other party;

"Change" means any change to the scope of the Services or the specification of Deliverables;

"Charges" means:

- (a) the charges specified in the applicable Order; and
- (b) such other amounts payable by the Customer to BDQ as may be specified in the Agreement or agreed by the parties in writing from time to time;

"Confidential Information" means BDQ Confidential Information and the Customer Confidential Information;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and **"Controlled"** should be construed accordingly);

"Customer" means the person, natural or legal, identified as such in each applicable Order;

"Customer Confidential Information" means:

- (a) any information disclosed by or on behalf of the Customer to BDQ during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by BDQ (acting reasonably) to be confidential; and
- (b) the Customer Personal Data;

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"Customer Materials" means all works and materials supplied by or on behalf of the Customer to BDQ for use in connection with the Services;

"Customer Personal Data" means any Personal Data that is processed by BDQ on behalf of the Customer in relation to any Order;

"Customer Premises" means any premises owned or controlled by the Customer at which the parties expressly or impliedly agree the personnel of BDQ shall provide Services;

"Customer Representatives" means any person or persons identified as such in the relevant Order, and any additional or replacement persons that may be appointed by the Customer giving to BDQ written notice of the appointment;

"Data Protection Laws" means the EU GDPR and the UK GDPR and all other applicable laws relating to the processing of Personal Data;

"Development Services" means the design and development of software for the Customer in accordance with an Order, where an executable version of such software is to be delivered to the Customer;

"Deliverables" means any and all deliverables (which may include software, reports, other written works, graphical works and other copyright-protected works) that BDQ delivers or has an obligation to deliver to the Customer in the course of the provision of:

- (a) Development Services; or
- (b) Professional Services,

excluding for the avoidance of doubt software and other deliverables provided or made available through the BDQ Software Services or Reseller Services;

"DPA" means the data processing addendum at <http://www.bdq.cloud/legal/data-processing-addendum>;

"Effective Date" means the date upon which the parties agree the first Order;

"Expenses" means the travel, accommodation and subsistence expenses that are reasonably necessary for, and incurred by BDQ exclusively in connection with, the performance of BDQ's obligations under an Order;

"Export Laws" means all applicable laws restricting and/or regulating:

- (a) the inter-jurisdictional import, export, supply, disclosure, transfer or transmission of goods, services, software, technology, technical know-how, data and/or information; and/or
- (b) the import, export, supply, disclosure, transfer or transmission of goods, services, software, technology, technical know-how, data and/or information to designated entities or persons, or to designated classes of entities or persons;

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

"General T&Cs" means these general terms and conditions;

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

"Managed Services" means:

(a) the provision of hosting and maintenance services in relation to Third Party Software; combined with

(b) the provision of Support Services in relation to that Third Party Software;

in accordance with an Order;

"Order" means a written order, proposal, invoice, quote, estimate, statement of work or similar document that:

(a) is subject to these General T&Cs;

(b) sets out specific obligations of the parties; and

(c) is agreed by or on behalf of each of the parties in accordance with Clause 3.1;

"Personal Data" means personal data under any of the Data Protection Laws;

"Pre-Paid Hours" has the meaning given to it in Clause 11.4;

"Professional Services" means service desk implementations, migration services, system reviews, system configurations and reconfigurations and other consultancy services, in each case as specified in an Order;

"Reseller Services" means the resale of software of Atlassian or another third party by BDQ to the Customer in accordance with an Order;

"Services" means any services that BDQ provides to the Customer, or has an obligation to provide to the Customer, under the Agreement, which may include:

(a) Development Services;

(b) Managed Services;

(c) Professional Services; and/or

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(d) Support Services;

"Support Services" means the provision of support and assistance in relation to Third Party Software and/or Third Party Services in accordance with an Order;

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

"Third Party Materials" means works and/or materials incorporated into Deliverables, the Intellectual Property Rights in which are owned by a third party, but excluding any Customer Materials (and for the avoidance of doubt also excluding any Third Party Software);

"Third Party Services" means:

- (a) any services provided by Atlassian to the Customer; and
- (b) any other hosted, cloud or software-based services provided by any third party that are or may be interoperable or integrated with the Services or provided alongside the Services from time to time in circumstances where the Customer must, have a contract or an account with the relevant services provider or obtain activation or access credentials from the relevant services provider;

"Third Party Software" means any Atlassian software or other third party software licensed to the Customer, whether or not purchased through the Reseller Services, as it may be updated and upgraded from time to time;

"Utilisation Period" has the meaning given to it in Clause 11.4; and

"Withholding Tax" means any withholding tax or similar governmental charge.

2. Term

- 2.1 The Agreement shall come into force upon the Effective Date.
- 2.2 The Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 21 or any other provision of the Agreement.

