

Confidential

**IMPLEMENT AI****AI OPERATING SYSTEM (AIOS) TERMS OF SERVICE****1 APPLICATION OF TERMS OF SERVICE**

- 1.1 These terms of service ("**Terms of Service**") apply to and govern all agreements entered into by Implement AI Limited, a company incorporated in England and Wales (registered number 14842097), whose registered office is at 85 Great Portland Street, London, W1W 7LT, England ("**Implement AI**") for the provision of the Services (as defined below).
- 1.2 A Customer's access and use of the Services (as defined below) is conditional on the acceptance of, and compliance with, these Terms of Service. By entering into an order with Implement AI for the Services and/or by using the Services, the Customer is confirming the Customer's acceptance of these Terms of Service.
- 1.3 These Terms of Service shall be incorporated into each agreement between the parties for the provision of the Services and shall prevail over: (i) any inconsistent terms and conditions that are contained in, attached to, or otherwise referred to in any documentation issued by the Customer (which are hereby rejected and shall have no force or effect); and (ii) to the extent permitted by law, any terms and conditions which are implied by law, trade custom, practice or course of dealing.
- 1.4 The following additional terms and conditions and policies also apply to the Customer's use of the Services and are specifically incorporated into these Terms of Service by reference:
- (a) the Website terms of use <https://implementai.io/terms-and-conditions-of-use/>;
  - (b) the Support Services Policy, which details the helpdesk support that Implement AI shall provide in relation to the Services; and
  - (c) Implement AI's privacy policy, which details how Implement AI collects and uses personal information in connection with the Customer's access to and use of the Services and how Implement AI may contact the Customer <https://implementai.io/privacy-policy/>.

**2 DEFINITIONS AND INTERPRETATION**

- 2.1 The definitions and rules of interpretation set out in Schedule 1 shall apply to these Terms of Service.

**3 COMMENCEMENT, SUBSCRIPTION TERM AND TRIALS**

- 3.1 The Agreement shall start on the Commencement Date and shall continue, subject to earlier termination in accordance with the Agreement, until expiry of the Initial Subscription Term.
- 3.2 On expiry of the Initial Subscription Term, the Agreement shall be automatically extended for successive periods of 12 months on each anniversary of the Go-Live Date (each a "**Subscription Renewal Period**") unless and until:
- (a) either party terminates the Agreement for convenience at the end of the Initial Subscription Term or Subscription Renewal Period (as applicable) by giving the other party written notice of termination no later than 30 days before expiry of the Initial Subscription Term or any Subscription Renewal Period (as applicable), in which case the Agreement shall terminate upon the expiry of the Initial Subscription Term or Subscription Renewal Period (as applicable); or
  - (b) otherwise terminated in accordance with the provisions the Agreement.

- 3.3 The parties may agree in an Order for the Services to be provided on a trial basis. In such circumstances:
- (a) the Services shall be provided on a trial basis from the Go-Live Date for the term set out in the Order (the “**Trial Period**”) and, unless otherwise agreed in the Order, at the end of the Trial Period, the Agreement shall automatically continue for the remainder of the Initial Subscription Term and Subscription Renewal Period in accordance with clauses 3.1 and 3.2 unless either party gives at least seven (7) days’ written notice to terminate the Agreement prior to the expiry of the Trial Period;
  - (b) such trial shall be subject to any applicable purpose limitations, charges and other terms set out in the Order; and
  - (c) unless otherwise agreed and set out on the Order Form, no Trial Period shall apply if a Customer has completed an Implement AI pilot programme (such as, but not limited to, AI Activate) within 6-months prior to the date of the Order Form
  - (d) during the Trial Period:
    - (i) the Services shall be provided on an “as is” basis;
    - (ii) Implement AI does not make or give any representation or warranty concerning the Services including that the same are fit for any particular purpose, meet any particular standard, will function in any particular manner nor that the same are free of errors or bugs or will operate free of interruption; and
    - (iii) Implement AI’s liability shall be capped at £500 in aggregate.

#### **4 CUSTOMER SETUP**

- 4.1 In consideration of the Customer paying the Setup Fee, Implement AI shall, as soon as reasonably possible after the Commencement Date, use reasonable endeavours to carry out such Setup Services (if any) as are specified in the Order. The Customer acknowledges and agrees that the Setup Fee is non-refundable.
- 4.2 Implement AI shall provide the Setup Services to the Customer with reasonable skill and care.
- 4.3 The Customer shall provide Implement AI with such cooperation, information and assistance as Implement AI may reasonably request in connection with Setup Services.
- 4.4 Go-Live will take place on the Go-Live Date.
- 4.5 The Customer acknowledges and agrees that:
- (a) whilst Implement AI may, at its sole discretion, provide guidance as to the configuration and implementation of the Services, unless expressly otherwise agreed in the Order, the Customer is solely responsible and liable for configuring, implementing and integrating the Services with the Customer’s system, including the development and integration of appropriate APIs and other system integration work and Implement AI shall not be obliged to undertake or provide support for any Customer configurations or systems integration work; and
  - (b) the Customer is solely responsible and liable for any scripts to be utilised by AI Agents, including for preparing and updating such scripts and for ensuring that such scripts: (i) are appropriate for the Customer’s purposes; (ii) comply with all Applicable Laws; (iii) are accurate, reliable and complete; and (iv) are not obscene, vulgar, pornographic, exploitative or offensive, and the Customer shall be solely responsible for updating any such scripts as may be necessary from time to time.

## 5 CUSTOMER'S ACCESS AND USAGE RIGHTS

- 5.1 In consideration of Customer's payment of the Subscription Fees and subject to the Customer's compliance with the Agreement, with effect from the Go-Live Date, Implement AI grants to the Customer a limited, non-exclusive, non-transferable, revocable, licence, without the right to grant sublicenses, to permit such numbers of Authorised Users as are specified in the Order to:
- (a) remotely access and use the AI Operating System in the Territory solely for the Permitted Purposes; and
  - (b) access and use the Documentation in the Territory solely to the extent necessary for the purposes of accessing and using the AI Operating System for the Permitted Purposes in accordance with the Agreement.
- 5.2 To access and use the Services, the Customer must register for a user account via the Implement AI Website. The Customer is responsible for maintaining the confidentiality and security of the Customer's account credentials, which must not be shared with any person other than an Authorised User. The Customer must immediately notify Implement AI if the Customer knows, or has any reason to suspect, that the Customer's credentials have been lost, stolen, or otherwise compromised or in case of any actual or suspected unauthorised use of the Customer's account. The Customer is responsible for any and all activities conducted through the Customer's account.
- 5.3 The Customer's use of the Services is subject to the monthly usage credits applicable to the Customer's agreed subscription ("**Usage Credits**"), as set out in the Order and as further described in this clause 5.
- 5.4 If the Customer uses all the Usage Credits available in any month during the Subscription Period, the Customer may not make, or the Services may prevent the Customer from making, any further use of the Services in that month.
- 5.5 The Customer may purchase additional monthly Usage Credits at any time during the Subscription Period on the AI Agent Platform, subject to the costs and process for purchasing additional Usage Credits set out in the Order and/or notified to the Customer by Implement AI from time to time. The Customer may either:
- (a) opt to purchase additional Usage Credits for a particular month, on a one-off basis; or
  - (b) elect to increase the Usage Credits for that month and each subsequent month during the Subscription Period on an ongoing basis, in which case: (i) the Customer will be required to pay a one-off fee for the current month; and (ii) the Subscription Fee for future months shall be increased accordingly. If the Customer elects this option, and an automated option is not available, the Customer may subsequently reduce the additional Usage Credits to the original volume detailed in the Order by giving Implement AI written notice not less than 5 days prior to start of a month, in which case the additional Usage Credits will be disapplied in respect of each subsequent month thereafter (and for the avoidance of doubt, the Usage Credit will revert back to that set out in the Order).
- 5.6 Once any additional Usage Credits have been used up, the Customer may not make, or the Services may prevent the Customer from, any further use of the AI Software Solution, unless the Customer purchases additional Usage Credits in accordance with this clause 5.
- 5.7 Usage Credits available for a particular month of the Subscription Term are only valid and capable of being used for the relevant month. The Customer shall not be entitled to roll over any unused Usage Credits at the end of any given month during the Subscription Term.
- 5.8 The Customer's access to and use of the Services shall also be subject to any additional specific limitations on access and usage as may be detailed in the Order.

