

## Atamis Ltd STANDARD TERMS & CONDITIONS

v1.9, 12 August 2019

### 1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions (Conditions).

**Classified Data:** the enriched data that has been created from the Raw Data pursuant to the provision of the Services, and excludes the Deliverables.

**Company:** Atamis Ltd, at registered office address South Gate House, Wood Street, Cardiff, CF10 1EW.

**Confidential Information:** all confidential information (however recorded or preserved) which may come into the possession of a party as a result of or in connection with the Contract regarding a) the terms of the Contract; and/or b) any information that would be regarded as confidential by a reasonable business person relating to : i) the business, affairs, clients, suppliers and plans of the disclosing party; and/or ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party.

**Contract:** the agreement between the Company and the Customer for the Company to provide the Services to the Customer at the agreed Fees.

**Contract Term:** the duration of the Services as written in the Proposal.

**Customer:** the person, firm or company who purchases Services from the Company, or where purchased via a Reseller, the person, firm or company who purchases same Services from the Reseller.

**Customer's Equipment:** any equipment, systems, cabling or facilities provided by the Customer and used directly or indirectly in the supply of the Services.

**Data Protection Legislation:** all applicable laws, regulations and regulatory rules in the UK which govern the processing of personal data, including (i) the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any subsequent legislation enacted and duly in force from time to time, including from 25 May 2018 Regulation (EU) 2016/679 (the General Data Protection Regulation), and (ii) all guidance issued by regulatory authorities including the Information Commissioner's Office.

**Deliverables:** all Documents, products and materials developed by the Company or its agents, subcontractors, consultants and employee in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

**Derivative Works:** summarised interpretations of the Raw Data for the purposes of the contracted services and for contributing towards national average and benchmarking information used by the Company where no breach of the assigned confidentiality obligations to the Customer are infringed.

**Document:** includes, without limitation, in addition to any document in writing, any drawing, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

**Fees:** the fees payable by the Customer to the Company in consideration of the provision of the Services and the grant of the licence to use the Deliverables and the Products, and as specified in the Proposal.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Losses:** any and all losses, costs, damages, fines, penalties, settlement payments, awards, expenses and other charges incurred by a party.

**Order:** the written order provided by the Customer to the Company to procure the Deliverables and the Services in accordance with these Conditions and may take the form of a) a purchase order from the Customer that references the Proposal, or b) acceptance of the Proposal.

**Pre-existing Materials:** all Documents, information and materials provided by the Company relating to the Services which existed prior to the commencement of the Contract.

**Personal Data:** any data processed by the Company that would be covered by the Data Protection Legislation including but not limited to supplier names (which may include sole traders), employee names and email addresses of system users, supplier corporate contact details where a Supplier Portal is used.

**Proposal:** the Company's or Reseller's Proposal to deliver the Services and the Deliverables and the Customer's acceptance of it, or the Customer's acceptance of a quotation for Services by the Company under condition 2.2.

**Products:** the software application and other software tools provided by the Company or its subcontractors that facilitate access to and analysis of the Deliverables;

**Raw Data:** all data provided by the Customer to the Company in connection with the Contract and any derivatives thereof, including the Classified Data.

**Reseller:** an organisation authorised by the Company to resell the Services via a signed and active Reseller Agreement.

**Services:** the services to be provided by the Company under the Contract as set out in the Proposal, together with any other services which the Company provides, or agrees to provide, to the Customer.

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

1.2 Headings in these Conditions shall not affect their interpretation.

1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.5 A reference to writing or written includes e-mail.

1.6 Any obligation in the Contract on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.

## **2. APPLICATION OF CONDITIONS**

2.1 These Conditions shall: (a) apply to and be incorporated into the Contract; and (b) prevail over any inconsistent terms or conditions contained, or referred to, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.

2.2 The Customer's written acceptance of a Proposal for Services by the Company or Reseller, constitutes an offer by the Customer to purchase the Services on these Conditions. No offer placed by the Customer shall be accepted by the Company other than: (a) by a written acknowledgement issued and executed by the Company; or (b) (if earlier) by the Company starting to provide the Services, when a contract for the supply and purchase of the Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Contract.

2.3 Quotations are given by the Company on the basis that no Contract shall come into existence except in accordance with condition 2.2. Any quotation is valid for a period of 7 days from its date, provided that the Company has not previously withdrawn it.