3. Orders

- 3.1 The parties may agree Orders by any of the following means:
 - (a) each party signing a hard copy or digital copy of the Order;
 - (b) each party expressly agreeing in writing to the Order;
 - (c) the Customer issuing to BDQ a purchase order, following the issue of the relevant draft Order by BDQ to the Customer; or
 - (d) the Customer paying any Charges to BDQ under the Order, following the issue of the relevant draft Order by BDQ to the Customer,

providing that, in each of these cases, the parties must agree the Order before the expiry of any validity period specified in the draft Order.

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- 3.2 The provisions of this Clause 3 shall apply in relation to each Order, save to the extent that the relevant Order provides otherwise.
- 3.3 Each Order shall:
- (a) come into force on the date that it is agreed in accordance with Clause 3.1; and
 - (b) continue in force until the earlier of: (i) the termination of the Agreement; and (ii) the termination of the Order in accordance with its own provisions or the provisions of this Clause 3.
- 3.4 Subject to the express terms of an Order:
- (a) to the extent that the Order relates to Managed Services and/or Support Services, the Order may be terminated upon and from the end of any calendar month by either party giving to the other party at least 30 days' prior written notice of termination;
 - (b) to the extent that the Order relates to Development Services or Professional Services, the Order may not be terminated for convenience by either party, unless the relevant Services are for an indefinite period, in which case the Order may be terminated by either party giving to the other party at least 60 days' prior written notice of termination.
- 3.5 Either party may terminate an Order immediately by giving written notice of termination to the other party if:
- (a) the other party commits any material breach of the terms of that Order, and the breach is not remediable; or
 - (b) the other party commits a material breach of the terms of that Order, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied,
- providing that in this Clause 3.5 references to the breach of an Order include a reference to a breach of these General T&Cs or other applicable BDQ terms and conditions insofar as they relate to the relevant Order.
- 3.6 BDQ may terminate an Order by giving immediate written notice to the Customer if:
- (a) any amount due to be paid by the Customer to BDQ under that Order or otherwise is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and
 - (b) BDQ has given to the Customer at least 14 days' written notice, following the failure to pay, of its intention to terminate that Order in accordance with this Clause 3.6.
- 3.7 If an Order specifies that Charges shall be payable in advance, then BDQ will have no obligation to perform its obligations under the Order until the corresponding Charges have been paid by the Customer to BDQ in cleared funds.

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- 3.8 An Order may specify that one or more Affiliates of the Customer are entitled to receive the Services under that Order, in which case:
- (a) any licences granted by BDQ under the Agreement shall be granted to the relevant Affiliate(s);
 - (b) the Customer shall ensure that each such Affiliate will comply with the terms of the Agreement as if the Affiliate were signatory in place of the Customer, and the Customer will indemnify BDQ in relation to any loss or damage arising out of any act or omission of each Affiliate that does or would constitute a breach of the Agreement;
 - (c) notwithstanding the foregoing, the Customer shall remain responsible to BDQ for the payment of applicable Charges, and such Affiliates will not have any obligation to pay the Charges; and
 - (d) the losses of any such Affiliate relating to the Order and arising out of a breach of the Agreement by BDQ shall be treated as the losses of the Customer for the purposes of any claim by the Customer under the Agreement (providing that this must not enable double recovery of a single loss).
- 3.9 Following the date of issue of a notice of termination and for a period of 90 days after the date of effective termination of an Order, BDQ shall provide to the Customer such information and assistance as the Customer may request in relation to the transfer of the Services under that Order to a new provider or to the Customer. BDQ may charge for such information and assistance in accordance with BDQ's standard time-based charging rates.
- 3.10 Any service credits or unused Services allocations under an Order shall be lost to the Customer upon the date of effective termination of that Order (without any right of compensation).

4. Services

- 4.1 BDQ shall provide the Services to the Customer with reasonable skill and care and in accordance with the applicable Order.
- 4.2 If BDQ provides or has an obligation to provide Development Services to the Customer, the following provisions shall apply.
- (a) BDQ shall use reasonable endeavours to meet any timetable for the provision of the Development Services set out in the applicable Order.
 - (b) Unless the applicable Order provides otherwise, the Deliverables arising out of the provision of the Development Services shall be licensed by BDQ to the Customer in accordance with Clause 5.
- 4.3 If BDQ provides or has an obligation to provide Managed Services to the Customer, the following provisions shall apply.
- (a) The Support Services provided to the Customer as an element of the Managed Services shall be provided in accordance with Clause 4.5.