## 6 CUSTOMER OBLIGATIONS

6.1 The Customer acknowledges and agrees that, in light of the nature of the Services, the Customer shall exercise appropriate human oversight in respect of the Customer's use of the Services and any Customer Output, including that the Customer shall actively monitor its use of the Services and any Customer Output on an ongoing basis throughout the Subscription Term. In particular, the Customer shall ensure that, on ongoing basis throughout the Subscription Term, an appropriately senior, trained and skilled employee of the Customer reviews and verifies the performance, accuracy and appropriateness of the AI Agents and any Customer Output generated by any AI Agents on an. Without prejudice to the generality of the foregoing, the Customer shall:

- (a) promptly notify Implement AI if the Customer becomes aware of any issues or concerns with the Services or any Customer Output;
- (b) immediately suspend use of the Services if the Customer considers that such ongoing use is unlawful or shall otherwise place the Customer in breach of the Agreement; and
- (c) promptly implement any changes to the Customer's configurations, scripts as may be appropriate.

6.2 The Customer shall:

- (a) provide Implement AI with: (i) all necessary co-operation in relation to the Agreement; and (ii) necessary access to such information and materials as may be required by Implement AI, including the Customer Data and Customer Materials;
- (b) comply with all Applicable Laws with respect to its activities pursuant to the Agreement including, that the Customer shall ensure that the Customer's use of the Services complies with all Applicable Laws;
- (c) obtain and shall maintain all necessary licences, consents, and permissions necessary for Implement AI, its contractors and agents to perform their obligations under the Agreement, including the Services;
- (d) use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, notify Implement AI as soon as reasonably practicable and, in any event, within 48 hours of becoming aware of such unauthorised access or use;
- (e) carry out all other Customer obligations and responsibilities under the Agreement in a professional, timely and efficient manner; and
- (f) have in place, operate and maintain all systems (including hardware and software), networks (including connections and interfaces), equipment and infrastructure as are required to enable the Customer to access and use the Services and shall ensure that such systems, networks, equipment and infrastructure meet any minimum operating requirements detailed in the Documentation or otherwise notified to the Customer by Implement AI from time to time.

6.3 The Customer shall not:

- (a) except as may be required to be permitted by any Applicable Law which is incapable of exclusion by agreement between the parties, attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form or seek to discover the source code or underlying components of all or any part of the AI Operating System (including models, algorithms, software or systems) or Documentation;
- (b) access all or any part of the Services and/or Documentation in order to build a product or service which competes with the Services (whether in whole or part);

- (c) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users; or
- (d) conduct any testing (including benchmark tests or penetration tests) in respect of any part of the Services, except as and to the extent expressly agreed in advance in writing with Implement AI from time to time; or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as permitted pursuant to the Agreement.

6.4 The Customer further agrees that it shall not access or use the Services in any way or for any purpose (including for the storage, transmission, distribution, publication or dissemination of any material):

- (a) that: (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (b) facilitates illegal activity; (c) depicts sexually explicit images; (d) promotes unlawful violence; (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; (f) that is fraudulent, misleading or deceptive (whether directly or by omission or failure to update information); (g) is otherwise illegal or causes damage or injury to any person or property,
- (b) that breaches or infringes any rights of any third party (including any Intellectual Property Rights, rights in confidential information or otherwise);
- (c) that breaches (or facilitates a breach of) any Applicable Laws or otherwise for (or which facilitates) any illegal or unlawful purpose or effect;
- (d) to store, introduce, transmit, distribute, publish or exploit any Virus or Vulnerability or commit any denial-of-service attack or distributed denial-of-service attack; or
- (e) to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (including any form of 'spam' communications),

and the Customer will indemnify, defend and hold harmless Implement AI for any Losses arising as a result of any claim, suit or proceeding brought by any third party against Implement AI in connection with any breach of this clause 6.4.

6.5 The Customer shall ensure that the Authorised Users access and use the Services and Documentation in accordance with the Agreement and any instructions given by Implement AI to the Customer. The Customer shall be responsible for all acts and omissions of each Authorised User as if they were the acts and omissions of the Customer.

## 7 SUPPORT SERVICES, UPDATES AND UPGRADES

7.1 During the Subscription Term Implement AI will, as part of the Services, provide the Customer with Implement AI's standard customer support services during Business Hours in accordance with Implement AI's Support Services Policy ("**Support Services**"). The Support Services Policy is subject to the exclusions and limitations set out in the relevant Services Specification, the Support Services Policy and the Agreement. Implement AI may amend the Support Services Policy in its sole discretion from time to time.

7.2 Implement AI shall provide the Support Services with reasonable skill and care.

7.3 Implement AI shall be entitled to modify the Services and associated Documentation, including making additions, alterations or deletions to them, (each a "**Modification**") at any time in Implement AI's sole discretion, including for the purpose of: (a) improving, updating or upgrading existing functionality; (b) making new features, functionality, applications or tools available; (c) reflecting changes to technology

or market practice; (d) correcting defects and other issues, including the implementation of patches, work-arounds and fixes; (e) complying with the requirements of Third Party Providers; or (f) addressing Applicable Laws or legal obligations or otherwise to reflect any legal, regulatory or market-based changes or guidance.

