



# Terms and Conditions

*In force from March 31, 2025*

## RECITALS:

Linkers has developed a proprietary employee recognition software, which operates as part of LumApps employee experience platform, that enables users to create and share recognition within an organization. Linkers makes this software available to its customers on an 'as a service' basis.

Linkers provided a demonstration of the software to the Customer and gave the Customer information about its functionality. The demonstration and information provided by Linkers enabled the Customer to make an informed decision about the software.

Linkers has agreed to supply, and the Customer has agreed to receive, the Application as a service on the terms set out in these Terms.

## DEFINITIONS AND INTERPRETATION

Capitalised terms in this Agreement shall have the following meaning:

“Affiliate” means a person or entity that Controls, is Controlled by, or is under common Control with a party.”

“Agreement” means these General Terms and Conditions (including its Schedules and the form to which they are attached), the Additional Terms and the Order Form.

“Applicable Sanctions and Trade Laws” means applicable economic, financial or trade sanctions and export or import laws or regulations of the United Nations, the United States of America, the European Union and its Member States, and the United Kingdom, in force from time to time.

“Application” means the software application identified in the Order Form and as further described in the Documentation.

“Authorized User” means an employee, agent, independent contractor or consultant to the Customer whom the Customer authorizes to use the Application.

“Business Day” means a day, other than a Saturday, Sunday or public holiday, when banks are open for business in the USA (State of Delaware).

“Confidential Information” means all confidential information (however recorded or preserved) disclosed by one party, its Affiliates or their respective directors, officers, employees or advisers to the other party, its Affiliates and their respective directors, officers, employees or advisers, whether before or after the Effective Date (including the terms of this Agreement, the business, affairs, customers, clients, suppliers, plans, intentions, market opportunities, operations, processes, products, services, software, information, technical specifications or the know how or trade secrets of the disclosing party), excluding any Personal Data.

“Control” means having the ability to directly or indirectly control the management of a company (including the power to appoint or dismiss the majority of the members of the administrative, management or supervisory bodies of that company), exercise a majority of the voting rights in a company or exercise a dominant influence over a company and “Controlling” and “Controlled” will be construed accordingly.

“Customer” means any legal entity that has acquired the right to access to the Documentation and to use the Application by paying a Subscription Fee to Linkers Inc. (business names: “Linkers”, “ANROM Social Business”) or a Reseller (Authorized Distributor) and provided access to its Authorized Users.

“Customer Data” means any data or materials the Customer, the Authorized Users or Linkers on the Customer’s behalf, enter or upload to the Application.

“Data Processing Agreement” means the terms and conditions applicable to the processing of Personal Data under this Agreement available at: <https://linkersconnect.com/wp-content/uploads/2023/03/Data-Processing-Attachment-Linkers.pdf>

“Documentation” means the operating manuals, user and technical documentation and/or other related materials (in any form) relating to the Application made available by Linkers from time to time.

“Effective Date” means the date that this Agreement comes into force as specified in this Agreement or in the Order Form.

“Event of Force Majeure” means any circumstance not within a party's reasonable control including, without limitation: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (f) collapse of buildings, fire, explosion or accident; (g) any labour or trade dispute, strikes, industrial action or lockouts; or (i) interruption or failure of utility service.

“Initial Term” means the number of years from the Effective Date that the Agreement will remain in force.

“Insolvency Event” means, with respect to a party: (a) such party entering into a compromise or arrangement with its creditors other than for the sole purpose of a solvent restructuring of debt, or the ability of the creditors of such party to enforce their debts being suspended, restricted or prevented; (b) an inability of such party to pay its debts as they become due; (c) an order is made appointing a receiver or an administrative receiver over that party’s assets, or otherwise any person or entity to manage or control the affairs, business and assets of such party on behalf of the creditors thereof; (d) a creditor or encumbrancer attaches or takes possession of the whole or any part of that party's assets which is not discharged within ten (10) Business Days; (e) such party being dissolved and its assets being distributed among the creditors, shareholders or other contributors thereof; or (f) any event occurs, or proceeding is taken, in any jurisdiction that has an effect equivalent or similar to any of the events mentioned in (a) to (e) above.

“Intellectual Property” means copyright, rights in software, trademarks, design rights, patents, know-how, confidential information, rights in inventions, processes and formulae, and all and any other intellectual property rights subsisting anywhere in the world, including all applications for the same.

“Linkers” means Linkers, Inc. (business names: “Linkers”, “ANROM Social Business”), a company registered in Dover, USA, with company registration number (Employer Identification Number (EIN)) 88-3850904, whose registered address and principal place of business is 8th The Green, Ste A, Dover, DE 19901 (legal address).

