

TERMS AND CONDITIONS

1. Acceptance

- 1.1 Unless you have entered into a separate services agreement with us, which will always take precedence over these Terms & Conditions, use of the Service is subject to these Terms & Conditions. In order to use the Service a Customer is required to either (i) enter into a Services Agreement, or (ii) indicate that it accepts these Terms & Conditions. These Term & Conditions can be accepted by:
- 1.1.1 Commencing a Free Trial;
 - 1.1.2 Completing the relevant registration process on our Site (the “**Registration Process**”);
 - 1.1.3 Emailing acceptance of the terms of a Success Plan that has been provided to the Customer by SKL;
 - 1.1.4 Accessing or using the Service in any way.
- 1.2 The Customer warrants, represents and acknowledges that: (i) the Customer has read and understood these Terms & Conditions (including the DPA, a copy of which is available via this url <https://www.sportskey.com/data>); (ii) the Customer agrees to be bound by the terms of these Terms & Conditions; (iii) acknowledges that these Terms & Conditions governs the Customer’s use of the Service and supersedes any other agreements between the Customer and SKL; (iv) the information that the Customer provided in registering for this Service is accurate and complete; and (v) the information provided is the Customer’s or within the Customer’s right to use.
- 1.3 If you are agreeing to these Terms & Conditions in your personal capacity, you are the Customer (as defined below).
- 1.4 If you are agreeing to these Terms & Conditions on behalf of a third party or other legal entity that is to be the Customer, you represent and warrant that: (i) you have the authority to bind such entity and its Affiliates (as defined below) (where applicable) to these Terms & Conditions; and (ii) you agree on behalf of that entity and its Affiliates that it will be the Customer; and (iii) authority to agree to these Terms & Conditions was given by the Customer with the Customer’s full knowledge of the provisions contained in these Terms & Conditions. If you do not have such authority, or if the Customer does not have such knowledge of these Terms & Conditions or if you or the Customer do not agree to Terms & Conditions, you must not accept these Terms & Conditions and you may not use the Service or access the Site.
- 1.5 SKL provides the Service through the Site and the provision of that Service is entirely subject to these Terms & Conditions.
- 1.6 Obligations, rules and restrictions affecting the Customer in these Terms & Conditions shall also bind any agents, licensees, servants, contractors, sub-contractors and employees of the Customer and any Affiliates and any agents, licensees, servants, contractors, sub-contractors and employees of any Affiliates who use or access the Site or Service. Any breach of such obligations, rules and restrictions by such parties shall be deemed to be a breach of same by the Customer.
- 1.7 By accepting these Terms & Conditions, the Customer is also accepting and agreeing to the Commercial Terms set out in the Success Plan.

2. Definitions

In these Terms & Conditions the following words and expressions (that are capitalised for the same purpose) whether appearing under this clause or before it shall have the following meanings:

“Admin User” means the number of persons noted in the Commercial Terms who will be responsible for the Customer Account;

“Affiliates” means any person, partnership, joint venture, company, corporation, subsidiary, or other form of enterprise, domestic or foreign, directly or indirectly controlling, controlled by or under common control of the Customer and **“Affiliate”** shall be construed accordingly;

“Booking Fees” means the fees payable by the Customer to SKL, as detailed in the Commercial Terms, and represents an amount equal to an agreed percentage of the total value payable by a User to the Customer for each and every booking made by a User in relation to the Facility in respect of which the Service is being provided;

“Commercial Terms” means the terms set out in Section 3 of a Success Plan, or as set out during the Registration Process, which sets out the commercial terms on which the Service is provided;

“Confidential Information” means all information disclosed by a Party (the **“Disclosing Party”**) to the other Party (the **“Receiving Party”**), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. This shall include but not be limited to all information relating to the Disclosing Party’s business, prospective business, finances, technical processes, computer software (both source code and object code) and Intellectual Property or compilations of two or more items of such information, whether or not each individual item is in itself confidential and all information which has been or may be derived or obtained from any such information;