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- (b) The hosting and maintenance services provided to the Customer as an element of the Managed Services shall be subject to the BDQ availability service level agreement (<http://www.bdq.cloud/legal/sla-availability>).
 - (c) The hosting services provided to the Customer as an element of the Managed Services shall be subject to the BDQ acceptable use policy (<http://www.bdq.cloud/legal/acceptable-use-policy>).
- 4.4 If BDQ provides or has an obligation to provide Professional Services to the Customer, they must be provided in accordance with the applicable Order and the following provisions shall apply.
 - (a) The Customer may only cancel a meeting, appointment or other scheduled Professional Services activity in accordance with the applicable Order.
 - (d) Unless the applicable Order provides otherwise, the Deliverables arising out of the provision of the Professional Services shall be licensed by BDQ to the Customer in accordance with Clause 5.
- 4.5 If BDQ provides or has an obligation to provide Support Services to the Customer, the following provisions shall apply.
 - (a) If the parties have agreed that BDQ will provide a certain quantity of Support Services per calendar month, and the Customer does not use any portion of that quantity, the unused portion shall be carried forward to the next following calendar month; however, unused Support Services may not be carried forward more than twice, and if not carried forward will be lost without any right of compensation.
 - (b) The Support Services shall conform to the support package specification agreed by the parties and shall be subject to the BDQ support service level agreement (<http://www.bdq.cloud/legal/sla-support>).
- 4.6 If BDQ processes personal data on behalf of the Customer under or in relation to an Order, then that processing shall be subject to the DPA.
- 4.7 The provision of BDQ Software and/or BDQ Software Services to the Customer shall be subject to the BDQ end user licence agreement (<http://www.bdq.cloud/legal/eula>) and the other legal documents referenced therein, and these General T&Cs shall not apply to the BDQ Software or the BDQ Software Services.
- 4.8 The provision of Reseller Services to the Customer shall be subject to the BDQ software reseller terms and conditions (<http://www.bdq.cloud/legal/software-reseller-terms>) and the other legal documents referenced therein, and these General T&Cs shall not apply to the Reseller Services.
- 4.9 Except where expressly provided otherwise in an Order, any timetable for or milestones for the provision of the Services shall not be of the essence of the Agreement.
- 4.10 The Customer acknowledges that BDQ may at any time in its sole discretion make changes to the Services and/or to the hardware, software and systems used to

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provide the Services, providing that such changes must not have material adverse effect on quality of the Services or the value of the Services to the Customer.

5. Deliverables

- 5.1 BDQ shall use reasonable endeavours to ensure that any Deliverables are delivered to the Customer in accordance with any timetable set out in the applicable Order or agreed by the parties in writing.
- 5.2 BDQ hereby grants to the Customer a non-exclusive, worldwide, non-expiring licence to copy, store, distribute, publish, edit and otherwise use the Deliverables (excluding the Third Party Materials and the Customer Materials), and subject to any restrictions and limitations set out in the applicable Order.
- 5.3 BDQ shall ensure that the Third Party Materials are:
 - (a) licensed to the Customer in accordance with the relevant licensor's standard licensing terms or on other reasonable terms notified by BDQ to the Customer; or
 - (b) sub-licensed by BDQ to the Customer on the basis of a non-exclusive, worldwide, non-expiring licence to use the Third Party Materials in connection with the Deliverables or on other reasonable terms notified by BDQ to the Customer.
- 5.4 To the maximum extent permitted by applicable law, BDQ undertakes to ensure that all individuals involved in the preparation of the Deliverables will irrevocably and unconditionally waive all moral rights (including rights of paternity and rights of integrity) in respect of the Deliverables to which they may at any time be entitled.
- 5.5 BDQ warrants to the Customer that:
 - (a) the Deliverables will upon delivery conform with any relevant specification set out in the applicable Order;
 - (b) the Deliverables will upon delivery be free from material defects; and
 - (c) the Deliverables (excluding Customer Materials and Third Party Materials) will not infringe the Intellectual Property Rights of any person under English law.
- 5.6 Unless expressly agreed otherwise in an Order, nothing in the Agreement will constitute an assignment of Intellectual Property Rights from BDQ to the Customer or from the Customer to BDQ.

6. Customer obligations

- 6.1 The Customer must provide to BDQ, or procure for BDQ, such:
 - (a) co-operation, support and advice; and
 - (b) information and documentation,

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as are requested by BDQ and reasonably necessary to enable BDQ to perform its obligations under the Agreement. In particular, the Customer must promptly, following receipt of a written request from BDQ to do so, provide written feedback to BDQ concerning the BDQ's proposals, plans, designs and/or preparatory materials relating to the Deliverables.

- 6.2 The Customer must ensure Customer's computer hardware, software, networks and systems meet and continue to meet any standards or requirements specified in an Order.
- 6.3 The Customer must provide to BDQ, or procure for BDQ, such access to the Customer's computer hardware, software, networks and systems as may be reasonably required by BDQ to enable BDQ to perform its obligations under the Agreement.
- 6.4 The Customer must keep the Access Credentials securely and must follow reasonable security processes in relation to its use of the Services.

7. Customer Premises

- 7.1 The Customer shall:
 - (a) promptly provide to BDQ such access to the Customer Premises as is reasonably required by BDQ for the provision of the Services;
 - (b) maintain the Customer Premises in good order for the supply of the Services and in accordance with all applicable laws;
 - (c) be responsible for ensuring the health and safety of BDQ's personnel whilst they are at the Customer Premises;
 - (d) inform BDQ of all health, safety and security rules, regulations and requirements that apply at the Customer Premises; and
 - (e) maintain reasonable insurance cover for BDQ's personnel whilst they are working at the Customer Premises (including reasonable public liability insurance).
- 7.2 In the performance of the Services at the Customer Premises, BDQ shall comply with all reasonable health, safety and security rules, regulations and requirements advised by the Customer to BDQ.
- 7.3 BDQ shall use all reasonable measures to secure any keys, and any other means of access, supplied by the Customer to BDQ for the purpose of enabling BDQ's personnel to enter and work at the Customer Premises.

