Arnold Media Limited

Terms of Service V.7.5

Arnold Media Limited Terms of Service

THESE ARE THE TERMS OF SERVICE REFERENCED IN THE ORDER FORM. THE ORDER FORM IS A LEGALLY ENFORCEABLE CONTRACT BETWEEN NETREFER AND LICENSEE, AND THE REFERENCE TO THESE TERMS OF SERVICE IN THE ORDER FORM MEANS THAT THEY APPLY, AND ARE ENFORCEABLE, IN THE SAME WAY AS THEY WOULD IF THEY WERE INCLUDED IN THE ORDER FORM.

THEREFORE, PLEASE READ THESE TERMS OF SERVICE CAREFULLY BEFORE SIGNING THE ORDER FORM AND ACCESSING AND USING THE SERVICE. YOUR SIGNATURE OF THE ORDER FORM AND/OR USE OF THE SERVICE CONSTITUTES YOUR ACCEPTANCE OF THESE TERMS OF SERVICE.

In addition to these Terms of Service, please read our Privacy Policy, located at https://netrefer.com/privacy-policy/, as updated from time to time, for more information on our data collection, storage, and protection practices.

1. Introduction

1.1 These Terms of Service ("**TOS**") together with the Order Form, including all documents referenced or incorporated therein, constitute a binding agreement between Licensee and NetRefer ("**Agreement**"). The Agreement governs NetRefer's provision of the Service to Licensee, as well as Licensee's access and use of the Service.

1.2 To the extent of any conflict or inconsistency between these TOS and the Order Form, the Order Form shall prevail.

1.3 The schedules attached to these TOS ("**Schedules**") form an integral part of the Agreement and shall have the same force and effect as if set out in the body of these TOS. The clauses of these TOS shall apply to each of the Schedules hereto, unless otherwise expressly stated in a specific Schedule. To the extent that there is a conflict or inconsistency between the terms of any Schedule and the terms of these TOS, the terms of such Schedule shall govern with respect to such conflict or inconsistency only. The term of each Schedule will follow the term of the Agreement.

1.4 The Schedules comprise of:

Schedule A – Data Processing Agreement ("**DPA**");

Schedule B – Service Level Agreement ("**SLA**");

Schedule C – Add-ons, Integrations and API's ("**API**");

Schedule D – CoPilot AI – NetRefer's Virtual Assistant ("**CoPilot AI**").

1.5 In these TOS, any reference to the singular includes the plural and vice versa, to any gender includes all genders, and to any law, act or regulation includes any subsequent amendments, replacements, or enactments thereof.

1.6 The headings herein are for reference purposes only and shall not be deemed to limit or affect any of the provisions hereof.

1.7 Unless otherwise stated, all references to clauses in these TOS refer to clauses within the main body of these TOS, and references to clauses within any Schedule refer to clauses contained within that specific Schedule.

2. Definitions

2.1 "**Add-on/s**" means optional modules that enhance the Platform's functionality, as indicated in the Order Form.

2.2 "**Add-ons Fee**" means the monthly fees payable by the Licensee for the Add-ons, as indicated in the Order Form and as may be updated from time to time by the Parties.

2.3 "**Affiliate**" means any third parties who direct online and/or offline traffic to the online and/or offline properties of Licensee which can be tracked and attributed to the affiliate and who are incentivized by Licensee for such introductions and are permitted to access and utilize, but not further distribute, the Service. Affiliates include also third parties authorised by Licensee to use the Service.

2.4 "**Agreement**" has the meaning set out in clause 1.1 above.

2.5 "**Automatic Renewal Term**" means each successive term of the Agreement after the end of the Initial Term, as indicated in the Order Form.

2.6 "**Billing Start Date**" means the date the billing of the Total Monthly Fee commences as indicated in the Order Form and as further described in clause 8.1.2 below.

2.7 "**Brand/s**" means any brands, trademarks, service marks, trade names, domain names and logotypes owned by Licensee.

2.8 "**Bug**" means a feature or functionality that is not working in accordance with the latest description thereof in the User Documentation.

2.9 "**Confidential Information**" means confidential information as defined in clause 21 below.

2.10 "**Contractual Partners**" means any Affiliate, employee, consultant, agent and any other third party engaged with Licensee and who in any way makes use of the Service, directly or indirectly and/or any third parties who provide or send data to the Platform on behalf of Licensee.

2.11 "**Derivative work**" means (a) for copyrightable or copyrighted material: a work that is based upon one or more pre-existing works, such as a revision, modification, translation, abridgment, condensation, expansion, collection, compilation or any other form in which such a pre-existing work may be recast, transformed or adapted, and that, if prepared without authorization by the owner of the pre-existing work, would constitute copyright infringement; (b) for patentable or patented material: any adaptation, addition, improvement, or combination based on a pre-existing work; and (c) for material subject to trade secret or protection or confidentiality obligations: any new material, information or data relating to and derived from such existing trade secret material or Confidential Information, including new material which may be protected by copyright, patent, trade secret or other proprietary rights.

2.12 "**Effective Date**" means the date on which the Agreement comes into force, as indicated in the Order Form.

2.13 "**Features**" means the Infrastructure and any services, features and functions that are made accessible to Licensee as part of the Service, and which may be modified, changed, altered, removed, or added from time to time by NetRefer at its sole discretion.

2.14 "**Group Company**" means in respect of either Party, any subsidiary or holding company from time to time of that Party, and any subsidiary from time to time of a holding company of that Party, including any affiliated company, joint venture or any other kind of undertaking in which the Party directly or indirectly holds an interest.

2.15 "**Hosting Fee**" means the monthly fees payable by the Licensee for hosting services, as indicated in the Order Form and as may be updated from time to time by the Parties.

2.16 "**Infrastructure**" refers to the cloud infrastructure service composed of compute capacity, data storage, data transmission, network and related infrastructure services that are made available and managed by NetRefer's third party cloud infrastructure service provider.

2.17 "**Initial Term**" means the initial Agreement period starting on the Billing Start Date and continuing through the number of months indicated in the Order Form.

2.18 "**Intellectual Property Rights**" means any and all patents, inventions, copyrights, moral rights, trademarks, domain names, trade secrets, know-how, software, and any other form of intellectual property and/or proprietary rights recognized in any jurisdiction whether existing now or acquired hereafter including any application or right to apply for registration of any of these rights.

2.19 "**License Fee**" means the monthly fees payable by the Licensee for the base system, Brands and/or Products, and excluding any Hosting Fee, Security Fee, Add-ons Fee, Support Fee and/or other fees, as indicated in the Order Form and as may be updated from time to time by the Parties.

2.20 "**Licensee**" or "**Client**" means the legal entity identified in the Order Form.

2.21 "**Licensor**" or "**NetRefer**" means Arnold Media Limited, trading as NetRefer (C39896), of Quantum Place, Triq ix-Xatt, Gzira, GZR 1020, Malta.

2.22 "**Maintenance**" means all software coding done to correct Bugs found during usage as well as to implement any Software Update or Upgrade. It includes also any hosting maintenance which is required to retain or increase the confidentiality, integrity and availability of the Service throughout the term of the Agreement.

2.23 "**Order Form**" means the NetRefer order form executed between NetRefer and Licensee, as may be updated or modified from time to time in an addendum or other written document signed by the Parties.

2.24 "**Party**" or "**Parties**" means Licensee and/or NetRefer, individually or collectively.

2.25 "**Platform**" means NetRefer's front-end web-based portals for Licensee and their Contractual Partners, the back-end software modules, management of all Licensee's specific data, and any APIs used to communicate with NetRefer's platform.

2.26 "**Product/s**" means any product category (including but not limited to, Sportsbook, Casino, Virtual Casino, Poker, Bingo, Lotto and Exchange) provided by the Licensee and integrated within the Service.

2.27 "**Schedules**" has the meaning set out in clause 1.3 above.

2.28 "**Security Fee**" means the monthly fees payable by the Licensee for security services such as ad-server, and admin & affiliate interface, as indicated in the Order Form.

2.29 "**Service**" means all or any portion of the Platform, Software and Features that are made accessible to Licensee, as further explained in the User Documentation.

2.30 "**Software**" means all or any portion of NetRefer's proprietary software code and software libraries, software components and any and all customizations, modifications, Updates and Upgrades thereto, if any, as well as all or any portion of NetRefer's other products and/or services and/or programs and/or features, and all Intellectual Property Rights therein.

2.31 "**Software Update**" means a patch, correction or other similar modification to the Service which may be issued by NetRefer during the term of the Agreement.

2.32 "**Software Upgrade**" means a release of the Software containing material enhancements in features or functionality which NetRefer may make commercially available to Licensee during the term of the Agreement and which may be subject to an additional cost.

2.33 "**Support Fee**" means the monthly fees payable by the Licensee for support services, as indicated in the Order Form.

2.34 "**Total Monthly Fee**" means the aggregate monthly amount payable by the Licensee, calculated as the sum of all individual recurring fees applicable to the Licensee, including the License Fee, Hosting Fee, Security Fee, Add-ons Fee, and Support Fee. The amount of the Total Monthly Fee is subject to change if additional Brand/s, Product/s, Add-ons, or any other services are required by the Licensee and/or if hosting allocations are upgraded or downgraded. Any such changes shall be set out in an addendum to the Order Form and signed by both Parties.

2.35 "**User Documentation**" means any user manual, knowledge base, release notes, training materials and any other related material provided or published by NetRefer (printed or on-line), which provides an overview of the Service features, capabilities and functionality and which assists Licensee in using the Service, as may be updated from time to time.

3.   Grant of License

In accordance with the terms of the Agreement, NetRefer hereby grants to Licensee a non-transferable, non-exclusive, non-assignable license to use the Service for Licensee's internal business purposes only, throughout the term of the Agreement.

4.   Limitation on Use

4.1   Licensee shall not, nor permit any Contractual Partner to: (a) copy, modify, distribute, redistribute, reproduce, duplicate, download, sell, lease, assign, transfer, trade, publish or otherwise exploit all or any part of the Service or the User Documentation; (b) disassemble, reverse engineer or decompile any copies of the Service, whether in full or in part; (c) develop, produce, make, distribute, license or exploit any of the Service's Derivative Work; (d) allow third parties to access and/or use the Service, except for those specifically authorised in writing by NetRefer; (e) use a single account given to Licensee for the Service for multiple business entities, unless specifically authorised in writing by NetRefer; (f) use the Service for any purpose other than in the normal course of its business; (g) use the Service in violation of any applicable law or regulation, or for any illegal or unauthorised purpose or cause; (h) systematically extract and/or re-utilise parts of the contents of the Service, collect content or information or otherwise access NetRefer's website or Service using automated means, such as periodic caching of information, harvesting bots, data mining, robots, spiders, scrapers, crawlers or similar data gathering and extraction tools to extract (whether once or many times) for re-utilisation of any parts of the Service without NetRefer's express written consent; (i) access the Service for benchmarking or other competitive purpose or solely for the purpose of monitoring its availability, performance or functionality; (j) use any unauthorized means to modify, reroute, or gain access to the Service or attempt to carry out these activities; (k) damage, disable, overburden or impair the Service or any network connected to the Service; or (l) use the Service beyond the feature allocation and amounts provided in that Service or in violation of NetRefer's Fair Usage as specified in clause 24 below.

4.2   NetRefer retains the right to immediately block, deactivate or otherwise prevent access to the Service upon infringement of any of the aforesaid.

5.   Use of the Service

5.1   Licensee is solely liable for all matters related to, arising from, or in any way connected to its use of the Service, including, but not limited to, the administrating, monitoring and/or setting up of reward plans, and/or payment of any rewards using NetRefer's Service.

5.2   Licensee is solely liable and responsible for any data input, or data which is caused to be input by NetRefer on Licensee's behalf, as well as for all outcomes that may result directly or indirectly from such data input.

5.3   Any figures and amounts calculated are based on data sent to NetRefer, and NetRefer shall not be liable for any incorrect figures resulting from incorrect data being sent over.

5.4   The setup of rewards is entirely within Licensee's control, and NetRefer shall not be liable for any reward calculations which work as per configuration set wherein the functionality is working correctly.

5.5   During the term of the Agreement, Licensee's data, which includes data related to ad serving statistics and affiliate data that NetRefer collects directly, as well as data related to player registration, activity, adjustments and corrections to the activity that NetRefer obtains from Licensee, is accessible on the Platform for a rolling period of twenty four (24) months from the date it is published, after which it shall be made available to Licensee by submitting a request to NetRefer.

5.6   Licensee is solely liable to the Affiliate in respect of any matter related to, arising from, or in any way connected to the Affiliate's access and use of the Service, including, but not limited to, the administrating, monitoring and/or payment of any rewards using NetRefer's Service.

5.7   Licensee shall obtain consent from the Affiliate when manually entering or amending the Affiliate details, and Licensee shall be liable for any GDPR or other penalties resulting from non-compliance.

5.8   Licensee shall ensure that the Affiliates use the Service strictly in accordance with the provisions of this Agreement. Breach of any provision of this Agreement by any Affiliate shall be deemed a breach thereof by Licensee, and Licensee shall be liable hereunder with respect to such breach as if Licensee itself had breached this Agreement.

5.9   Licensee shall ensure that the Affiliates' actions and usage relating in any way to the Service are in line with Licensee's internal policies and legal requirements, including but not limited to, Affiliates' own marketing strategies and the outcomes and/or results and/or legal implications of such strategies.

5.10   Licensee shall ensure that the Affiliates use the Service in accordance with applicable laws, orders and regulations in force from time to time and as may be established by the relevant authority that is empowered by law to regulate the business operations of the Affiliate. Licensee undertakes and agrees to require each of its Affiliates to be in possession of all relevant permissions, approvals, certifications, permits and licenses required under applicable law, necessary for each such Affiliate to operate its business and required for each such Affiliate to operate through the Platform and to avail itself of the Service and, upon request by NetRefer, Licensee shall provide NetRefer with proof of such documentation. In the event that any of the said permissions, approvals, certifications, permits or licenses are withdrawn, cancelled, suspended or in any other manner made inoperative by the relevant authorities, Licensee shall notify NetRefer immediately upon becoming aware thereof.

5.11   Licensee is responsible for:

- data accuracy pertaining to the Affiliate's details;

- maintaining and updating any terms and conditions presented by Licensee to Affiliates ("**Affiliate Terms and Conditions**") and for communicating any changes as required;

- including any processing information provided by NetRefer in the Affiliate Terms and Conditions, as applicable;

- maintaining any and all languages required for the Affiliate Terms and Conditions and any respective versions;

- assigning the roles and privileges and determining what features shall be visible and accessible to which of its employees and ensuring that such access is required for the fulfilment of such employee's duties. Licensee undertakes to only provide access where clear grounds exist for such access.

5.12   If any acts or omissions of an Affiliate result in, or in NetRefer's sole discretion may result in, damage, harm or interference to NetRefer or any of its clients, NetRefer reserves the right to immediately suspend or block access to the Affiliate platform.

6.   Third-Party Services, Sites and Products

Third-party services, sites and products are not under NetRefer's control. Third-party services, sites and products are provided to Licensee only as a convenience, and the availability of any third-party service, site or product does not mean NetRefer endorses, supports or warranties the third-party service, site or product. NetRefer's website may include links to other websites, services, resources or products on the Internet that are owned and operated by online merchants and other third parties. Licensee acknowledges that NetRefer is not responsible for the availability, content, legality, appropriateness or any other aspect of any third-party service, site or product. Licensee's use of third-party services, sites or products is at its own risk and subject to the terms of use and privacy policies of each such service, site or product. NetRefer makes no guarantees and assumes no responsibility or liability of any type with respect to content, products and services offered by any third party.