“Customer”, “you”, “your” means the person, company, organisation or other legal entity and its Affiliates (if applicable) entering into these Terms & Conditions and agreeing to be bound by it in their use of the Service;

“Customer Account” means the account created for the Customer’s use of the Service and governed by these Terms & Conditions;

“Customer Data” means all data imported or added to the Service for the purpose of using the Site and the Service or facilitating the Customer or User’s use of the Site and the Service;

“Documentation” means any documentation relating to the use of the Service that SKL specifically creates for the Customer or otherwise provides to the Customer to assist in the correction of any issue with the Service;

“DPA” means the Data Processing Agreement, a copy of which is available via this url <https://www.sportskey.com/data>, which you agree to be bound by in respect of the supply of the Service by us to you;

“Effective Date” means the date set out in the Initial Invoice;

“Facilities” means the sports, recreational or other facilities of the Customer in respect of which the Service will be utilised by the Customer, including but not limited to sports halls, grass and all-weather pitches, tennis courts, squash courts, running tracks, meeting rooms and lecture halls and each shall be deemed a **“Facility”**;

“Fees” means the Subscription Fees and the Booking Fees payable by the Customer to SKL in accordance with these Terms & Conditions;

“Force Majeure” means anything outside the reasonable control of SKL, including but not limited to acts of God, fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, war, rebellion, insurrection, sabotage, epidemic, public health emergency, quarantine restriction, labour dispute or shortage, power shortage, Internet service provider failure or delay (including where SKL ceases to be entitled to access the Internet for whatever reason), issues with any Third Party Application or denial of service attack,

transportation embargo, failure or delay in transportation, any act or omission (including laws, regulations, disapprovals or failure to approve) of any government or government agency;

“Free Trial” means a trial of the Service during which the Customer is not liable for the Fees, which shall last for the period set out in the Commercial Terms;

“Initial Invoice” means the date set out in the first invoice issued to you on foot of your acceptance of these Terms & Conditions;

“Initial Term” means the initial term of each subscription by the Customer which shall be set out in the Commercial Terms;

“Intellectual Property” all copyrights, patents, utility models, trademarks, service marks, registered designs, moral rights, design rights (whether registered or unregistered), technical information, know-how, database rights, semiconductor topography rights, business names and logos, computer data, generic rights, proprietary information rights and all other similar proprietary rights (and all applications and rights to apply for registration or protection of any of the foregoing) as may exist anywhere in the world;

“Losses” means all losses, including without limitation financial losses, indirect loss including loss of profit (whether direct or indirect), special loss, losses incurred by any third party, losses arising from business interruption, loss of business revenue, goodwill or anticipated savings, losses whether or not occurring in the normal course of business, costs of procuring substitute goods or product(s) or wasted management or staff time, damages, legal costs and other expenses of any nature whatsoever;

“Normal Business Hours” means the hours from 9.00 am to 5.30 pm (local Irish time) Monday through to Friday when SKL is open for business and for the avoidance of doubt excluding Saturdays, Sundays and public holidays in Ireland;

“Parties” means SKL and the Customer and **“Party”** shall mean either of them;

“Registration Process” has the meaning given to it in clause 1.1.1;

“Renewal Term” means a renewal term for a subscription which shall equal the term of the Initial Term;

“SKL” “we” “us” “our” means SportsKey Limited (trading as SportsKey), a company registered in Ireland with company number 589561 and having its registered office at Q House, Furze Road, Sandyford, Dublin 18, D18 NN59, Ireland (which shall include where the context so admits or requires its assigns and legal successors in title);

“Service” means the online provision, by SKL to the Customer, of the cloud-based sports facility management and online booking software, which is accessed through the Customer’s desktop hardware and/or a mobile application and that is ordered by the Customer in accordance with the Commercial Terms or set up by SKL at the Customer’s request;

“Service Purpose” means the strict use of the Service by the Customer to facilitate the online booking and management by the Customer in respect of its Facilities;

