

Terms of Service

These Terms of Service are agreed and entered into by Lative Limited, registered under No. 694940 in Ireland at Rockfalls House, Kindlestown Upper, Delgany, Co. Wicklow A63 RP04, Ireland ("**Lative**") and the customer and its Affiliates (the "**Customer**"), Lative and the Customer, each a "**Party**" and together, the "**Parties**". These Terms of Service shall take effect from the date of signing of a Service Order as long as there is a Service Order in effect or until terminated in accordance with the terms of this Agreement.

1 Definitions

1.1 "**Agreement**" means this contract between the Customer and Lative consisting of these Terms of Service, the Data Processing Agreement entered into by the parties on October 13, 2024 (the "**DPA**"), the Schedules and Service Order(s) entered into in accordance with the terms of this Agreement;

1.2 "**Affiliates**" means any entity that directly or indirectly controls, is controlled by, or is under common control with another entity, and in this definition "**control**" means that a person, alone or together with another person, has an interest in 50% or more of the equity share capital of a company, or is entitled to exercise or control the exercise of 50% or more of the voting power of a company at any general meeting of that company;

1.3 "**Authorised User**" means any individual who is authorised by the Customer to use the Lative Services and for whom Customer has ordered the Lative Services and created an account with Lative;

1.4 "**Effective Date**" means the date on which the Lative Services shall commence as detailed in the Service Order;

1.5 "**Customer Content**" means any data provided to Lative by or at the direction of Customer or its Authorised Users, including via the Lative Platform or via a third party platform for the purpose of using the Lative Services;

1.6 "**Data Protection Law**" shall have the meaning ascribed to it in the DPA;

1.7 "**Documentation**" means any technical documentation relating to the Lative Services which Lative may provide the Customer from time to time;

1.8 "**Insolvency Event**" means if a Party summons a meeting of its creditors, makes a proposal for a voluntary arrangement, becomes

subject to any voluntary arrangement, is unable to pay its debts, has a receiver, manager, administrative receiver or examiner appointed over any of its assets, undertakings or incomes, has passed a resolution for its winding-up (except for the purpose of a voluntary reconstruction or amalgamation), is subject to a petition presented to any court for its winding-up (except for the purpose of a voluntary reconstruction or amalgamation), has a provisional liquidator appointed or has any other analogous insolvency proceedings initiated against it;

1.9 "**Lative Platform**" means the platform by which Customer Content is made available to Lative and Lative provides the Lative Services;

1.10 "**Lative Services**" means the growth efficiency metric and sales performance assessment subscription Lative Services, as may be further described in the Documentation, provided by Lative to the Customer under this Agreement;

1.11 "**Service Order**" means a mutually executed, Lative-approved order form that references these Terms of Service;

1.12 "**SLA**" means the service level agreement as set out in Schedule Two;

1.13 "**Subscription Fees**" has the meaning set out in Clause 5;

1.14 "**Subscription Term**" has the meaning set out in Clause 13;

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

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

2 Lative Services

2.1 Lative shall, during the Subscription Term, provide the Lative Services to the Customer on and subject to the terms of the Agreement.

2.2 Lative shall make the Lative Services available in accordance with the terms of the SLA at Schedule Two of this Agreement.

2.3 Lative will, as part of the Lative Services and at no additional cost to the Customer, provide the Customer with Lative's standard customer support services as detailed in SLA (the "**Support Services**").

2.4 No other terms or Customer standard terms will apply to the Lative Services or will form part of this Agreement unless expressly accepted in writing and signed by parties' authorized signatories.

3 Licence

3.1 Subject to the Customer's payment of the Subscription Fees in accordance with the terms of this Agreement and the Customer's compliance with the restrictions set out in this Clause 3 and the other terms and conditions of this Agreement, Lative hereby grants to the Customer a worldwide, royalty-free, non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Lative Services and the Documentation during the Subscription Term solely for the Customer's internal business operations.

3.2 The Customer shall not, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties and except to the extent expressly permitted under this Agreement:

(A) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Lative Services and/or Documentation (as applicable) in any form or media or by any means; or

(B) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Lative Services; or

(C) access all or any part of the Lative Services and Documentation in order to build a product or service which competes with the Lative Services and/or the Documentation; or

(D) use the Lative Services and/or Documentation to provide Lative Services to third parties; or

(E) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Lative

Services and/or Documentation available to any third party except the Authorised Users, or

(F) attempt to obtain, or assist third parties in obtaining, access to the Lative Services and/or Documentation, other than as provided under this Clause 3; or

(G) knowingly introduce or permit the introduction of, any Virus or Vulnerability into Lative's network and information systems.