- 7.4 Implement AI shall make available to the Customer such Modifications to the AI Operating System as Implement AI may make generally available to all of Implement AI's other customers during the Subscription Term but for the avoidance of doubt, Implement AI does not guarantee what volume (if any) of Modifications that may be made available by Implement AI for general distribution during the Subscription Term.
- 7.5 Access to and use by Customer of any Modifications (including any new features, functionality, applications or tools) may be subject to Customer's acceptance of further terms and conditions and such additional Fees as are specified by Implement AI in advance of the provision of the Modifications to which they relate.
- 7.6 Implement AI shall give Customer prompt written notice of material modifications to the AI Operating System. Implement AI shall not make any Modifications that Implement AI considers are likely to materially adversely impact the functionality or performance of the AI Operating System without Customer's prior written consent, (except that Implement AI shall not be required to obtain Customer's consent if and to the extent that Implement AI is required to make any such modification to comply with any Applicable Laws or to resolve any security flaw).

## **8 SERVICES COMMITMENTS & CUSTOMER REMEDIES**

- 8.1 Subject to the remainder of this clause 8 and the Customer complying with the Agreement, from the Go-Live Date until termination or expiry of the Subscription Term, Implement AI shall:
- (a) provide the AI Operating System so that it complies in all material respects with the AI Operating System Specification; and
  - (b) use commercially reasonable endeavours to make the AI Operating System available for use by the Customer 99.9% of the time on a 24x7x365 basis, measured on a monthly basis as a monthly average.

the "**AI Operating System Commitments**".

- 8.2 The AI Operating System shall for be deemed be available notwithstanding that access to or use of the AI Operating System is suspended, limited or restricted in any way as a result of or in connection with: (a) any maintenance, support or modification of the AI Operating System (including implementation of any Modification); (b) Implement AI exercising any right to suspend, restrict or disable access in accordance with the Agreement; (c) any Force Majeure Event; or (d) any non-conformity, defect or downtime is attributable to or otherwise derives from any of the events detailed at clause 8.6. Any period during which access to or use of the AI Operating System is prevented, suspended, limited or restricted in any way by any such events at (a) to (d) above shall be excluded from any downtime or availability calculations for the purposes of assessing performance against the AI Operating System Commitments.
- 8.3 The Customer shall: (a) promptly notify Implement AI in writing of any alleged breach of the AI Operating System Commitments or of any other defect in the AI Operating System; and (b) provide Implement AI with such information as Implement AI may reasonably request for the purpose of Implement AI verifying, investigating and attempting to resolve the alleged breach or other defect.
- 8.4 If the Customer notifies Implement AI of any breach of the AI Operating System Commitments in accordance with clause 8.3, Implement AI shall use commercially reasonable efforts to remedy any breach of the AI Operating System Commitment (which may include providing an update or work-around).

- 8.5 Subject to clause to clause 17.2 but notwithstanding any other provision of the Agreement, the provision by Implement AI of the remedies specified in clause 8.4 and the performance of the Support Services shall be: (a) the Customer's sole, entire and exclusive rights and remedies in respect of any breach of the AI Operating System Commitments and for any other non-conformity or defect in the AI Operating System; and (b) Implement AI's only obligation and liability in respect of any breach of the AI Operating System Commitments and for any other non-conformity or defect in the AI Operating System.
- 8.6 Implement AI shall not have any responsibility or liability to Customer for any alleged breach of the AI Operating System Commitments, or otherwise for any other non-conformity, defect or downtime in the AI Operating System where and to the extent that it is attributable: (a) the acts or omissions of Customer or its Authorised Users, including any use of the AI Operating System contrary to the Agreement; (b) any failure by Customer to meet and maintain any minimum operating requirements detailed in the Documentation; (c) any modification, adaption, development or other work on the AI Operating System undertaken by anyone other than Implement AI; (d) any defect or error in in the Customer configurations, Customer scripts, Customer Materials and Customer Data, or any actions taken by Implement AI at the Customer's direction; (e) any malicious use or misuse of the AI Operating System by any person other than Implement AI; (f) any Virus or any denial of service or other system attack instigated by any person other than Implement AI; or (g) Customer's or any Authorised User's systems, networks, infrastructure or equipment, including any third party systems, networks, infrastructure, equipment used by Customer or any Authorised User (including any with which the AI Operating System is intended to operate or integrate or which are used by Customer or any Authorised User, or otherwise designated by Customer for use, in conjunction with the AI Operating System).
- 8.7 Implement AI is not responsible for any delays, delivery failures, or any other Losses resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services, AI Operating System and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 8.8 In light of the nature of the AI Operating System, Implement AI reserves the right, without liability to the Customer, to deploy a circuit-breaker, capable of interrupting and stopping the AI Operating System, where Implement AI, acting reasonably, considers it is necessary to do so, including to comply with Applicable Law or to limit or prevent any potential harm to either party or any other person.

## **9 IT SECURITY ARRANGEMENTS**

- 9.1 Details of Implement AI's security arrangements for the AI Operating System are available on request or via a URL provided by Implement AI from time to time ("**Security Arrangements**") as such Security Arrangements may be amended in Implement AI's sole discretion from time to time.
- 9.2 The Customer acknowledges and agrees that the Customer is responsible for assessing the applicability and suitability of the Security Arrangements and for checking periodically for any updates or changes.
- 9.3 Implement AI shall use commercially reasonable endeavours to use antivirus software protection reasonably designed to seek to prevent the AI Operating System from being infected with any Virus.
- 9.4 The Customer shall:
- (a) at all times maintain and comply with security systems, policies and procedures that comply with good information systems security practice to prevent any unauthorised access to, misuse of, or disruption to the Services or to Authorised Users', Implement AI's and Third Party Provider's systems
  - (b) keep full, up to date and secure back-up copies of the Customer Materials, Customer Data and Customer Output in accordance with good computing practice. The Customer is also in the best position to assess the risks associated with potential loss of or corruption to

Customer Materials, Customer Data and Customer Output. Subject to clause 17.2, Implement AI shall not be liable for any Losses in relation to any loss of or corruption to Customer Materials, Customer Data and Customer Output.

## **10 THIRD PARTY SYSTEMS AND MATERIALS**

- 10.1 The Customer acknowledges that Implement AI users certain Third Party Providers to provide or licence the use of data, information, systems (including software and hardware), networks (including connections and interfaces), infrastructure, equipment and other items to Implement AI to enable Implement AI to provide the Services ("**Third Party Materials/Systems**"). These Third Party Materials/Systems include the systems and networks used to host the software that forms the basis of the AI Operating System.
- 10.2 The Customer agrees to comply with any terms and conditions (including any restrictions and limitations) imposed by Third Party Providers relating to Third Party Materials/Systems ("**Third Party Terms**") as notified by Implement AI or the relevant Third Party Provider to the Customer from time to time. Where required by Implement AI, the Customer shall also enter into any end-user licence agreement or other similar terms that the relevant Third Party Provider may require in order to receive or continue to receive such Third Party Materials/Systems.