“Site(s)” means SKL’s website at www.sportskey.com or any bespoke URL / embedded link on the Customer’s website created or provided by SKL for the purpose of accessing the Service;

“Software” means SKL’s cloud-based sports facility management and online booking software and its components, structured database, source code, object code and design through which the Service is delivered;

“Statistical Data” means aggregated, anonymised data derived from the Customer, a User’s use of the Site or Service;

“Subscription Fees” means the annual fee exclusive of VAT (as determined by the SKL

subscription package set out in the Commercial Terms and based on the number of Facilities and Admin Users in respect of which the Service is required) and which may increase and decrease, inter alia, over time, for example, on renewal of the Term and relative to the number of Facilities, details of which are set out in the Commercial Terms;

“Success Plan” means a success plan provided to the Customer by SKL;

“Term” means the Initial Term together with any Renewal Term(s);

“Terms & Conditions” means these terms and conditions, the Commercial Terms, and the DPA which all apply to the use of the Service and the Site(s) by the Customer;

“Third Party Application” means any web-based, mobile, offline or other software application functionality that is provided by the Customer or a third party and interoperates with the Service (including for example the payment processing software company “Stripe”);

“User” means any individual who is directed by you or your website to use the Service including an Admin User and **“Users”** shall be construed accordingly; and

“30 Day Money Back Guarantee” means the right of the Customer to a return in full of any Fees paid by the Customer to SKL, upon receipt of written notice from the Customer, prior to expiry of the first 30 days of the Term (not including any period of any Free Trial (if applicable)), that it no longer wishes to proceed with the Service and accordingly the Term is terminated with immediate effect.

3. The Service

- 3.1 We shall use commercially reasonable efforts to make the Service available to the Customer pursuant to these Terms & Conditions, subject to scheduled maintenance in accordance with clause 15 and any unavailability caused by unscheduled maintenance or a Force Majeure event.
- 3.2 To avoid any doubt support services shall be provided by SKL to the Customer only and SKL shall not be required to provide support service directly to any User under these Terms & Conditions.

4. Licence to use the Service

- 4.1 Subject to the Customer paying any applicable Fees in accordance with these Terms & Conditions, SKL grants the Customer a non-exclusive, non-transferable right to permit Users to use the Service (including any associated Intellectual Property and Confidential Information of SKL) during the Free Trial and thereafter the Term solely for the Service Purpose and the Customer’s internal business operations. Such licence permits the Customer to make cache copies of software or other information necessary for the Customer to receive the Service via the Internet. Where open source software is used as part of the Service, such software use by the Customer will be subject to the terms of the applicable open source licences. No additional implied rights are granted beyond those specifically mentioned in this clause 4.1.
- 4.2 Without prejudice to your statutory rights, no right to modify, adapt, or translate the Service or create derivative works from the Service is granted to you.
- 4.3 You are not permitted to: (i) access or obtain the ‘object code’ or the ‘source code’ for the Software; (ii) examine, reproduce, copy, amend, modify, decompile, reverse engineer, and/or distribute the Software; (iii) use components of the Software for applications not running in the Software; (iv) sell, transfer, or assign any right granted under these Terms & Conditions; and (v) during the Term of these Terms & Conditions and for a period of two years thereafter, compete with SKL by making and/or selling similar software or provide a similar service to the Service.
- 4.4 You shall not: (i) make the Service available to or use the Service for the benefit of anyone other than you or the Users or the Admin Users unless expressly stated otherwise in the Commercial Terms; (ii) sell, resell, license, sublicense, distribute, make available, rent or