7. Term and Termination

7.1 The Agreement shall commence on the Effective Date and shall continue in effect for the duration of the Initial Term. At the end of the Initial Term, the Agreement shall automatically renew for successive periods according to the Automatic Renewal Term indicated in the Order Form (each, a "**Renewal Term**").

7.2 Either Party may terminate the Agreement at the end of the Initial Term or any Renewal Term by providing written notice of termination at least three (3) months prior to the end of the Initial Term or the then current Renewal Term.

7.3 At the end of the Initial Term or Renewal Term, as applicable, the Parties may sign a new Order Form, in which event the Parties shall be deemed to have entered into a new Agreement and a new Initial Term will commence.

7.4 Termination by Licensee prior to the end of the Initial or Renewal Term, as aforesaid (except as expressly permitted under clause 7.6 below), does not release Licensee from its obligation to pay all fees for the remainder of the Initial or Renewal Term, as applicable. Fees will be calculated based on the most recent fees payable prior to such termination. Any previously granted discounts will be revoked, and Licensee will be required to pay the full, undiscounted fees for the remaining period. Upon Licensee giving notice of early termination, all fees, including the System Decommissioning Fee, for the entire Initial Term or Renewal Term, as applicable, shall become immediately due and payable in full.

7.5 The following terms apply during each Renewal Term:

    7.5.1 Any discount granted during the Initial Term or any previous Renewal Term (if any) will automatically expire at the end of such Initial or Renewal Term and will not apply during any subsequent Renewal Term.

    7.5.2 The monthly fees may be increased automatically by up to 30% at any time during each Renewal Term at NetRefer's sole discretion.

    7.5.3 Any updated TOS published by NetRefer at any time during a Renewal Term shall automatically apply to that Renewal Term.

7.6 Notwithstanding the above, Licensee shall have the right to immediately terminate the Agreement only in the following cases: (a) NetRefer fails to comply with, or breaches, any term of the Agreement and such non-compliance or breach is not remedied within thirty (30) days of written notice of such non-compliance or breach by Licensee to NetRefer; (b) any representation made hereby by NetRefer is materially false when delivered; (c) NetRefer has committed, or is reasonably suspected of committing, any unlawful or fraudulent act; or (d) NetRefer becomes bankrupt, insolvent, or undergoes involuntary liquidation, as evidenced by written records. Termination pursuant to this clause 7.6 shall not release Licensee from its obligations to pay to NetRefer all fees which accrued prior to such termination. It is hereby agreed that Licensee's sole and exclusive remedy for termination pursuant to this clause 7.6 shall be to terminate the Agreement and receive a refund of any fees or pro-rata portion thereof paid by Licensee for any remaining period of the Agreement, if any, from the date of termination.

7.7 NetRefer shall have the right to immediately terminate the Agreement only in the following cases: (a) Licensee fails to comply with, or breaches, any term of the Agreement (including failure to pay any fees in full on the due date) and such non-compliance or breach is not remedied within thirty (30) days of written notice of such non-compliance or breach by NetRefer to Licensee; (b) any representation made hereby by Licensee is materially false when delivered; (c) Licensee has committed, or is reasonably suspected of committing, any unlawful or fraudulent act; (d) Licensee becomes bankrupt, insolvent, or undergoes involuntary liquidation, as evidenced by written records; (e) Licensee refuses to accept any modifications to the Service or any Upgrade or Update, which are required for legal, regulatory, security and/or infrastructure purposes, or to ensure or improve optimal functioning of the Service; (f) failure by Licensee to apply SSL certificates as further described herein below; (g) failure by Licensee to comply with clause 23.2 regarding DDoS attacks; or (h) any use of the Service by Licensee negatively impacts NetRefer and/or its clients. Termination pursuant to this

clause 7.7 does not release Licensee from its obligation to pay to NetRefer all fees, including the System Decommissioning Fee, for the entire Initial Term or Renewal Term, as applicable, which shall become immediately due and payable in full.

7.8 <u>Effect of Termination</u>. Upon expiration or termination of the Agreement for any reason whatsoever:

7.8.1 NetRefer shall decommission the Service (as further described in clause 10 below), obfuscate and anonymize all personal data and delete any backups, disable all related technical services, and revoke all access to the Service both externally and internally; and

7.8.2 Licensee shall remove all NetRefer integrations from its systems (such as login and sign up iframes); delete any pixels redirecting to NetRefer; remove any tracking technologies linking to or directing to NetRefer; remove any references and links to NetRefer sites; inform any third party integrators that linked to the Platform of such termination; and store and protect any data generated through the NetRefer system in compliance with applicable legal and commercial obligations.

8. Fees

8.1 General

8.1.1 As of the Billing Start Date, Licensee shall pay to NetRefer the fees indicated in the Order Form, as may be updated pursuant to any modifications agreed upon in writing by the Parties.

8.1.2 For new clients only: The Billing Start Date is aligned with the estimated go-live date in the Onboarding Project Plan, attached to the Order Form. No changes will be made to the Billing Start Date due to delays outside of NetRefer's control. Full cooperation of Licensee and associated third parties (such as data providers) is required throughout onboarding to ensure delivery within the estimated timelines set out in the Onboarding Project Plan. However, if the Service goes live prior to such date, the Billing Start Date will automatically be brought forward to coincide with the go-live date, and the End of the Initial Term indicated in the Order Form will likewise automatically be brought forward to correspond with such date.

8.1.3 All sums payable under the Agreement shall be made in Euro (€) and are exclusive of VAT. Licensee shall be responsible for paying all use, sales, excise, value-added or other tax or governmental charges related to Licensee's use of the Service. Any withholding taxes which may arise on amounts paid by Licensee to NetRefer are not to be deducted from the amount paid to NetRefer but are instead to be paid directly by Licensee and at their additional expense. The full amount invoiced by NetRefer will therefore still have to be settled by Licensee to NetRefer.

8.1.4 NetRefer reserves the right to conduct credit checks and other similar due diligence inquiries with respect to prospective licensees and may refuse to enter into the Agreement with any party at its sole discretion.

8.1.5 NetRefer may charge Licensee interest on any late payments at the rate of 8% plus the European Central Bank (ECB) reference rate, or the maximum rate permitted by law, if lower.

8.1.6 Failure by Licensee to pay any amounts by the due date shall entitle NetRefer, without prejudice to any other rights and remedies it may have, to immediately suspend and/or cancel Licensee's access to all or any part of the Service, including tracking and ad-serving, without prior notice. NetRefer shall not be liable for any loss or damage caused to Licensee or any third party as a result of such suspension or cancelation. A re-activation fee may be charged by NetRefer at its sole discretion.

8.1.7 Furthermore, should Licensee fail to make payment and fail to remedy this breach within thirty (30) days of notice thereof by NetRefer, NetRefer shall have the right to terminate the Agreement and/or take legal action against Licensee, while all costs and expenses,

including but not limited to, attorney's fees, court costs, collection agency fees, and any other charges, shall be borne by Licensee.

8.1.8 NetRefer reserves the right to cancel any discount previously agreed with or offered to Licensee under the Order Form if Licensee fails to pay any amounts by the due date.

8.1.9 All fees are non-refundable, except as otherwise expressly stated in the Agreement.

8.1.10 It is expressly understood by the Parties that NetRefer's duty pursuant to the Agreement is to make the Service available to Licensee. If Licensee elects not to use the Service after it has been made available by NetRefer, or if Licensee's actions or inactions prevent NetRefer from providing the Service, Licensee shall nonetheless be liable for all fees under the Agreement, regardless of whether Licensee has made any use of the Service.

8.1.11 In the event that Licensee has paid a security deposit to NetRefer, then, upon termination of the Agreement, any outstanding fees and charges owed to NetRefer (including System Decommissioning Fee) shall be deducted from the security deposit, and the remaining deposit amount, if any, shall be refunded to Licensee.

8.2 License Fee

8.2.1 The License Fee shall apply to the original number of Brands and/or Products at the time of the Effective Date. Any decommissioning of Brands and/or Products requested by Licensee shall have no effect on the License Fee during the term of the Agreement. However, Licensee shall be required to pay a one-time Brand/Product decommissioning fee, to be quoted by NetRefer, for the labour incurred in the decommissioning. Any additional Brands/Products requested by Licensee are subject to additional monthly charges upon being deployed on the live environment, at which time the License Fee shall increase as indicated in the Order Form. In addition, Licensee shall be required to pay a one-time Brand/Product integration fee, to be quoted by NetRefer, for the labour incurred.

8.3 Hosting Fee

8.3.1 This clause 8.3.1 applies to Licensees with multiple hosting bundles, as indicated in the Order Form:

(a) The minimum monthly charge for hosting services is as specified in Bundle 1 of the Order Form. If Licensee exceeds any of the hosting parameters (RPM, DNS, CDN, or Data Storage) in any particular month, Licensee will automatically be moved to the following Bundle level for such particular month. If Licensee exceeds any of the Bundle 3 (or Bundle 2 if only two bundles are specified in the Order Form) hosting parameters in any particular month, it will pay the difference according to the Additional Unit Costs indicated in the Order Form. Since billing is done in advance according to the specified Billing Cycle, the difference will be charged on a monthly in arrears basis. Any decrease in the original hosting allocation, as existing at the time of the Effective Date, shall have no effect on the hosting fee during the term of the Agreement. Any increase in the hosting allocation is subject to additional monthly charges to be quoted by NetRefer.

(b) Notwithstanding the above, if Licensee exceeds any of the hosting parameters of Bundle 3 (or Bundle 2 if only two bundles are specified in the Order Form) for more than two consecutive months, NetRefer shall have the right to suspend service and/or to terminate the Agreement with immediate effect. Any such suspension and/or termination shall not release Licensee from its obligation to pay the full fees for the remainder of the Agreement term.

8.3.2 This clause 8.3.2 applies to Licensees with one base bundle, as indicated in the Order Form:

(a) The minimum monthly charge for hosting services is as specified in the Base Bundle. If Licensee exceeds any of the hosting parameters (RPM, DNS, CDN, or Data Storage) in any particular month, it will pay the difference according to the Additional Unit Costs indicated in the Order Form. Since billing is done in advance according to the specified Billing Cycle, the difference will be charged on a monthly in arrears basis. Any decrease in the original hosting allocation, as existing at the time of the Effective Date, shall have no effect on the hosting fee during the term of the Agreement. Any increase in the hosting allocation is subject to additional monthly charges to be quoted by NetRefer.

(b) Notwithstanding the above, if Licensee exceeds any of the hosting parameters of the Base Bundle for more than two consecutive months, NetRefer shall have the right to suspend service and/or to terminate the Agreement with immediate effect. Any such suspension and/or termination shall not release Licensee from its obligation to pay the full fees for the remainder of the Agreement term.

8.4 Security Fee

8.4.1 Any additional ad-server and admin & affiliate Interface requested by Licensee beyond the amount allocated in the Order Form and requiring an additional SSL certificate, is subject to NetRefer's approval and price quote. It is agreed that NetRefer may in its sole discretion, during the Agreement term, implement additional chargeable security measures, as may be required by law or best practices.

8.5 Add-ons Fee

8.5.1 Any additional Add-ons requested by Licensee and not expressly described in the Order Form, are subject to additional monthly charges upon being deployed on the live environment and a one-time integration fee, all subject to NetRefer's approval and price quote. Should Licensee request the removal of any Add-on, it shall be required to pay a one-time Add-on decommissioning fee, to be quoted by NetRefer, for the labour incurred in the decommissioning. NetRefer may at any time, at its sole discretion, add, change, remove or cease to offer any Add-ons. In the case of removing or ceasing to offer any Add-on that has been provided to the Licensee, the monthly fee payable for such Add-on (if payable) shall no longer be charged.

8.6 Support Fee

8.6.1 NetRefer provides both billable and non-billable support hours during the term of the Agreement, as follows:

8.6.1.1 **Billable support hours** refer to the standard support hours provided by NetRefer to Licensee, which are used when raising support tickets for tasks that are not related to Bugs. Any billable hours exceeding the monthly allocation specified in the Order Form will be charged at the rate set forth therein, in fifteen (15) minute increments.

Examples of billable hours include queries regarding Reward Plans and End-of-Month follow-ups, queries related to Custom Reports/XML Feeds, and verification of Affiliate Payments/Rewards.

8.6.1.2 **Non-billable support hours** cover support provided by NetRefer when a Bug is identified or where the problem originates from NetRefer's side. In such instances, Licensee will not be charged for the time spent addressing the issue.

8.7 Additional Projects

8.7.1   Any requests by Licensee for specific services, work, products, support, or other projects, beyond those provided to Licensee under the Order Form, including, but not limited to, requests for reports, Add-ons, Brand/Product integration or decommissioning, support, data export/transfer, transition/migration, retention and storage of data, and implementation of SSL renewal certificate ("**Project**") shall be made in writing and submitted to NetRefer. Any such request is subject to NetRefer's approval, at its sole discretion.

8.7.2   If the request is approved by NetRefer, NetRefer shall submit a written quote to Licensee, specifying the costs, payment terms and anticipated duration of the Project if applicable ("**Quote**"). NetRefer shall use its best efforts to provide Licensee with a Quote within ten (10) business days of an approved request.

8.7.3   Licensee shall either accept or reject the Quote. If accepted, Licensee shall make a non-refundable, advance payment to NetRefer pursuant to the Quote, after which the Quote shall become an approved quote ("**Approved Quote**").

8.7.4   Any Quote which has not been accepted by Licensee and/or in respect of which payment has not been received by NetRefer pursuant to the Quote, shall automatically expire within thirty (30) days from the date of the Quote, unless an extension is agreed upon in writing by the Parties.

8.7.5   If at any time Licensee's actions or inactions prevent NetRefer from performing or continuing to perform the Project under the Approved Quote (including by being unresponsive to NetRefer), NetRefer shall have the right to discontinue the Project and cancel the Approved Quote, and no refund of fees paid pursuant to the Approved Quote shall be given. The aforesaid constitutes the sole and exclusive remedy of NetRefer with respect to this clause 8.7.58.7.5.

8.7.6   If at any time NetRefer's actions or inactions prevent the performance or continuation of performance of the Project under the Approved Quote (including by being unresponsive to Licensee), Licensee shall have the right to discontinue the Project and cancel the Approved Quote, and a full refund of fees paid pursuant to the Approved Quote shall be given. The aforesaid constitutes the sole and exclusive remedy of Licensee with respect to this clause 8.7.68.7.6.

8.7.7   If the Project results in a change to any of the provisions of the Order Form, the Parties shall sign an addendum to the Order Form. No refund shall be given in the event that Licensee fails to sign the addendum as aforesaid. Should Licensee thereafter renew its request for the Project to be executed, it shall be required to pay the fees again.

8.7.8   Where Licensee's request relates to performance of a Project after termination of the Agreement, including, but not limited to, a request for assistance in the transition from NetRefer's Service to alternative or substitute software and/or services elected by Licensee, or a request by Licensee for NetRefer to retain and/or store data beyond the retention periods specified in the DPA, the following provisions shall apply in addition to all of the foregoing provisions:

8.7.8.1   The request shall not be approved and the Project shall not commence until all outstanding fees under the Agreement, including the System Decommissioning Fee, have been paid in full by Licensee to NetRefer.

8.7.8.2   Nevertheless, the period for retention of the data by NetRefer, pursuant to the DPA, shall commence immediately upon expiration or termination of the Agreement.