## **11 CHARGES AND PAYMENT**

- 11.1 The Customer shall pay Implement AI:
- (a) the Setup Fee on the Commencement Date;
  - (b) the Subscription Fee monthly in advance from the Go-Live Date;
  - (c) for any additional Usage Credits purchased on a one-off basis in advance of any such Usage Credits being made available; and
  - (d) any other amounts payable to Implement in accordance with the payment terms notified to the Customer.
- 11.2 Implement AI shall be entitled to invoice for the Fees and any other amount payable under the Agreement at any time after the date on which it becomes due. The Customer shall provide Implement AI with valid up-to-date and complete credit and/or debit card details for the purpose of the payment of any Fees and other amounts due to Implement to AI. The Customer hereby authorises Implement AI (either directly or via a third-party payment processing platform including the payment platform operated by Stripe, Inc.) to bill such credit/and or debit card in accordance with the above payment terms.
- 11.3 If Implement AI has not received payment within 10 days after the due date, and without prejudice to any other rights and remedies of Implement AI:
- (a) Implement AI may, without liability to the Customer, disable the Customer's account and access to all or part of the Services and Implement AI shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
  - (b) the Customer must pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment and interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 11.4 All Fees and other amounts stated or referred to in the Agreement:
- (a) shall be payable in pounds sterling;



- (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law); and
  - (c) are exclusive of value added tax and any other taxes that are or may become due, which shall be added to the Fees and other amounts at the appropriate rate.
- 11.5 Implement AI shall be entitled to increase the Subscription Fees at the start of each Subscription Renewal Period by giving the Customer not less than 35 days' prior notice and the Subscription Fees set out in the Order shall be deemed to have been amended accordingly.
- 11.6 If any usage restrictions specified in the Agreement are exceeded, Implement AI shall be entitled (in addition to its other rights and remedies) to recover from the Customer on demand: (a) additional fees for such excess use, calculated in accordance with Implement AI's then standard rates applicable to such use; (b) reasonable additional administration charges and costs; and (c) any Losses that Implement AI may incur to third parties arising out of or in connection with any such usage

## **12 INTELLECTUAL PROPERTY**

- 12.1 The Customer acknowledges and agrees that Implement AI and/or its licensors own all Intellectual Property Rights in the Services (including the AI Operating System), Documentation and all other Background IP.
- 12.2 Except as expressly stated herein, the Customer shall not, by virtue of the Agreement or otherwise, obtain or claim any right, title or interest in or to any of the Intellectual Property Rights in the Services (including the AI Operating System), Documentation or any other Background IP.
- 12.3 If, notwithstanding clause 12.2, the Customer derives any right, title or interest in or to any of the Intellectual Property Rights in the Services (including the AI Operating System), Documentation and/or in any other Background IP, the Customer shall promptly, at no cost to Implement AI, assign all such right, title or interest to Implement AI with full title guarantee and free of any encumbrances and shall execute all documents (including deeds of assignment, waivers of rights or other documents) and perform all acts required by Implement AI to vest such Intellectual Property Rights in Implement AI absolutely and free from encumbrances.
- 12.4 As between the Customer and Implement AI, subject to clause 12.1, the Customer or its licensors owns such Intellectual Property Rights as may exist in the Customer Materials, Customer Data and Customer Output.
- 12.5 The Customer hereby grants to Implement AI during the Subscription Term, a non-exclusive, royalty-free, worldwide licence to use the Customer Materials, Customer Data and Customer Output provided by the Customer to Implement AI for the purposes of providing the Services to the Customer under the Agreement.
- 12.6 Customer or Authorised Users may provide suggestions/feedback, product/service requests, requirements, descriptions and specifications, each of which Implement AI may freely use and exploit without any obligation to Customer or Authorised Users. All Intellectual Property Rights arising from the use or exploitation of such suggestions/feedback, product/service requests, requirements, descriptions and specifications shall belong to Implement AI.

## **13 CONFIDENTIALITY**

- 13.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement. A party's Confidential Information shall not be deemed to include information that: (a) is or becomes publicly known other than through any act or omission of the receiving party; (b) was in the other party's lawful possession before the disclosure; (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (d) is independently developed by the receiving party, which independent development can be shown by written evidence.

- 13.2 Each party shall hold the other party's Confidential Information in confidence and shall apply the same measures to protect the other party's Confidential Information as it does with its own Confidential Information.
- 13.3 Neither party shall disclose the other party's Confidential Information, except if any to the extent permitted in accordance with clauses 13.4 and 13.5 or otherwise where expressly permitted by the disclosing party in writing in advance.
- 13.4 A party may disclose the other party's Confidential Information to such of its and its Group companies' employees, authorised sub-contractors, agents, representatives, professional advisors, potential purchasers, investors or funders where reasonably required for the purposes of the implementation and operation of the Agreement or the exercise by that party of its rights under the Agreement (or, in the case of potential purchasers, investors or funders for the purposes of carrying out due diligence on the business of the party in question). The disclosing party shall impose and enforce confidentiality and usage restrictions on such persons in respect of the Confidential Information at least as protective as those in this clause 13.
- 13.5 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by Applicable Law, by a court or any other regulatory authority or under the rules of any relevant securities exchange, provided that, to the extent it is legally permitted to do so, such party gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 13.6 Implement AI is entitled to refer to the Customer (by name and logo) as a customer in its public relations (including online or social media), marketing and sales efforts, and may otherwise use the Customer's name, trade marks, service marks or logos as necessary to provide the Services. Any other use by a party of the other party's trade marks, trade names, service marks, or any other additional publicity regarding the other party will require that party's prior written consent.

## 14 DATA PROTECTION

The Data Protection Terms at Schedule 2 are incorporated into and form part of the Agreement.

## 15 INDEMNITIES

- 15.1 Subject to the remainder of this clause 15, Implement AI will indemnify the Customer against any damages (and related and reasonable attorney's fees) awarded by a court in favour of a third party arising from any claim, suit or proceeding by a third party alleging that the provision of the AI Operating System by Implement AI, when used by Customer in accordance with the terms of the Agreement, infringes any Intellectual Property Rights of such third party ("**Customer Infringement Claim**").
- 15.2 Implement AI will have no liability under the Agreement for any Customer Infringement Claim arising from: (a) unauthorised use of the AI Operating System; (b) the modification of a AI Operating System not specifically authorised in writing by Implement AI; (c) the use of a version of the AI Operating System other than the then-current version; (d) compliance with any instruction of the Customer or the use or incorporation of any Customer Materials, Customer Data.
- 15.3 If the AI Operating System is held or are believed by Implement AI to infringe any third party rights, Implement AI may choose, at its sole expense to: (a) modify the AI Operating System so that it is non-infringing; (b) replace the AI Operating System (in whole or part) with a non-infringing AI Operating System that is functionally equivalent; (c) obtain a licence for the Customer to continue to use the AI Operating System for the purposes permitted by the Agreement; or (d) if none of the actions in clauses (a) to (c) are commercially reasonable, then Implement AI may terminate the Agreement, and where Implement AI does so, refund to the Customer on a prorata basis any such Fees as have been paid by Customer for the infringing AI Operating System that relate to any period after termination of the Agreement.