## **3. INTELLECTUAL PROPERTY RIGHTS**

3.1 The Customer warrants and represents to the Company that: 3.1.1 it has the authority to provide the Raw Data and to grant the licence to The Company in respect of the Raw Data pursuant to Condition 5; and 3.3.2 the use of the Raw Data by The Company in accordance with the Contract will not violate any applicable law or regulation and will not constitute an infringement or other violation of any Intellectual Property Right of any third party.

3.2 Subject to the licence granted under Condition 5 (Customer's Obligations), no Intellectual Property Rights in the Raw Data shall transfer to the Company under the Contract.

3.3 The Company warrants and represents to the Customer that: 3.3.1 The Company is the owner or authorised licensee of all Intellectual Property Rights in the Deliverables and the Products; 3.3.2 The Company has the full authority to grant licence to the Customer in respect of the Deliverables and the Products pursuant to Condition 4; and 3.3.3 the Customer's use of the Deliverables in accordance with the Contract will not violate any applicable law or regulation and will not constitute an infringement or other violation of any Intellectual Property Right of any third party.

3.4 Subject to the licence granted under Condition 4 (Licence to use the Deliverables and the Products), no Intellectual Property Rights in the Deliverables and the Products shall transfer to the Customer under the Contract. All Intellectual Property Rights in any Derivative Works created under the Contract shall be owned by the Company, and the Customer will take all reasonable steps necessary to cause such rights to vest with the Company. All rights not expressly granted to the Customer under the Contract are reserved by the Company.

3.5 The Deliverables are proprietary to the Company and comprise a) the works of original authorship, including compiled information containing the Company's selection, arrangement, co-ordination and expression of such information or pre-existing material that the Company has created, gathered or assembled, b) confidential and trade secret information, and c) information that the Company has created, developed and maintained at great expense of time and money, such that misappropriation or unauthorised use by others for commercial gain would unfairly or irreparably harm the Company. Accordingly: 3.5.1 the Customer will not commit, and will not authorise any of its employees, agents or sub-contractors to commit any act or omission that would impair the Intellectual Property Rights of the Company in the Deliverables; 3.5.2 the Customer will not use any of the Company's trade names, trademarks, service marks or copyrighted materials, or otherwise identify the Company, in listings or advertising in any manner without the prior written approval of the Company; and 3.5.3 the Customer will reproduce the Company's copyright notice and proprietary rights legend on all authorised copies of the Deliverables which are to be disclosed to third parties in accordance with Condition 4 (Company's Obligations).

## **4. COMPANY'S OBLIGATIONS**

4.1 The Company shall use reasonable endeavours to manage or provide the Services, and to deliver the Deliverables to the Customer, in accordance in all material respects with the Proposal.

4.2 In consideration of the applicable Fees to the Company or Reseller by the Customer, the Company hereby grants to the Customer a non-exclusive, non-transferable, revocable licence to use the Deliverables and the Products for the Term subject to the terms of the Contract.

4.3 The Company shall use reasonable endeavours to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

## **5. CUSTOMER'S OBLIGATIONS**

5.1 The Customer shall provide the Raw Data to the Company, in a timely manner, and ensure that it is accurate in all material respects;

5.2 The Customer hereby grants to the Company a perpetual, royalty-free, non-exclusive licence to use, copy and create Derivative Works of the Raw Data solely for the purposes contemplated under the Contract.

5.3 The Customer hereby grants to the Company a perpetual, royalty-free, non-exclusive licence to use, copy and create Derivative Works of the Classified Data for its business purposes, notwithstanding Condition 7 (Confidentiality).

5.4 The Customer shall not, without the prior written consent of the Company, at any time from the date of the Contract to the expiry of 12 months after the termination of the Contract, solicit or entice away from the Company or employ (or attempt to employ) any person who is, or has been, engaged as an employee, consultant or subcontractor of the Company in the provision of the Services.

5.5 The Products are hosted and delivered on a platform called Force.com which is provided by Salesforce.com (SFDC). The Customer agrees to abide by the conditions outlined in the SFDC Service Terms of Use, detailed below.

5.6 Licences automatically renew 30 days before the anniversary of the date they were ordered. The Customer agrees to give at least 60 days written notice of any Licences that are NOT to be renewed on the anniversary of the date they were ordered provided the anniversary date is within the contract period detailed in the Services.