8. Customer Materials

- 8.1 The Customer must supply to BDQ the Customer Materials specified in an Order, in accordance with any timetable specified in that Order; the Customer must also supply to BDQ any Customer Materials reasonably requested in writing by BDQ, promptly following the receipt of the request.

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- 8.2 The Customer hereby grants to BDQ a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Materials to the extent reasonably required for the performance of the obligations of BDQ under the Agreement, together with the right to sub-license these rights.
- 8.3 The Customer warrants to BDQ that the Customer Materials will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation.
- 8.4 BDQ shall have no obligation to back-up Customer Materials except as specified in an Order; and unless BDQ has such obligations, the Customer shall be responsible for backing-up the Customer Materials.

9. Third Party Software and Third Party Services

- 9.1 The Customer's use of Third Party Software or Third Party Services shall be under and subject to the applicable terms and conditions of Atlassian or the relevant third party licensor.
- 9.2 All responsibility regarding the use of the Third Party Software and Third Party Services rests with the Customer. The Customer acknowledges that:
 - (a) the Customer shall be responsible for payment of charges and compliance with licensing terms with respect the Third Party Software or Third Party services;
 - (b) BDQ is not a party to and has no responsibilities under any contract or licence governing the use of Third Party Software or Third Party Services; and
 - (c) BDQ will not be liable to the Customer with respect to any breaches of that contract or licence or consequent costs, losses or liabilities.

10. Contract management

- 10.1 The parties shall use any project management tools and systems identified in an Order or specified by BDQ acting reasonably for the purpose of managing the Services.
- 10.2 If an Order identifies party Representatives, BDQ shall ensure that all instructions given by BDQ in relation to that Order will be given by an identified BDQ Representative to an identified Customer Representative, and the Customer:
 - (a) may treat all such instructions as the fully authorised instructions of BDQ; and
 - (b) may decline to comply with any other instructions in relation to that Order.
- 10.3 If an Order identifies party Representatives, the Customer shall ensure that all instructions given by the Customer in relation to that Order will be given by an identified Customer Representative to an identified BDQ Representative, and BDQ:
 - (a) may treat all such instructions as the fully authorised instructions of the Customer; and

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(b) may decline to comply with any other instructions in relation to that Order.

10.4 The provisions of this Clause 10.4 apply to each Change requested by a party, without prejudice to Clause 4.10. Either party may request a Change at any time. A party requesting a Change shall provide to the other party a completed CCN in the form specified by BDQ from time to time. party in receipt of a CCN may:

- (a) accept the CCN, in which case that party must countersign the CCN and return it to the other party before the end of the CCN Consideration Period;
- (b) reject the CCN, in which case that party must inform the other party of this rejection before the end of the CCN Consideration Period; or
- (c) issue an amended CCN to the other party before the end of the CCN Consideration Period, in which case this Clause 10 will reapply with respect to the amended CCN.

A proposed Change will not take effect until such time as a CCN recording the Change has been signed or otherwise agreed in writing by or on behalf of each party.

11. Charges

11.1 The Customer shall pay the Charges to BDQ in accordance with the Agreement.

11.2 If the Charges are based in whole or part upon the time spent by BDQ performing the Services then:

- (a) time shall be measured in 15 minute, 1 hour, half-day or daily units as agreed in the Order (the time spent being rounded up to the nearest whole unit by BDQ acting reasonably); and
- (b) the Customer acknowledges that, if BDQ personnel travel to the premises of the Customer for the purpose of performing the Services, then travel time shall be chargeable, unless BDQ has expressly agreed otherwise in writing.

11.3 To the extent that the Charges are fixed, then the parties will agree a particular scope of Services covered by those Charges and may also agree particular numbers of Service iterations to be performed by BDQ and/or particular assumptions used to calculate the Charges. The Customer acknowledges that:

- (a) any changes to the scope of the Services, and any increases in the number of Service iterations, may be subject to the parties' agreement to variations of those Charges;
- (b) if any of the assumptions prove incorrect, then the parties shall discuss any consequent changes to the Services, and shall acting reasonably agree to such variations of the Charges as may be reasonable to take account of the changes to the Services; and
- (c) estimated Charges do not constitute fixed Charges, and estimates are not binding upon BDQ.

11.4 If the Customer pays or undertakes to pay Charges to BDQ with respect to the purchase of a quantity or quantities of time which may be subsequently used for the provision of Services ("**Pre-Paid Hours**"), this Clause 11.4 shall apply.