- 15.4 Clauses 15.1 to 15.3 state the entire liability of Implement AI and Customer's sole and exclusive remedy for any infringement of third party proprietary rights of any kind (including any Intellectual Property Rights).
- 15.5 Customer will indemnify Implement AI from any damages (and related and reasonable attorney's fees) awarded by a court in favour of a third party arising from any claim, suit or proceeding by a third party alleging that any Customer Materials, Customer Data, Customer Output or other materials provided or otherwise made available by or on behalf of Customer to Implement AI in connection with the AI Operating System, when used in accordance with the Agreement, infringe or misappropriates any Intellectual Property Rights of such third party ("**Implement AI Infringement Claim**").
- 15.6 The indemnification obligations of each party under this clause 15, are contingent upon the indemnified party providing to the indemnifying party: (a) prompt written notice of the alleged claim; (b) the right to sole control of the defence or settlement of the alleged claim; and (c) reasonable cooperation and assistance, at the indemnifying party's expense. The indemnifying party shall not enter into any settlement or compromise of any such claim, or make any attribution of fault or wrongdoing to, or admission on behalf of, the indemnified party that would impose on them any liability or obligation without the indemnified party's prior written consent.

## **16 DISCLAIMER**

- 16.1 Subject to clause 17.2, the Customer acknowledges and agrees that:
- (a) the Customer is solely responsible for the selection, use, and suitability of the Services for the Customer's purposes;
  - (b) the Services rely on the accuracy, completeness and quality of the Customer configurations, Customer scripts, Customer Materials and Customer Data; and
  - (c) the Services rely on algorithms, machine learning and probabilistic calculations that may produce false positive and false negative results as well as other defects, errors, inaccuracies and omissions,
- and the provision and use of the Services and Documentation is subject to such limitations.
- 16.2 Subject to clause 17.2, the nature of the AI Operating System means that Implement AI cannot and does not warrant, represent, guarantee or give any other commitment that:
- (a) the AI Operating System is fit for the Customer's purposes or is compatible with any systems (including hardware and software), networks (including connections and interfaces), infrastructure or equipment not specified in the AI Operating System Specification;
  - (b) the Customer's access to or use of the AI Operating System will be uninterrupted or that the AI Operating System will be completely free from defects or errors or that any such defects or errors can or will be fixed; or
  - (c) the AI Operating System, the Documentation, the Customer Output or any other information obtained by Customer or any Authorised User through the AI Operating System will be accurate or meet Customer's requirements or that any Customer Output will not infringe the rights (including Intellectual Property Rights) of any third party.
- 16.3 Subject to clause 17.2, the Customer acknowledges and agrees that the commitments set out in writing in the Agreement are the only commitments given by Implement AI and available to Customer and that such commitments are in lieu of all other undertakings, warranties, conditions, representations, guarantees or other terms which might have effect between the parties or be implied or incorporated into the Agreement, whether express or implied, written or oral, arising by statute, operation of law, course of dealing, usage or trade or otherwise, including any implied warranties, conditions, representations or other commitments as to satisfactory quality, conformity to description,

fitness for a particular or intended purpose, ability to achieve a particular result, availability, stability, or accuracy or completeness of responses or results, all of which are hereby excluded by Implement AI to the maximum extent allowed by Applicable Law.

## **17 LIMITATION OF LIABILITY**

- 17.1 Subject to clause 17.2 the following provisions of this clause 17 set out Implement AI's entire liability to the Customer in contract, tort (including negligence and breach of statutory duty), misrepresentation (whether innocent or negligent), under an indemnity or otherwise howsoever arising in respect of all matters arising under or in connection with the Agreement and any Order, and references to '**liability**', '**liable**' and other similar expressions shall be construed accordingly.
- 17.2 Nothing in the Agreement shall limit or exclude Implement AI's liability in respect of any claims: (a) for death or personal injury caused by the negligence of such party; (b) resulting from any fraud including fraudulent misrepresentation made by such party; (c) (to the extent that they apply, if at all) breach of any terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or (d) for which liability may not otherwise lawfully be limited or excluded.
- 17.3 Subject to clause 18.2, Implement AI shall not be liable to the Customer for any:
- (a) actual or anticipated loss of revenue, profits or savings (whether direct or indirect);
  - (b) loss of contracts, sales, business, goodwill or custom (whether direct or indirect);
  - (c) wasted expenditure (including management time) or business interruptions arising out of or related to any use or inability to use the Services;
  - (d) losses resulting from claims or demands made against the Customer by third parties (excluding valid claims made by third parties for infringement of Intellectual Property Rights) or for ex gratia payments; or
  - (e) any consequential, punitive, special or indirect loss of any kind,
- regardless of whether or not they are foreseeable or the party concerned has been advised of them.
- 17.4 Subject to clauses 3.3(c)(iii), 17.2 and 17.3, the maximum aggregate liability of Implement AI to the Customer for any and all Losses arising under or in connection with the Agreement shall not exceed, in respect of any and all claims arising in a Year (regardless of when they may be asserted and taken together in aggregate and not per claim): (a) in respect of any Year during the Term, an amount that is equal to the total value of the Fees paid by the Customer to Implement AI under the Agreement in that Year; or (b) in respect of any Year after expiry or termination of the Agreement, an amount that is equal to total value of the Fees paid by the Customer to Implement AI under the Agreement in the final Year during the Subscription Term.
- 17.5 The Customer acknowledges and agrees that Implement AI relies on various Third Party Providers to deliver the Services. Subject to clause 17.2, the maximum aggregate liability of Implement AI to the Customer in connection with: (a) the provision of any data, information, systems (including software and hardware) networks (including connections and interfaces), infrastructure, deliverables, Intellectual Property Rights or other items by a Third Party Provider to Implement AI to enable Implement AI to provide the AI Operating System (or any part of it) by Third Party Providers; or (b) any defaults, acts or omissions of any Third Party Provider (or their sub-contractors of whatever tier), in each case shall not exceed the amount actually recovered by Implement AI from the relevant Third Party Provider (as apportioned where recovery is also on behalf of Implement AI or any other persons and less the costs of recovering such amounts, where applicable). This clause 17.5 shall operate as a sub-cap within the overall cap on liability set out in clause 17.4.

- 17.6 Implement AI shall not be liable for any delay in performing, failure to perform or misperformance of any of its obligations under the Agreement (including for any defects or errors in the AI Operating System) if and to the extent that it arises out of or in connection with any breach of the Customer's obligations under the Agreement or any other default, act or omission of the Customer (or of any Authorised User or of any of the Customer's third party contractors or its/their employees, officers or agents) or any defect or error in the Customer configurations, Customer scripts, Customer Materials or Customer Data, or any actions taken by Implement AI at the Customer's direction.

## **18 SUSPENSION**

In addition to any other rights of suspension detailed in the Agreement, Implement AI may, without prejudice to any other rights or remedies available to it, suspend the Customer's access to, or use of, the Services in whole or in part, immediately on notice to Customer if: (a) Implement AI has a right to terminate the Agreement; (b) the Customer has failed to pay any amounts due to Implement AI in accordance with the Agreement; (c) Implement AI is required to do so by Applicable Law; or (d) Implement AI reasonably believes that the suspension is required to protect its (or any Third Party Provider's) infrastructure or network or the use of the AI Operating System by other customers because of a threat to the security, integrity or use of the Services. Implement AI shall use reasonable endeavours to re-establish or permit access to the Services as soon as possible following Implement AI's determination that the cause of the suspension has been resolved.