4 Customer Obligations.

Customer shall:

4.1 ensure that the Authorised Users use the Lative Services and the Documentation in accordance with the terms and conditions of this Agreement (including the Acceptable Use Policy in Schedule One) and be responsible for any Authorised User's breach of this Agreement;

4.2 be solely responsible for the accuracy, quality, reliability, integrity and legality of Customer Content;

4.3 be responsible for obtaining and maintaining its equipment, third party software and services needed to connect to, access or otherwise use the Lative Services, including as set out in the Documentation;

4.4 use the current and up-to-date API as made available by Lative, which may be changed from time to time as notified in writing by Lative;

4.5 be solely responsible for its failure to maintain such equipment and software, or its failure to use the current version of the APIs made available by Lative and Lative will have no liability for such failures (including under the SLA);

4.6 obtain and shall maintain all necessary licences for Customer's systems and third-party software used by Customer in integration with the Lative Services, and consents required by applicable Data Protection Laws for Lative's processing of Customer Content; and

4.7 use commercially reasonable endeavours to prevent any unauthorised access to, or use of, the Lative Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Lative.

5 Fees

5.1 **Fees.** Customer shall (a) pay Lative the Subscription Fees as set out in the Service Order (the “**Subscription Fees**”), and (b) provide to Lative approved purchase order information and any other relevant valid, up-to-date and complete contact and billing details.

5.2 **Excess usage.** If the Customer exceeds the number of Authorized Users as detailed in the applicable Service Order, Customer shall incur additional usage fees at the rate set out in the applicable Service Order for use of the Lative Services (“**Additional Usage Fees**”). Additional Usage Fees shall be payable by the Customer within 30 days of the end of the month in which an undisputed invoice from Lative detailing the Additional Usage Fees incurred was received by Customer.

5.3 **Payment.** Except as otherwise provided in the applicable Service Order, Fees are (i) payable in USD (ii) except as otherwise explicitly stated herein, non-cancellable and non-refundable; (iii) subject to Clause 5.2, payable in advance; (iv) payable within 30 days of the end of the month in which an undisputed invoice was received by Customer; and (v) exclusive of value-added tax, which shall be added to Lative's invoice(s) at the appropriate rate, if applicable. If Customer reasonably disputes any portion of Lative's invoice, Customer will pay the undisputed portion of the invoice and submit written notice of the claim with sufficient detail to identify the issue. All billing disputes will be submitted to Lative within forty five days (45) of receipt of invoice. The Parties shall then negotiate in good faith to attempt to resolve any such disputes within thirty days (30) of notice. If Lative has not received payment of undisputed Fees within fifteen (15) days after the due date in accordance with the payment terms, and without prejudice to any other rights and remedies of Lative, Lative may, subject to providing a further fifteen (15) days' written notice, without liability to Customer, disable Customer's password, account and suspend access to all or part of the Services and Lative shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid.

6 Ownership and Proprietary Rights

6.1 **Lative's Proprietary Rights.** The Customer acknowledges and agrees that Lative and/or its licensors own all intellectual property rights in the Lative Services and the Documentation. Except as expressly stated in this Agreement, this Agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other

rights or licences in respect of the Lative Services and/ or the Documentation.

6.2 **Improvements.** The Parties agree that:

6.2.1 Lative may from time to time make available features, upgrades, improvements or enhancements made to the Lative Services (whether or not at the request or suggestion of the Customer) (“**Improvements**”). Improvements shall be deemed part of the Lative Services. All written or oral comments, ideas, suggestions made by Customer to Lative regarding the Lative Services (including user experience, functionality, and performance of the Lative Services; collectively, “**Feedback**”) may be freely utilized by Lative without attribution or compensation of any kind to Customer. Feedback shall not include any Customer Confidential Information or Customer Content, and Lative shall not disclose the source of any Feedback.

6.3 **Customer Content and Licence.** As between the Parties, the Customer Content will be owned by Customer. Customer retains all right, title, and interest in and to the Customer Content, including all modifications, improvements, enhancements, derivative works, and any related intellectual property rights thereto, regardless of whether such modifications, improvements, enhancements, or derivative works are made by Lative or any third party in connection with the provision of the Lative Services. Customer hereby grants to Lative a limited, non-exclusive, worldwide license to use, copy, store, transmit, display and modify Customer Content in order to provide, support and maintain the Lative Services and related Support Lative Services for the Subscription Term. Notwithstanding anything else to the contrary in this Agreement, Customer shall own all intellectual property rights in or to the Outputs. “**Output**” means any and all reports, analyses, measurements, metrics or other output of data or information, including if any of the foregoing relates to Customer Content, that are generated through the use of the Lative Services by Customer.