“Order Form” means the order form signed by both parties under which Linkers agrees to supply the Services to the Customer, subject to the terms of this Agreement.

“Personal Data” means any information relating to an identified or identifiable natural person to which Linkers is given access by or on behalf of the Customer in connection with this Agreement.

“Renewal Term” has the meaning given to that term in Clause 12.1.

“Sanctioned Persons List” means (a) the list(s) of sanctioned persons maintained by the United Nations, the United States of America, the European Union and its Member States, and the United Kingdom and (b) any individuals and companies owned or Controlled by, or acting for or on behalf of, one or more persons listed on any sanctions list in (a).

“Reseller” means a third party that sells and sublicences the Application to the Customer under the terms of an agreement between the Customer and the Reseller.

“Services” the subscription services (including Support Services) identified in the Order Form and provided by Linkers to the Customer under this Agreement via a website notified to the Customer by Linkers as more particularly described in the Documentation.

“Service Specific Terms” or “SST” means terms and conditions applicable to the Customer’s use of the Specific Services (as defined in the SST) set out in the Order Form.

“Subscription” means the annual subscription indicated in the Order Form, for which the Customer is liable for the access and use of the Application and for the number of Authorized Users mentioned in the Order.

“Subscription Fee” means the annual subscription fees set out in the Order Form and payable by the Customer for the access and use of the Application and/or Services for the number of Authorized Users described in the Order Form.

“Super Administrators” means the Authorized Users appointed by the Customer to hold permissions to use restricted functionality of the Application and who are responsible for administering and managing the Application on behalf of the Customer.

“Support Services” means the support services to be provided by Linkers

“Term” means the Initial Term and any Renewal Term as provided for in Clause 12.

“Third-Party Software” means any software proprietary to a third party which is integrated or interfaces with the Application.

“Virus” means any malicious code or program which may prevent, impair or otherwise adversely affect the operation of any computer program, software, hardware or network, or the access to or operation of any program or data, including the reliability of any program or data, or adversely affect the user experience, including worms, Trojan horses and viruses.

Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

A reference to a statute or statutory provision is a reference to it as it is in force as at the Effective Date of this Agreement.

A reference to a statute or statutory provision shall include all subordinate legislation made as at the Effective Date of this Agreement under that statute or statutory provision.

A reference to writing or written excludes fax but includes email.

References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement.

## CONTRACTUAL DOCUMENTS

The following order of precedence will apply in the event that there is a conflict between one or more of the documents referred to in this Agreement:

the Order Form;

the Service Specific Terms;

these General Terms and Conditions; and

the Additional Terms.

## USER SUBSCRIPTIONS AND OBLIGATIONS OF LINKERS

During the Term and in consideration for the fulfilment of the payment obligations by the Customer as per the Order Form, Linkers will grant the Customer a non-exclusive, non-assignable, limited right to permit the Authorized Users to access and use the Services, solely for its internal business operations.

- 1.1. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, under or in, any Intellectual Property Rights, or any other rights or licenses in respect of the Services or the Documentation.
- 1.2. Linkers may update or modify the Services from time to time to correct errors or to otherwise enhance the functionality or performance of the Services.

### Linkers Obligations

- 1.3. Linkers warrants that:
  - 1.3.1. the Services will be performed materially in accordance with the Documentation;
  - 1.3.2. it will comply with all laws applicable to Linkers' operation of its business and in its capacity as a provider of software as a service.
- 1.4. The warranties given at Clause 3.4 shall not apply to the extent of any non-conformance which is caused by the use of the Services contrary to Linkers' instructions, or modification or alteration of the Services by any party other than Linkers or Linkers' duly authorized contractors or agents

## 2. OBLIGATIONS OF THE CUSTOMER

### Use of the Application and Services

- 2.1. The Customer shall and shall procure that its Authorized Users shall:
  - 2.1.1. prevent any unauthorized access to, or use of, the Services and, if any such unauthorized access or use occurs, will promptly notify Linkers and give Linkers such assistance as Linkers, reasonably requires to prevent such unauthorized access or use;
  - 2.1.2. comply with all applicable laws and regulations and shall inform Linkers as soon as reasonably practicable in the event that any modifications to the Services are required as a result of a change in law applicable to the Customer's business;
  - 2.1.3. not use the Services in any manner that could infringe any Intellectual Property Rights of Linkers or any third party;
  - 2.1.4. not use the Services or the Application to send, or arrange for sending, any unsolicited or unauthorized advertising or promotional material;