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- (a) The Customer may request that Pre-Paid Hours be used at any time during the relevant period specified in the applicable Order Form ("**Utilisation Period**").
- (b) At the end of each Utilisation Period or upon the termination of the applicable Order (or the Agreement), any unused Pre-Paid Hours shall be lost, save to the extent specified otherwise in the Order Form.
- (c) At the end of each Utilisation Period, a new Utilisation Period automatically start, unless the parties have agreed otherwise in writing or the applicable Order (or the Agreement) has terminated.
- (d) The Customer will have no right to any refund or compensation in respect of such unused Pre-Paid Hours.
- (e) BDQ shall make reasonable endeavours to accommodate requests to use Pre-Paid Hours during the Utilisation Period; however, the Customer acknowledges that if the Customer requests that a disproportionate amount of Pre-Paid Hours be used during a particular part of the Utilisation Period, or the Customer request that Pre-Paid Hours be used on short notice, BDQ may be unable to fulfil that request.

11.5 All amounts stated in or in relation to the Agreement are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Customer to BDQ.

11.6 The Charges shall not be varied, except in accordance with Clause 10.4, Clause 11.3, this Clause 11.6 or Clause 30.5.

- (a) BDQ may elect to vary any fixed element of the Charges paid on a recurring or ongoing basis, by giving to the Customer not less than 30 days' written notice of the variation, providing that: (i) BDQ must not vary an element of the Charges under this Clause 11.6(a) more than once in any 12-month period; and (ii) no variation under this Clause 11.6(a) shall constitute a percentage increase in the relevant element of the Charges that exceeds 10% per annum (excluding the effects of increases made otherwise than under this Clause 11.6(a)).
- (b) BDQ may elect to vary its time-based Charges rates by giving to the Customer not less than 30 days' written notice of the variation.
- (c) BDQ may elect to vary any element of the Charges to the extent that such variation is reasonably necessary to offset increases in third party costs (including increases resulting from foreign exchange rate movements), by giving to the Customer not less than 30 days' written notice of the variation. If BDQ gives notice of variation under this Clause 11.6(b), BDQ must upon request make available to the Customer reasonable evidence of the relevant increases in third party costs.

11.7 The Customer shall reimburse BDQ in respect of any Expenses, providing that BDQ must obtain the prior written authorisation of the Customer before incurring any Expenses exceeding such limitations as may be agreed in writing by the parties

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from time to time. BDQ must collect and collate evidence of all Expenses and must retain such evidence during the Term and for a period of 90 days following the end of the Term. Within 10 Business Days following receipt of a written request from the Customer to do so, BDQ must supply to the Customer such copies of the evidence for the Expenses in the possession or control of BDQ as the Customer may specify in that written request.

11.8 BDQ must:

- (a) ensure that the personnel providing Services, the Charges for which will be based in whole or part upon the time spent in the performance of those Services, complete records of their time spent providing those Services; and
- (b) retain such records during the Term, and for a period of at least 6 months following the end of the Term.

11.9 Within 10 Business Days following receipt of a written request, BDQ shall supply to the Customer copies of such of the timesheets referred to in Clause 11.8 and in BDQ's possession or control as the Customer may reasonably specify in that written request.

12. Payments

12.1 Save to the extent that the applicable Order provides otherwise, BDQ shall issue invoices for the Charges to the Customer:

- (a) as specified in the relevant Order; or
- (b) if not specified in an Order, then at any time before or after the performance of the corresponding obligations of BDQ.

12.2 The Customer must pay the Charges to BDQ without set-off or deduction in accordance with the relevant Order or, if the Order does not specify payment terms, within the period of 30 days following the issue of an invoice in accordance with this Clause 12.

12.3 The Customer must pay the Charges in GBP by bank transfer (using such payment details as are notified by BDQ to the Customer from time to time).

12.4 If the Customer does not pay any amount properly due to BDQ under the Agreement, BDQ may:

- (a) charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or
- (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

12.5 If any amount due to be paid by the Customer to BDQ is subject to any Withholding Tax:

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- (a) the amount payable to BDQ shall be increased as may be necessary so that, after the deduction of Withholding Tax, BDQ receives an amount equal to the amount that BDQ would have received had the amount not been subject to Withholding Tax;
- (b) the Customer shall pay the Withholding Tax to the relevant governmental authority in accordance with applicable law;
- (c) the Customer shall supply to BDQ written proof of the payment of the Withholding Tax to the relevant governmental authority; and
- (d) the parties shall cooperate and take all steps reasonably and lawfully available to them, at the expense of the Customer, to avoid and minimise the deduction of Withholding Tax and to obtain double taxation relief.

13. Suspension

13.1 BDQ may suspend or limit any or all of the Services if:

- (a) it is reasonably necessary in order to protect the interests of the Customer or the security or integrity of the Customer's computer systems or databases;
- (b) BDQ is required to do so by applicable law;
- (c) any amount due to be paid by the Customer to BDQ under the Agreement is overdue, and BDQ has given to the Customer at least 7 days' written notice, following the amount becoming overdue, of its intention to do so; or
- (d) the Customer otherwise breaches the Agreement.