## **6 CHARGES AND PAYMENT**

6.1 In consideration of the provision of the Services by the Company, the Customer shall pay the charges as set out in the Proposal which will comprise a Management Charge and/or User Licences. User Licences and User Licence Upgrades are valid for a minimum period of 12 months from the date they are ordered, cannot be refunded on a pro-rata basis and are transferable between users at any time.

6.2 The Customer shall pay each invoice submitted to it by the Company or Reseller, in full and in cleared funds, within 30 days of receipt..

6.3 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay invoices issued by the Company on the due date, the Company may: (a) charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of HSBC, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgement and the Customer shall pay the interest immediately on demand. The Company may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and (b) suspend all Services until payment has been made in full.

6.4 Time for payment shall be of the essence of the Contract.

## **7 CONFIDENTIALITY**

7.1 Each party shall, and shall procure that its employees shall, keep secret and confidential all Confidential Information of the other party. Each party undertakes not to disclose the other's Confidential Information to any third party without the other party's written consent, other than its responsible employees to whom disclosure is in good faith necessary for the proper performance of their duties in connection with the Contract and then provided that such party ensures that its employees are aware of and comply with these confidentiality obligations.

7.2 The obligations of confidentiality under Condition 7.1, shall not apply to any Confidential Information which: 7.2.1 was known to the recipient before its receipt from the disclosing party; or 7.2.2 is lawfully in the public domain or possession of a third party other than by reason of a breach of a confidentiality obligation; or 7.2.3 is independently developed without access to the other party's Confidential Information; or 7.2.4 is authorised for release by the written consent of the disclosing party.

## **8 LIMITATION OF LIABILITY**

8.1 Nothing in these Terms excludes or limits the liability of either party (including, without limitation, their employees, agents and subcontractors) for a) death or personal injury caused by its negligence; b) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or c) fraud or fraudulent misrepresentation.

8.2 If the Company fails to provide the Services in accordance with the Contract, its sole liability shall be to provide remedial Services or (as The Company may determine in its reasonable discretion) refund to the Customer any Fees paid by the Customer for the affected Services for the period during which the Services were so affected on a pro rata basis.

8.3 Subject to Condition 8.1, the aggregate liability of either party to the other under or in connection with the Contract, whether arising from tort (including negligence), breach of contract, loss of system data or otherwise, shall in no event exceed the fees paid by the Customer to the Company under the Contract.

8.4 Subject to Condition 8.1, neither party shall be liable for any loss of profits, business or goodwill, interruption of business or any type of special, indirect or consequential loss, even if such loss was reasonably foreseeable or such party has been advised of the possibility of incurring the same.

## **9 DATA PROTECTION**

9.1 The parties acknowledge and agree that the Customer is the Data Controller and the Company is the Data Processor in respect of all Personal Data pertaining to the Customer's Raw Data.

9.2 In respect of all Personal Data pertaining to the Customer Data the Company shall: 9.2.1 only carry out processing on the Customer's instructions from time to time; and for the avoidance of doubt, the processing of Personal Data which is reasonably required for the purpose of the Company performing its obligations under the Contract shall constitute processing in accordance with the Customer's instructions; 9.2.2 implement appropriate technical and organizational measures to protect such Personal Data against unauthorised or unlawful processing and accidental destruction or loss (including ensuring the reliability of its employees); 9.2.3 implement procedures to ensure that unauthorised persons will not have access to Personal Data; 9.2.4 promptly refer to the Customer any request, notices or other communications from data subjects, from any applicable data protection authority or any other law enforcement authority, for the Customer to resolve; 9.2.5 provide such reasonable assistance and information to the Customer as the Customer may reasonably require to allow the Customer to comply with the Customer obligations under the Data Protection Legislation including the rights of data subjects and subject-access rights, or with notices served by the Information Commissioner; and 9.2.6 allow the Customer reasonable access to its premises to inspect and audit the Company's compliance with this Condition 9. The Company shall immediately inform the Customer if it considers an instruction given in accordance with Condition 9.2.1 infringes the Data Protection Legislation.

9.3 The Customer will comply with its obligations as a Data Controller and the Company will comply with its obligations as a Data Processor under the Data Protection Legislation and the Consumer Credit Act 1974 in relation to the Contract.

9.4 In respect of all Personal Data: 9.4.1 the Customer consents to providing Personal Data to the Company and to take all reasonable measures to ensure that users of the Services use the Personal Data confidentially; 9.4.2 the Company undertakes to protect the Personal Data using the security measures enforced by the Salesforce.com platform which includes the ISO27001 security certification and through compliance with the Cyber Essentials Certification.