- 2.1.5. not access, store, distribute or transmit any Viruses, or any material during its use of the Services or Application that: (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, abusive, harassing or racially, ethnically or otherwise offensive; (ii) facilitates or promotes illegal activity; or (iii) causes damage or injury to any person or property; (iv) is discriminatory based on race, gender, color, religious belief, sexual orientation, disability; or (v) depicts sexually explicit images or videos;
- 2.1.6. not attempt to access without authorization, interfere with, damage or disrupt any part of the Application or Services or attack the Application via a denial-of-service attack, distributed denial-of- service attack or other method;
- 2.1.7. except as permitted by this Agreement or as required by applicable laws and regulations, not attempt to decompile, disassemble or reverse engineer any part of the Application, or copy, modify, create derivative works from, transmit, or distribute all or any part of the Application and/or Documentation in any form or media;
- 2.1.8. not access all or any part of the Services or Application to build a product or service which competes with the Services or Application; and
- 2.1.9. not license, sell, rent, lease, transfer, assign, distribute, disclose, or otherwise commercially exploit, or otherwise make the Services or the Application available to any third party except the Authorized Users.
- 2.2. Linkers, without liability or prejudice to its other rights to the Customer, may suspend and/or disable the Customer's or any Authorized User's access to the Application and/or the Services for any actual or suspected breach by the Customer or any Authorized User of the provisions of Clause 4.1. Linkers will, as soon as reasonably practicable, notify the Customer of the reason for the suspension or termination and, provided that the Customer has cured the relevant breach, take reasonable efforts to restore the Customer's access to the Services.
- 2.3. The Customer shall:
  - 2.3.1. provide Linkers with all necessary assistance and information as Linkers may reasonably require to perform the Services;
  - 2.3.2. obtain and maintain internet and network communications, computer equipment and a suitable web browser required to access and use the Application and comply with all possible technical requirements of its providers and/or Linkers;
  - 2.3.3. obtain and maintain all licenses, consents, and permissions (including if applicable domain certificates) relating to its IT environment that may be reasonably required by Linkers to provide Services to the Customer;
  - 2.3.4. comply with all instructions regarding the use of the Application made available by Linkers in the Documentation; and
  - 2.3.5. ensure that it makes available sufficient resources to monitor and respond to any alerts raised by Authorized Users that any Customer Data violates the terms of this Agreement.
- 2.4. Linkers will be excused from failures to perform its obligations under this Agreement, or be given additional time to perform such obligations, to the extent that the Customer fails to timely or adequately perform its obligations under this Agreement ("**Customer Event**") and such Customer Event causes or contributes to Linkers' failure to perform, provided that Linkers:
  - 2.4.1. gives the Customer prompt notice of the Customer Event resulting in such performance failure by Linkers; and
  - 2.4.2. uses its reasonable efforts to continue to perform despite the Customer Event.

### 3. APPLICATION ACCESS AND AUTHORIZED USER MANAGEMENT

- 3.1. The Customer may request that access to the Services be granted to additional Authorized Users over and above the number set out in the Order Form. In such case, the

parties shall execute a new Order Form setting out the Subscription Fees payable by the Customer for such additional Authorized Users.

- 3.2. Linkers may review the Customer's use of the Services to assess the Customer's compliance with these terms. If such review reveals that the number of Authorized Users using the Services is greater than the number of Authorized Users identified in the Order Form ("**Excess Usage**"), then the Customer shall on demand pay to Linkers the Additional Subscription Fees.

#### Super Administrator and Authorized User Management

- 3.3. The Customer shall:
- 3.3.1. designate at least one (1) Super Administrator to be a point of contact for Linkers;
  - 3.3.2. ensure that the Super Administrators manage and administer the use of the Application in accordance with the Documentation;
  - 3.3.3. ensure that the Authorized Users comply with the terms of this Agreement and that their number does not exceed the number of Authorized Users set out in the Order Form; and
  - 3.3.4. ensure that each Authorized User keeps a secure and unique password for its use of the Services and keeps the password confidential.

#### 4. DATA PROTECTION

- 4.1. The Customer acknowledges and agrees that Linkers may process Personal Data in order to perform these Services and that such processing shall be subject to the terms of the Data Processing Agreement.

#### 5. THIRD PARTY SERVICES

- 5.1. The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and/or access products and services from, third parties via Third-Party Software and that it does so solely at its own risk. Linkers makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such Third-Party Software, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Linkers.
- 5.2. Linkers shall have no liability regarding the hosting, the errors and/or the unavailability of the Third-Party Software, or any responsibility to back up any data or information (including Customer Data) provided to or held on any Third-Party Software whether or not accessed via the Services.

#### 6. FINANCIAL CONDITIONS

##### Price and invoicing terms

- 6.1.1. The Subscription Fees are set out in the Order Form and shall be invoiced by Linkers or its authorized recellers in accordance with the terms of this Agreement. All amounts and fees stated or referred to in this Agreement will be payable in the currency specified in the Order Form and are non- cancellable and non-refundable, except as expressly stated otherwise in this Agreement.