lease the Service, or include the Service in a service bureau or outsourcing offering; (iii) use the Service to store or transmit infringing, libellous, or otherwise unlawful or tortious material, or to store or transmit material in violation of any third party rights; (iv) use the Service to store or transmit code, files, scripts, agents or programs intended to do harm (including, for example, viruses, worms, time bombs and Trojan horses); (v) interfere with or disrupt the integrity or performance of the Service or third party data contained therein; (vi) attempt to gain unauthorised access to the Service or its related systems or networks; (vii) permit direct or indirect access to or use of the Service in a way that circumvents a contractual usage limit, or use the Service to access or use any of SKL's Intellectual Property except as permitted under these Terms & Conditions; (viii) copy the Service or any part, feature, function or user interface thereof; (ix) frame or mirror any part of the Service, other than framing on your own intranets or otherwise for your own internal business purposes; (x) access the Service in order to build a competitive product or service or to benchmark with a competing product or service; or (xii) reverse engineer the Service (to the extent such restriction is permitted by law).

- 4.5 Any use of the Service in breach of the Terms & Conditions by you, or Users or Admin Users that in SKL's reasonable judgment threatens the security, integrity or availability of the Service, may result in the immediate suspension of access to the Service, however SKL will use commercially reasonable efforts where appropriate to provide you with prior notice of a proposed suspension.

5. Usage Limits

- 5.1 The Service is subject to usage limits. Unless otherwise specified; (i) the quantity in the Commercial Terms referring to Admin Users and the Service may not be accessed by more than that number of Admin Users; (ii) an Admin Users' password may not be shared with any other individual; and (iii) except as set out in the Commercial Terms, an Admin Users' identification may only be reassigned to a new individual replacing one who will no longer use the Service.
- 5.2 If you exceed your usage limit, we will invoice you in respect of the amount of usage exceeded at our then current rates.

6. Intellectual Property Rights

- 6.1 The Customer acknowledges and agrees that, subject to any limited rights expressly granted to the Customer in these Terms & Conditions, SKL and its licensors own and reserve all Intellectual Property rights and title in and to the Software, the Service, the Documentation (save to the extent they incorporate any Customer Data, Customer Intellectual Property of third party owned item). No interest or ownership in the Software, Service, Documentation, SKL's Intellectual Property or otherwise is transferred to the Customer under these Terms & Conditions.
- 6.2 The Customer shall retain sole ownership of all rights, title and interest in and to Customer Data and its pre-existing Intellectual Property.
- 6.3 The Customer acknowledges that no right is granted herein to any third party to use the Software or the Service, or to the Customer to use the Software or the Service for any third party other than Customer Affiliates unless agreed by the Parties.
- 6.4 The Customer has the right to access and use the Service subject to these Terms & Conditions.
- 6.5 The Customer grants SKL, its Affiliates and applicable contractors a non-exclusive, worldwide license limited for the period of a Free Trial and thereafter the Term to host, copy, transmit and display all electronic data and information submitted by or for the Customer to SKL and any Third Party Application and program code created by or for the Customer using the Service or for use by the Customer with the Service, as reasonably necessary for SKL to provide the Service in accordance with these Terms & Conditions. Subject to the limited licenses granted herein, SKL acquires no right, title or interest from the Customer or

its licensors under these Terms & Conditions in or to any of the Customer Data and information submitted by or for the Customer to SKL, any Third Party Application or such program code.

- 6.6 The Customer grants SKL the perpetual right to use Statistical Data and nothing in these Terms & Conditions shall be construed as prohibiting SKL from using the Statistical Data for business and/or operating purposes, provided that SKL does not share with any third party Statistical Data which reveals the identity of the Customer or any Users or the Customer's Confidential Information.
- 6.7 The Customer is not allowed to remove any proprietary marks or copyright notices from the Service.
- 6.8 SKL may take and maintain technical precautions to protect the Software and Service from improper or unauthorised use, distribution or copying.