6.4 **Usage Data.** Lative shall have the right to aggregate, collect and analyze data and other information relating to the provision, use and performance of the Lative Services (only in an aggregated anonymized form, and in a manner which does not permit identification of the Customer or any individual and does not include any Personal Data or Customer's Confidential Information) (“**Anonymized Data**”) and shall be free (during and after the term hereof) to use such Anonymized Data and other information to develop and improve the Lative Services and other Lative offerings. All right, title, and interest in Anonymized Data and the Lative Services, including any software products or Lative Services derived from or enhanced as a result of the Anonymized Data shall at all times be and remain vested in Lative. In all cases Customer Content shall remain (i) the sole property of the Customer; and (ii) subject to the data protection provisions in Clause 9 of this Agreement and confidentiality obligations in Clause 7 of this Agreement.

Lative Marks. Other than as displayed within the Lative Service or Outputs, Customer shall only use or display Lative's tradenames, service marks, trademarks or logos (each, a "**Lative Mark**") with the prior consent of Lative in writing (which may in its sole discretion be delayed and/or withheld) and where Lative gives its consent the Customer may only use or display the Lative Mark in accordance with the guidelines and/or restrictions as may be provided by Lative.

7 Confidentiality

7.1 The Recipient must keep secret and confidential, and not use or disclose, any Confidential Information of the Discloser unless this Agreement otherwise permits. The Recipient must take all steps and do all such things as may be necessary, prudent or desirable in order to secure and protect the confidentiality of the Confidential Information of the Discloser and to prevent any unauthorised access to it. The Recipient shall use the same standard of care that it uses to protect its own Confidential Information but no less than reasonable care.

7.2 The Recipient must use the Confidential Information of the Discloser only for the performance of its obligations under this Agreement and for no other purpose, except that Recipient may disclose Confidential Information to a bona fide potential acquirer of Recipient for the purpose of evaluating a potential acquisition, provided such acquirer is bound by confidentiality obligations no less restrictive than those contained herein.

7.3 The Recipient may disclose Confidential Information of the Discloser to its Affiliates, employees, contractors and professional advisers:

7.3.1 that need to know for the purposes of this Agreement (and only to the extent that each has a need to know); and

7.3.2 who have agreed in writing with the Recipient to comply with equivalent obligations in respect of Confidential Information of the Discloser as those imposed on the Recipient under this Agreement.

7.4 The Recipient is responsible for ensuring that the Confidential Information of the Discloser is kept confidential and secure by any person to whom the Recipient discloses that information and is liable for its employee, service providers and/or contractors compliance with the confidentiality obligations herein.

7.5 Lative shall notify Customer promptly and without any undue delay, and in any case within twelve (12) hours, upon becoming aware of or reasonably suspecting an unauthorized access to Customer Confidential Information and/or any breach of security or data protection ("**Incident**") and shall provide Customer with sufficient information and assistance to allow Customer to meet its obligations under applicable laws. Lative shall co-operate with Customer and take such steps as

required to assist in the investigation, mitigation and remediation thereof. Lative shall not inform any third party about the Incident without first obtaining Customer's prior written consent.

7.6 The obligations in Clause 7.1 do not apply to Confidential Information that is:

7.6.1 in the public domain otherwise than as a result of a breach of this Agreement or another obligation of confidence;

7.6.2 created by the Recipient, whether alone or jointly with any person, independently of the Discloser's Confidential Information (provided the Recipient has evidence in writing that the information falls within this exception); or

7.6.3 already known by the Recipient independently of its involvement in this Agreement or its interaction with the Discloser and free of any obligation of confidence.

7.7 If a Recipient is required by applicable law to disclose any Confidential Information of the Discloser to a third person, the Recipient must:

7.7.1 before doing so:

(A) notify the Discloser (to the extent permitted by law); and

(B) give the Discloser a reasonable opportunity to take any steps that the Discloser considers necessary to protect the confidentiality of that information; and

7.7.2 notify the third person that the information is confidential to the Discloser.

7.8 **Return and Destruction.** Upon written request by Customer and in any event, following the period specified in Clause 13.3.1, upon termination or expiration of this Agreement, Lative shall promptly return or destroy (or if embodied electronically, permanently erase) Customer Content and Customer Confidential Information, all as directed by Customer. Lative shall thereafter certify compliance with the foregoing in writing. Lative shall not be obliged to return, destroy or delete any computer records or files containing Customer Content and Customer Confidential Information created pursuant to automated electronic archiving or back-up procedures in the ordinary course of business so long as such files are not generally accessible beyond the need for disaster recovery or similar operations, and provided that Lative shall remain subject to confidentiality and data protection obligations specified herein.