##### Payment terms

- 6.1.2. Unless otherwise provided by the Order Form, all invoices issued by Linkers for the Subscription Fees and any other charges under this Agreement will be payable by the Customer within thirty (15) calendar days of the date of the invoice.

- 6.1.3. All amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 6.1.4. Late payment
- 6.1.5. If full payment of the Subscription Fees and all other charges are not made by the due date, Linkers will notify the Customer in writing of the overdue amount and if such amounts are not paid in full within a further thirty (30) calendar days of such notification then, without prejudice to its other rights and remedies Linkers may:
- 6.1.5.1. without liability to the Customer, suspend access to the Application and/or Services and Linkers will be under no obligation to provide any of the Application and/or Services while the invoice concerned remain unpaid;
- 6.1.5.2. without prior notice, charge Customer a late fee equal to: (i) in US, three (3) times the base rate of the U.S. Federal Reserve; or (ii) in any other country, the maximum rate permitted by law, in each case on a daily basis from the due date of payment until the effective date of payment;
- 6.1.5.3. require the payment of an indemnity of forty (40) euros for recovery costs and Linkers will be entitled to request additional compensation if the recovery fees incurred by Linkers are higher than the amount of the aforementioned compensation; and/or terminate the Agreement in accordance with Clause 13.1.

#### Taxes

- 6.1.6. All amounts described in this Agreement or the Order Form are exclusive of any sales taxes, value added taxes, withholding taxes, use taxes and similar taxes and levies, excluding taxes based on Linkers' income, all of which will be the responsibility of and shall be paid by the Customer.

#### Increase

- 6.1.7. Linkers shall be entitled to increase the Subscription Fee with twenty (20) Business Days prior notice:
- 6.1.7.1. upon expiry of the Initial Term and each Renewal Term thereafter; and
- 6.1.7.2. on each anniversary of the Effective Date, in accordance with the Applicable Consumer Price Index.

For the purposes of Clause 8.2.7.2, "**Applicable Consumer Price Index**" shall mean either: (i) the index referred to at <https://www.lumapps.com/legal/> if the Customer is based in one of the countries specified therein; or (ii) for all other countries not specified in the list mentioned at (i), the Syntec revised index (*indice Syntec révisé*) determined by the Syntec Federation and published on <https://www.syntec.fr/>.

## 7. INTELLECTUAL PROPERTY

#### Ownership

- 7.1. As between the parties, all Intellectual Property Rights in and to the Application, Documentation and the Services (including without limitation any modifications, adaptations, updates and derivative works to the Application and Documentation), shall belong to, and remain vested in, Linkers at all times.
- 7.2. Linkers acknowledges and agrees that the Customer will retain any and all rights, title and interest in and to any Intellectual Property Rights in Customer Data and Customer Confidential Information.

#### Linkers indemnity



- 7.3. Subject to Clause 9.4, Linkers shall defend the Customer, its directors, officers and employees against any claim that the Customer's use of the Application and/or Services infringes any patent registered in the United States of America, France, Japan or the UK effective as of the Effective Date or any copyright, trade mark or *sui generis* database right ("**Claim**") and shall indemnify the Customer for any amounts awarded against the Customer in final judgement by a competent court or a settlement previously approved by Linkers.
- 7.4. Notwithstanding anything to the contrary, under no circumstances shall Linkers have any liability hereunder if the alleged infringement is based on: (a) any modification of the Application by any person other than Linkers : or (b) the Customer's or any Authorized User's use of the Application: (i) otherwise than in accordance with this Agreement; or (ii) in a manner contrary to the instructions given to the Customer by Linkers in connection therewith; or (c) the Customer's or any Authorized User's use of the Application after notice of the alleged or actual infringement from Linkers or any appropriate authority; or (d) use or combination of the Application with any other software or hardware, in circumstances where, but for such combination or use, no infringement would have occurred.
- 7.5. If any portion of the Services become or in Linkers' opinion may become the subject of a Claim, Linkers may choose (at its election and expense) to: (a) procure the right for the Customer to continue using the Services; (b) replace or modify the Services so that they become non-infringing; or (c) if such remedies are not reasonably available, terminate either this Agreement or the portion of the Services that is subject to the Claim, in each case on five (5) Business Days notice to the Customer.
- 7.6. The foregoing state the Customer's sole and exclusive rights and remedies, and Linkers' (including its directors, officers, employees and sub-contractors') entire obligations and liability for any Claim.