9.5 In respect of third parties: 9.5.1 the Customer consents to the Company hosting all client data on Salesforce.com platform which for UK clients with systems created after October 2014 will be hosted in the UK and processing contract terms are limited to inside the EEA; 9.5.2 the Customer consents to the Company sending, at an agreed frequency, supplier name and post code data only to Duedil for the sole purposes of enriching supplier data with information held at Companies House.

9.6 In the event of a security breach relating to Personal Data: 9.6.1 the Company undertakes to notify the Customer immediately upon becoming aware of the breach.

9.7 Subject to Conditions 9.4 and 9.5, the Company will not transfer Personal Data (i) to any sub-processor; or (ii) outside the European Economic Area, without the prior written consent of the Customer.

## **10 INDEMNITY**

10.1 To the extent permitted by applicable law, the Customer shall indemnify, defend and hold the Company and its licensors harmless from and against any Losses incurred in respect of third party claims arising as a result of or otherwise in connection with the use of the Deliverables: 10.1.1 by the Customer, except where such use by the Customer is in accordance with these Terms; and 10.1.2 by individuals or entities which have not been authorised under the Contract to have access to and/or use the Deliverables; in each case provided that the Customer shall not have any obligation to indemnify against any losses to the extent that they arise from the breach of contract by, or the negligence or wilful misconduct of, the Company.

## **11 TERM & TERMINATION**

11.1 Unless otherwise mutually agreed by the Customer and the Company, the Contract shall come into effect on the date on which the Company issues a written acknowledgement of an Order.

11.2 The Contract shall continue for the Contract Term.

11.3 Either party may terminate the Contract with immediate effect at any time by serving written notice thereof on the other party if: 11.3.1 the other party is in material breach of any obligation under the Contract and where such breach is capable of remedy, fails to remedy it within thirty (30) days of written notice requesting that such breach is remedied; or 11.3.2 any distress or execution is levied on the other party's property or assets; or if the other party makes or is offered to make any arrangement or composition with its creditors or commits any act of bankruptcy; or if any bankruptcy petition is presented against the other party; or if any resolution or petition to wind up the other party is passed or presented; or if a receiver, administrative receiver or administrator of the whole or any part of the other party's business, property or assets is appointed; or if the other party becomes unable to pay its debts as they fall due, or is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986.

11.4 Upon expiry or termination of the Contract for any reason: 11.4.1 the Customer shall be entitled to continue to use any charts, graphs or other derivative products that contain de minimis extracts of the Deliverables for its internal purposes only, and all other rights of the Customer to use the Deliverables whether pursuant to Condition 4 or otherwise shall cease; and 11.4.2 neither party shall have any further right or obligation with respect to the other party except as set out in this Condition 11 and in the following additional Conditions, which shall survive such expiry or termination: Condition 2 (Application of Conditions), Condition 3 (Intellectual Property), Condition 5 (Customer Obligations), Condition 7 (Confidentiality), Condition 8 (Limitation of Liability), Condition 9 (Data Protection), Condition 10 (Indemnity), Condition 12 (Rights of Third Parties) and Condition 13 (General).

11.5 The expiry or termination of the Contract as provided for under these Terms shall not prejudice or affect any right of action or remedy which has accrued or thereafter accrues to a party under the Contract or at law.

11.6 Upon expiry or termination of the Contract for any reason: 11.6.1 the Company shall, at the option of the Customer, delete or return all Customer data from the Salesforce.com platform after 30 days and will retain data backups only at the request of the Customer; and 11.6.2 the Company shall retain the contact details of the main contacts at the Customer for its own administrative purposes.

## **12 RIGHTS OF THIRD PARTIES**

12.1 Subject to Condition 12.2, the parties to the Contract do not intend that any of these Conditions will be enforceable by any person that is not a party to the Contract by virtue of the Contracts (Rights of Third Parties) Act 1999.

12.2 The Customer acknowledges that the Company is entering in the Contract as an authorised licensee and distributor of information from third party data providers. Accordingly, the parties acknowledge that companies referenced in the Proposal which are third party data providers, which may include but are not limited to Duedil and Dunn & Bradstreet, are intended third party beneficiaries of the Contract.

12.3 In respect of deleting or redacting Personal Data relating to the Customer's suppliers: 12.3.1 the Customer may be granted access to delete, modify, and update Personal Data stored as part of the Services; 12.3.2 the Company has a process in place to delete, modify, or restrict the processing of Personal Data at the request of the Customer.