## **19 TERMINATION**

- 19.1 Without affecting any other right or remedy available to it, either party may terminate the Agreement, with immediate effect with immediate effect and without liability to the other party, by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under the Agreement in full and clear funds by the last due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
  - (b) the other party commits a material breach of any other provision of the Agreement which is incapable of remedy or, if such breach is remediable, fails to remedy that breach within a period of 60 days after being notified in writing to do so; or
  - (c) the other party becomes or is declared insolvent, has a liquidator, receiver or administrative receiver appointed or passes a resolution for winding up (otherwise than for the purpose of a solvent amalgamation or reconstruction) or if a court having proper authority makes an order to that effect, enters into administration, is the subject of an administrative order or proposes to or enters into any voluntary arrangement with its creditors in the context of a potential liquidation or any events or circumstances analogous to any of the events described in this clause 19.1(c) occur in any jurisdiction.
- 19.2 Without affecting any other right or remedy available to it, Implement AI may terminate the Agreement, with immediate effect without liability to the Customer, by giving written notice to the Customer if Implement AI reasonably determines that the Services or its provision or use is, or is likely to become, unlawful (whether in whole or part).
- 19.3 On expiry or other termination of the Agreement for any reason:
- (a) the Customer shall continue to be obliged to pay all Fees, taxes and other sums owed under the Agreement
  - (b) all licences granted by Implement AI to the Customer shall immediately terminate and the Customer and any Authorised Users shall immediately cease all use of the Services and the Documentation;
  - (c) the Customer shall immediately: (i) destroy any hard copies of any Implement AI Confidential Information and Documentation that are in the possession or control of Customer or any

Authorised Users; and (ii) permanently delete all electronic copies of the Confidential Information and Documentation, from the Customer's systems, servers or other forms of storage devices;

- (d) Implement AI shall be entitled to retain copies of any Customer Confidential Information (i) to the extent reasonably required for the purpose of satisfying the Implement AI's legal or regulatory requirements; or (iii) complying with any reasonable audit requirements or Implement AI's own internal record keeping policies/procedures, provided that, where applicable, such retained copies shall remain Confidential Information of the Customer;
- (e) any provision of the Agreement that expressly or by implication is intended to come into or continue in force or after termination or expiry of the Agreement shall remain in full force and effect, including clauses 2, 11 to 13, 15 to 17 and 19.3 to 24; and
- (f) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

## **20 RECORDS AND AUDIT RIGHTS**

- 20.1 The Customer hereby grants Implement AI, for the Subscription Term, the right to remotely track, record and analyse the Customer's and Authorised Users access to and usage of the AI Operating System for such purposes as Implement AI reasonably requires from time to time, including: complying with Implement AI's obligations; measuring and verifying the Customer's and Authorised Users usage of the AI Operating System and compliance with the Agreement; IT security; assessing the performance of the AI Operating System; and improving the products and services provided by Implement AI (including the AI Operating System).
- 20.2 The Customer shall permit Implement AI (and Implement AI's designated auditors and representatives) to audit the access and use of the Services and the Customer's (and its Authorised Users') systems and records to audit compliance with the Agreement. Each such audit may be conducted no more than once per quarter. Implement AI shall bear its own costs in carrying out the audit, save that the Customer shall reimburse Implement AI for such costs on demand if the audit reveals a breach of the Agreement by the Customer. This right shall be exercised with reasonable prior notice (unless Implement AI reasonably suspects a breach of this Agreement), in such a manner as not to substantially interfere with the Customer's normal conduct of business.

## **21 EXPORT CONTROLS**

The Customer shall comply with all Applicable Laws relating to export control and sanctions, as they apply to the Agreement and/or Services. The Customer agrees not to export, re-export, or retransfer any Services received under the Agreement in violation of Applicable Laws relating to export control and sanctions. The Customer further agrees that it shall not cause Implement AI to violate any Applicable Laws relating to export control and sanctions as they apply to the Agreement and and/or Services.

## **22 GENERAL**

- 22.1 Implement AI shall have no liability to the Customer under the Agreement if Implement AI is hindered, prevented from or delayed in performing its obligations under the Agreement or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of Implement AI or any other party), failure of a utility service or transport or telecommunications network, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.
- 22.2 No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

- 22.3 No failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 22.4 If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Agreement. If any provision or part-provision of the Agreement is deemed deleted under this clause, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 22.5 The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement. Nothing in this clause shall limit or exclude any liability for fraud.
- 22.6 The Customer shall not, without the prior written consent of Implement AI, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement. Implement AI may at any time novate, assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Agreement without the consent of Customer.
- 22.7 Nothing in these Terms of Service are intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other party in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 22.8 With the exception of Implement AI's Group who shall be entitled to enforce the Agreement against the Customer, the Agreement does not confer any rights on any person or party (other than the parties to Terms of Service and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999. The rights of the parties to rescind or vary the Agreement are not subject to the consent of any other person.

## **23 NOTICES**

- 23.1 Any notice required to be given to a party under or in connection with the Agreement shall be in writing and shall be: (i) delivered by hand or sent by pre-paid first-class post or other next Business Day delivery service or by commercial courier to its registered office (if a company) or its principal place of business (in any other case); or (ii) sent by email to an email address of an authorised representative of the receiving party, or to such other email address as a party has notified the other party is appropriate for formal notices.
- 23.2 Any notice shall be deemed to have been received: (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00am on the second Business Day after posting; (iii) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or (iv) if sent by email, at the time of transmission, or, if this time falls outside Working Hours in the place of receipt, when Business Hours resume, unless the party sending the notice by email receives a notification that the email has not been delivered or that the recipient is out of the office.

## **24 GOVERNING LAW AND JURISDICTION**

The Agreement and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed

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



## Schedule 1

### Definitions and Interpretation

1.1 The following defined terms have the following meanings unless the context otherwise:

**"AI Agent"** a software-based system that utilises artificial intelligence technologies, including natural language processing, machine learning, and data analytics, to autonomously perform specific tasks, processes, or functions on behalf of the user. The specific AI Agents that will be made available for use by the Customer, as part of the AI Operating System to be provided to the Customer under the Agreement, are detailed in the Order.

**"AI Agent Platform"** means the cloud-based platform provided by Implement AI, which the Customer can access and use to manage the AI Agents, account information, billing, and service preferences.

**"AI Operating System"** means the AI Agent Platform and the AI Agents, which are made available by Implement AI to the Customer on a software as a service basis, as set out in the Order. It shall include any updates to the AI Agent Platform and AI Agents that may be made available by Implement AI to the Customer from time to time.

**"AI Operating System Specification"** means each document describing the functionality and technical specification of the AI Operating System (including the AI Agent Platform and AI Agents, as applicable), which is made available by Implement AI and as updated from time to time.

**"Agreement"** means the agreement between the Customer and Implement AI for the supply of the Services which comprises the Order and these Terms of Service.