#### Customer Indemnity

- 7.7. The Customer will indemnify and defend Linkers, its Affiliates and their respective directors, officers and employees from and against any and all demands, claims, suits and proceedings by any third party, and all liability, losses, damages and expenses (including, without limitation, reasonable attorneys' fees) arising therefrom, in each case arising from: (i) actual or alleged infringement by the Customer Data of any patent, copyright, trade secret right or other Intellectual Property Right of such third party; and/or (ii) a breach of Clauses 4.1.3 to 4.1.5.

#### Conduct of claim

- 7.8. In connection with the indemnities given in this Clause 9, the party that is receiving the indemnity ("**Indemnified Party**") shall with respect to the party giving the indemnity ("**Indemnifying Party**"):
- 7.8.1. give prompt written notice regarding the claim;
- 7.8.2. make no admission or other statement or attempt to compromise on or settle the claim and provide reasonable co-operation to the Indemnifying Party in the defense and settlement of such claim, at the Indemnifying Party's expense; and
- 7.8.3. grant the Indemnifying Party sole control over the defense and settlement of the claim.

### 8. CONFIDENTIALITY

- 8.1. Each party expressly agrees to keep all Confidential Information disclosed by a party (the "Disclosing Party") to the other party (the "Receiving Party") secret and confidential in accordance with this Clause 10.

- 8.2. The parties expressly agree that any material, data or information will not be considered as Confidential Information, to the extent that:
- 8.2.1. such material, data or information is publicly available, or otherwise generally known by relevant segments of the public, as at the date hereof;
  - 8.2.2. such material, data or information becomes publicly available, or otherwise generally known by relevant segments of the public, after the date hereof other than as a result of a disclosure by the Receiving Party, its Affiliates or their respective directors, officers, employees or advisers in violation of this Agreement;
  - 8.2.3. such material, data or information was available to the Receiving Party on a non-confidential basis prior to its disclosure hereunder;
  - 8.2.4. such material, data or information becomes available to the Receiving Party on a non-confidential basis after its disclosure hereunder from a source other than the Disclosing Party; provided that such source is not bound, so far as the Receiving Party is reasonably aware, by any direct or indirect confidentiality duty towards the Disclosing Party; or
  - 8.2.5. such material, data or information is developed independently by, or on behalf of, the Receiving Party, its Affiliates or their respective directors, officers, employees or advisers without reference to Confidential Information of the Disclosing Party.
- 8.3. The Receiving Party undertakes and agrees:
- 8.3.1. to take all reasonable security precautions to protect the Confidential Information, and to retain and handle such Confidential Information with the same level of protection and caution as the Receiving Party uses to protect its Confidential Information of comparable significance;
  - 8.3.2. not to reproduce, communicate, in whole or in part, the Confidential Information to any third party,
  - 8.3.3. to use the Confidential Information for the sole purpose of performance or receipt of the Services and for no longer than is necessary;
  - 8.3.4. to only disclose the Confidential Information with those of its directors, officers, employees and advisors who have a need-to-know such Confidential Information for purposes consistent with this Agreement in which case the Receiving Party shall: (i) advise such directors, officers, employees and advisors of the confidential nature of the Disclosing Party's Confidential Information and the obligations set forth in this Agreement, and (ii) assume full responsibility and liability for the acts or omissions of its directors, officers, employees and advisors which, if done by Receiving Party itself, would be a breach of this Agreement; and
  - 8.3.5. to immediately cease, on prior, express and written request of the Disclosing Party, any use of the Confidential Information and to return or to destroy on the request of the Disclosing Party the documents or supporting information containing the Confidential Information as well as any reproduction of the Confidential Information; for the avoidance of doubt, compliance with the foregoing shall not affect the Receiving Party's obligations hereunder, all of which shall continue in effect until the term set out hereinabove.
- 8.4. The Receiving Party may disclose the Confidential Information if such disclosure is required by an administrative authority (including any court of competent jurisdiction) or under any applicable law or regulation (a "**Required Disclosure**"), provided that the Receiving Party, to the extent lawfully permitted, provides the Disclosing Party with prompt written notice of this Required Disclosure in order to allow the Disclosing Party to seek an appropriate protective order.
- 8.5. Without prejudice to any other rights or remedies that a party may have, each party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by the other party. Accordingly, each party

shall be entitled to seek the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this Clause 10.

8.6. The provisions of this Clause 10 shall remain valid throughout the entire term of the Agreement and for one (1) year after its expiry or termination for any reason whatsoever.