## **13 GENERAL**

13.1 The Company may, from time to time and subject to Customer's prior written consent (which shall not be unreasonably withheld or delayed) change the Services, provided that such changes do not materially affect the nature or quality of the Services and, where practicable, it will give the Customer at least 1 months' notice of any change.

13.2 Subject to condition 13.1, no variation of the Contract or these Conditions [or of any of the documents referred to in them] shall be valid unless it is in writing and signed by or on behalf of each of the parties.

13.3 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

13.4 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

13.5 Each party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.

13.6 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

13.7 The Atamis solution contains public sector information (ONS Postcode lookup data) licensed under the Open Government Licence v3.0.

## **14 NOTICES**

14.1 Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and for the attention of the person specified in the Proposal, or as otherwise specified by the relevant party by notice in writing to the other party.

14.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address and for the contact referred to in the Purchase Order or, if sent by pre-paid first-class post or recorded delivery, on the second business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

14.3 This condition 14 shall not apply to the service of any in any proceedings or other documents in any legal action.

14.4 A notice required to be given under the Contract shall be validly served if sent by e-mail and receipt is confirmed.

## SFDC Service Terms of Use

"**AppExchange**" means the online directory of on-demand applications that work with the Service, located at <http://www.appexchange.com> or at any successor websites.

"**Reseller**" means Atamis Ltd (for the purposes of the SFDC Service Terms of Use only)

"**Reseller Application**" means the Atamis suite of products.

"**Platform**" means the online, Web-based platform service provided by SFDC to Reseller in connection with Reseller's provision of the Reseller Application to You.

"**SFDC Service**" means the online, Web-based application and platform service generally made available to the public via <http://www.salesforce.com> and/or other designated websites, including associated offline components but excluding AppExchange applications.

"**SFDC**" means salesforce.com.

"**Users**" means Your employees, representatives, consultants, contractors or agents who are authorized to use the Service subject to the terms of this SFDC Service Terms of Use as a result of a subscription to the Reseller Application having been purchased for such User, and have been supplied user identifications and passwords by You (or by Salesforce.com or Reseller at Your request).

"**You**" and "**Your**" means the customer entity which has contracted to purchase subscriptions to use the Reseller Application subject to the conditions of this SFDC Service Terms of Use, together with any other terms required by Reseller.

"**Your Data**" means all electronic data or information submitted by You as and to the extent it resides in the Service.

### 1. Use of Service.

- (a) Each User subscription to the Reseller Application shall entitle one User to use the Service via the Reseller Application, subject to the terms of this SFDC Service Terms of Use, together with any other terms required by Reseller. User subscriptions cannot be shared or used by more than one User (but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment with You or otherwise changed job status or function and no longer require use of the Service). For clarity, Your subscription to use the Platform hereunder does not include a subscription to use the SFDC Service or to use it in connection with applications other than the Reseller Application. If You wish to use the SFDC Service or any of its functionalities or services, to use another application other than the Reseller Application, or to create or use additional custom objects beyond those which appear in the Reseller Application in the form that it has been provided to You by Your Reseller, visit [www.salesforce.com](http://www.salesforce.com) to contract directly with SFDC for such services. In the event Your access to the Reseller Application provides You with access to the SFDC Service generally or access to any SFDC Service functionality within it that is in excess to the functionality described in the Reseller Application's user guide, and You have not separately subscribed under a written contract with SFDC for such access, then You agree to not access and use such functionality, and You agree that Your use of such functionality, Your use of applications other than the Reseller Application, or Your creation or use of additional custom objects in the Reseller Application beyond that which appears in the Reseller Application in the form that it has been provided to You by your Reseller, would be a material breach of this Agreement.
- (b) Notwithstanding any access You may have to the Platform or the SFDC Service via the Reseller Application, Reseller is the sole provider of the Reseller Application and You are entering into a contractual relationship solely with Reseller. In the event that Reseller ceases operations or otherwise ceases or fails to provide the Reseller Application, SFDC has no obligation to provide the Reseller Application or to refund You any fees paid by You to Reseller.
- (c) You (i) are responsible for all activities occurring under Your User accounts; (ii) are responsible for the content of all Your Data; (iii) shall use commercially reasonable efforts to prevent unauthorized access to, or use of, the Platform and the SFDC Service, and shall notify Reseller or Salesforce.com promptly of any such unauthorized use You become aware of; and (iv) shall comply with all applicable local, state, federal and foreign laws and regulations in using the Platform and the SFDC Service.
- (d) You shall use the Platform and the SFDC Service solely for Your internal business purposes and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Platform or the SFDC Service available to any third party, other than to Users or as otherwise contemplated by this SFDC Service Terms of Use; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (iv) send or store viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs; (v) interfere with or disrupt the integrity or performance of the Platform or the SFDC Service or the data contained therein; or (vi) attempt to gain unauthorized access to the Platform or the SFDC Service or its related systems or networks.
- (e) You shall not (i) modify, copy or create derivative works based on the Platform or the SFDC Service; (ii) frame or mirror any content forming part of the Platform or the SFDC Service, other than on Your own intranets or otherwise for Your