7. Fees

- 7.1 Except as otherwise specified in the Commercial Terms, the Fees are based on the subscription package purchased by the Customer. Subject to clause 7.2, the Fees set out in the Commercial Terms shall be charged for the Term of these Terms & Conditions.
- 7.2 We reserve the right to increase the Fees prior to the commencement of any Renewal Term by providing you at least 30 days' notice prior to the commencement of any Renewal Term.
- 7.3 Without prejudice to the Customer's rights pursuant to the 30 Day Money Back Guarantee, all Fees subsequently paid are non-refundable unless otherwise provided for in these Terms & Conditions.
- 7.4 The Customer may switch their subscription package during a subscription term, to amend the number of Facilities or Admin Users subject to the Parties agreeing on the fees to be incurred by the Customer.
- 7.5 All Fees exclude any VAT (or other sales tax) legally payable on the date of the invoice, which shall be paid by the Customer in addition, where applicable.

8. Booking Fee Payments

- 8.1 In order to receive payments for bookings made by Users via the Service, the Customer must create an account with one of the payment processing platforms with which the Service is integrated (a "**Payment Processing Platform**"). Access to the Payment Processing Platform shall be subject to the terms and conditions of that platform. SKL does not provide a payment processing service, and is not responsible for the processing of payments in connection with the Service.
- 8.2 Where a booking is made by a User via a Payment Processing Platform, you acknowledge that the Booking Fee for that booking shall be automatically remitted to SKL by the Payment Processing Platform.
- 8.3 Where the Booking Fees are paid via a Payment Processing Platform, the Customer authorises SKL to fully use any administrative functionality available to it in respect of the Customer's account with that platform, including the cancelling of bookings or refunding of any payments made by Users which are in the Customer's platform account, and, where required, this includes the right to access the information in the Customer's platform account. SKL shall notify the Customer prior to the refunding of any payment to a User. For the avoidance of doubt, SKL shall not be liable to the Customer where it refunds any payments to Users from the Customer's platform account

8.4 Invoicing and Payment

SKL shall invoice and the Customer shall pay the Subscription Fees in accordance with the credit terms set out in the relevant invoice. The Booking Fee shall be deducted automatically and paid to SKL at the time of payment by the User in accordance with clause 8.

8.5 Without prejudice to SKL's other rights and remedies under these Terms & Conditions or otherwise, if the Customer does not pay any sum on or before the due date SKL may suspend provision of the Service to you until all unpaid amounts are paid in full.

9. Customer Accounts

9.1 A Customer Account will be opened for the Customer and the Customer will be given a link to its Customer Account and will be required to choose a password.

9.2 The Customer will follow SKL's process and instructions in relation to setting up the Customer Account.

9.3 After 90 days' suspension, the Customer Account and all Customer Data contained therein will, at SKL's discretion, be permanently deleted.

9.4 The Customer must not permit, and must report to SKL, any attempt to obtain unauthorised access, through whatever means, to the Customer Account.

9.5 You acknowledge and authorise that in connection with the provisions of the Service, SKL may gain access to certain information and data with respect to your name, email address and location (including the same details for the Users) through the affiliate integrated services (e.g. Stripe).

9.6 The Customer must not use or permit use of the Customer Account, to send unsolicited email or any material for marketing or publicity purposes or other illicit or illegal materials.

9.7 The Customer must not post or write or permit the posting or writing of any infringing, defamatory, obscene or other unlawful information on the Customer Account.

10. Confidentiality

10.1 Confidential Information may be disclosed in the course of the Term.

10.2 The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but not less than reasonable care) and it shall: (i) not make the Disclosing Party's Confidential Information available to any third party other than in accordance with these Terms & Conditions; (ii) not use the Disclosing Party's Confidential Information for any purpose outside the scope of the Terms & Conditions; and (iii) except as otherwise authorised by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and service providers who need that access for purposes consistent with these Terms & Conditions and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those set out in these Terms & Conditions.

10.3 Neither Party will disclose the Commercial Terms to any third party other than its Affiliates, legal counsel and accountants without the other Party's prior written consent, provided that a Party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this clause. Notwithstanding the foregoing, SKL may disclose the Commercial Terms to a sub-contractor under terms of confidentiality materially as protective as set forth herein to the extent necessary to perform SKL's obligations under these Terms & Conditions.