9.   Setup

9.1   The setup process includes the initial setup of the Service and commences once a new client has signed the Order Form and paid the applicable setup fee specified therein. The setup process shall

not commence until full payment of the first invoice has been received by NetRefer. If payment is not made within 10 days of the invoice date, NetRefer reserves the right to cancel the Order Form.

9.2   NetRefer allocates a specified number of setup support hours, as indicated in the Order Form, for the setup of the Service for new clients. Any additional hours required due to delays beyond NetRefer's control will be subject to additional charges, as indicated in the Order Form, billed in fifteen (15) minute increments.

9.3   Upon successful completion of the setup process, NetRefer shall issue Licensee with a form, confirming that the setup process has been successfully completed and Licensee is ready to go live ("**Setup Completion Form**").

9.4   Should Licensee not contest or dispute the Setup Completion Form within seven (7) days of receipt thereof, the Setup Completion Form shall be deemed to have been accepted and the setup process successfully completed.

9.5   The setup fee will be paid in each case of re-engagement between the Parties after expiration or termination of the Agreement.

10. System Decommissioning

10.1   Upon expiration or termination of the Agreement for any reason, NetRefer shall decommission the Service ("**System Decommissioning**"). System Decommissioning entails the removal of DNS records, removal of CDN SSL property, WAF removal, SSL certificates revocation, application and websites removal, removal of FTPS account used for media/microsite uploads, removal of SFTP account used for data transfer, removal of web services, removal of access to any NetRefer APIs, and removing Licensee database, and includes all or any of the following:

(i)   removal of access to the Service;

(ii)   deletion of backup mechanisms;

(iii) sanitizations.

10.2   Except as expressly stated in herein, upon termination or expiration of the Agreement for any reason, Licensee shall pay to NetRefer a mandatory System Decommissioning fee in the amount specified in the Order Form ("**System Decommissioning Fee**"). Any delay in payment of the System Decommissioning Fee shall be subject to interest, as specified in clause 8.1.58.1.5 above.

10.3   Should Licensee require Standard Data Export or Advanced Data Export (as specified below), it shall notify NetRefer thereof prior to termination of the Agreement. No export is possible after the System Decommissioning. Standard Data Export and/or Advanced Data Export shall not be provided unless all outstanding fees, including the System Decommissioning Fee, have been paid in full by Licensee to NetRefer. Nevertheless, the period for retention of the data by NetRefer, pursuant to the DPA, shall commence immediately upon expiration or termination of the Agreement.

10.4   "**Standard Data Export**" shall mean the export of data from NetRefer's Service, in a secure and commonly used format of NetRefer's choice. Such export shall include the following information:

- Affiliate information/details;
- Affiliate payment details;
- System User details;
- Payments made to Affiliates;
- Fixed sums adjustments;
- Activity details (as sent by Licensee to NetRefer on a daily basis);
- Registrations (as sent by Licensee to NetRefer on a daily basis); and
- Marketing sources.

10.5   "**Advanced Data Export**" shall mean the export of any data beyond the scope of the Standard Data Export and shall be subject to additional charges.

10.6   Should Licensee request a Standard Data Export or an Advanced Data Export pursuant to the above, NetRefer shall provide Licensee with an estimated time for completion of the export based on the scope of data and the manpower required.

11. Software Upgrades and Updates

NetRefer may, at its sole discretion, release a Software Upgrade and/or Update during the term of the Agreement, at which time the former version of the Software will stand deprecated and become the deprecated version of the Software ("**Deprecated Version**"). For a period of six months following the deprecation ("**Deprecation Period**"), and provided it is still during the Initial Term, NetRefer will use commercially reasonable efforts to support the Deprecated Version. NetRefer need not support the Deprecated Version after the Deprecation Period and shall bear no liability whatsoever (including with respect to performance, defects, Bugs or non-compliance) with regards to the Deprecated Version.

12. Maintenance

From time to time during the term of the Agreement, NetRefer may provide Maintenance to Licensee, as well as services to assist Licensee in the use of any part of the Service and any Software Updates and/or Upgrades. Such services may be provided by way of product assistance, User Documentation or any other means determined by NetRefer. For every new Software Update and/or Upgrade, NetRefer shall publish User Documentation on its standard portal.

13. Ownership

13.1   Except for the rights explicitly granted to Licensee under this Agreement, NetRefer shall own and retain all right, title and interest in and to (a) the Service or any part thereof, including any and all improvements, enhancements, modifications, Software Updates, Software Upgrades, and Derivative Works relating to, or deriving from, the Service or any part thereof; (b) any software, applications, inventions or other technology developed as part of the Service; (c) any and all User Documentation and any copies thereof; and (d) all Intellectual Property Rights embodied within the foregoing. Except for the limited license and use rights granted in this Agreement, Licensee shall not assert any right, title or interest in or to any of the foregoing.

13.2   Licensee's profile and materials uploaded to the Service remain the Intellectual Property Rights of Licensee, and NetRefer shall not assert any right, title or interest in or to any of the foregoing.

13.3   Except as expressly provided under this Agreement, Licensee shall have no rights to use the NetRefer trademarks, logos, domain names, or other Brand features. Licensee agrees that the Service or any part thereof may contain copyright, trademark and other proprietary notices included therein by NetRefer, including a clearly visible phrase or logo in the form: "Powered by NetRefer" or any other similar form, and Licensee undertakes not to remove and/or conceal such notice.

13.4   Notwithstanding anything to the contrary, NetRefer will be free to collect, develop, create, extract, compile, synthesize, analyse and commercialize statistics, benchmarks, measures and other information based on "Aggregated Data." "**Aggregated Data**" means Licensee data that is: (i) anonymized by removing any personal or other information so the data is in no way attributable to a specific customer or any individual; (ii) combined with the other data; and (iii) presented in a way which does not reveal Licensee's or any individual's identity.

13.5   If Licensee or any of its Contractual Partners provide NetRefer with any ideas, suggestion(s), enhancement requests, feedback and/or recommendation(s) regarding any part of the Service and/or the User Documentation, including without limitation, new and/or improved features or functionality

relating thereto ("**Feedback**"), NetRefer is free to use and disclose such Feedback without any obligation to Licensee or such Contractual Partner and to incorporate it into the Service or any existing or future products or features.

14. User Content

NetRefer does not screen user-generated content or information on the Service and does not give any assurance as to its accuracy or completeness. Users of the Service are expressly asked not to publish any defamatory, misleading or offensive content or any content which infringes any other party's Intellectual Property Rights (e.g. copyright). Any such content is contrary to NetRefer's policy and NetRefer does not accept liability in respect of such content. The user responsible will be personally liable for any damages or other liability arising therefrom, and Licensee agrees to indemnify NetRefer in relation to any liability NetRefer may suffer as a result of any such content.

15. Mutual Warranties

15.1   Each Party represents and warrants to the other that: (a) it has the full right, power and authority to enter into the Agreement; (b) it operates legally; (c) the performance of the Agreement does not violate the laws of any jurisdiction by which it is bound; and (d) it has, and upon request shall provide proof thereof to the other Party, all the necessary approvals, permits and licenses required for its operations under the Agreement and shall remain solely responsible for maintaining such approvals, permits and licenses throughout the term of the Agreement.

15.2   Any liability, repercussions or fines incurred due to a violation by either Party of clause 15.115.1 lies solely with the Party in breach of this clause.

16. Limited Warranty & Remedy

16.1   NetRefer warrants that the Service, when used in accordance with this Agreement and the User Documentation, shall perform substantially in accordance with the Uptime Standard contained in the SLA (clause 4 of Schedule B) during the Agreement term. In the event that the Service does not comply with the foregoing warranty during the Agreement term, then NetRefer's sole obligation and Licensee's exclusive remedy shall be Service Credits as set forth in the SLA.

16.2   In the absence of a specific remedy set out in the Agreement, then NetRefer's sole obligation and Licensee's exclusive remedy shall be for NetRefer to make commercially reasonable efforts to correct such non-compliance by repairing or replacing such part of the Service at its sole expense.

16.3   This clause 16 states the entire liability and obligation of NetRefer, and the sole and exclusive remedy of Licensee, in the event that the Service does not comply with the foregoing warranty. In no event shall NetRefer be liable for any incidental, consequential, punitive or other damages as a result of the aforesaid.

16.4   This limited warranty does not cover any Bug, damage, malfunction, failure or defect of the Service or any part thereof, resulting from (i) the acts or omissions of non-NetRefer personnel; (ii) accident, abuse, misuse, misapplication, theft, vandalism, fire, water or other peril; (iii) modifications, alterations or additions not authorized by NetRefer; (iv) use of the Service or any part thereof in a manner that is inconsistent with this Agreement; and/or (v) use of the Service or any part thereof in combination with software, services, programs or other products not supplied by NetRefer.

17. Disclaimer of Warranties

17.1   EXCEPT FOR THE EXPRESS WARRANTY SET FORTH ABOVE, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SERVICE IS PROVIDED "AS IS" WITHOUT WARRANTIES, REPRESENTATIONS OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING

BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. NETREFER DOES NOT WARRANT THAT THE SERVICE (OR ANY PART THEREOF), THE OPERATION OF THE SERVICE, OR ANY RELATED SERVICES OR FEATURES WILL MEET LICENSEE'S REQUIREMENTS OR THAT THEY WILL BE UNINTERRUPTED OR ERROR-FREE.

17.2   Licensee understands and agrees that NetRefer uses third party vendors and hosting partners to provide the necessary hardware, software, networking, storage and related infrastructure and technology required to operate the Service, and NetRefer shall not be held liable for any event, act or omission on their part.

18. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR GROUP COMPANIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS; LOSS OF BUSINESS, BUSINESS INTERRUPTION; LOST BUSINESS OPPORTUNITY; LOSS, CORRUPTION OR NON-AVAILABILITY OF DATA; OR ANY OTHER COMMERCIAL OR PECUNIARY DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO THE AGREEMENT OR ANY PART THEREOF, OR ARISING OUT OF OR RELATED TO THE SERVICE, AND/OR TO LICENSEE'S USE OF OR INABILITY TO USE THE SERVICE AND/OR ANY PART THEREOF AND/OR ANY THIRD PARTY SOFTWARE OR APPLICATIONS IN CONJUNCTION WITH THE SERVICE, OR ARISING OUT OF OR RELATED IN ANY WAY TO ANY THIRD PARTY PARTNER OR PROVIDER OF EITHER PARTY; HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) AND EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES .

IN ANY EVENT, UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT AND EXCEPT FOR AMOUNTS OWED TO NETREFER BY LICENSEE AS SET FORTH IN THE ORDER FORM, THE AGREEMENT OR ANY OTHER DOCUMENT, THE CUMULATIVE, AGGREGATE LIABILITY OF EACH PARTY AND ALL OF ITS DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS AND GROUP COMPANIES TO THE OTHER PARTY OR ANY THIRD PARTY IN RESPECT OF CLAIMS OR ACTIONS RELATING TO OR ARISING FROM THE AGREEMENT, SHALL BE LIMITED TO DIRECT DAMAGES AND SHALL NOT EXCEED THE TOTAL AMOUNT OF ONLY THE **LICENSE FEE** ACTUALLY PAID OR PAYABLE BY LICENSEE TO NETREFER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT. THE LIMITATIONS OF LIABILITY UNDER THIS CLAUSE SHALL NOT APPLY TO ANY OBLIGATIONS AND LIABILITIES ARISING FROM VIOLATIONS BY EITHER PARTY OF CLAUSES 19, 20 or 21 OF THE AGREEMENT.

THE PARTIES ACKNOWLEDGE THAT NETREFER HAS ENTERED INTO THE AGREEMENT AND SET ITS FEES IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH HEREIN, AND THAT THE SAME REFLECT A REASONABLE AND FAIR ALLOCATION OF RISK AND FORM AN ESSENTIAL BASIS OF THE AGREEMENT BETWEEN LICENSEE AND NETREFER. NETREFER SHALL NOT BE ABLE TO PROVIDE THE SERVICE ON AN ECONOMICALLY REASONABLE BASIS WITHOUT THESE LIMITATIONS. THE PARTIES AGREE THAT THE LIMITATIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THE AGREEMENT WILL SURVIVE AND APPLY EVEN IF PORTIONS OF THE AGREEMENT ARE FOUND TO HAVE FAILED THEIR ESSENTIAL PURPOSE.

FOR THE AVOIDANCE OF DOUBT, THIS LIMITATION OF LIABILITY CLAUSE SHALL APPLY, TO THE EXTENT LEGALLY PERMITTED, TO EACH OF THE DOCUMENTS MAKING UP THE AGREEMENT AND, IN PARTICULAR, TO THESE TOS INCLUDING ITS SCHEDULES, AND THE ORDER FORM.

19. Indemnification by NetRefer

19.1   NetRefer shall indemnify Licensee against any third party claim that the Service directly infringes any patent, copyright, trademark or trade secret owned or controlled by the third party; provided however, that: (a) Licensee notifies NetRefer in writing of any such claim within ten (10) days of becoming aware thereof; (b) NetRefer shall have sole control of the defence of any such claim and all

negotiations for its settlement or compromise; (c) Licensee shall reasonably cooperate with NetRefer to facilitate the settlement or defence of such claim; and (d) Licensee has not contributed in any way to the infringement, inter alia by way of (i) modification of the Service or any part thereof; (ii) use of the Service not in accordance with the Agreement or for purposes not intended by NetRefer; (ii) integration of the Service or any use of the Service in combination with any other system, equipment or software not provided or approved by NetRefer; (iii) failure to use the most current release of the Software made available to Licensee, where use of such release could have avoided the infringement or alleged infringement.

19.2   In addition, in the event an injunction or order shall be obtained against Licensee's use of the Service by reason of any such infringement allegation or if, in NetRefer's sole opinion, the Service is likely to become the subject of a claim of infringement or violation of patent, copyright, trademark, trade secret, or other proprietary right of a third party, NetRefer may, at its sole discretion and expense, either: (a) procure for Licensee the right to continue using the Service; (b) replace or modify the Service so that it becomes non-infringing, but only if the modification or replacement does not, in NetRefer's reasonable sole opinion, adversely affect the functional performance or specifications of the Service or its use by Licensee; or (c) if neither (a) nor (b) above is practical, terminate the Agreement and refund to Licensee any fees or pro-rata portion thereof paid by Licensee for any remaining period of the Agreement, if any, from the date of termination.

19.3   INDEMNIFICATION BY NETREFER AS AFORESAID IS LIMITED TO THE AMOUNT FINALLY AWARDED IN A FINAL JUDGMENT BY A COURT OR AGREED UPON BY NETREFER IN A SETTLEMENT. IN NO EVENT SHALL NETREFER BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, BUSINESS OR GOODWILL) SUFFERED OR INCURRED BY LICENSEE. THE FOREGOING STATES NETREFER'S ENTIRE LIABILITY, AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO INDEMNIFICATION FOR PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET INFRINGEMENT.

20.   Indemnification by Licensee

20.1   Licensee shall indemnify NetRefer and its directors, officers, employees, agents and Group Companies from and against any claims, actions, proceedings, damages, liabilities, losses, costs and expenses arising out of or otherwise relating to Licensee's and/or its Group Companies' and/or Contractual Partners' (i) negligence, wilful misconduct, use or misuse of, or relating to, the Service; (ii) breach of any term, condition or warranty under the Agreement; or (iii) violation or failure to comply with any applicable law, regulation or directives; provided however, that: (a) NetRefer promptly notifies Licensee in writing of any such claim upon becoming aware thereof; (b) Licensee shall have sole control of the defence of any action on such claim and all negotiations for its settlement or compromise; and (c) NetRefer shall reasonably cooperate with Licensee to facilitate the settlement or defence of such claim.