14. Confidentiality obligations

14.1 BDQ must:

- (a) keep the Customer Confidential Information strictly confidential;
- (b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in the Agreement;
- (c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as BDQ uses to protect BDQ's own confidential information of a similar nature, being at least a reasonable degree of care; and
- (d) act in good faith at all times in relation to the Customer Confidential Information.

14.2 The Customer must:

- (a) keep BDQ Confidential Information strictly confidential;
- (b) not disclose BDQ Confidential Information to any person without BDQ's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in the Agreement;

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- (c) use the same degree of care to protect the confidentiality of BDQ Confidential Information as the Customer uses to protect the Customer's own confidential information of a similar nature, being at least a reasonable degree of care; and
- (d) act in good faith at all times in relation to BDQ Confidential Information.

14.3 Notwithstanding Clauses 14.1 and 14.2, a party's Confidential Information may be disclosed by the other party to that other party's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Confidential Information that is disclosed for the performance of their work with respect to the Agreement and who are bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information that is disclosed.

14.4 No obligations are imposed by this Clause 14 with respect to a party's Confidential Information if that Confidential Information:

- (a) is known to the other party before disclosure under the Agreement and is not subject to any other obligation of confidentiality;
- (b) is or becomes publicly known through no act or default of the other party; or
- (c) is obtained by the other party from a third party in circumstances where the other party has no reason to believe that there has been a breach of an obligation of confidentiality.

14.5 The restrictions in this Clause 14 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of either party on any recognised stock exchange.

14.6 Upon the termination of the Agreement, each party must immediately cease to use the other party's Confidential Information.

14.7 Following the date of effective termination of the Agreement, and within 5 Business Days following the date of receipt of a written request from the other party, the relevant party must:

- (a) irreversibly delete from its media and computer systems all copies of the other party's Confidential Information (and ensure that the other party's Confidential Information is irreversibly deleted from the media and computer systems of all persons to whom the relevant party has directly or indirectly disclosed that Confidential Information);
- (b) ensure that no other copies of the other party's Confidential Information remain in the relevant party's possession or control (or the possession or control of any person to whom the relevant party has directly or indirectly disclosed the other party's Confidential Information);
- (c) certify in writing to the other party that it has complied with the requirements of this Clause 14.7,

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subject in each case to any obligations that the relevant party has under the Agreement to supply or make available to the other party any data or information, and providing that the relevant party shall have no obligation under this Clause 14.7 to delete or to cease to possess or control any of the other party's Confidential Information to the extent that the relevant party is required by applicable law to retain that Confidential Information.

14.8 The provisions of this Clause 14 shall continue in force indefinitely following the termination of the Agreement.

15. Publicity

15.1 Neither party may make any public disclosures relating to the Agreement or the subject matter of the Agreement (including disclosures in press releases, public announcements and marketing materials) without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed, and subject to Clause 15.2.

15.2 The Customer hereby consents to the following communications:

- (a) BDQ may, on the BDQ website, publish the name and current principal logo from time to time of the Customer and indicate that the Customer is a customer of BDQ, providing that the exact form of the publication shall be subject to the written approval of the Customer (not to be unreasonably withheld or delayed); and
- (b) BDQ may include information about the Customer and the Agreement in a case study to be shared with other prospective customers of BDQ and/or published on the BDQ website, providing that the exact form of the case study shall be subject to the written approval of the Customer (not to be unreasonably withheld or delayed).

15.3 Nothing in this Clause 15 shall be construed as limiting the obligations of the parties under Clause 14.

16. Warranties

16.1 BDQ warrants to the Customer that:

- (a) BDQ has the legal right and authority to enter into the Agreement and to perform its obligations under the Agreement;
- (b) BDQ will comply with all applicable legal and regulatory requirements applying to the exercise of BDQ's rights and the fulfilment of BDQ's obligations under the Agreement; and
- (c) BDQ has or has access to all necessary know-how, expertise and experience to perform its obligations under the Agreement.

16.2 The Customer warrants to BDQ that it has the legal right and authority to enter into the Agreement and to perform its obligations under the Agreement.

16.3 BDQ does not warrant to the Customer that:

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- (a) the Services will be error-free; or
- (b) the Services will meet the Customer's requirements (except to the extent those requirements are specified in an Order).

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

17. Indemnities

17.1 Subject to the Customer's compliance with Clause 17.2, BDQ shall indemnify and shall keep indemnified the Customer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Customer and arising directly or indirectly as a result of any claim that BDQ has infringed any third party's Intellectual Property Rights (a "**BDQ Indemnity Event**").

17.2 The Customer must:

- (a) upon becoming aware of an actual or potential BDQ Indemnity Event, notify BDQ;
- (b) provide to BDQ all such assistance as may be reasonably requested by BDQ in relation to BDQ Indemnity Event;
- (c) allow BDQ the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to BDQ Indemnity Event; and
- (d) not admit liability to any third party in connection with BDQ Indemnity Event or settle any disputes or proceedings involving a third party and relating to BDQ Indemnity Event without the prior written consent of BDQ.