10.4 A Party's Confidential Information shall not be deemed to include information that: (i) is or becomes publicly known other than through any act or omission of the Receiving Party; (ii) was in the Receiving Party's lawful possession without breach of any obligation owed to the Disclosing Party before the disclosure; (iii) is lawfully disclosed to the Receiving Party by a third party without breach of any obligation owed to the Disclosing Party; (iv) is independently developed by the Receiving Party, which independent development can be shown by written evidence; or (v) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

11. Representations and Disclaimers

- 11.1 Each Party represents and warrants that it: (i) has full corporate power and authority to enter into these Terms & Conditions and to perform the obligations required hereunder; (ii) the execution and performance of its obligations under these Terms & Conditions does not violate or conflict with the terms of any other agreement to which it is a party and is in accordance with any applicable law; and (iii) it shall respect all applicable laws and regulations, governmental orders and court orders, which relate to these Terms & Conditions.
- 11.2 SKL warrants to the Customer that it has the right to licence the Software and Service to the Customer.
- 11.3 No warranty is made regarding the results the Customer can achieve from using the Site and Service or that the Site and Service will operate uninterrupted or error free.
- 11.4 The Customer warrants that: (i) it rightfully owns the necessary user rights, copyrights and ancillary copyrights and permits required for it to fulfil its obligations under these Terms & Conditions; (ii) its purchases are not contingent on the delivery of any future functionality or features by SKL, or dependent on any oral or written public comments made by SKL regarding future functionality or features, or any statements set out in the Success Plan. The Customer acknowledges that the Service is sold “as is”.
- 11.5 Except as expressly provided herein, neither Party makes any warranty of any kind, whether express, implied, statutory or otherwise, and each Party specifically disclaims all implied warranties, including any implied warranty of satisfactory quality, fitness for purpose or non-infringement, to the maximum extent permitted by applicable law.

12. Data Protection

- 12.1 Each Party undertakes to comply with its obligations under relevant applicable data protection laws, principles and agreements.
- 12.2 To the extent that SKL processes any Personal Data (as defined in the DPA) contained in Customer Data, on your behalf, in the provision of the Service, the Parties acknowledge that SKL is a processor and the Customer is a controller and the Parties shall comply with their respective obligations under applicable data protection law and the terms of the DPA.
- 12.3 The Customer represents, warrants and covenants with SKL that it has made all necessary notifications and has received all necessary consents and/or authorisations required in order for SKL to lawfully process the Customer Data.
- 12.4 If a third party alleges infringement of its data protection rights, SKL shall be entitled to take measures necessary to prevent the infringement of a third party’s rights from continuing.

13. Right to Access, Edit, and Remove Data

- 13.1 SKL, its contractors, agents and service providers, will have direct access to and the right to access the data in the Customer Account.
- 13.2 SKL, its contractors, agents and service providers, have the right on reasonable notice in writing to the Customer to temporarily and for no longer than reasonably necessary disable access to the Customer Account where there is a technical problem or for maintenance and upkeep reasons.
- 13.3 SKL, its contractors, agents and service providers, will not be liable for any claims, demands or Losses arising from such access to or disabling of the Service or the Customer Account for any reason.

14. Security

- 14.1 The Customer acknowledges and accepts that its Customer Account is accessed through its internet service provider and is stored remotely on servers by SKL or a service provider and therefore is subject to the Internet’s inherent risks including unauthorised invasion of privacy, unauthorised publication of information, fraud, and forgery. Although the security

features adopted by SKL and/or its service provider may reduce these risks, their elimination cannot be guaranteed. The Customer acknowledges this risk and accepts that SKL and/or its service providers cannot be liable for any claims, demands or Losses resulting from this risk.