20.2   INDEMNIFICATION BY LICENSEE AS AFORESAID IS LIMITED TO THE AMOUNT FINALLY AWARDED IN A FINAL JUDGMENT BY A COURT OR AGREED UPON BY LICENSEE IN A SETTLEMENT. IN NO EVENT SHALL LICENSEE BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, BUSINESS OR GOODWILL) SUFFERED OR INCURRED BY NETREFER. THE FOREGOING STATES LICENSEE'S ENTIRE LIABILITY, AND NETREFER'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO INDEMNIFICATION PURSUANT TO THIS CLAUSE.

21.   Confidentiality

21.1   The Parties agree that any non-disclosure agreement that may previously have been executed between the Parties is hereby replaced in its entirety with the provisions of these TOS relating to confidentiality, unless otherwise expressly agreed in writing by the Parties.

21.2   "Confidential Information" means any information or material which one Party ("**Disclosing Party**") discloses to the other Party ("**Recipient**"), whether prior to, during or after execution of the Agreement

and whether or not specifically related to the Services and/or the Agreement, that has or could have commercial value or other utility in the business in which the Disclosing Party is engaged, and shall mean any data or information that is proprietary to the Disclosing Party, whether in tangible or intangible form, which is not generally known to others engaged in similar businesses or activities, or that should reasonably be recognized as confidential by the Parties. The aforesaid shall be deemed "Confidential Information" regardless of whether it is disclosed orally, in writing, or in electronic or machine-readable form, and regardless of whether it is identified by Disclosing Party as 'confidential' or not.

21.3   Confidential Information includes, but is not limited to: (a) all information relating to the Service or any part thereof, including the concepts, ideas and features relating thereto, as well as the User Documentation and this Agreement or any part thereof; (b) any technical information, invention, design, development, design, process, procedure, formula, improvement, technology or method; (c) any questionnaires, concepts, samples, notes, analyses, compilations, reports, data (including, but not limited to, staging and production (live environment), internal and client/user data), know-how, works-in-progress, designs, drawings, research, developments, specifications, software, software documentation, software programs, source code, object code, flow charts, algorithms, coding sheets, routines, sub-routines, compilers, assemblers and databases; (d) any financial information, budgets, projections, operations, licenses, contract terms, prices, costs, customer and supplier lists and/or details, employee details, referral information, business or marketing strategies and plans, regulatory filings and correspondence; (e) trade secrets, patents and patent applications, inventions and improvements, whether patentable or not; and (f) Personal Data, as defined in the General Data Protection Regulation of the European Union ("GDPR").

21.4   Confidential Information excludes information that: (i) is or becomes a part of the public domain without any breach by the Recipient of the terms of this clause 21; (ii) was in the Recipient's lawful possession prior to the date of disclosure and had not been obtained by the Recipient either directly or indirectly from the Disclosing Party; (iii) was lawfully disclosed to the Recipient by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party; (iv) is independently developed by the Recipient without the use or benefit of the Disclosing Party's Confidential Information, as evidenced by its written records; or (v) is disclosed by the Recipient with the Disclosing Party's prior written approval.

21.5   Each Party may be provided with, have access to or be exposed to, directly or indirectly, Confidential Information of the other Party. The Parties agree to use each other's Confidential Information only for the purpose for which it was intended and not to use or exploit the other Party's Confidential Information for its own purposes or benefit.

21.6   The Parties shall not give access to, disclose or make available the other Party's Confidential Information, in whole or in part, to any third parties, except to those of its officers, directors, employees, financial or legal advisers ("**Representatives**") who have a reasonable need to know such Confidential Information, provided that such Representatives are advised of the confidentiality provisions herein and agree to be bound by obligations of confidence no less stringent than those contained herein. The Recipient shall be liable for confidentiality breaches by its Representatives.

21.7   The Recipient undertakes that it has the necessary data governance, security and privacy controls, and access management in place to ensure that it will hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Disclosing Party, with at least the same degree of care that it uses to protect its own Confidential Information (but in no event less than a reasonable standard of care) but with respect to Personal Data, with at least the same degree of care required by GDPR.

21.8   The Recipient shall not, without the prior written consent of the Disclosing Party, directly or indirectly, copy, reproduce, adapt, divulge, disclose, publish, confirm, deny, distribute, reduce to writing, transfer or otherwise record or disclose any of the Confidential Information of the Disclosing Party, or take or remove from the Disclosing Party's premises or from any secure electronic information systems or hardware any Confidential Information (nor authorise or permit others to do any of the aforesaid).

21.9 Despite any provision of this clause 21 to the contrary, Recipient may disclose Confidential Information as required by law, regulation, court order or other legal process; provided, however, that immediately upon receipt of such disclosure requirement, to the extent it is legally permitted to do so, Recipient shall notify Disclosing Party of the impending disclosure to allow Disclosing Party an opportunity to take appropriate legal measures to preserve the confidentiality of the Confidential Information.

21.10 Any Confidential Information disclosed or acquired shall remain the sole property of the Disclosing Party. Nothing herein shall be construed as granting or conferring any rights to such Confidential Information on the other Party or granting to the Recipient any right or license under any patent, copyright, trademark or other intellectual property right. Any modifications and improvements made by the Recipient shall be the sole property of the Disclosing Party.

21.11 Upon request from the Disclosing Party, Recipient shall (i) immediately return, or at Disclosing Party's direction, destroy, all copies, records, documents, materials, notes and derivates in whatever form containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information; (ii) erase all of the Disclosing Party's Confidential Information from its computer systems or which is stored in electronic form (to the extent possible); and (iii) certify in writing to the Disclosing Party that it has complied with the requirements of this clause, provided that the Recipient may retain documents and materials containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information to the extent required by law, provided that such Confidential Information or copies thereof shall be subject to an indefinite confidentiality obligation.

21.12 In the event that, contrary to the provisions of this clause 21, Confidential Information has been disclosed to a third party, or may be disclosed to a third party or it is reasonably assumed shall be disclosed to a third party, the Recipient shall immediately notify the Disclosing Party thereof and shall promptly provide Disclosing Party with the names and titles of all of those individuals who have or may have access to the Confidential Information, the names and titles of all of those individuals so disclosing the Confidential Information, as well any other information which Disclosing Party may request.

21.13 The Parties agree that the Disclosing Party will suffer irreparable damage if its Confidential Information is made public, released to a third party, or otherwise disclosed in breach of this clause 21, and that damages alone would not be an adequate remedy for the breach of any of the provisions of this clause 21. Accordingly, without prejudice to any other rights and remedies it may have, the Disclosing Party shall be entitled to seek the granting of injunctive or equitable relief, without the need to prove actual damages, concerning any threatened or actual breach of any of the provisions of this clause 21.

21.14 The non-disclosure and non-use obligations under this clause 21 shall survive termination of the Agreement and shall remain in effect until the particular information no longer qualifies as Confidential Information as defined above. Notwithstanding anything to the contrary herein, each Party's rights and obligations with respect to Personal Data under the Agreement shall survive the expiration or termination of the Agreement for the period of time required under applicable international, federal, state and/or local law.

22. Data Protection

22.1 Each Party undertakes to comply with its obligations under relevant applicable data protection laws, as well as its obligations under the DPA (Schedule A) attached hereto. To the extent that Personal Data, as defined in the General Data Protection Regulation (EU) 2016/679 ("GDPR"), is processed using the Service, the Parties acknowledge that NetRefer is a data processor and Licensee is a data controller and the Parties shall comply with their respective statutory data protection obligations. NetRefer shall provide adequate security for the processing of the data in line with good business practice. NetRefer shall not use Personal Data processed under the Agreement for any purposes other than for carrying out its obligations under the Agreement, for improvement of systems setup, troubleshooting the Service, or in the normal operation of the Service.

22.2   If Licensee is located in a country outside the European Economic Area for which the European Commission has not issued an adequacy decision, Licensee's use of the Service pursuant to this Agreement is further governed by the Standard Contractual Clauses of the European Commission in the form of Module 4 (Transfer from a Processor to a Controller), which are attached to the DPA below.

22.3   All Personal Data as well as any Licensee employee data required for the fulfilment of the Agreement (such as employee details for access to any auxiliary support systems such as ticketing systems) shall be retained as per the retention periods included in the DPA.

23. Security

23.1   **SSL Certificate:** The application of a valid SSL certificate is mandatory for all interfaces and sites making up the Service offered by NetRefer. Licensee shall renew the SSL certificate annually and shall send the updated SSL certificate to NetRefer at least fifteen (15) working days prior to expiration of the current SSL certificate for implementation as a Project. Failure to apply or renew the SSL certificates as aforesaid, shall absolve NetRefer of all liability for any loss of traffic and/or of any data breaches which may occur when data is in transit and/or of any inability to access the Service. NetRefer, at its sole discretion, shall have the right to block Licensee's access to the Service and/or terminate the Agreement.

23.2   **DDoS Protection**: NetRefer will take reasonable measures to protect against Distributed Denial of Service (DDoS) attacks. However, Licensee is required to implement proactive measures and cooperate in defending against DDoS attacks and preventing other disruptions to the Service. This includes promptly following NetRefer's instructions regarding actions to be taken in each specific case and providing NetRefer with accurate information regarding location of operation and the market(s) in which it operates. Failure to comply with these measures and follow NetRefer's instructions within the time specified by NetRefer, will constitute a material breach of the Agreement by Licensee, and will give NetRefer the right to take any action it may deem necessary, including blocking URL's to protect the integrity of the NetRefer IT infrastructure estate, and terminating the Agreement.

23.3   **Usernames & Passwords**: NetRefer shall provide Licensee with an initial username and password allowing access to the Service by Licensee. Licensee will thereafter be able to create further usernames and passwords for each staff member that Licensee designates as authorised to access the Service. Licensee is solely responsible for the appropriate protection and use of its and its staff members' usernames, passwords, tokens or devices being used for authentication to any services being offered by NetRefer. NetRefer shall not be held liable for any damage resulting from Licensee's failure to comply with this security obligation or to keep its credential set safe.

23.4   **Login Details**: It is the sole obligation and responsibility of Licensee to ensure (and put in place all necessary measures to ensure) that any login details provided or created for the purpose of accessing the Service are kept confidential, safe and secure at all times. Any unauthorised use of Licensee's accounts resulting from failure to adequately protect login information shall be the sole responsibility of Licensee, and Licensee shall remain solely responsible and liable for all activity and conduct occurring under Licensee's account credentials whether such activity and/or conduct was undertaken by Licensee or not. It is Licensee's obligation to inform NetRefer immediately if it suspects illegal or unauthorised use of its accounts.

24. Fair Usage

24.1   NetRefer's priority to its clients is to keep the Service available, which requires each Licensee and its Contractual Partners to use the Service fairly and reasonably so as not to affect its access or use ("**Fair Usage**"). The Service includes broad access to a variety of resources such as bandwidth, API requests and storage, the overuse or misuse of which would affect the stability of the Service. Fair usage will be considered the processing of a reasonable number of requests or processed transactions, at NetRefer's sole and reasonable discretion.

24.2   If NetRefer determines that Licensee's or any of the Contractual Partners' use of the Service is in violation of this Fair Usage, in its sole reasonable discretion, it may take unilateral action regarding Licensee's or Contractual Partner's use of the Service including, but not limited to, immediately blocking, deactivating or otherwise preventing access to the Service, and/or limiting the frequency of access to the Service and/or limiting the number of processed requests through the Service in order to bring usage in line with this Fair Usage. NetRefer also reserves the right to invoice Licensee for use of the Service in violation of this Fair Usage. Licensee understands, acknowledges and agrees that NetRefer will have no liability to Licensee or any of its Contractual Partners for enforcing this Fair Usage and enforcement will not affect Licensee's obligations under this Agreement, which includes the payment of fees for the Service.

25. Force Majeure

25.1   Neither Party shall be liable to the other Party for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make previously owed payments to the other Party hereunder) when and to the extent such failure or delay is caused by or results from an event beyond the control of the Party, including an act of God, fire, flood, earthquake, explosion, war, embargo, government order, riot or other civil unrest, or other similar causes beyond its reasonable control ("**Force Majeure**").

25.2   The Party prevented from carrying out its obligations ("**Affected Party**") will promptly notify the other Party in writing of an event of Force Majeure upon it being foreseen by, or becoming known to, the Affected Party.

25.3   If the Affected Party's performance is delayed for a period exceeding thirty (30) days from the date of notice, the other Party will have the right, without any liability to the other Party, to terminate the Agreement.

25.4   For the avoidance of doubt, Force Majeure shall not include (a) financial distress nor the inability of either Party to make a profit or avoid a financial loss; (b) changes in market prices or conditions, or (c) a Party's financial inability to perform its obligations hereunder.

26. Publicity

Unless Licensee notifies NetRefer otherwise in writing, NetRefer may publicly disclose on its website, in promotional material, in a press release, in a public statement or otherwise, that Licensee is a user of the Service.

27. Non-Solicitation

27.1   During the term of the Agreement and for a period of one (1) year following its termination, Licensee shall not solicit, recruit, induce, or attempt to recruit or induce any employee of NetRefer or any individual who was an employee of NetRefer at any time during such one (1) year period.

27.2   Licensee acknowledges that breach of this clause shall result in NetRefer incurring substantial economic damages and losses in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by NetRefer of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof.

27.3   Accordingly, in lieu of actual damages for such breach, Licensee agrees that liquidated damages may be assessed and recovered by NetRefer as against Licensee in the event of such breach and without NetRefer being required to present any evidence of the amount or character of actual damages sustained by reason thereof; and Licensee shall be liable to NetRefer for payment of liquidated damages in the amount of €25,000.00 for each breach of this clause.

27.4   Such liquidated damages represent estimated actual damages to NetRefer and are not intended as a penalty. Licensee shall pay the liquidated damages to NetRefer within five (5) days of notice from NetRefer.

28.   Anti-Bribery & Anti-Modern Slavery

28.1   The Parties shall comply with all applicable anti-money laundering, anti-modern slavery, anti-bribery, and anti-corruption laws and regulations and shall not assist or contribute to any act or omission violating such laws and regulations.

28.2   Each Party represents and warrants that it conducts its business in an ethical, legal and responsible manner, consistent with zero-tolerance of slavery and human trafficking.

28.3   Each Party represents and warrants that it, or any person acting on its behalf, has not and will not: (i) offer or agree to give any person working for or engaged by the other Party any gift or other consideration which could act as an inducement or a reward for any act or failure to act connected to this Agreement or any other agreement or potential agreement between NetRefer and Licensee; nor (ii) offer or agree to give any third party any gift or other consideration which could act as an inducement or a reward for any act or failure to act for the benefit or perceived benefit of the other Party whether under this Agreement or any other agreement or potential agreement between NetRefer and Licensee.

29.   Changes to Service

29.1   NetRefer shall notify Licensee of any material changes made to the Service or any part thereof during the term of the Agreement. Should Licensee not agree to such changes, it shall inform NetRefer thereof within ten (10) days, in which case NetRefer may either retain the current Service for Licensee for the remainder of the then current term of the Agreement, or allow Licensee to terminate the Agreement.