17.3 The indemnity protection set out in this Clause 17 shall not be subject to the limitations and exclusions of liability set out in the Agreement, except that Clause 18.11 shall apply.

18. Limitations and exclusions of liability

18.1 Nothing in the Agreement will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

18.2 The limitations and exclusions of liability set out in this Clause 18 and elsewhere in the Agreement:

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- (a) are subject to Clause 18.1; and
- (b) govern all liabilities arising under the Agreement or relating to the subject matter of the Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in the Agreement.

18.3 Neither party shall be liable to the other party in respect of any losses arising out of a Force Majeure Event, or any matter in the control of the Customer.

18.4 BDQ shall not be liable to the Customer in respect of any loss of use or production.

18.5 BDQ shall not be liable to the Customer in respect of any loss of business, contracts or opportunities.

18.6 BDQ shall not be liable to the Customer for any loss or disclosure of any confidential information or trade secrets, save to the extent that such loss or disclosure results from a breach of BDQ's information security obligations under the Agreement.

18.7 BDQ shall not be liable to the Customer in respect of any loss or corruption of any data or database (including Customer Materials); providing that this Clause 18.6 shall not apply with respect to any liability of BDQ under Clause 14 or the DPA; nor will it apply with respect to any failure of BDQ to fulfil its express data backup obligations under an Order.

18.8 BDQ shall not be liable to the Customer in respect of any loss or damage arising in whole or part of out of a failure of the Customer to follow the advice or recommendations of BDQ, including advice or recommendations relating to system redundancy and/or resilience.

18.9 BDQ shall not be liable to the Customer in respect of any special, indirect or consequential loss or damage.

18.10 The liability of BDQ to the Customer under the Agreement in respect of any event or series of related events shall not exceed the greater of:

- (a) GBP 50,000; and
- (b) 150% of the total amount paid and payable by the Customer to BDQ under the Agreement in the 12-month period preceding the commencement of the event or events.

18.11 The aggregate liability of each party to the other party under the Agreement shall not exceed GBP 1,000,000.

19. Force Majeure Event

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

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

- (a) promptly notify the other; and
- (b) inform the other of the period for which it is estimated that such failure or delay will continue.

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

20. Termination for convenience

20.1 Either party may terminate the Agreement by giving to the other party written notice of termination, providing that notice of termination may not be given under this Clause 20.1 if there are any subsisting Orders.

21. Termination for cause

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

- (a) the other party commits any material breach of the Agreement, and the breach is not remediable; or
- (b) the other party commits a material breach of the Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied.

21.2 Subject to applicable law, either party may terminate the Agreement immediately by giving written notice of termination to the other party if:

- (a) the other party: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party; or
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up.

21.3 BDQ may terminate the Agreement immediately by giving written notice to the Customer if:

- (a) any amount due to be paid by the Customer to BDQ under the Agreement is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and

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- (b) BDQ has given to the Customer at least 30 days' written notice, following the failure to pay, of its intention to terminate the Agreement in accordance with this Clause 21.3.

21.4 The Customer must, if it is subject to a change of Control, notify BDQ within the period of 7 days following the date of the change of Control; and, if the Customer is subject to a change of Control, BDQ may terminate the Agreement immediately by giving written notice of termination to the Customer, providing that such notice must be given within the period of 30 days following BDQ becoming aware of that change of Control.

22. Effects of termination

22.1 Upon the termination of the Agreement, all of the provisions of the Agreement shall cease to have effect, save that the following provisions of the Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): 1, 3.9, 3.10, 12 to 15, 18, 22 to 28, 30 and 31.

22.2 Except to the extent expressly provided otherwise in the Agreement, the termination of the Agreement shall not affect the accrued rights of either party.

23. Non-solicitation of personnel

23.1 The Customer must not, without the prior written consent of BDQ, either during the Term or within the period of 6 months following the end of the Term, engage, employ or solicit for engagement or employment any employee or subcontractor of BDQ who has been involved in any way in the negotiation or performance of the Agreement.

23.2 The Customer shall not be in breach of Clause 23.1 if the Customer hires an employee or subcontractor of BDQ as a result of a general recruitment campaign not targeted at the employees or subcontractors of BDQ.

24. Anti-corruption

24.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Corruption Laws in relation to the Agreement.

24.2 Save to the extent that applicable law requires otherwise, each party must promptly notify the other if it becomes aware of any events or circumstances relating to the Agreement that will or may constitute a breach of the Anti-Corruption Laws (irrespective of the identity of the person in breach).

24.3 BDQ shall use all reasonable endeavours to ensure that all persons that:

- (a) provide services to BDQ (including employees, agents and subsidiaries of BDQ); and
- (b) are involved in the performance of the obligations of BDQ under the Agreement,

will comply with the Anti-Corruption Laws.