## 11. LIABILITY - WARRANTIES

### LIABILITY

11.1. SUBJECT TO SECTION 11.3, NEITHER PARTY SHALL BE LIABLE (WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, STRICT LIABILITY, BREACH OF STATUTORY DUTY, RESTITUTION OR OTHERWISE) FOR ANY:

A) CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE; OR

B) LOSS OF PROFIT, LOSS OF BUSINESS, LOSS OF GOODWILL, LOSS OF OR CORRUPTION OF DATA, LOSS ARISING FROM ANY FAILURE OF THE CUSTOMER'S INFRASTRUCTURE AND/OR UTILITIES, HOWEVER ARISING UNDER THIS AGREEMENT (IN EACH CASE WHETHER DIRECT OR INDIRECT).

11.2. SUBJECT TO SECTIONS 11.1 AND 11.3, LINKERS' TOTAL AGGREGATE LIABILITY TO THE CUSTOMER UNDER OR IN CONNECTION WITH THE AGREEMENT (WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, STRICT LIABILITY, BREACH OF STATUTORY DUTY, RESTITUTION OR OTHERWISE) IN RESPECT OF ALL AND ANY LOSS OR DAMAGE HOWSOEVER CAUSED SHALL BE LIMITED TO THE TOTAL SUBSCRIPTION FEES PAID DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM AROSE, LESS ANY AMOUNT(S) PREVIOUSLY PAID BY LINKERS DURING THE SAME PERIOD.

11.3. NEITHER PARTY LIMITS ITS LIABILITY (IF ANY) TO THE OTHER FOR:

A) PERSONAL INJURY OR DEATH RESULTING FROM NEGLIGENCE, FRAUD, OR ANY MATTER FOR WHICH IT WOULD BE UNLAWFUL TO EXCLUDE LIABILITY;

B) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ATTRIBUTABLE TO THE DEFAULTING PARTY;

C) ANY LIABILITY UNDER THE INDEMNITIES GIVEN UNDER CLAUSE 9 (INTELLECTUAL PROPERTY); OR

D) FOR ANY BREACH OF CLAUSE 10 (CONFIDENTIALITY).

11.4. EACH PARTY SHALL ONLY BE ENTITLED TO BRING A CLAIM AGAINST THE OTHER PARTY UNDER THIS AGREEMENT WITHIN TWO (2) YEARS OF THE END OF THE TERM.

11.5. THE LIMITATIONS AND EXCLUSIONS OF LIABILITY DESCRIBED IN THIS CLAUSE 11 SHALL NOT APPLY TO THE CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT.

### WARRANTIES

11.6. LINKERS SHALL NOT BE RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR ANY OTHER LOSS OR DAMAGE RESULTING FROM THE TRANSFER OF DATA OVER COMMUNICATIONS NETWORKS AND FACILITIES, INCLUDING THE INTERNET AND ANY OTHER THIRDPARTY

SOFTWARE, AND THE CUSTOMER ACKNOWLEDGES THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS NETWORKS AND FACILITIES.

11.7. EXCEPT AS PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED ON AN “AS-IS” BASIS AND ANY WARRANTIES, REPRESENTATIONS, CONDITIONS AND ALL OTHER TERMS OF ANY KIND WHATSOEVER IMPLIED BY STATUTE OR COMMON LAW (INCLUDING FOR MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR SATISFACTORY QUALITY) ARE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCLUDED FROM THIS AGREEMENT.

## 12. TERM

12.1. This Agreement is entered into on the Effective Date for the Initial Term and shall renew automatically for successive periods of one (1) year (each such period a “Renewal Term”) unless either party provides to the other party written notice of its intent not to renew at least three (3) months before the end of the Initial Term or then-current Renewal Term, in which case this Agreement will expire at the end of the Initial Term or then-current Renewal Term.

## 13. TERMINATION

### Termination for Cause

13.1. If a party commits a material breach of any term of this Agreement, the other party may terminate this Agreement and any and all Order Forms with immediate effect, if the party in breach fails to remedy that breach, if such breach is remediable, within a period of twenty (20) Business Days after being notified in writing to do so.

13.2. Linkers may, without prejudice to its other rights or remedies, terminate this Agreement and/or any Order Form upon written notice, if one or more of the following events occurs: a) subject to applicable laws and regulations, if the Customer suspends, ceases, or threatens to suspend or cease carrying on its business or a substantial part thereof, or suffers an Insolvency Event; b) in the case of the Customer’s change of Control; or c) where the Customer develops and/or markets, or gains Control of a business that develops and/or markets, services or any software or application which, in the reasonable opinion of Linkers, competes with the Services and/or the Application.

### Termination by the Customer.

13.3. The Customer may, without prejudice to its other rights or remedies, terminate the relevant Order Form upon written notice, if the Application is Unavailable for three (3) consecutive calendar days, or if the Availability (as defined in the SLA) of the Application is less than 95% in three (3) consecutive calendar months.