7.9 For the purposes of this Clause 7:

7.9.1 **"Discloser"** means a Party that discloses or makes available Confidential Information to the Recipient;

7.9.2 **"Recipient"** means a Party that obtains or is provided with Confidential Information of the Discloser or its Affiliates; and

7.9.3 **"Confidential Information"** means:

(a) information (regardless of the form of disclosure or the medium used to store it) and whether disclosed before or after the Effective Date:

(i) that is by its nature confidential;

(ii) that is treated by the Discloser as confidential; or

(iii) that the Recipient knows, or should know, is confidential;

(b) all copies of information, notes, reports and other records Lative prepares based on or incorporating information that paragraph (a) refers to; and

(c) the existence and content of this Agreement.

8 Warranties and Disclaimers

8.1 **General Warranty:** Each party hereby represents and warrants that it is: (a) duly organized and validly existing under the laws of its jurisdiction of formation and has the full power and authority to enter into this Agreement and assume the obligations and grant the rights and licenses stated herein; and (b) not bound by any agreement (including, but not limited to, any confidentiality or non-competition agreement), obligation or restriction that would interfere with its obligations under this Agreement, and that performance hereunder shall not constitute a breach of such agreements, obligations, or restrictions.

8.2 **Performance Warranty.** Lative warrants to Customer that the Lative Services will operate in substantial conformity with the applicable Documentation and Lative will not materially decrease the functionality or overall security of the Lative Services during the applicable Subscription Term (the **"Performance Warranty"**).

8.3 **Performance Warranty Remedy.** If Lative breaches the Performance Warranty, and Customer makes a reasonably detailed warranty claim within 30 days of discovering the issue, then Lative will use

reasonable efforts to correct the breach or non-conformity. If Lative cannot do so within a reasonable time not to exceed 30 days, Customer shall be entitled to terminate the Agreement and Lative will then refund to Customer any pre-paid, unused fees for the terminated portion of the Subscription Term.

8.4 Specific Warranties. Lative further represents and warrants that: (a) the Lative Services shall be performed in a professional and workmanlike manner, and by qualified workers experienced in performing the type of work contemplated; (b) the Lative Services shall not infringe, misappropriate, or violate any third party's Intellectual property, or otherwise be defamatory, disparaging, or obscene; (c) the Lative Services are free and clear of any and all security interests, liens, claims, charges or other encumbrances; (d) it shall implement industry best practices to screen for and remove and shall ensure that the Lative Services shall not include any virus, time bomb, worm, Trojan horse, disabling device, automatic restraint, or similar program or device designed to impede or harm Customer, the Lative Services, and Customer's Confidential Information; (e) not used (f) it shall comply with Vendor Code of Conduct (g) there are no claims, proceedings, litigation or pending litigation against Lative or any of its representatives that may affect or otherwise impact Lative's ability to perform its obligations hereunder; (h) the Lative Services are SOC 2 Type II certified and Lative shall maintain such accreditation and certification throughout for the Lative Services during the Term of this Agreement (i) Lative Services shall not include Copy-Left Open Source Software. **"Copy-Left Open Source Software"** means any software that requires as a condition of use, modification and/or distribution that such software or other software incorporated into, derived from, or distributed with such software, be: (A) disclosed or distributed in source code form; (B) licensed for the purpose of making derivative works; and/or (C) redistributable at no charge. For the avoidance of doubt, but without limitation, software licensed under the GNU GPL, GNU LGPL, GNU AGPL, Server Side Public License (SSPL), Eclipse Public License (EPL), and/or the Mozilla Public License, are Copy-Left Open Source Software.

8.5 Lative shall notify Customer if it no longer complies with any of its warranties under the Agreement.

9 Data Protection

9.1 The Parties in the performance of this Agreement shall:

9.1.1 comply with any applicable Data Protection Laws; and

9.1.2 not do, or omit to do, anything that would cause the other Party to violate any applicable Data Protection Laws.

9.2 Lative shall, in the performance of its obligations under this Agreement and the provision of

the Lative Services, process personal data in accordance with the Data Processing Agreement.

10 Indemnification

10.1 Indemnity by Lative. Lative will defend and hold harmless Customer, its Affiliates, and their respective officers, directors, employees, and agents ("**Indemnified Parties**"), against any actual or threatened claim, demand, suit, or proceeding ("**Infringement Claim**") made or brought against Customer or any of the Indemnified Parties by a third party alleging that the use of the Lative Services as permitted under this Agreement infringes or misappropriates a patent, trade mark, copyright or trade secret or other intellectual property rights and will indemnify Customer and such Indemnified Parties for any and all losses, liabilities, damages or costs finally awarded against the Customer or such Indemnified Parties (including reasonable legal fees) or agreed in settlement by Lative resulting from the Infringement Claim. In addition, Lative shall indemnify, defend, and hold harmless the Indemnified Parties from and against any and all losses, liabilities, damages, costs, and expenses (including reasonable legal fees) arising out of or relating to any third-party claim or action to the extent caused by: (i) Lative's fraud, gross negligence, or willful misconduct; (ii) any breach by Lative of its confidentiality, security, or privacy obligations under this Agreement (including any breaches by Lative of the Data Processing Agreement), or a security incident resulting in unauthorized disclosure of Customer Content or Confidential Information that was caused by Lative or resulted from Lative's failure to comply with its obligations under the Agreement; or (iii) Lative's violation of applicable laws in connection with the performance of this Agreement.