- 14.2 It is the Customer's responsibility to ensure that the Customer takes all reasonable steps to ensure that the Customer's computers and related systems which are used to access the Service are protected against the events listed above in clause 14.1. In particular the Customer and Users shall treat any identification, password or username or other security device for use of the Site and Service with due diligence and care and take all necessary steps to ensure that they are kept confidential, secure and are used properly and are not disclosed to unauthorised persons. Any breach of the above shall be immediately notified to SKL in writing.
- 14.3 The Customer shall ensure that its network and systems comply with any specification provided by SKL from time to time and that it is solely responsible for procuring and maintaining its network connections and telecommunications links from the Customer's systems to SKL's data centres and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the Internet.

15. System Availability

- 15.1 On occasion, it will be necessary to take the Service offline for maintenance, updates, upgrading or other reasons. Where commercially or technically reasonable, we will give advance electronic notice of when it is planned that the Service will be offline.
- 15.2 The Customer hereby consents to the installation of any new releases or upgrades to the Service that SKL may provide. The Customer hereby acknowledges that SKL are under no obligation to provide any support services with respect to any previous versions or releases of the Software.
- 15.3 The Customer agrees that SKL cannot be responsible for any claims, demands or Losses resulting from any unavailability of the Service.

16. Commencement, Expiry, Termination and Renewal

- 16.1 The Terms & Conditions shall commence on the first day of a Free Trial and shall continue until expiry of the Free Trial period. Thereafter, the Terms & Conditions shall commence on the Effective Date and shall continue in force for the Initial Term, unless terminated earlier in accordance with these Terms & Conditions. On expiry of the Initial Term, and each Renewal Term, the Terms & Conditions shall automatically extend for a period equal to the Renewal Term. Either Party may give written notice to the other Party, not later than 15 days before the end of the Initial Term or the relevant Renewal Term, to terminate the Terms & Conditions at the end of the Initial Term or relevant Renewal Term.
- 16.2 Without prejudice to the Customer's rights pursuant to the 30 Day Money Back Guarantee, either Party may subsequently terminate these Terms & Conditions upon giving written notice to the other where the other Party commits a material breach of the Terms & Conditions and (if such a breach is remediable) fails to remedy that breach within 30 days of that Party being notified in writing of the breach.
- 16.3 SKL may terminate these Terms & Conditions at any time on 30 days' notice to the Customer, in which case SKL will provide the Customer with a pro-rata refund of any Subscription Fees paid. The refund of such Subscriptions Fees shall constitute SKL's sole and exclusive liability to the Customer in respect of the termination of the Terms & Conditions under this clause.

17. Effect of Expiry or Termination

- 17.1 On expiry or termination of these Terms & Conditions:

- 17.1.1 all rights (if any) granted to the Customer shall immediately terminate and revert to SKL;
 - 17.1.2 the Customer's access to the Customer Account will be blocked;
 - 17.1.3 the data within the Customer's account can be exported by SKL at the request of the Customer and provided to the Customer within 90 days of termination in an Excel spreadsheet format;
 - 17.1.4 upon expiry of the 90 day period set out in clause 17.1.3 above, all data related to the Customer Account shall be deleted.
- 17.2 For the avoidance of doubt and save as set out above, the Customer will not receive or be entitled to a refund of any part of the Fees on the expiration or termination of the Service (save in respect of termination in accordance with the 30 Day Money Back Guarantee).
- 18. Indemnity**
- 18.1 The Customer shall indemnify, defend and hold harmless SKL, its directors, officers, employees, agents and licensors against any costs, losses, liabilities and expenses, including reasonable legal costs arising from any claim relating to or resulting directly or indirectly from: (i) any claimed infringement or breach by the Customer, a User or Affiliate of any Intellectual Property with respect to use of the Software or Service outside of the scope of these Terms & Conditions; or (ii) use by SKL of any Customer Data or Customer, User or Affiliate provided content; or (iii) breaches of these Terms & Conditions by a User or Affiliate; and (iv) breaches of data protection law or regulations or the terms of the DPA by the Customer, a User or an Affiliate.
- 19. Liability**
- 19.1 Save in respect of its liability for death or personal injury caused by its negligent act or omission, or breach of these Terms & Conditions by virtue of fraud, the maximum aggregate liability of SKL to the Customer for any claim or claims arising from or related to these Terms & Conditions, including any contribution or indemnity shall be limited to the total amount paid by the Customer in the twelve month period prior to date of the first incident out of which any liability arose. The foregoing limitation will apply whether an action is in contract or tort and regardless of the theory of liability.
- 19.2 In no event shall SKL be liable for special, incidental, indirect or consequential damages including damages or costs incurred as a result of loss of time, loss of savings, loss of data or loss of profits.
- 19.3 The Parties acknowledge and agree that in entering into these Terms & Conditions, each had recourse to its own skill and judgement and have not relied on any representation made by the other, their employees or agents.
- 20. Notice**
- Except as otherwise specified in these Terms & Conditions, all notices related to these Terms & Conditions shall be in writing and shall be effective upon: (i) personal delivery, (ii) the second business day after posting, or (iii), except for notices of termination or an indemnity claim ("**Legal Notices**"), which shall clearly be identifiable as Legal Notices, the day of sending by email. Billing-related notices to the Customer shall be addressed to the relevant billing contact designated by you. All other notices to the Customer shall be addressed to the relevant person designated by you.
- 21. Entire Agreement and Variation**
- 21.1 The Terms & Conditions constitutes the entire agreement and understanding between the Parties and supersede any and all prior agreements, negotiations, representations of any kind, and proposals, written and oral between the Customer and SKL with regard to the subject matter hereof.

21.2 The Terms & Conditions apply to the exclusion of any other terms and conditions that you seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

22. Severability

If any provision of these Terms & Conditions is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from these Terms & Conditions and the other provisions shall remain in full force and effect.

23. Waiver

The delay or failure of SKL to exercise in any respect any rights provided for in these Terms & Conditions shall not be deemed a waiver of any actual or further right under these Terms & Conditions.

24. Applicable Law, Jurisdiction and Dispute Resolution

Each Party irrevocably agrees that these Terms & Conditions shall be governed by and construed in accordance with the laws of the Republic of Ireland without regard to choice or conflicts of law rules and that the courts of the Republic of Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms & Conditions or its subject matter or formation.

25. Survival of Obligations

Notwithstanding the expiration or termination of these Terms & Conditions, clause 6 (Intellectual Property Rights), clause 7 (Fees), Clause 8 (Invoicing and Payment), clause 10 (Confidentiality), clause 11 (Representations and Disclaimers), clause 12 (Data Protection), clause 14 (Security), clause 16 (Commencement, Expiry, Termination and Renewal), clause 17 (Effect of Expiry or Termination), clause 18 (Indemnity), clause 19 (Liability), clauses 20 to 28 and any other clauses that by their nature should survive termination, shall survive any such termination or expiration of these Terms & Conditions.

26. Assignment

26.1 Except as expressly set out in these Terms & Conditions, the Customer shall not be entitled to give, sell, transfer, assign, let or otherwise dispose of any or all of its rights and obligations under these Terms & Conditions without the prior written consent of SKL.

26.2 SKL may at any time give, sell, transfer, assign, let or otherwise dispose of any or all of its rights and obligations under these Terms & Conditions.

26.3 Subject to the foregoing, these Terms & Conditions will bind and inure to the benefit of the Parties, their respective successors and permitted assigns.

27. Conflicts

In the event of any inconsistency between the content of these terms and conditions, any Commercial Terms, or the DPA, the terms of the DPA shall prevail followed by the Commercial Terms then the terms and conditions.

28. Electronic Signatures

The Parties agree that they may indicate their agreement to the Terms & Conditions through the use of electronic signatures, including (but not limited to) by way of email confirmation of the acceptance of the Terms & Conditions. An exchange of email confirmations, together with the Terms & Conditions, shall constitute an electronic original and shall be retained by SKL on behalf of both Parties.