own internal business purposes; (iii) reverse engineer the Platform or the SFDC Service; or (iv) access the Platform or the SFDC Service in order to (A) build a competitive product or service, or (B) copy any ideas, features, functions or graphics of the Platform or the SFDC Service.

2. **Third-Party Providers.** Reseller and other third-party providers, some of which may be listed on pages within SFDC's website and including providers of AppExchange applications, offer products and services related to the Platform, the SFDC Service, and/or the Reseller Application, including implementation, customization and other consulting services related to customers' use of the Platform and/or the SFDC Service, and applications (both offline and online) that interoperate with the Platform, SFDC Service, and/or the Reseller Application, such as by exchanging data with the Platform, the SFDC Service, and/or the Reseller Application, or by offering additional functionality within the user interface of the Platform, the SFDC Service, and/or the Reseller Application through use of the Platform and/or SFDC Service's application programming interface. SFDC does not warrant any such third-party providers or any of their products or services, including but not limited to the Reseller Application or any other product or service of Reseller, whether or not such products or services are designated by SFDC as "certified," "validated" or otherwise. Any exchange of data or other interaction between You and a third-party provider, including but not limited to the Reseller Application, and any purchase by You of any product or service offered by such third-party provider, including but not limited to the Reseller Application, is solely between You and such third-party provider. In addition, from time to time, certain additional functionality (not defined as part of the Platform or SFDC Service) may be offered by SFDC or Reseller to You, for an additional fee, on a pass-through or OEM basis pursuant to terms specified by the licensor and agreed to by You in connection with a separate purchase by You of such additional functionality. Your use of any such additional functionality shall be governed by such terms, which shall prevail in the event of any inconsistency with the terms of this SFDC Service Terms of Use.
3. **Proprietary Rights.** Subject to the limited rights expressly granted hereunder, SFDC reserves all rights, title and interest in and to the Platform and the SFDC Service, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth in this SFDC Service Terms of Use. The Platform and the SFDC Service is deemed SFDC confidential information, and You will not use it or disclose it to any third party except as permitted in this SFDC Service Terms of Use.
4. **Compelled Disclosure.** If either You or SFDC is compelled by law to disclose confidential information of the other party, it shall provide the other party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure.
5. **Suggestions.** You agree that SFDC shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into any SFDC products or services any suggestions, enhancement requests, recommendations or other feedback provided by You or Your Users relating to the operation of the Platform and/or the SFDC Service.
6. **Termination.** Your use of the Platform and the SFDC Service may be immediately terminated and/or suspended upon notice due to (a) a breach of the terms of this SFDC Service Terms of Use by You or any User, (b) the termination or expiration of Reseller's agreement with SFDC pursuant to which Reseller is providing the Platform as part of the Reseller Application to You, and/or (c) a breach by Reseller of its obligations to SFDC with respect to the subscriptions it is providing to You in connection with this SFDC Service Terms of Use.
7. **Subscriptions Non-Cancelable.** Subscriptions for the Platform and the SFDC Service are non-cancelable during a subscription term, unless otherwise specified in Your agreement with Reseller.
8. **Data Storage.** The Platform and SFDC Service includes a certain cumulative amount of storage per User subscription for no additional charge. Contact Your Reseller for additional information. Additional storage may be available for purchase from the Reseller.
9. **No Warranty.** SALESFORCE.COM MAKES NO WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO WITH RESPECT TO THE PLATFORM, THE SFDC SERVICE, AND/OR THE RESELLER APPLICATION, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SALESFORCE.COM DISCLAIMS ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO RESELLER APPLICATION AND THE SERVICE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.
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