10.2 The Indemnified Party shall promptly notify Lative in writing of any such claim, but the failure of any Indemnified Party to provide such notice shall not relieve Lative of its obligations hereunder, except to the extent Lative is materially prejudiced by the Indemnified Party's failure to provide such notification. The Indemnified Party shall not make any admission, or otherwise attempt to compromise or settle the claim without Lative's prior written consent and provide reasonable co-operation to Lative in the defence and settlement of such claim, at Lative's expense. Lative shall be given sole authority to defend or settle the claim, provided that Lative may not settle any claim without the Customer's prior written consent (which shall not be unreasonably withheld) if settlement would require the Customer to admit fault or take or refrain from taking any action.

10.3 If the use of the Lative Services by Customer has become, or in Lative's opinion is likely to become, the subject of any Infringement Claim, Lative may at its option and expense (i) procure for Customer the right to continue using and receiving the Lative Services as set forth hereunder; (ii) replace or modify the Lative Services so that they become non-infringing (with comparable functionality); or (iii) if the options in Clauses (i) or (ii) are not reasonably practicable despite reasonable efforts, then Customer or Lative may terminate this Agreement within 15 day's

notice in writing and Lative shall provide a pro rata refund of any prepaid fees for Lative Services for the remaining unused period of the Subscription Term.

10.4 Lative will have no liability or obligation with respect to any Infringement Claim if such Infringement Claim is caused solely by:

(A) use of the Lative Services by Customer not in accordance with this Agreement and such Infringement Claim would not have arisen if not for such misuse; (B) modification of the Lative Service by the Customer or any third party without Lative's express written consent or not in accordance with the Documentation, and such Infringement Claim would not have arisen if not for such modification; (C) Customer Content; or (D) the combination, operation or use of the Lative Services with other applications, portions of applications, product(s), provided such Infringement Claim would have been avoided if not for such combination

10.5 This Clause 10 states the Customer's sole and exclusive rights and remedies, and Lative's (including Lative's employees', agents' and sub-contractors') entire obligations and liability arising from an Infringement Claim. The foregoing does not in any way limit any other remedy available to Customer under the Agreement for any other breaches of contract remedies and indemnification that are not in relation to Infringement Claim.

10.6 **Indemnity by Customer.** Customer shall defend, indemnify and hold harmless Lative from and against any claims, demands, damages, losses, costs, expenses and liabilities (including reasonable legal fees) finally awarded or agreed in a settlement and arising out of or relating to any third-party claim alleging that Customer Content infringes or violates such third party's intellectual property rights. Notwithstanding the foregoing, Customer shall not be responsible for indemnifying Lative if such infringement claim results from: (i) Lative's modification of Customer Content; (ii) Lative's acts or omissions; or (iii) Lative's unauthorized use of Customer Content.

10.7 Lative shall promptly notify Customer in writing of any such claim, but the failure of Lative to provide such notice shall not relieve Customer of its obligations hereunder, except to the extent Customer is materially prejudiced by Lative's failure to provide such notification. Lative shall not make any admission, or otherwise attempt to compromise or settle the claim without Customer's prior written consent and provide reasonable co-operation to Customer in the defense and settlement of such claim, at Customer's expense. Customer shall be given sole authority to defend or settle the claim, provided that Customer may not settle any claim without Lative's prior written consent (which shall not be unreasonably withheld) if settlement would require Lative to admit fault or take or refrain from taking any action.

11.1 The limitations and exclusions in this Agreement apply to every loss arising under or in connection with this Agreement whether in contract, tort, under statute, or under any other cause of action.

11.2 Except as expressly and specifically provided in this Agreement:

11.2.1 the Customer assumes sole responsibility for results obtained from the use of the Lative Services and the Documentation by the Customer, and for conclusions drawn from such use. Lative shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Lative by the Customer in connection with the Lative Services to the extent caused as a direct result of Customer's information, instruction or scripts;

11.2.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and

11.2.3 the Lative Services and the Documentation are provided to the Customer on an "as is" and "as available" basis.

11.3 Notwithstanding anything else to the contrary in this Agreement, nothing in this Agreement limits or excludes:

11.3.1 a Party's liability for its willful misconduct, gross negligence, fraud, fraudulent misrepresentation or willful misconduct;

11.3.2 the Customer's liability for any infringement of Lative's intellectual property rights under Clause 6.1;

11.3.3 Either Party's liability for its indemnification obligations under Clause 10 (except for indemnification obligations covered under Clause 11.6).