29.2   Notwithstanding the aforesaid, if any changes to the Service are required for legal, regulatory, security, or infrastructural purposes, or in order to ensure or improve optimal functioning of the Service, or for the purpose of adding or removing Features and/or functionalities, then the changes shall automatically enter into effect fifteen (15) days following written notification thereof to Licensee. It is clarified that any changes pursuant to this clause 29.2 shall not entitle Licensee to early termination of the Agreement.

30.   Update of these TOS and its Schedules

30.1   NetRefer reserves the right to update these TOS at any time by publishing the revised version on its website: https://netrefer.com/tos-agreements/.

30.2   Unless expressly stated otherwise, the updated TOS will take effect immediately upon publication and will govern the Agreement between the Parties.

30.3   Notwithstanding the foregoing, and except where an update is required pursuant to clause 29.2 above, if Licensee is within the Initial Term of the Agreement on the date of the updated TOS, the previous version of the TOS shall continue to apply for the remainder of the Initial Term, unless otherwise agreed in writing by the Parties. Upon expiry of the Initial Term, the updated TOS shall apply.

30.4   If the Parties execute a deed of novation for the transfer of the Agreement by Licensee to a transferee, then the latest version of the TOS shall apply and shall govern the Agreement with the transferee even if the Agreement is in its Initial Term.

30.5   Notwithstanding the above, it is agreed that NetRefer may update and/or modify any of the Schedules of the TOS at any time during the term of the Agreement. Such updates and/or modifications shall take effect immediately upon NetRefer giving notice thereof to the Licensee.

31. Assignment

31.1   Licensee shall not assign, license, sub-license or otherwise transfer any of its rights or obligations under the Agreement, in whole or in part, including to any person or Group Company, whether by written agreement, merger, consolidation, operation of law or otherwise, without the prior written consent of NetRefer. Any attempt to assign the Agreement by Licensee without such consent will be null and void and of no force and effect.

31.2   The Parties may mutually agree to add a third party as a party to the Agreement, in which case a joinder shall be executed by such third party and the Parties.

32. Relationship of Parties

The Parties are independent contractors and neither Party is an agent, partner or employee of the other. No relationship of franchise, partners, joint ventures, principal and agent, master and servant is established hereby between the Parties. Neither Party has the authority to bind the other Party or to incur any obligation on the other Party's behalf.

33. Severability

If any provision of the Agreement is held invalid or otherwise unenforceable, such provision shall be deemed to be severed from the Agreement and the enforceability of the remaining provisions shall not be impaired thereby.

34. No Waiver

A failure by any Party to exercise any right provided for herein or pursue any remedy shall not be deemed a waiver of such or other right on any other occasion.

35. Entire Agreement

The Agreement embodies the entire agreement and understanding of the Parties with respect to the matters contemplated hereby and supersedes and renders null and void all other prior versions, contracts, agreements, understandings or representations by or among the Parties, written or oral, with respect to the subject matters hereof, and may not be modified except in writing and signed by both Parties.

36. Counterparts

The Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

37. Notices

All notices sent pursuant to the Agreement shall be in writing and sent by electronic mail or by registered mail to the Parties' respective addresses set forth in the Order Form. A registered letter

shall be deemed as having arrived at its destination following 72 hours from its dispatch by post; an email shall be deemed as duly received upon receipt of delivery.

38. Electronic Signatures

The electronic signature of a Party to the Agreement shall be as valid as an original signature of such Party and shall be effective to bind such Party. Any electronic signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

39. Obligations that Survive Termination

Both Parties recognize and agree that the following clauses shall survive the cancellation, termination or expiration of the Agreement: clause 13 (Ownership), clause 18 (Limitation of Liability), clauses 19 and 20 (Indemnification), clause 21 (Confidentiality), clause 27 (Non-Solicitation) and clause 40 (Governing Law and Jurisdiction).

40. Governing Law and Jurisdiction

The Agreement shall be governed by and construed in accordance with the laws of Malta. The Parties hereby agree that any dispute, controversy or claim arising out of or in connection with the Agreement shall be referred and submitted to arbitration in Malta in accordance with the rules of the Malta Arbitration Centre, as in force on the date on which such dispute, controversy or claim arises, except that in a matter relating to unpaid fees for services rendered, NetRefer shall have the option to either refer the matter to arbitration or to the Maltese Courts, at its option, and in both cases is entitled to make recourse to any Court, in any jurisdiction, for the issuance of precautionary and/or interim measures to secure its claims.

Schedule A - Data Processing Agreement

A SIGNED COPY OF THIS DPA IS AVAILABLE UPON REQUEST

This Data Processing Agreement and its Annexes ("**DPA**") reflects the parties' agreement with respect to the processing of personal data by Arnold Media Limited t/a NetRefer on behalf of the Client, in connection with the Service under the Agreement.

This DPA is supplemental to, and forms an integral part of, the Agreement. In case of any conflict or inconsistency with the terms of the Agreement, this DPA will take precedence over the terms of the Agreement to the extent of such conflict or inconsistency.

The term of this DPA will follow the term of the Agreement.

Terms not otherwise defined in this DPA will have the meaning as set forth in the Agreement.

For transfers to non-EU controllers, the Standard Contractual Clauses set forth in this DPA below shall also apply.

Section I

Clause 1 - Purpose and scope

(a)   The purpose of these Standard Contractual Clauses (the Clauses) is to ensure compliance with Article 28(3) and (4) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

(b)   The controllers and processors listed in Annex I have agreed to these Clauses in order to ensure compliance with Article 28(3) and (4) of Regulation (EU) 2016/679 and/or Article 29 (3) and (4) Regulation (EU) 2018/1725.

(c)   These Clauses apply to the processing of personal data as specified in Annex II.

(d)   Annexes I to IV are an integral part of the Clauses.

(e)   These Clauses are without prejudice to obligations to which the controller is subject by virtue of Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725.

(f)   These Clauses do not by themselves ensure compliance with obligations related to international transfers in accordance with Chapter V of Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725.

Clause 2 – Invariability of the Clauses

(a)   The Parties undertake not to modify the Clauses, except for adding information to the Annexes or updating information in them.

(b)   This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a broader contract, or from adding other clauses or additional safeguards provided that they do not directly or indirectly contradict the Clauses or detract from the fundamental rights or freedoms of data subjects.

Clause 3 – Interpretation

(a)   Where these Clauses use the terms defined in Regulation (EU) 2016/679 or Regulation (EU) 2018/1725 respectively, those terms shall have the same meaning as in that Regulation.

(b)   These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679 or Regulation (EU) 2018/1725 respectively.

(c)   These Clauses shall not be interpreted in a way that runs counter to the rights and obligations provided for in Regulation (EU) 2016/679 / Regulation (EU) 2018/1725 or in a way that prejudices the fundamental rights or freedoms of the data subjects.

Clause 4 – Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties existing at the time when these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 5 – Docking clause

(a)   Any entity that is not a Party to these Clauses may, with the agreement of all the Parties, accede to these Clauses at any time as a controller or a processor by completing the Annexes and signing Annex I.

(b)   Once the Annexes in (a) are completed and signed, the acceding entity shall be treated as a Party to these Clauses and have the rights and obligations of a controller or a processor, in accordance with its designation in Annex I.

(c)   The acceding entity shall have no rights or obligations resulting from these Clauses from the period prior to becoming a Party.

Section II – Obligations of the Parties

Clause 6 – Description of Processing(s)

The details of the processing operations, in particular the categories of personal data and the purposes of processing for which the personal data is processed on behalf of the controller, are specified in Annex II.

Clause 7 – Obligations of the Parties

7.1   Instructions

(a)   The processor shall process personal data only on documented instructions from the controller, unless required to do so by Union or Member State law to which the processor is subject. In this case, the processor shall inform the controller of that legal requirement before processing, unless the law prohibits this on important grounds of public interest. Subsequent instructions may also be given by the controller throughout the duration of the processing of personal data. These instructions shall always be documented.

(b)   The processor shall immediately inform the controller if, in the processor's opinion, instructions given by the controller infringe Regulation (EU) 2016/679 / Regulation (EU) 2018/1725 or the applicable Union or Member State data protection provisions.

(c)   If the processor becomes aware that it cannot process personal data in accordance with the controller's Instructions due to a legal requirement under any applicable law, the processor will (i) promptly notify the controller of that legal requirement to the extent permitted by the applicable law; and (ii) where necessary, cease all processing (other than merely storing and maintaining the security of the affected personal data) until such time as the controller issues new Instructions with which the processor is able to comply. If this provision is invoked, the processor will not be liable to the controller under the

Agreement for any failure to provide the Service until such time as the controller issues new lawful Instructions with regard to the processing.

(d)   The parties agree that the Agreement (including this DPA), together with the controller's use of the Service in accordance with the Agreement, constitutes the controller's complete instructions to the processor in relation to the processing of personal data, so long as the controller may provide additional instructions during the term of the Agreement that are consistent with the Agreement, the nature and lawful use of the Service.

(e)   The controller shall ensure that the personal data which it supplies or discloses to the processor has been obtained fairly and lawfully.

7.2   Purpose limitation

The processor shall process the personal data only for the specific purpose(s) of the processing, as set out in Annex II, unless it receives further instructions from the controller.

7.3   Duration of the processing of Personal Data

Processing by the processor shall only take place for the duration specified in Annex II.

7.4   Security of Processing

(a)   The processor shall at least implement the technical and organisational measures specified in Annex III to ensure the security of the personal data. This includes protecting the data against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to the data (personal data breach). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purposes of processing and the risks involved for the data subjects.

(b)   The processor shall grant access to the personal data undergoing processing to members of its personnel only to the extent strictly necessary for implementing, managing and monitoring of the contract. The processor shall ensure that persons authorised to process the personal data received have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

(c)   The controller shall promptly inform the processor of any terminated employees with access credentials to the processors' internal or data systems, in order for the processor to block access and take the necessary security precautions.

(d)   The controller shall ensure (and put in place all necessary measures to ensure) that any login details provided or created for the purpose of accessing processor's systems are kept confidential, safe and secure at all times.

(e)   The controller is responsible for independently determining whether the data security provided for in the Service adequately meets its obligations under applicable data protection laws. The controller is also responsible for its secure use of the Service, including protecting the security of personal data in transit to and from the Service (including to securely backup or encrypt any such personal data).

(f)   Notwithstanding any provision to the contrary, the processor may modify or update the security measures in Annex III at its discretion provided that such modification or update does not result in a material degradation in the protection offered by the said security measures.

7.5   Sensitive Data

If the processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences ("sensitive data"), the processor shall apply specific restrictions and/or additional safeguards.

The controller agrees and warrants that if the transfer involves sensitive data, the data has been collected with the data subject's explicit and recorded consent resulting from a specific action as silence or inaction do not constitute consent.

7.6   Documentation and Compliance

(a)   The Parties shall be able to demonstrate compliance with these Clauses.

(b)   The processor shall deal promptly and adequately with inquiries from the controller about the processing of data in accordance with these Clauses.

(c)   The processor shall make available to the controller all information necessary to demonstrate compliance with the obligations that are set out in these Clauses and stem directly from Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725. At the controller's request, the processor shall also permit and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or an audit, the controller may take into account relevant certifications held by the processor.

(d)   The controller may choose to conduct the audit by itself or mandate an independent auditor. Audits may also include inspections at the premises or physical facilities of the processor and shall, where appropriate, be carried out with reasonable notice.

(e)   The Parties shall make the information referred to in this Clause, including the results of any audits, available to the competent supervisory authority/ies on request.

(f)   All costs related to auditors' fees are to be borne by the controller.

(g)   In the event that the audit reveals any non-compliance by the processor with the provisions of this DPA or any national or European data protection laws and regulations, the processor shall without undue delay implement the necessary corrective measures, at its own expense.

(h)   The processor shall endeavour to carry out an audit of compliance through a penetration test, the results of which may be shared with the controller upon request.

(i)   Within the scope of the Agreement and in using the Service, the controller will be responsible for complying with all requirements that apply to it under applicable data protection laws with respect to its processing of personal data and the Instructions it issues to the processor.

(j)   In particular but without prejudice to the generality of the foregoing, the controller acknowledges and agrees that it will be solely responsible for: (i) the accuracy, quality, and legality of personal data and the means by which it acquired personal data; (ii) complying with all necessary transparency and lawfulness requirements under applicable data protection laws for the collection and use of the personal data, including obtaining any necessary consents and authorizations; (iii) ensuring it has the right to transfer, or provide access to, the personal data to the processor for processing in accordance with the terms of the Agreement (including this DPA); (iv) ensuring that its instructions to the processor regarding the processing of personal data comply with applicable laws, including data protection laws; and (v) complying with all laws (including data protection laws) applicable to any emails or other content created, sent or managed through the Service, including those relating to obtaining consents (where required) to send emails, the content of the emails and its email deployment practices.

7.7   Use of Sub-Processors

(a)   The processor has the controller's general authorisation for the engagement of sub-processors from an agreed list. The processor shall specifically inform in writing the controller of any intended changes of that list through the addition or replacement of sub-processors at least ten (10) days in advance, thereby giving the controller sufficient time to be able to object to such changes prior to the engagement of the concerned sub-processor(s). The processor shall provide the controller with the information necessary to enable the controller to exercise the right to object.

If the controller does notify the processor of such an objection, the parties will discuss the controller's concerns in good faith with a view to achieving a commercially reasonable resolution. If no such resolution can be reached, the processor will, at its sole discretion, either not appoint the new sub-processor, or permit the controller to suspend or terminate the Agreement in accordance with the termination provisions of the Agreement without liability to either party (but without prejudice to any fees incurred by the controller prior to suspension or termination).

(b)   Where the processor engages a sub-processor for carrying out specific processing activities (on behalf of the controller), it shall do so by way of a contract which imposes on the sub-processor, in substance, the same data protection obligations as the ones imposed on the data processor in accordance with these Clauses. The processor shall ensure that the sub-processor complies with the obligations to which the processor is subject pursuant to these Clauses and to Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725.

(c)   At the controller's request, the processor shall provide a copy of such a sub-processor agreement and any subsequent amendments to the controller. To the extent necessary to protect business secret or other confidential information, including personal data, the processor may redact the text of the agreement prior to sharing the copy.

(d)   The processor shall remain fully responsible to the controller for the performance of the sub-processor's obligations in accordance with its contract with the processor. The processor shall notify the controller of any failure by the sub-processor to fulfil its contractual obligations.

(e)   The processor shall agree a third party beneficiary clause with the sub-processor whereby - in the event the processor has factually disappeared, ceased to exist in law or has become insolvent - the controller shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

7.8   International Transfers

(a)   Any transfer of data to a third country or an international organisation by the processor shall be done only on the basis of documented instructions from the controller or in order to fulfil a specific requirement under Union or Member State law to which the processor is subject and shall take place in compliance with Chapter V of Regulation (EU) 2016/679 or Regulation (EU) 2018/1725.

(b)   The controller agrees that where the processor engages a sub-processor in accordance with Clause 7.7 for carrying out specific processing activities (on behalf of the controller) and those processing activities involve a transfer of personal data within the meaning of Chapter V of Regulation (EU) 2016/679, the processor and the sub-processor can ensure compliance with Chapter V of Regulation (EU) 2016/679 by using standard contractual clauses adopted by the Commission in accordance with of Article 46(2) of Regulation (EU) 2016/679, provided the conditions for the use of those standard contractual clauses are met.

Clause 8 – Assistance to the Controller

(a)   The processor shall promptly notify the controller of any request it has received from the data subject. It shall not respond to the request itself, unless authorised to do so by the controller.