**"Applicable Law"** means any applicable law, legislation, instrument, rule, order, regulation, directive, bye-law or decision including the rules and regulations of any applicable supervisory authority, as may be amended or varied from time to time.

**"Authorised Users"** means those employees, agents and independent contractors of the Customer who are authorised by the Customer to access and use the AI Operating System, the Services and the Documentation.

**"Background IP"** means any Intellectual Property Rights owned or created by Implement AI (or any of Implement AI's licensors) before the Commencement Date or created by or on behalf of Implement AI other than pursuant to the Agreement.

**"Business Day"** means a day other than a Saturday, Sunday or public holiday in the United Kingdom.

**"Business Hours"** means the period from 9:00am to 5:00pm on each Business Day.

**"Change of Control"** shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression Change of Control shall be interpreted accordingly.

**"Commencement Date"** has the meaning given to it in the Order.

**"Confidential Information"** means any information in whatever form of a confidential nature which a party has obtained or received, directly or indirectly, in connection with the Agreement and/or pursuant to the provision of the Services, whether before or after the date of the Agreement, including: (a) information concerning the business, activities, affairs, finances, employees, operations, facilities, assets, programs, customers, clients or plans, intentions, or market opportunities or third party service providers of the other party; (b) any commercially sensitive information; (c) any information that is developed by the parties in the course of carrying out their obligations pursuant to the Agreement; (d) any information that would be regarded as confidential by a reasonable business person; and (e) the terms of the Agreement.

**"Customer"** means the person identified as such in the Order.

**"Customer Data"** means the data inputted by or on behalf for the Customer (including by any Authorised Users) or by Implement AI on the Customer's behalf for the purpose of the Customer using the Services or facilitating the Customer's use of the Services.

**"Customer Materials"** means any documents, information or materials, whether in electronic or hard copy format, which is input into the AI Operating System by or on behalf for the Customer (including by any Authorised Users), or by Implement AI on the Customer's behalf, or which is otherwise made available by or on behalf of the Customer (including by any Authorised User) to Implement AI in connection with the Services or otherwise under this Agreement.

**"Customer Output"** mean any data and materials or other output generated by the Services for the Customer as a direct result of Customer's or its Authorised Users' use of the Services in accordance with the Agreement, including any output generated by AI Agents as a direct result of Customer's or its Authorised Users' use of such AI Agents.

**"Data Protection Legislation"** means all data protection and privacy legislation in force from time to time which is applicable to a party, including, to the extent the following are applicable and in force from time to time: (a) the General Data Protection Regulation ((EU) 2016/679) the **"EU GDPR"** and the **"UK GDPR"** (as defined in sections 3(10) and 205(4) of the Data Protection Act 2018), together the **"GDPR"**; (b) the Data Protection Act 2018 (the **"DPA"**); and (c) any successor legislation to the GDPR or the DPA.

**"Documentation"** means any document made available to the Customer by Implement AI online via such other web address notified by Implement AI to the Customer from time to time which sets out a description of the Services (including the AI Operating System) and the user instructions for the Services (including the AI Operating System).

**"Fees"** means the fees payable by the Customer to Implement AI for the Services, including the Setup Fee, the Subscription Fees, any sums payable for any additional Usage Credits and any other amounts payable to Implement AI under the Agreement.

**"Group"** means in relation to a company, that company, any subsidiary or holding company from time to time.

**"Go-Live"** means the date for Go-Live Date notified by Implement AI to the Customer.

**"Go-Live Date"** means the date that is 30-days following the Commencement Date, unless otherwise agreed in writing by Implement AI.

**"Losses"** means any and all losses and liabilities of whatever nature that are incurred or suffered, including damages, charges, costs, expenses (including legal fees), disbursements, costs of or relating to management time, costs of investigation and litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise howsoever.

**"Implement AI Website"** means the website at <https://implementai.io/>.

**"Initial Subscription Term"** means a period of 12 months starting on the Go-Live Date.

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

all similarly or equivalent rights, or forms of protection which subsist or will subsist now or in the future in any part of the world.

**"Order"** means the order, signed by both parties, which details the commercial terms agreed by the parties relating to the provision of access to and use of the Services and which incorporates these Terms and Conditions.

**"Permitted Purpose"** means solely for the Customer's internal business purpose.

**"Setup Fee"** means the non-refundable setup fee set out in the Order.

**"Services"** means the Services provided by Implement AI to the Customer under Agreement as described further in the Order, including the Support Services and the provision of the AI Operating System.

**"Subscription Fee"** means the monthly subscription fee set as initially set out in the Order and subsequently varied from time to time in accordance with the Agreement, including where the Customer purchases any additional Usage Credits.

**"Subscription Renewal Period"** has the meaning given to it at clause 3.2 of these Terms of Service.

**"Subscription Term"** means the period starting on the Commencement Date and ending on the expiry of the Agreement or the date on which it terminates (if earlier).

**"Setup Services"** means the onboarding services to be provided by Implement AI prior to the Customer using the AI Operating System in an operational environment as such services are described in the Order. The Setup Services may include guided onboarding, policy setup and configuration support, in each case to the extent detailed in the Order.

**"Support Services"** has the meaning given to it as clause 7.1 of these Terms of Service.

**"Support Services Policy"** means the policy for providing support in relation to the AI Operating System forming part of the Documentation.

**"Territory"** has the meaning given to it in the Order.

**"Third Party Provider"** means third parties used by Implement AI to: (a) provide the AI Operating System (or any part of it); or (b) provide or license the use of any data, information, systems (including software and hardware) networks (including connections and interfaces), infrastructure, Intellectual Property Rights or other items to Implement AI to enable Implement AI to provide the AI Operating System (or any part of them).

**"Usage Credits"** has the meaning given to it as clause 5.3.

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

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

**"Year"** means any period of twelve (12) consecutive months from the Go-Live Date or any anniversary thereof.

- 1.2 References in the Agreement to: (a) a person includes a natural person, corporate or unincorporated body; (b) any agreement or document shall include references to such agreement or document as amended, extended, renewed or novated from time to time; (c) a statute or statutory provision is a reference to that statute or statutory provision as amended, extended, re-enacted or replaced from time to time; (d) any phrase introduced by the terms **"including"**, **"include"** or any similar expression shall be construed as illustrative only and shall not limit the generality of the words preceding those terms; (e) "or" is not exclusive, and shall have the meaning commonly associated with "and/or"; (g) "writing", "written" or any similar expression shall include writing in electronic form; and (h) dates and times are references to dates and times in England.
- 1.3 Any obligation on Customer under the Agreement to do, or to refrain from doing, any act or thing includes an obligation on Customer to ensure that the Customer's Authorised Users also do, or refrain from doing, such act or thing. The Customer shall be liable to Implement AI for the acts and omissions of the Customer's Authorised Users as if those acts and omissions were the acts or omissions of Customer.
- 1.4 If and to extent that there is any inconsistency between: the Terms of Service; the provisions of any Order; and any other documents expressly incorporated into the Agreement, the order of precedence will be as follows (highest first): (a) these Terms of Service; (b) the provisions of the Order; and (c) any other documents expressly incorporated into the Agreement.