11.3.4 Lative's liability for misappropriation of Customer's intellectual property rights;

11.3.5 the Customer's liability to pay the Subscription Fees; or

11.3.6 a Party's liability for any matter for which it would be unlawful for that Party to limit or exclude its liability.

11.4 Except with respect to Clauses 11.3.1 – 11.3.4 and claims and damages subject to the Super Cap in Clause 11.6, neither Party is liable under or in connection with this Agreement for:

11.4.1 any loss of profit, sales, revenue, business, agreements or contracts, anticipated savings, wasted management or other staff time, loss of use or corruption of software, data or information, loss of

goodwill, loss of or damage to the other party's reputation, or similar loss; and

11.4.2 any indirect or consequential loss, costs, damages, charges or expenses,

in each case whether or not reasonably foreseeable and even if advised of its possibility.

11.5 Except with respect to Clause 11.3 and subject to Clause 11.4 and 11.6, the total aggregate liability of the Parties and their respective Affiliates (including any liability for the acts and omissions of its personnel) for all loss under or in connection with the performance or contemplated performance of this Agreement is limited to the value of the total Subscription Fees paid or payable to Lative by the Customer for the Lative Services giving rise to the liability during the 12 months immediately preceding the date on which the claim arose; provided that if no such fees were paid in such 12 month period, such liability shall not exceed the monthly average of the fees paid or payable by the Customer to Lative in the most recent 12 month period in which fees were paid, multiplied by 12 ("**General Cap**").

11.6 Lative's liability for: (i) any breach of Clause 7 (Confidentiality); (ii) any breach of Clause 9 including breach of the DPA; (iii) security incidents resulting in the unauthorized disclosure of Customer Content and/or Confidential Information caused by Lative or its failure to comply with its obligations under the Agreement or the DPA; (iv) either Party's liability for violation of applicable law in connection with the performance of this Agreement; and (v) indemnification obligations under Clause 10 with respect to third party claims relating to the foregoing breaches only; shall be subject to a separate aggregate super cap equal to the higher of: (i) five times the General Cap or (ii) 5 million USD.

12 Trial and Beta Lative Services

Trial and Beta Lative Services. From time to time, Customer may have the option to use alpha or beta Lative Services, products, features or documentation offered by Lative free of charge for testing purposes ("**Beta Lative Services**") or for Customer's product evaluation purposes ("**Trial Purposes**") (Beta Lative Services and Trial Lative Services, together "**Free Lative Services**"). Lative shall clearly mark such Free Lative Services. Any use of the Free Lative Services is at Customer's sole risk. The Free Lative Services are provided "as is" and without warranty of any kind. **NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, EXCEPT TO THE EXTENT EXPRESSLY SPECIFIED IN A SERVICE ORDER, LATIVE PROVIDES NO WARRANTY, INDEMNITY, SERVICE LEVEL AGREEMENT OR SUPPORT FOR FREE LATIVE SERVICES AND ITS LIABILITY FOR FREE LATIVE SERVICES WILL NOT EXCEED ONE HUNDRED EUROS.** For clarity, Customer is under no obligation to use any Free Lative Services, and any such use by Customer will remain at Customer's sole discretion. Notwithstanding anything to the contrary in this Clause, Lative shall remain responsible for confidentiality and data protection obligations

specified herein with respect to the Free Lative Services.

13 Termination and Effects of Termination

13.1 **Term.** The term of this Agreement will commence on the Effective Date for the period as set out in the applicable Service Order (the "**Initial Subscription Term**"). Unless terminated earlier in accordance with the provisions of this Agreement, this Agreement shall continue for the Initial Subscription Term and shall only be renewed if agreed to by the Parties in writing in advance (each "**Renewal Period**") (the Initial Subscription Term together with the Renewal Period (if any), the "**Subscription Term**").

13.2 **Termination.** Either Party may terminate any Service Order and this Agreement upon written notice to the other party in the event:

13.2.1 the other Party commits a material breach of this Agreement and either that breach is incapable of remedy or it fails to remedy that breach within 30 days of receiving a notice specifying the breach and requiring it to be remedied; and

13.2.2 the other Party is the subject of or suffers an Insolvency Event.

13.2.3 Customer may terminate any Service Order and this Agreement for cause in the event that Lative fails to meet its obligations under the SLA in: (i) any two months during a six-month period, or (b) any two consecutive months during the Subscription Term.