### Effect of expiry or termination

13.4. On expiration or termination of this Agreement: a) the parties may no longer enter into any further Order Forms under this Agreement; b) each party will return and make no further use of any Confidential Information, property, Documentation and other items (and all copies thereof) belonging to the other party; c) Linkers shall make any Customer Data held by Linkers accessible to the Customer, as provided in the Documentation, for a period of up to sixty (60) Business Days following termination or expiry of this Agreement; and d) no restitution or reimbursement of the Subscription Fees will be made, except as expressly provided in this Agreement or the Order Form.

13.5. Neither the expiration or termination of this Agreement will affect the obligations of either party accruing before the effective date of expiration or termination.

#### 14. EXPORT CONTROL AND SANCTIONS COMPLIANCE

14.1. The Customer represents and warrants that it is a company duly incorporated and validly existing under applicable law, and is not, as of the Effective Date, listed in a Sanctioned Persons List or has not entered, directly or indirectly, into any agreement, joint venture, partnership or assimilated agreement or relationship with any person or entity listed in a Sanctioned Persons List and is in full compliance with applicable anticorruption laws and Applicable Sanctions and Trade Laws.

14.2. The Customer acknowledges and accepts that the Services and other Linkers software or technologies may not be exported, re-exported, sold, leased or otherwise transferred to any persons listed on any Sanction Persons List) or otherwise in violation of Applicable Sanctions and Trade Laws and/or to certain territories subject to Applicable Sanctions and Trade Laws (currently Belarus, Russia, Crimea, the non-government controlled areas of Ukraine , North Korea, Iran, Mali, South Sudan, Central African Republic, Yemen, Guinea-Bissau, Libya, Eritrea, Lebanon, Syria, ISIL (Da'esh), Al-Qaida and the Taliban, Democratic Republic of the Congo, Sudan, Somalia and Iraq). Linkers shall have the right to suspend performance of any of its obligations under this Agreement, without prior notice being required and without any liability to the Customer, if the Customer fails to comply with this provision.

14.3. Linkers may modify the terms of the Agreement with twenty (20) Business Days prior notice to the Customer if such modification is reasonably necessary to bring them into compliance with applicable law.

#### 15. FORCE MAJEURE

15.1. Neither party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, by reason of any delay in performing or non-performing any of its obligations under this Agreement (other than the payment of monies), to the extent that such delay is due to an Event of Force Majeure of which it has notified the other party. 15.2. If, due to an Event of Force Majeure, the affected party is prevented or delayed from substantially performing its obligations under the

Agreement for a continuous period in excess of two (2) months, the other party shall be entitled to terminate the Agreement by giving written notice to the affected party.

## 16. THIRD PARTY RIGHTS

16.1. Except as provided otherwise, this Agreement is made for the benefit of the parties and permitted assigns, and is not intended to benefit, or be enforceable by, any third party. Each of the parties represents to the other that their respective rights to terminate, rescind, or agree any amendment, variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not a party to the Agreement.

## 17. MISCELLANEOUS

### Severability

17.1. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.

### Independent Contractors

17.2. Nothing in this Agreement is intended to or will operate to create a partnership between the parties or authorise either party to act as agent for the other, and neither party will have the authority to act in the name or on behalf of or otherwise to bind the other.

### Notices

17.3. Any notice given to a party under or in connection with this agreement shall be in writing and shall be: (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or (b) sent by email to the addresses on the first page of this Agreement.

### Publicity

17.4. The Customer authorizes Linkers to refer to it as a current client in its marketing and promotional materials and to that end, the Customer agrees that Linkers may use the Customer's name and logo in such marketing and promotional materials.

### Entire Agreement

17.5. THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT ENTERED INTO BY THE PARTIES. IT SHALL REPLACE AND CANCEL ANY PREVIOUS AGREEMENT, NEGOTIATION OR DISCUSSION WHICH HAS TAKEN PLACE BETWEEN THE PARTIES IN RELATION TO THE SUBJECT MATTER OF THE AGREEMENT.

17.6. EACH PARTY CONFIRMS THAT IT HAS NOT RELIED UPON, AND SHALL HAVE NO REMEDY IN RESPECT OF, ANY AGREEMENT, WARRANTY, STATEMENT, REPRESENTATION, UNDERSTANDING OR UNDERTAKING MADE BY ANY PARTY (WHETHER OR NOT A PARTY TO THIS AGREEMENT) UNLESS THAT WARRANTY, STATEMENT, REPRESENTATION, UNDERSTANDING OR UNDERTAKING IS EXPRESSLY SET OUT IN THIS AGREEMENT.

#### Assignment

17.7. The Customer shall not assign, transfer, charge, subcontract all or any of its rights or obligations under this Agreement without Linkers' prior written consent, which shall not be unreasonably withheld. Linkers may freely assign, transfer, charge, subcontract all or any of its rights or obligations under this Agreement.