## Schedule 2

### Data Protection Terms

- 1.1 The terms "**Controller**", "**Processor**", "**Data Subject**", "**Personal Data**", "**processing**" (with "**process**" having a corresponding meaning) and "Personal Data Breach" shall have the meanings given to them in the GDPR.
- 1.2 The Customer shall comply with all applicable laws Data Protection Legislation in connection with the Customer's use of the Services, including that the Customer shall have in place a privacy policy which sets out how its customer's Personal Data may be used by the Customer and/or Implement AI pursuant to and in connection with the Agreement and ensure that such privacy policy is brought to the attention of its customers. For the avoidance of doubt, the Customer shall be solely responsible for ensuring that its privacy policy and all uses of its customers' personal data, comply with Applicable Laws.
- 1.3 The parties acknowledge that it is their common understanding that the Customer is the Controller and Implement AI is the Processor of the Personal Data processed by Implement AI in the course of providing the Services (other than employee contact information that the parties process in the course of the management of the Services, which the parties shall process as independent Controllers). Appendix 1 to these Terms of Service set out further details of this Personal Data and the purposes for which it shall be processed, including the scope, nature and purposes of processing by Implement AI, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 1.4 Where Implement AI processes Personal Data as a Processor on behalf of the Customer, Implement AI shall:
  - (a) process that Personal Data only on the documented instructions set out in the Agreement or the Order, unless Implement AI is otherwise required to process the Personal Data by applicable law (in which case, where permitted, Implement AI will use reasonable endeavours to notify the Customer of the applicable law before processing). The Customer hereby irrevocably instructs Implement AI to process the Personal Data as required to provide the Services, AI Operating System and Documentation. Save for any instructions that the Customer is required to give to comply with the Data Protection Legislation, the instructions given by the Customer in the Agreement are the Customer's complete and final instructions in relation to the processing under the Agreement and, unless Implement AI otherwise agrees, Implement AI shall not be bound by any additional or alternate instructions. Implement AI shall notify the Customer if it considers, in its reasonable opinion, that any instructions infringe applicable Data Protection Legislation;
  - (b) maintain in place its existing technical and organisational measures to ensure a level of security appropriate to the risk in relation to the Personal Data and update such technical and organisational measures when Implement AI updates the technical and organisational measures that apply to Implement AI's processing of Personal Data in the ordinary course of business;
  - (c) ensure that its personnel who are authorised to process the Personal Data are obliged to keep it confidential;
  - (d) taking into account the nature of the processing, assist the Customer, at the Customer's cost, in responding to any request from a Data Subject to exercise their rights under the Data Protection Legislation and in ensuring compliance with the Customer's obligations with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - (e) notify the Customer without undue delay on becoming aware of a Personal Data Breach affecting the Personal Data;

- (f) at the written direction of the Customer, at Customer's cost, delete (in accordance with Implement AI's normal business procedures relating to the storage and deletion of data) or return all copies of the Personal Data to the Customer on termination of the Agreement, unless Implement AI is otherwise required or permitted to retain the Personal Data by applicable laws or regulatory requirements and save that Implement AI shall be entitled to retain copies of the Personal Data to the extent reasonably required to comply with any reasonable audit requirements or Implement AI's own internal record keeping policies/procedures; and
- (g) make available to the Customer, at Customer's cost, such information as is reasonably necessary to demonstrate compliance with this clause 1.4 and permit the Customer to audit its compliance with this clause 1.4. Such audits shall be conducted not more than once in any twelve (12) month period, on a Business Day during Business Hours and on such reasonable notice as Implement AI may reasonably require. In addition, the Customer shall ensure that such audits do not interfere with the business of Implement AI and shall be limited to the inspection of such records as Implement AI reasonably considers appropriate. The Customer shall ensure that all persons who are engaged in the audit enter into such confidentiality obligations with Implement AI as Implement AI reasonably requires before any audit takes place.

1.5 The Customer grants Implement AI a general authorisation to:

- (a) appoint such sub-Processors (including Third Party Providers) as Implement AI considers appropriate, provided that Implement AI shall notify the Customer of any intended additional/replacement sub-Processor and permit the Customer a minimum period of 5 Business Days to notify Implement AI if the Customer has any reasonable objection to the appointment of the sub-Processor (for the avoidance of doubt, an objection shall only be reasonable if it raises legitimate concerns regarding the proposed sub-Processor's ability to comply with this clause 1.5(a). If the Customer submits any reasonable objection within that period, Implement AI and the Customer shall discuss the matter in good faith; and
- (b) transfer any Personal Data, which it processes on behalf of the Customer in connection with the provision of and use of the Services, AI Operating System and Documentation Solution, outside of the UK and European Economic Area, provided that Implement AI ensures that all such transfers are effected in accordance with the Data Protection Legislation. For these purposes, Implement AI and the Customer shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required by Implement AI to ensure that the transfer is effected in accordance with the Data Protection Legislation.

1.6 Where this Schedule 2 refers to any action being taken at the Customer's cost, Implement AI shall be entitled to charge the user for the activities concerned in accordance with its standard time and materials rates in force at the time of the request and, in addition, recover any costs incurred by Implement AI in connection with the activities concerned.

1.7 The Customer warrants and represents that, prior to providing Implement AI any Personal Data, it has informed, and if required obtained consent from Authorised Users and any other individuals for the processing, use, and transfer of their Personal Data as contemplated under the Agreement.

## **Appendix 1**

### **Data Processing Schedule**

This Schedule 2 includes certain details of the processing of Customer Personal Data as required by Article 28(3) GDPR.

**1 SUBJECT MATTER AND DURATION OF THE PROCESSING OF CUSTOMER PERSONAL DATA**

The subject matter and duration of the processing of the Customer's Personal Data are set out in the Terms of Service and the Order

**2 THE NATURE AND PURPOSE OF THE PROCESSING OF CUSTOMER PERSONAL DATA**

- Processing Customer Personal Data as necessary to provide, operate, and support the AI Operating System and AI Agents, including the configuration, deployment, monitoring, optimisation, and management of such Services; and
- Such other purposes as are set out in in the Agreement and for which Implement AI is required by the Customer to process for the purpose of providing the Services.

**3 THE TYPES OF CUSTOMER PERSONAL DATA TO BE PROCESSED**

Personal Data relating to [insert details of the types of data] and any other personal data that Implement AI is required by the Customer to process for the purpose of providing the Services.

**4 THE CATEGORIES OF DATA SUBJECT TO WHOM THE CUSTOMER PERSONAL DATA RELATES**

- employees, staff, workers, contractors and representatives of the Customer;
- employees, staff, workers, contractors and representatives of the Customer's actual or potential customers, suppliers and business partners; and
- the Customer's actual or potential customers, end-users and prospects..

**5 THE OBLIGATIONS AND RIGHTS OF CUSTOMER**

The obligations and rights of the Customer are set out in the Agreement.