13.3 **Effects of Termination.** On termination of this Agreement, for any reason:

13.3.1 all licences granted under this agreement shall terminate and the Customer shall cease all use

of the Lative Services and/or the Documentation immediately, provided however that Lative shall provide Customer access to the Lative Platform, at no additional fees, for a period of thirty (30) days following termination or expiration of the Agreement, for the sole purpose of exporting any stored Customer Content;

13.3.2 Lative shall return to Customer all the Customer Content and Customer Confidential Information and following full return of data to Customer, Lative shall permanently destroy Customer Content and Confidential Information. Following Customer's request, a certification of return and deletion of Customer data and Confidential Information should be returned to Customer;

13.3.3 In the event of termination by Customer pursuant to Clause 13.2, Lative shall issue to Customer a pro-rated refund of any prepaid but unutilized fees in respect of any unused services; and

13.3.4 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

13.3.5 The following shall survive termination of this Agreement: (i) any provision and/or right that is stated, or that by its nature is contemplated, to survive termination; and (ii) all clauses relating to intellectual property, indemnities, limitations of liability, confidentiality, privacy, governing law, jurisdiction for disputes.

14 Insurance

14.1 During the Term, Lative will maintain the following policies: (a) general commercial liability with a limit of not less than \$1 million USD per occurrence and \$2 million USD in the aggregate; (b) workers compensation covering all employees per statutory requirements; (c) employer's liability with a limit of not less than \$1 million USD and any other insurance required by law or appropriate to operation of its business; and (d) errors and omissions/professional liability and cyber liability (which shall include, but not be limited to, Internet media, network security, privacy liability, network business interruption, errors and omissions, and cyber extortion) with a limit of \$5 million USD per occurrence and in the annual aggregate.

14.2 The insurers must have a minimum financial rating of A-/VII as determined by A.M. Best. The coverages and limits listed above are to be considered minimum requirements under this Agreement and in no way limit the liability of Lative. Each policy shall provide for notification to Customer thirty (30) days prior to termination, material change or restrictive amendments. The insurance companies issuing the policies shall have no recourse against Customer for payment of any premiums or for any assessments under any form or policy. The insurance policies referred to above shall be primary insurance ahead of any insurance carried by Customer with respect to the Agreement.

Lative shall provide a certificate of insurance to Customer evidencing this coverage prior to performance of the Agreement and annually thereafter, at policy renewal dates throughout the period Lative Services are provided by Lative. The certificate shall include a Waiver of Subrogation in favor of Customer and should also note any self-insured retention/deductible amounts for each policy. Customer shall be added as additional insured on the policies specified in (a) and (c) and following Customer's request, Lative shall make available to Customer certificates of insurance for insurance policies specified in this Clause 14.

15 General

15.1 **Export Compliance.** Each Party will comply with the export laws and regulations of the United States, European Union and other applicable jurisdictions in providing and using the Lative Services.

15.2 Compliance With Employment Laws.

Customer provides products and/or services to the U.S. federal government and, as such is subject to certain laws and regulations pertaining to U.S. government contractors and/or subcontractors. Accordingly, the Equal Opportunity Clauses stated in 41 C.F.R. parts 60-1.4(a), and the employee notice found at 29 C.F.R. Part 471, Appendix A to Subpart A, are incorporated into this Agreement by reference. If applicable, Lative will abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). **These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability and require affirmative action by covered prime contractors and subcontractors, to employ and advance in employment, qualified protected veterans and individuals with disabilities.** Executive Order 14026, Establishing a Minimum Wage for Contractors, and its implementing regulations, including the applicable contract clause (available at 29 C.F.R. § Pt. 10, App. A), are incorporated into this Agreement by reference.

15.3 **Publicity.** Lative may not publish nor display the name and logo of the Customer on Lative's website nor shall it identify the Customer as a customer of Lative, without Customer's prior written consent (at Customer's sole discretion on a case by case basis).

15.4 **Assignment; Delegation.** Neither party hereto may assign or otherwise transfer this Agreement, in whole or in part, without the other party's prior written consent. Notwithstanding the foregoing, either Party shall have the right to assign this Agreement, or its rights and obligations under this Agreement, without the prior written consent of the other Party in the event of a Permitted Assignment but with written notice to the other Party which shall be provided thirty (30) days following the consummation of the transaction related to a Permitted Assignment. A "**Permitted Assignment**" means (i) any assignment to an Affiliate of a Party or (ii) any assignment in connection with a merger, consolidation, sale of all of the equity interests of the Party, or a sale of all or substantially all of the assets of the Party to which this Agreement relates. Notwithstanding the foregoing, Customer may

terminate this Agreement at any time after receiving written notice of a Permitted Assignment if such Permitted Assignment is to an Excluded Party. The term “**Excluded Party**” means (i) a competitor of Customer; (ii) a party with whom Customer is or has been in a dispute or litigation with; or (iii) if such party does not pass Customer’s reasonable due diligence review.