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- 24.4 Each party shall create and maintain proper books and records of all payments and other material benefits given by one party to the other; and each party shall, promptly following receipt of a written request from the other party, supply copies of the relevant parts of those books and records to the other party.
- 24.5 Nothing in the Agreement shall prevent either party from reporting a breach of the Anti-Corruption Laws to the relevant governmental authorities.

25. Anti-slavery

- 25.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Slavery Laws.
- 25.2 BDQ shall ensure that all persons that provide services or supply products to BDQ, where such services or products are used in the performance of the obligations of BDQ under the Agreement, will comply with the Anti-Slavery Laws.

26. Anti-tax evasion

- 26.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Tax Evasion Laws.
- 26.2 BDQ shall ensure that all employees, agents and persons that provide services to BDQ, when acting in such capacity in connection with the Agreement, will comply with the Anti-Tax Evasion Laws.

27. Export control

- 27.1 The Customer must comply with the Export Laws insofar as they affect materials and information supplied to the Customer under the Agreement.
- 27.2 Without prejudice to the generality of Clause 27.1, the Customer:
- (a) must not import, export, supply, disclose, transfer or transmit any materials or information supplied to the Customer under the Agreement if such import, export, supply, disclosure, transfer or transmission would contravene any embargo or exclusion list applying under the Export Laws; and
 - (b) must, where applicable, obtain all licences and consents required under the Export Laws for any import, export, supply, disclosure, transfer or transmission by or on behalf of the Customer of materials or information supplied to the Customer under the Agreement.

28. Notices

- 28.1 Any notice given under the Agreement must be in writing, whether or not described as "written notice" in the Agreement.
- 28.2 Any notice given by one party to the other party under the Agreement must be:
- (a) sent by courier;
 - (b) sent by recorded signed-for post; or
 - (c) sent by email,

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using the relevant contact details set out in any Order.

- 28.3 The addressee and contact details set out in an Order may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 28.
- 28.4 A party receiving from the other party a notice by email must acknowledge receipt by email promptly, and in any event within 2 Business Days following receipt of the notice.
- 28.5 A notice will be deemed to have been received at the relevant time set out below or, where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below:
- (a) in the case of notices sent by courier, upon delivery;
 - (b) in the case of notices sent by post, 48 hours after posting; and
 - (c) in the case of notices sent by email, at the time of the sending of an acknowledgement of receipt by the receiving party.

29. Subcontracting

- 29.1 BDQ shall not without the prior written consent of the Customer subcontract any Professional Services, Development Services or Support Services provided as an element of Managed Services, providing that this Clause 30.1 shall not prevent or inhibit BDQ from using third party hosting, infrastructure, data processing services providers to enable or facilitate the provision of those Services.
- 29.2 Subject Clause 29.1 and the express restrictions in Clause 14 and the DPA, BDQ may subcontract any of its obligations under the Agreement.
- 29.3 BDQ shall remain responsible to the Customer for the performance of any subcontracted obligations.

30. General

- 30.1 Save to the extent expressly permitted by applicable law, neither party may assign, transfer or otherwise deal with that party's contractual rights and/or obligations under the Agreement without the prior written consent of the Customer, such consent not to be unreasonably withheld or delayed, providing that a party may assign the entirety of its rights and obligations under the Agreement to any Affiliate of that party or to any successor to all or a substantial part of the business of that party.
- 30.2 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach. No waiver of any breach of any provision of the Agreement shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of the Agreement.
- 30.3 If a provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect. If any unlawful and/or unenforceable provision of the Agreement would be

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lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

30.4 The Agreement is for the benefit of the parties and is not intended to benefit or be enforceable by any third party. The exercise of the parties' rights under the Agreement is not subject to the consent of any third party.

30.5 The Agreement may not be varied except as follows:

- (a) to the extent reasonably necessary to ensure that the parties and this Agreement comply with applicable law, by BDQ giving to the Customer at least 30 days' prior written notice of the variation;
- (b) by BDQ giving to the Customer at least 90 days' prior written notice of the variation, in which case the Customer may terminate the Agreement on 14 days' written notice at any time during that 90-day period;
- (c) in accordance with the other provisions of the Agreement; and
- (d) means of a written document signed by or on behalf of each party or by any of the other methods of agreement specified in Clause 3.1.

30.6 The Agreement shall constitute the entire agreement between the parties in relation to the subject matter of the Orders, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter. Neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into the Agreement.

30.7 The Agreement shall be governed by and construed in accordance with English law. Save to the extent specified otherwise in an Order, any disputes relating to the Agreement shall be subject to the exclusive jurisdiction of the courts of England.

31. Interpretation

31.1 In the Agreement, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

31.2 The Clause headings do not affect the interpretation of the Agreement.

31.3 In the Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

31.4 In the event of any conflict or inconsistency between the documents forming the Agreement, the following order of precedence shall apply:

- (a) first, the applicable Order(s);

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- (b) second, the additional or supplemental BDQ terms and conditions applied by the Order(s); and
- (c) third, these General T&Cs.