(b)   The processor shall assist the controller in fulfilling its obligations to respond to data subjects' requests to exercise their rights, taking into account the nature of the processing. In fulfilling its obligations in accordance with (a) and (b), the processor shall comply with the controller's instructions.

The controller shall reimburse the processor for the commercially reasonable costs arising from this assistance.

(c)   In addition to the processor's obligation to assist the controller pursuant to Clause 8(b), the processor shall furthermore assist the controller in ensuring compliance with the following obligations, taking into account the nature of the data processing and the information available to the processor:

(1)   the obligation to carry out an assessment of the impact of the envisaged processing operations on the protection of personal data (a 'data protection impact assessment') where a type of processing is likely to result in a high risk to the rights and freedoms of natural persons;

(2)   the obligation to consult the competent supervisory authority/ies prior to processing where a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk;

(3)   the obligation to ensure that personal data is accurate and up to date, by informing the controller without delay if the processor becomes aware that the personal data it is processing is inaccurate or has become outdated;

(4)   the obligations in Article 32 Regulation (EU) 2016/679.

(d)   The Parties shall set out in Annex III the appropriate technical and organisational measures by which the processor is required to assist the controller in the application of this Clause as well as the scope and the extent of the assistance required.

Clause 9 – Notification of Personal Data Breach

In the event of a personal data breach, the processor shall cooperate with and assist the controller for the controller to comply with its obligations under Articles 33 and 34 Regulation (EU) 2016/679 or under Articles 34 and 35 Regulation (EU) 2018/1725, where applicable, taking into account the nature of processing and the information available to the processor.

9.1   Data breach concerning data processed by the controller

In the event of a personal data breach concerning data processed by the controller, the processor shall assist the controller:

(a)   in notifying the personal data breach to the competent supervisory authority/ies, without undue delay after the controller has become aware of it, where relevant (unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons);

(b)   in obtaining the following information which, pursuant to Article 33(3) Regulation (EU) 2016/679, shall be stated in the controller's notification, and must at least include:

(1)   the nature of the personal data including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;

(2)   the likely consequences of the personal data breach;

(3)   the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

(c)　in complying, pursuant to Article 34 Regulation (EU) 2016/679, with the obligation to communicate without undue delay the personal data breach to the data subject, when the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons.

9.2　Data breach concerning data processed by the processor

In the event of a personal data breach concerning data processed by the processor, the processor shall notify the controller without undue delay after the processor having become aware of the breach. Such notification shall contain, at least:

(a)　a description of the nature of the breach (including, where possible, the categories and approximate number of data subjects and data records concerned);

(b)　the details of a contact point where more information concerning the personal data breach can be obtained;

(c)　its likely consequences and the measures taken or proposed to be taken to address the breach, including to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

The Parties shall set out in Annex III all other elements to be provided by the processor when assisting the controller in the compliance with the controller's obligations under Articles 33 and 34 of Regulation (EU) 2016/679.

9.3　Liability

(a)　A Data Subject who has suffered material or non-material damage as a result of an infringement of GDPR or this DPA, may receive compensation from the controller or processor for the damage suffered.

(b)　The processor shall be liable for the damage caused by the processing of personal data only where it has not complied with obligations of GDPR specifically directed to processors or where it has acted outside or contrary to lawful written instructions of the controller.

(c)　The controller shall be liable for damages to data subjects which are caused by the processing of personal data which is not compliant with GDPR and which are not caused by the processor's acts or omissions.

(d)　Except as specifically stated in this clause above and to the extent permitted by GDPR, the liability of processor and controller are as defined in the TOS.

Section III – Final Provisions

Clause 10 – Non-compliance with the Clauses and termination

(a)　Without prejudice to any provisions of Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725, in the event that the processor is in breach of its obligations under these Clauses, the controller may instruct the processor to suspend the processing of personal data until the latter complies with these Clauses or the contract is terminated. The processor shall promptly inform the controller in case it is unable to comply with these Clauses, for whatever reason.

(b)　The controller shall be entitled to terminate the contract insofar as it concerns processing of personal data in accordance with these Clauses if:

(1) the processing of personal data by the processor has been suspended by the controller pursuant to point (a) and if compliance with these Clauses is not restored within a reasonable time and in any event within one month following suspension;

(2) the processor is in substantial or persistent breach of these Clauses or its obligations under Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725;

(3) the processor fails to comply with a binding decision of a competent court or the competent supervisory authority/ies regarding its obligations pursuant to these Clauses or to Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725.

(c) The processor shall be entitled to terminate the contract insofar as it concerns processing of personal data under these Clauses where, after having informed the controller that its instructions infringe applicable legal requirements in accordance with Clause 7.1 (b), the controller insists on compliance with the instructions.

(d) Following termination of the contract, the processor shall, at the choice of the controller, delete all personal data processed on behalf of the controller and certify to the controller that it has done so, or, return all the personal data to the controller and delete existing copies unless Union or Member State law requires storage of the personal data. Until the data is deleted or returned, the processor shall continue to ensure compliance with these Clauses.

(e) The processor reserves the right to retain the data for integrity of data within the systems and for statistical purposes, where such data shall be archived in an aggregated and obfuscated state to preserve the anonymity of the data subject.

(f) If any provision of this DPA is held invalid or otherwise unenforceable, such provision shall be deemed to be severed from the DPA and the enforceability of the remaining provisions shall not be impaired thereby.

Annex I – List of parties

Controller

Name, Address, Contact Details: As set out in any applicable Order Form

Processor

Name: Arnold Media Limited t/a NetRefer

Address: Quantum Place, Triq ix-Xatt, Gzira, GZR 1020, Malta

Email: dpo@netrefer.com

Tel: +356 2767 3337

Signature and accession date: The Parties agree that execution of the Order Form by the controller and the processor shall constitute execution of these Clauses by both parties as of the Effective Date specified in the Order Form.

Annex II – Description of the processing

Categories of data subjects whose personal data is processed

    (i)   Prospects, clients, end-users, business partners, suppliers and vendors of NetRefer;

    (ii)   Employees or contact persons of NetRefer's prospects, clients, end-users, business partners, suppliers and vendors;

    (iii)   Controller's users / affiliates authorised to use the Service.

Categories of personal data processed

General Personal Data

    (i)   Device Data (IP, User Agent String)

    (ii)   User Data

              a.   ID, Username, First Name, Last Name, Title, Date of Birth

              b.   Email address

              c.   Mobile Number, Telephone Number

              d.   Skype, Messenger

              e.   Address, City, Postal Code, Country

              f.   Passwords

              g.   Gender

    (iii)   Payments (IBAN)

Sensitive Data

    (iv)   None

Nature of the processing

NetRefer will process personal data as necessary to perform the Service pursuant to the Agreement and as further instructed by the controller in its use of the Service.

Purpose(s) for which the personal data is processed on behalf of the controller

NetRefer will process personal data as necessary to perform the Service pursuant to the Agreement and as further instructed by the controller in its use of the Service.

Duration of the processing

NetRefer will process personal data for the duration of the Agreement, unless a longer period is required by applicable laws and regulations. NetRefer shall return the controller's data by enabling the controller to export its data as set forth in the Agreement, and shall anonymise the data or, at the controller's request, delete the data.

For processing by (sub-) processors, also specify subject matter, nature and duration of the processing

Data Types	Grounds for Processing	Duration
Affiliate sign up data	Account management and providing access to the Affiliate Management System.	Duration of the Agreement, unless otherwise required by applicable laws.
Affiliate Managers sign up data	Account Management and providing access to the Administration interface of the Performance Marketing Platform.	
Client's Player Registration data	Used to associate the player with the affiliate and verify the acquisition of the player for the purpose of calculating the affiliate rewards.	
Transactional Activity	Processed and aggregated for the purpose of calculating the affiliate rewards.	
Affiliate payment information	Processed for the purpose of generating the payment files for affiliates.	
Marketing media views and clicks	Processed for the purpose of • Tracking, media, campaign, and affiliate performance • Linking a customer to an affiliate • Rewarding affiliates	
Affiliate, Customer, Views, Clicks and rewards	Generation of statistics, performance metrics and KPIs for • Affiliate management • Affiliate performance • Rewarding • Financial reporting • Benchmarking	
All data within the systems	For the purposes of executing the controller's instructions, and affecting system and infrastructure maintenance, software updates and upgrades.	Duration of the Agreement, unless otherwise required by applicable laws.

Annex III – Technical measures including technical and organisational measures to ensure the security of the data

Security Preventive Framework

At NetRefer, we prioritize the security of your personal data and have implemented robust measures to protect it from unauthorized access, loss, or misuse. Here's how we ensure your data remains secure:

Data Encryption

- **Encryption in Transit and at Rest:** We use Azure SQL Transparent Data Encryption (TDE) for real-time I/O encryption and decryption of data and log files. This ensures that data at rest is secure. For data in transit, we employ HTTPS and VPN protocols. Additionally, we mask personally identifiable information (PII) to further safeguard sensitive data.

Access Control

- **Restricted Access:** Only authorized personnel with a legitimate need can access your personal data. We use role-based access control (RBAC) to ensure users have access only to necessary data and resources. Multi-factor authentication (MFA) adds an extra layer of security. We also maintain and regularly review detailed access logs to detect and respond to unauthorized access attempts.

Regular Security Reviews

- **Continuous Testing and Review:** Our systems undergo regular testing and reviews using industry-standard methodologies to ensure they remain secure against potential threats.

Observability, Monitoring, and Enforcement

- **Advanced Monitoring Tools:** By leveraging Coralogix, Azure Front Door WAF, and Azure API Management (APIM), we can aggregate and enrich logs based on specific patterns, providing valuable insights from a Security Information and Event Management (SIEM) perspective. This allows us to understand what is being ingested, blocked, and allowed within our systems.

- **Proactive Threat Detection:** Malicious threat actors are intercepted at the edge, and through Microsoft Defender for Cloud, we proactively gain insights into correlated logs. This integration offers a comprehensive, single-pane-of-glass view of our environment's security status. Additionally, we have implemented alerting mechanisms across all infrastructure areas to ensure continuous visibility and prompt response to any security events.

Remote Access Methods

- **Secure Remote Access:** We use L2TP/IPSec tunnel VPN protocol and data encryption in transit, along with MFA, to secure remote access.

Application Layer Security

- **Application-Level Protection:** All authentication communications are handled over secure channels. Authorization is managed through a role-based access control extended by a privilege framework. We adopt the least privilege principle and implement application-level auditing throughout. Additionally, we have enhanced application security features through the integration of Web Application Firewall (WAF) protection against the OWASP Top 10 vulnerabilities, custom rules tailored for specific application needs, and Bot Manager to defend against automated malicious attacks. These protections are seamlessly integrated with Microsoft Threat Intelligence and come with built-in layer 3 to 4 DDoS protection.

Governance, Compliance, and Regular Audits

- **Governance Framework:** Our governance framework includes policies and procedures that align with industry best practices and regulatory requirements. This framework ensures accountability and continuous improvement in our security posture.

- **Regular Audits:** We perform regular internal and external audits to assess our compliance with ISO standards and other regulatory requirements. These audits help us maintain high security standards and address any identified vulnerabilities promptly.

Data Sharing and Compliance

- **Third-Party Data Processor**: We collaborate with Microsoft Azure and NetRefer, who act as Data Processors for your affiliate account data. NetRefer ensures compliance with data protection policies and addresses privacy-related complaints and disputes. You can contact our Data Protection Officer at dpo@netrefer.com or +356 2767 33372.

Regulatory Body

- **Oversight**: The Office of the Information and Data Protection Commissioner in Malta oversees personal information handling. More information is available on their website.

Complaint Handling

- **Responsive Complaint Management**: Privacy-related complaints are acknowledged, recorded, and investigated. If a complaint is justified, we take appropriate measures, including amending our privacy policies and procedures.

Data Transfer Outside the EEA

- **Safeguards for Data Transfer**: While your personal data is not transferred outside the European Economic Area (EEA), if such a transfer becomes necessary, we ensure appropriate safeguards are in place. These may include Standard Contractual Clauses (SCCs) approved by the European Commission or other lawful mechanisms.

By implementing these comprehensive measures, we strive to maintain the highest standards of data security and privacy.

Annex IV – List of approved sub-processors

Processing of Personal Data

Personal data may be shared with one or more of the following sub-processors:

Name	Website	Description
Akamai Technologies (GlobalDots) Microsoft Azure Front Door	https://www.akamai.com/ htttps://www.microsoft.com	Edge Security (Web Application Firewall + DDoS)
Microsoft Azure	htttps://www.microsoft.com	Provider for a range of cloud computing services
Atlassian	https://www.atlassian.com/	Provider of Jira Software, used for provisioning customer support
Databricks	www.databricks.com	Provider of data platform
Microsoft Defender	https://www.microsoft.com/en-us/security/business/microsoft-defender	Email Security with deep AI integration with Office 365 Infrastructure threat prevention, detection, and response
Google Analytics	https://support.google.com/?hl=en-GB	User Flow Tracking within Admin/Affiliate platforms
IP2Location	https://www.ip2location.com/	Geographical identification by IP Address
Mailchimp	https://mailchimp.com/	Email marketing
Xero	https://www.xero.com/	Payments infrastructure
Zoho Site24x7	https://www.site24x7.com/	Server and Cloud Monitoring URL Availability and Uptime Monitoring
Hubspot	Hubspot.com	Provider of our customer relationship management platform
Coralogix	https://www.coralogix.com	Application and performance monitoring
Amazon S3	https://www.aws.amazon.com/s3	Log storage

For transfers to non-EU controllers, the following will also apply:

STANDARD CONTRACTUAL CLAUSES
Module 4

(International transfer processor to controller – applicable when NetRefer is a processor and Licensee, or Licensee's users, are located outside EU/EEA)

Section I

Clause 1 - Purpose and scope

(a)   The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) for the transfer of personal data to a third country.

(b)   The Parties:

    (i)   the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter "entity/ies") transferring the personal data, as listed in Annex I.A. (hereinafter each "data exporter"), and

    (ii)   the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each "data importer").

    have agreed to these standard contractual clauses (hereinafter: "Clauses").

(c)   These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.

(d)   The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

Clause 2 – Effect and Invariability of the Clauses

(a)   These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

(b)   These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

Clause 3 – Third-party beneficiaries

(a)   Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:

    (i)   Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;

<dl>
<dd>(ii)   Clause 8 - Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);</dd>

<dd>(iii)   Clause 9 - Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);</dd>

<dd>(iv)   Clause 12 - Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);</dd>

<dd>(v)   Clause 13;</dd>

<dd>(vi)   Clause 15.1(c), (d) and (e);</dd>

<dd>(vii)   Clause 16(e);</dd>

<dd>(viii)   Clause 18 - Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.</dd>
</dl>

(b)   Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

Clause 4 – Interpretation

(a)   Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

(b)   These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.

(c)   These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

Clause 5 – Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 6 – Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

Clause 7 – Docking clause

(a)   An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.

(b)   Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.

(c)   The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

Section II– Obligations of the Parties

Clause 8 – Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

8.1   Instructions

(a)   The data exporter shall process the personal data only on documented instructions from the data importer acting as its controller.

(b)   The data exporter shall immediately inform the data importer if it is unable to follow those instructions, including if such instructions infringe Regulation (EU) 2016/679 or other Union or Member State data protection law.

(c)   The data importer shall refrain from any action that would prevent the data exporter from fulfilling its obligations under Regulation (EU) 2016/679, including in the context of sub-processing or as regards cooperation with competent supervisory authorities.

(d)   After the end of the provision of the processing services, the data exporter shall, at the choice of the data importer, delete all personal data processed on behalf of the data importer and certify to the data importer that it has done so, or return to the data importer all personal data processed on its behalf and delete existing copies.