#### Waiver

17.8. No failure or delay by a party to exercise any right or remedy provided under this Agreement or by applicable laws and regulations shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

#### Counterparts

17.9. This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, and all the counterparts shall together constitute one agreement.

#### Survival

17.10. In addition to any surviving provisions expressly identified in this Agreement, the following provisions of this Agreement will survive termination or expiration: 1 (DEFINITIONS AND INTERPRETATION), 2 (CONTRACTUAL DOCUMENTS), 6 (DATA PROTECTION), 8 (FINANCIAL CONDITIONS), 9 (INTELLECTUAL PROPERTY), 10 (CONFIDENTIALITY), 11 (LIABILITY - WARRANTIES), 13.4 (EFFECT OF TERMINATION), 17 (MISCELLANEOUS) and 18 (GOVERNING LAW AND JURISDICTION).

17.11. Notwithstanding Clause 13.4, the expiry of this Agreement does not affect the remaining term of any Order Form and the terms and conditions of this Agreement will continue to govern such Order Form notwithstanding the expiration or termination of the Agreement.

17.12. Where this Agreement is drafted in two (2) or more languages and in the event of a conflict between the relevant versions, the English language version shall prevail.

#### 18. GOVERNING LAW AND JURISDICTION

#### 18. GOVERNING LAW AND JURISDICTION

18.1. THIS AGREEMENT, AND ANY DISPUTE OR CLAIM (INCLUDING NON-CONTRACTUAL DISPUTES OR CLAIMS) ARISING OUT OF OR IN CONNECTION WITH IT OR ITS SUBJECT MATTER OR FORMATION, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH:

A) FOR CUSTOMERS BASED IN THE UNITED KINGDOM: THE LAWS OF ENGLAND AND WALES WITH EACH PARTY IRREVOCABLY AGREEING THAT THE COURTS OF ENGLAND AND WALES SHALL HAVE EXCLUSIVE JURISDICTION;

B) FOR CUSTOMERS BASED IN THE NORTH OR SOUTH AMERICA (INCLUDING THE USA): THE LAWS OF THE STATE OF DELAWARE WITH EACH PARTY IRREVOCABLY AGREEING THAT THE COURTS OF THE STATE OF DELAWARE WILL HAVE EXCLUSIVE JURISDICTION;

C) FOR CUSTOMERS BASED IN JAPAN: THE LAWS OF JAPAN WITH EACH PARTY IRREVOCABLY AGREEING THAT THE COURTS OF TOKYO SHALL HAVE EXCLUSIVE JURISDICTION; OR

D) FOR CUSTOMERS BASED ANYWHERE ELSE (INCLUDING THE EU): THE COURTS OF THE STATE OF DELAWARE WILL HAVE EXCLUSIVE JURISDICTION;



## SCHEDULE 1 - JURISDICTION SPECIFIC TERMS

Part A – United Kingdom Where this Agreement is subject to the laws of England and Wales, the following terms shall also apply:

1.1. The reference to the term "Gross Negligence" shall be a reference to failure by a party (by act or omission) to exercise reasonable skill and care in performing or failing to perform an obligation, where such party demonstrates indifference to or a serious disregard for a reasonably foreseeable risk.

1.2. The reference to the term "Willful misconduct" shall be a reference to a deliberate act or omission which is contrary to or goes beyond the conduct to be expected of a party, where such party knows that or is reckless to the fact that such act or omission is contrary to or goes beyond the conduct to be expected of them.

1.3. Any rights that may be conferred by the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.

## Schedule 2 – VALUE ADDED RESELLER AND INDIRECT CUSTOMERS

This Schedule 2 applies where the Customer has subscribed to access and use the Services via a third party authorized by Linkers to resell the Services (“Reseller”):

1. Section 5.1 (Additional User Subscriptions) of the General Terms and Conditions shall be read as follows: “The Customer may request additional Authorized User subscriptions from the Reseller on the pricing terms that may be agreed between the Reseller and the Customer provided that the provision of Services to the additional Authorized Users shall be subject to these General Terms and Conditions.”

2. The Customer shall pay any amounts due to the Value Added Reseller for access and use of the Services in accordance with the terms of the Customer’s agreement with the Reseller. Section 8 (Payment Terms) of the General Terms and Conditions shall not apply.

3. The Customer acknowledges that First Level Support for the Services shall be delivered to the Customer by the Reseller. For the purposes of this Schedule 2, “First Level Support” means initial support to be provided to the Customer which includes answering incoming calls from the Customer, the collection of basic information from the Customer, simple diagnostics and the implementation of simple remedial actions published in the Documentation