8.2   Security of Processing

(a)   The Parties shall implement appropriate technical and organisational measures to ensure the security of the data, including during transmission, and protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter "personal data breach"). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature of the personal data, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects, and in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.

(b)   The data exporter shall assist the data importer in ensuring appropriate security of the data in accordance with paragraph (a). In case of a personal data breach concerning the personal data processed by the data exporter under these Clauses, the data exporter shall notify the data importer without undue delay after becoming aware of it and assist the data importer in addressing the breach.

(c)   The data exporter shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

8.3   Documentation and Compliance

(a)   The Parties shall be able to demonstrate compliance with these Clauses.

(b)   The data exporter shall make available to the data importer all information necessary to demonstrate compliance with its obligations under these Clauses and allow for and contribute to audits.

Clause 9 – N/A

Clause 10 – Data subject rights

The Parties shall assist each other in responding to enquiries and requests made by data subjects under the local law applicable to the data importer or, for data processing by the data exporter in the EU, under Regulation (EU) 2016/679.

Clause 11 – Redress

(a)   The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

Clause 12 - Liability

(a)   Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

(b)   Each Party shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages that the Party causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter under Regulation (EU) 2016/679.

(c)   Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.

(d)   The Parties agree that if one Party is held liable under paragraph (c), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.

(e)   The data importer may not invoke the conduct of a processor or sub-processor to avoid its own liability.

Clause 13 – N/A

Section III – Local laws and obligations in case of access by public authorities

Clause 14 – Local laws and practices affecting compliance with the Clauses

(a)   The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.

(b)   The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:

   (i)   the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;

   (ii)   the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards;

(iii)   any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.

(c)   The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.

(d)   The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.

(e)   The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).

(f)   Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

Clause 15 – Obligations of the data importer in case of access by public authorities

15.1   Notification

(a)   The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:

(i)   receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or

(ii)   becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

(b)   If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

(c)   Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).

(d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.

(e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

(a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).

(b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.

(c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

Section IV–Final provisions

Clause 16 – Non-compliance with the Clauses and termination

(a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.

(b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).

(c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:

(i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;

(ii) the data importer is in substantial or persistent breach of these Clauses; or

(iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

(d)   Personal data collected by the data exporter in the EU that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall immediately be deleted in its entirety, including any copy thereof. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

(e)   Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

Clause 17 – Governing law

These Clauses shall be governed by the law of a country allowing for third-party beneficiary rights. The Parties agree that this shall be the law of Malta.

Clause 18 – Choice of forum and jurisdiction

Any dispute arising from these Clauses shall be resolved by the courts of Malta.

Appendix

Annex I

A. List of parties

Data Importer (Client/Licensee)

Name, Address, Contact Details: As set out in any applicable Order Form

Role: Controller

Data Exporter (NetRefer)

Name: Arnold Media Limited t/a NetRefer

Address: Quantum Place, Triq ix-Xatt, Gzira, GZR 1020, Malta

Email: dpo@netrefer.com

Tel: +356 2767 3337

Role: Processor

Signature and accession date: The Parties agree that execution of the Order Form by the controller and the processor shall constitute execution of these Clauses by both parties as of the Effective Date specified in the Order Form.

B. Description of the transfer

Categories of data subjects whose personal data is transferred

(i)	Prospects, clients, end-users, business partners, suppliers and vendors of NetRefer;
(ii)	Employees or contact persons of NetRefer's prospects, clients, end-users, business partners, suppliers and vendors;
(iii)	Clients' users / affiliates authorised to use the Service.

Categories of personal data transferred

General Personal Data

(i)	Device Data (IP, User Agent String)
(ii)	User Data

     a. ID, Username, First Name, Last Name, Title, Date of Birth
     b. Email address
     c. Mobile Number, Telephone Number
     d. Skype, Messenger
     e. Address, City, Postal Code, Country
     f. Passwords
     g. Gender

(iii)	Payments (IBAN)

Sensitive Data

(iv)	None

Frequency of the transfer

Personal data may be continuously transferred throughout the term of the Agreement.

Nature of the processing

NetRefer will process personal data as necessary to perform the Service pursuant to the Agreement and as further instructed by the Client in its use of the Service.

Purpose(s) of the data transfer and further processing

NetRefer will process personal data as necessary to perform the Service pursuant to the Agreement and as further instructed by the Client in its use of the Service.

Period for which personal data will be retained or, if that is not possible, the criteria used to determine that period

NetRefer will retain personal data for the duration of the Agreement, unless otherwise specified in the Agreement or a longer retention period is required by applicable laws and regulations. NetRefer shall return the Client's data by enabling the Client to export its data as set forth in the Agreement, and shall anonymise the data or, at the Client's request, delete the data.

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

Data Types	Grounds for Processing	Duration
Affiliate sign up data	Account management and providing access to the Affiliate Management System.	Duration of the Agreement, unless otherwise required by applicable laws.
Affiliate Managers sign up data	Account Management and providing access to the Administration interface of the Performance Marketing Platform.	
Client's Player Registration data	Used to associate the player with the affiliate and verify the acquisition of the player for the purpose of calculating the affiliate rewards.	
Transactional Activity	Processed and aggregated for the purpose of calculating the affiliate rewards.	
Affiliate payment information	Processed for the purpose of generating the payment files for affiliates.	
Marketing media views and clicks	Processed for the purpose of • tracking, media, campaign, and affiliate performance. • Linking a customer to an affiliate • Rewarding affiliates	
Affiliate, Customer, Views, Clicks and rewards	• Generation of statistics, performance metrics and KPIs for • Affiliate management • Affiliate performance • Rewarding • Financial reporting • Benchmarking	
All data within the systems	For the purposes of executing the Client's instructions, and affecting system and infrastructure maintenance, software updates and upgrades.	Duration of the Agreement, unless otherwise required by applicable laws.

---END OF SCHEDULE A ---

Schedule B - Service Level Agreement

1.   Definitions

For purposes of this SLA, the following terms shall have the meanings ascribed to them in this clause below. Other capitalized terms used in this SLA and not defined below, shall have the meanings set forth in the Terms of Service ("**TOS**").

1.1   "**Business Hours**" means 08:30 to 17:30 (CEST) Monday to Friday (excluding Christmas Day, New Year's Day and Good Friday).

1.2   "**Downtime**" means Service unavailability which is not Scheduled Downtime.

1.3   "**Incident**" means an interruption to, or a reduction in the quality of the Service.

1.4   "**Maintenance Window**" means a prescribed time period which is provided to NetRefer to perform maintenance, Upgrades or changes. This may include Scheduled Downtime.

1.5   "**NetRefer Backlog**" means a list maintained by NetRefer containing new features, changes to existing features, Bug fixes, Infrastructure changes, or other activities relating to the Service.

1.6   "**Scheduled Downtime**" means scheduled non-emergency or emergency maintenance on Hardware, Software or related equipment. Save for release deployments or emergency maintenance, all scheduled downtime must be scheduled during the Maintenance Window.

1.7   "**Service Credits**" means the percentage of monthly fee to be credited to Licensee.

1.8   "**Workaround**" means a temporary solution which enables Licensee to use the Service. This may relate to an Incident or a Support request.

2.   Scope of SLA

2.1   This SLA applies only to the Service described in the TOS and to Statements of Work or other documents expressly stated by NetRefer to be subject to this SLA.

2.2   The time frames specified in this SLA will be calculated from the time of Licensee opening a ticket or a Live Chat through the NetRefer portal advising of the issue.

2.3   NetRefer shall not be bound by the terms of this SLA in any of the following circumstances:

a)   failure by Licensee to fulfil its obligations under the Agreement or any part thereof (including outstanding fees owed by Licensee);

b)   failure by Licensee to make appropriate support personnel available as needed to resolve technical issues;

c)   information or data received from Licensee or its representative is inaccurate, incomplete or not supplied in a timely manner;

d)   incomplete or incorrect system configuration by Licensee (e.g. changes made to system settings);

e)   failure, misconfiguration or incompatibility of third-party vendors (e.g. vendor data transfer, third party ad serving);

f)   DNS problems beyond the control of Licensee or NetRefer;

g)   NetRefer being unable to verify service restoration with Licensee;

h)   security breaches which occur when all reasonable precautions have been undertaken;

i)   factors outside of NetRefer's reasonable control, including any force majeure event or Internet access or related problems;

j) any errors, omissions, delays or failures caused by Licensee or any third party outside of NetRefer's reasonable control;

k) outage by any of NetRefer's sub-processors that affects not only NetRefer's customers, but all customers of such sub-processor. NetRefer will use its best endeavours to provide relevant incident reports of such outage, if required by Licensee;

l) DDoS attacks if Licensee fails to follow NetRefer's instructions or provide necessary information within the time limit specified by NetRefer;

m) NetRefer is not responsible for the support of third party services used by Licensee, even if those services are integrated by Licensee using NetRefer's APIs.

3.   Parties' Duties and Responsibilities

3.1 **Licensee shall:**

a) ensure that the Software is used as intended under the TOS and the User Documentation;

b) notify NetRefer of issues or problems in a timely manner, providing as much details as possible;

c) provide detailed information/data and collaborate with NetRefer to escalate, diagnose and resolve issues in an accurate and timely manner;

d) ensure that all sensitive access to the Software, including web access, API's and feeds is monitored and managed and that no unauthorised use of or access to the Software is permitted;

e) ensure that any changes to the data transfer process or file formats are immediately notified to NetRefer;

f) ensure that username and password access is supplied and maintained and that any changes are immediately notified to NetRefer, where NetRefer is retrieving data from Licensee;

g) ensure that all data required for the Software to function is captured, recorded and sent to NetRefer correctly;

h) ensure that NetRefer is informed when the main point of contact for support issues changes.

3.2 **NetRefer shall:**

a) perform maintenance of servers to ensure Software performs at an acceptable level;

b) ensure security of all infrastructures to the best of its ability and industry standards;

c) inform Licensee of any changes, restarts or Scheduled Downtime that could affect the performance of the Software for a period longer than 15 minutes;

d) inform Licensee of any Software Update or Upgrade, and release notes to accompany such Software Update or Upgrade;

e) perform appropriate QA testing relating to Software Updates and Upgrades;

f) ensure that emails are relayed to the correct specified server;

g) be responsible for all third-party relationships that are related to the hosting of Licensee systems.

4. Uptime Standard - 99.5% Tracking, Ad-Serving and Affiliate Sign-Up Availability

4.1   NetRefer warrants 99.5% Tracking, Ad-Serving and Affiliate Sign-Up Uptime. These will be deemed available if all its resources are available and responding to monitoring tools as designed and in a non-degraded manner.

4.2   In the event of failure to provide the aforesaid uptime standard, Licensee will accrue Service Credits for the Downtime based on the following metrics:

*Monthly Cumulative Uptime (in % of availability)	Service Credits (% of Licence Fee)
>= 99.4 and < 99.5	1
>= 99.3 and < 99.4	2
>= 99.1 and < 99.3	3
>= 98.9 and < 99.1	4
>= 98.6 and < 98.9	5
>= 98.5 and < 98.6	10
>= 98.0 and < 98.5	15
< 98.0	20

* Monthly Cumulative Uptime is calculated from the applicable date of the month until the same date on the following month.

4.3   The above Service Credits will only be calculated and paid out upon final resolution of the incident. No double compensation will be given in relation to the same incident.

4.4   The maximum Service Credits will be a total of 20% of one monthly License Fee for each incident.

4.5   The aforesaid Service Credits shall be the sole and exclusive remedy available to Licensee, and NetRefer's sole liability, in the event of failure by NetRefer to provide the aforesaid Uptime Standard. Such remedy shall only be available to Eligible Licensees (Licensees whose accounts with NetRefer are in good standing and who are not in breach of the Agreement). Nevertheless, should the Monthly Cumulative Uptime be below 98.0% in any three consecutive months, this shall constitute a breach of the Agreement by NetRefer, and Licensee's sole and exclusive remedy shall be as specified in the TOS.

4.6   **Exemptions** - The following items or situations are exempt from the aforesaid Uptime Standard and no Service Credits will accrue on account thereof:

a)   unavailability of Software during Scheduled Downtime or any other agreed-to scheduled downtime activity;

b)   unavailability of Software due to Licensee modifications to content, system, staging and/or omissions which are not performed in accordance with NetRefer's standard application operation;

c)   attacks (i.e. hacks, denial of service (DDoS) attacks, viruses) by third parties, and other acts not caused by NetRefer, provided that NetRefer makes every reasonable effort to maintain current versions of Software patches;

d)   events of force majeure, including acts of war, God, fire, earthquake, flood, embargo, riot, sabotage, labour dispute, government act, or failure of the Internet;

e)   Third party software, such as pop-up blockers or ad-blockers.

5.   Support Tickets

5.1   Support ticket SLAs are categorized by NetRefer, at its sole discretion, based on their level of severity, with SLA 1 being the most severe.

Severity Level	Definition
SLA 1	Covers Tracking, Ad-Serving and Affiliate Sign-Up for which loss in service would mean loss of data.
SLA 2	Covers the availability of the NetRefer Admin and Affiliate web portals and critical product functionality which impacts the capabilities to pay affiliates. This critical product functionality covers Data Transfer, Pixel Tracking, and any other issues blocking End of Month.
SLA 3	Important but non-critical functionality covering: standard reports and custom reports, reward calculations and reward plan management, bulk updates related to payments, media, affiliate and customer management, rewards, and API reporting and Report Builder (except as specified in SLA 4 below).
SLA 4	copilot, API reporting and Report Builder issues originating from configurations implemented by the client; issues impacting UI, informational queries, and monitoring, as well as all other issues not covered by SLA 1, 2 or 3.

- Any new products or functionalities made available by NetRefer may be provided in preview mode or in general availability mode.
- Products or functionalities available in preview mode, will automatically fall under SLA 4.
- Products or functionalities available in general availability mode, will be placed under the applicable SLA at NetRefer's sole discretion.

5.2   **Support Ticket Workaround and Resolution Times for Incidents**

Severity Level	Step 1: Workaround / Resolution *	Step 2: Final Resolution (if step 1 is Workaround)
SLA 1	4 hours	15 calendar days
SLA 2	8 Business Hours **	15 business days
SLA 3	5 business days	4 business weeks
SLA 4	3 business weeks	6 business weeks

* Any support ticket that is identified by NetRefer to be a **Bug** and is classified as SLA 1 or SLA 2, will be bound by the above applicable Step 1 and Step 2 timeframes. However, if the Bug is classified as SLA 3 or SLA 4, it will be bound by the above applicable Step 1, but NetRefer will have sole discretion as to the final resolution (Step 2), if any, of such Bug and the timeframe therefor, and the request will be placed in the NetRefer Backlog to be fixed within a future release. Should the functionality be working as intended, the request shall be classified as a feature request to be implemented at NetRefer's discretion.

** Data transfer issues are considered as SLA 2 blockers and are dealt with on a 24/7 basis, provided that for out of Business Hours, the issue is reported to NetRefer through the emergency contact number at +356 2767 3337.

5.3 **Remedies for failure to adhere to Final Resolution Times for SLA 1 and SLA 2 Incidents**

5.3.1 In the event of failure to by NetRefer to adhere to the aforesaid Final Resolution times for Incident Support Ticket SLAs 1 and 2 only, Licensee will accrue Service Credits for each day of delay beyond the time specified in clause 5.2 above, based on the following metrics:

Delay in providing a Final Resolution:	Service Credits (% of Licence Fee)
1-2 Business Days	1
3-4 Business Days	2
5-6 Business Days	3
7-8 Business Days	4
9-10 Business Days	5
10-14 Business Days	10
15-21 Business Days	15
More than 21 Business Days	20

5.3.2 The above Service Credits will only be calculated and paid out upon final resolution of the incident. No double compensation will be given in relation to the same incident.

5.3.3 The maximum Service Credits will be a total of 20% of one monthly License Fee for each incident.

5.3.4 The number of days in delay shall be calculated commencing on the first day after which NetRefer was to provide a final resolution, as stated above.

5.3.5 The aforesaid Service Credits shall be the sole and exclusive remedy available to Licensee and NetRefer's sole liability, in the event of failure by NetRefer to adhere to this clause 5.3. Such remedy shall only be available to Eligible Licensees (Licensees whose accounts with NetRefer are in good standing and who are not in breach of the Agreement).

5.3.6 The aforesaid Service Credits will not be given where failure by NetRefer to adhere to the resolution times is due, in part or wholly, to an action, omission or delay by Licensee.

6. Limited Warranty

Save for the express Service Credits provided under this SLA and in the absence of any specific remedy set out herein, NetRefer's sole obligation and Licensee's exclusive remedy shall be as set forth in clause 16 (Limited Warranty & Remedy) of the TOS.

7. Service Credits

7.1 With respect to SLA 1, Service Credits are accumulated monthly with Monthly Cumulative Uptime being reset at the beginning of each calendar month.

7.2 The Service Credit percentage, which only applies to the monthly fee in which the Downtime occurred, will not exceed the monthly fee actually paid by Licensee to NetRefer.

7.3 Multiple Service Credits will not be given for the same period of time, i.e. failure to meet multiple criteria during a period of time generates only a single Service Credit.

7.4 To apply for a Service Credit under this Service Level Agreement, Licensee must submit a request to accmgmt@netrefer.com, within **thirty (30) days** of the end of the applicable month with a reference to "SLA Service Credit". The request must include the dates and times of the Downtime or Support Ticket for which Service Credit is being requested, and any additional documentation that

demonstrates the claim. Any approved Service Credits will be applied to Licensee's billing during the billing cycle following the month in which the claim was approved. Any accrued Service Credits shall be forfeited should the above procedure not be followed.

8. Contacting NetRefer Support

8.1   When contacting NetRefer Support, Licensee should have the following information ready:

- a detailed description of the issue, including screenshots where applicable;

- a technical person on behalf of Licensee who is able to assist if necessary;

- relevant information in relation to the impact on Licensee's business.

This capability allows Licensee to insert all the pertinent information into the ticket, assists in reducing problem resolution time, and ensures accuracy of any data or information relayed.

8.2   Support requests can be submitted by logging a ticket or a chat on the NetRefer Service Desk or by contacting NetRefer Support directly by telephone on +356 2767 3337. All requests are logged onto the NetRefer service portal.

8.3   **Resolution Management**

Upon logging a ticket, Licensee will receive an automatic email response, with a unique ticket number. The email will contain the ticket number as well as a link for accessing the ticket and monitoring its progress. When contacting Support through Chat, the transcript is translated into a ticket with a unique ticket number for reference too.

The User Experience Team Member will investigate and escalate Licensee's issue as needed to resolve the issue. Workaround and resolution times will apply according to the SLA levels as per clause 5.2.

Due to the vast and complex nature of the Software, it may be necessary to involve NetRefer's technical teams to investigate and resolve a particular problem.

8.4   **Self-Service**

In addition to the Support Services, NetRefer also offers User Documentation, coupled with online learning courses which provides Licensee extensive information on how to use the NetRefer Platform on self-service basis.

8.5   **After Hours Support**

After Business Hours, support requests for SLA 1 or SLA 2 blockers which are serviced on 24/7 basis, must be reported on the NetRefer Service Desk, including all the information as specified above and followed by a telephone call referencing the ticket number.

An appropriately skilled support engineer from Licensee's end must be available to work together with NetRefer's technical support staff during the entire time of performing support services after Business Hours.

8.6   **Incidents**

In the case of a SLA 1 Incident, the NetRefer team will be assembled and once the issue is resolved or a temporary work-around achieved, the team will endeavour to compile a full incident report to determine the causes of the issue/s and what was done to resolve it.

If a temporary work-around was achieved, the incident report shall include an immediate plan of action to resolve the issue/s fully so that it does not occur again. This plan will be communicated to Licensee with the relevant timelines and deliverables.

Where the issues require co-operation with Licensee's resources, a joint task force will be established to resolve the issue/s and a formal project plan issued with the appointment of the relevant senior personnel to manage the resources on both sides.

At all times, NetRefer will provide the relevant support and escalation to resolve any issue/s caused by or within the Service, so that Licensee may feel confident that it is receiving the necessary attention to keep its business operational.

--END OF SCHEDULE B --

Schedule C – Add-ons, Integrations and APIs

1.1   With regards to Add-ons and integrations paid for by Licensee, NetRefer as the data processor is only responsible for receiving the data and displaying it correctly.

1.2   Integration of the Service with third party applications using APIs provided by NetRefer, require technical skill. Licensee understands that errors or defects in the integration may cause loss or corruption of data. Licensee must ensure that it uses the services of technically skilled persons for the integration. Licensee agrees that NetRefer is not liable for any loss or corruption of data caused due to error or defects in the integration.

1.3   Licensee must not try to access any functionality that is not exposed in the documentation for the API. Licensee understands and agrees that NetRefer will not be liable for the consequences of accessing or using any unexposed functionality of the API.

1.4   NetRefer, at its discretion, may cease providing the current version of the API either as a result of discontinuation of the API or upgradation of the API to a newer version. In both cases, the current version of the API will stand deprecated and become the deprecated version of the API (hereinafter "Deprecated Version"). When NetRefer decides to deprecate the current version of the API, Licensee will be informed of such deprecation. For a period of six months following announcement of deprecation (hereinafter the "Deprecation Period"), NetRefer will use commercially reasonable efforts to support the Deprecated Version. Licensee understands and agrees that NetRefer is not obliged to provide the features of the newer version in the Deprecated Version. NetRefer need not support the Deprecated Version after the Deprecation Period.

1.5   NetRefer in its discretion may cease supporting the Deprecated Version during the Deprecation Period if (i) NetRefer is required to do so by law, or (ii) Licensee has breached any provision of this Schedule or the Agreement, or (iii) NetRefer determines that supporting the API is likely to result in a security risk to NetRefer.

1.6   NetRefer may prescribe usage limits, including limits on the number of calls, number of records per call, bandwidth usage and frequency of calls. NetRefer shall notify Licensee of such usage limits in writing from time to time, and Licensee is required to adhere to the usage limits prescribed by NetRefer in order to avail uninterrupted service. Licensee understands and agrees that NetRefer may restrict an activity if Licensee reaches the usage limit corresponding to such activity and that an API call may either fail or be partially executed if the usage limits are reached before or during an API call.

1.7   The APIs are designed to help Licensee enhance its websites and applications. Licensee agrees that NetRefer may monitor use of the APIs to ensure quality and verify Licensee's compliance with the terms. This monitoring may include NetRefer accessing and using Licensee's API client, for example to identify security issues that could affect NetRefer or its customers. Licensee will not interfere with this monitoring. NetRefer may suspend access to the APIs by Licensee or Licensee's API client without notice if it reasonably believes that these terms are being violated.

1.8   NetRefer does not acquire ownership in Licensee's API clients, and by using NetRefer's APIs, Licensee does not acquire ownership of any rights in NetRefer's API.

1.9   When using the APIs, Licensee may not (or allow those acting on its behalf to):

   a)   Sublicense an API for use by a third party. Consequently, Licensee will not create an API client that functions substantially the same as the APIs and offer it for use by third parties.

   b)   Perform an action with the intent of introducing to NetRefer's products and services any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature.

   c)   Interfere with or disrupt the APIs or the servers or networks providing the APIs.

   d)   Promote or facilitate unlawful activity.

   e)   Reverse engineer or attempt to extract the source code from any API or any related software.

--END OF SCHEDULE C --

Schedule D – CoPilot AI – NetRefer's Virtual Assistant

By accessing or using CoPilot AI – NetRefer's Virtual Assistant ("**CoPilot AI**"), the Client agrees to be bound by these Terms of Use ("**Terms**"). Use or access of CoPilot AI by the Client or anyone on its behalf shall be deemed Client's acceptance of these Terms. If you do not agree to these Terms, please refrain from using, or permitting others to use, CoPilot AI.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Terms of Service.

Throughout these Terms, "**you**" or "**your**" refers to the Client. References in these Terms to "**NetRefer**, "**we**" or "**our**" mean Arnold Media Limited.

1. **Account**. You are prohibited from sharing your personal CoPilot AI account, including login credentials, with any unauthorized individuals. Each account is intended for use solely by you. You remain fully responsible for all activity conducted under your account. NetRefer reserves the right to suspend or terminate access to CoPilot AI if unauthorized account sharing is detected or suspected.

2. **Content**.
    2.1 **Your Content**. You may provide input to CoPilot AI, and receive output from CoPilot AI based on your input. Such input and output are collectively referred to as "**Content**." You are responsible for your use of the Content, including ensuring that it does not violate any applicable law or these Terms.

    2.2 **Similarity of Content**. Due to the nature of CoPilot AI and artificial intelligence generally, output may not be unique, and other users may receive similar output from CoPilot AI.

    2.3 **Content Variation**. CoPilot AI may produce varying results for similar inputs. NetRefer does not guarantee consistency or uniformity in the output, and you acknowledge that the generated content may differ based on factors such as input variations, settings, or updates to CoPilot AI.

    2.4 **NetRefer's Use of Content**. We may use Content to provide, maintain, secure, develop, and improve CoPilot AI, comply with applicable law and enforce these Terms.

    2.5 **Non-Endorsement**. The Content generated by CoPilot AI does not represent the opinions or endorsements of NetRefer, and NetRefer does not support or validate any specific views or opinions expressed in the Content.

    2.6 **Accuracy**. When you use CoPilot AI you understand and agree:

    *   Output may not always be accurate. You must evaluate output for accuracy and appropriateness for your use case, including using human review as appropriate, before using or sharing output from CoPilot AI.

    *   CoPilot AI may provide incomplete, incorrect, or offensive output that does not represent NetRefer's views. If output references any third party products or services, it does not mean the third party endorses or is affiliated with NetRefer.

3. **Disclaimer of Warranties**: COPILOT AI IS PROVIDED ON AN "AS-IS" AND "AS-AVAILABLE" BASIS. NETREFER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO COPILOT AI, AND DISCLAIMS ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, AND QUIET ENJOYMENT. NETREFER DOES NOT WARRANT THAT COPILOT AI WILL BE UNINTERRUPTED, ACCURATE OR ERROR FREE, OR THAT ANY CONTENT WILL BE SECURE OR NOT LOST OR ALTERED.

YOU ACCEPT AND AGREE THAT ANY USE OF OUTPUTS FROM COPILOT AI IS AT YOUR SOLE RISK AND YOU WILL NOT RELY ON OUTPUT AS A SOLE SOURCE OF TRUTH OR FACTUAL INFORMATION, OR AS A SUBSTITUTE FOR PROFESSIONAL ADVICE. ADDITIONALLY, NETREFER DISCLAIMS ANY AND ALL RESPONSIBILITY FOR ANY INACCURACIES, OMISSIONS, OR ERRORS IN COPILOT AI OUTPUTS.

4. **Limitation of Liability**: IN NO EVENT SHALL NETREFER BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR DATA OR OTHER LOSSES, EVEN IF NETREFER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AGGREGATE LIABILITY FOR ANY CLAIM RELATED TO COPILOT AI WILL NOT EXCEED THE GREATER OF THE AMOUNT YOU PAID FOR COPILOT AI THAT GAVE RISE TO THE CLAIM DURING THE 12 MONTHS BEFORE THE LIABILITY AROSE OR ONE HUNDRED EUROS (€100). NOTHING IN THIS CLAUSE SHALL EXCLUDE OR LIMIT LIABILITY FOR GROSS NEGLIGENCE, FRAUD, OR WILFUL MISCONDUCT.

5. **Indemnification**: You agree to indemnify and hold NetRefer, its officers, employees and agents harmless from and against any claims, losses, damages, liabilities, costs, and expenses, including reasonable attorney fees, arising out of or relating to your use of CoPilot AI and/or the Content, including but not limited to the violation of these Terms, Intellectual Property Rights, or any third party rights.

6. **Your Use of CoPilot AI**: In using CoPilot AI, you must comply with all applicable laws and regulations. You agree to assume full responsibility for your use of the Content and any consequences that may arise. You may not use CoPilot AI for any illegal, harmful, or abusive activity. For example, you may not:

   - Use CoPilot AI in a way that infringes, misappropriates or violates anyone's rights.
   - Attempt to or assist anyone to reverse engineer, decompile or discover the source code or underlying components of CoPilot AI (except to the extent this restriction is prohibited by applicable law).
   - Automatically or programmatically extract data or output.
   - Interfere with or disrupt CoPilot AI, including circumvent any rate limits or restrictions or bypass any protective measures or safety mitigations we put on CoPilot AI.
   - Use output to develop models that compete with CoPilot AI.

7. **Modifications and Discontinuation**: NetRefer reserves the right to modify, suspend, discontinue or terminate CoPilot AI, in whole or in part, at any time without notice. However, if we discontinue the service, we will give you a refund of any prepaid, unused fees.

8. **Changes to these Terms**: We are continuously working to develop and improve our services. NetRefer accordingly reserves the right to update or change these Terms from time to time. If we make changes, we will provide you with notice of such changes, such as by sending an email or posting such changes on our platform. Unless we state otherwise, the amended Terms will be effective immediately, and your continued use of CoPilot AI will confirm your acceptance of the changes. **If you do not agree to the amended Terms, you must stop using CoPilot AI.**

9. **Termination**: Your access to CoPilot AI shall automatically cease upon termination of your Agreement with NetRefer. Nevertheless, during the term of the Agreement, NetRefer reserves the right to suspend or terminate your access to CoPilot AI if we determine that you have breached any provision of these Terms, if your use of CoPilot AI could cause risk or harm to other users, or if you fail to make any payment timely, in accordance with the Order Form.

10. **Data Security**: NetRefer takes reasonable measures to protect user data; however, the transmission and storage of data over the internet cannot be guaranteed to be 100% secure. You are responsible

for the security of your data and are encouraged to take appropriate measures to protect sensitive information.

11. **Personal Data**: You may not provide to the CoPilot AI any information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or any other information considered "personal data", "personal information", "personally identifiable information", or similar terms under any applicable laws. NetRefer shall not be liable, and you shall indemnify NetRefer, for any loss, costs and damages resulting from your breach of this clause.

12. **Intellectual Property**: All Intellectual Property Rights in CoPilot AI are owned by NetRefer. You are granted a limited, non-exclusive, non-transferable license to use CoPilot AI in accordance with these Terms. NetRefer is not responsible for any infringement of Intellectual Property Rights resulting from the content generated by CoPilot AI. You assume full responsibility for ensuring that the use of CoPilot AI generated content complies with applicable copyright, trademark, patent, or any other intellectual property laws.

13. **Third-Party Services**: CoPilot AI may provide links or references to third-party websites or services, and may even include output from those third parties. NetRefer is not responsible for these and does not endorse or warrant the accuracy thereof.

--END OF SCHEDULE D --