15.5 No Subcontracting. Except as specifically permitted under the DPA, Lative shall not subcontract any of its obligations under the Agreement, unless such subcontractor is pre-approved by Customer in writing.

15.6 Variation. No variation of this Agreement shall be effective unless it is in writing and signed by the parties’ authorised representatives.

15.7 Relationship. Nothing in this agreement is intended to or shall operate to create any association, partnership, agency, employment or joint venture between the parties hereto, or be construed to evidence the intention of the parties to establish any such relationship. Neither Party will have the authority to obligate or bind the other in any manner, and nothing herein contained will give rise or is intended to give rise to any rights of any kind to any third parties.

15.8 Unenforceability. If a court of competent jurisdiction determines that any provision or part-provision of this Agreement is invalid, illegal, or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

Governing Law. Exclusive Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of England and Wales without regard to its conflicts of law rules and principles. The existence, formation, interpretation, operation and termination of the Agreement and all matters or disputes (whether contractual or non-contractual) arising out of or in connection with the Agreement or its subject matter is governed by and interpreted in accordance with the laws of England and Wales. The Parties hereby irrevocably submit to the exclusive jurisdiction and venue of the courts of London, UK and waive any jurisdictional, venue, or inconvenient forum objections to such courts for all matters or disputes (whether contractual or non-contractual) arising out of or in connection with the Agreement or its subject matter. Notwithstanding the foregoing, equitable relief may be sought at any time in any court of competent jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement and is hereby disclaimed.

15.9 Notices. Any notice required or permitted to be given hereunder will be given in writing by personal delivery, registered post or email. Notices to Customer must be sent to the Customer. Notices to Lative must be sent to the following address: [please add email address] with a copy to Lative Limited, Rockfalls House, Kindlestown Upper, Delgany, Co. Wicklow, A63 RP04, Ireland. It is understood that

orders, purchase orders (POs), confirmations, invoices, and other documents related to order processing and payment do not constitute legal notices under this clause and may be sent electronically following the standard ordering procedures of each Party.

15.10 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.

15.11 Order of Precedence. To the extent To the extent of any inconsistency or conflict between any terms of the documents listed below, the following order of precedence applies:

15.11.1 the DPA with respect to data protection and security obligations;

15.11.2 these Terms of Service, unless otherwise specifically stated in the Service Order;

15.11.3 the Service Order;

15.11.4 the Schedules.

15.12 Force Majeure. Neither Party will be deemed in breach hereunder for any cessation, interruption or delay in the performance of its obligations due to causes beyond its reasonable control (“**Force Majeure Event**”), including, without limitation, earthquake, flood, or other natural disaster, act of God, labor controversy (except such incidents concerning only the relevant Party’s personnel), civil disturbance, terrorism, war (whether or not officially declared), cyber-attacks (e.g., denial of service attacks), or the inability to obtain sufficient supplies, transportation, or other essential commodity or service required in the conduct of its business, or any change in or the adoption of any law, regulation, judgment or decree. A Force Majeure Event under this Clause shall not include any impacts of tariffs. A Party whose performance is affected by a Force Majeure Event shall give notice to the other party as soon as reasonably practicable, stating the nature of the Force Majeure Event and the period of time the occurrence is expected to continue. The affected Party shall use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event. During the Force Majeure Event, the non-affected Party may similarly suspend its performance obligations until such time as the affected Party resumes performance. If such failure or delay continues for a period of thirty (30) business days or more, the non-affected Party may, as a sole remedy, terminate this Agreement and/or any affected Service Order and Customer shall be entitled to receive a pro-rata refund of any prepaid but unused fees. Notwithstanding the foregoing, this Clause will not excuse Lative’s failure to perform its obligations under this Agreement to the extent the failure could have been prevented or limited by reasonable foresight or precautions. For clarity, this includes proper planning and execution of appropriate business continuity and

disaster recovery plans.

15.13 Interpretation. For purposes hereof, "including" means "including, but not limited to". All dates and times set forth in this Agreement, any Service Order or any related document are in relation to Greenwich Mean Time (GMT), unless otherwise specified. In case that a translation of the Agreement, its Appendixes or the Service Order is provided, the translation is made only out of courtesy and the English version shall always prevail

15.14 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement

Schedule One

Acceptable Use Policy

This Acceptable Use Policy (“AUP”) describes actions that Lative prohibits when Customer uses and accesses the Lative Services. Customer agrees not to knowingly use, and not to encourage or allow any other person or entity to knowingly use, the Lative Services in prohibited manners, including but not limited to the following:

1 Transmitting any material that infringes the intellectual property rights or other rights of third parties, including but not limited to trademarks, copyrights or rights of publicity or otherwise violating, infringing or misappropriating the rights of any third party.

2 Transmitting any material that contains viruses, trojan horses, worms or any other malicious, harmful, or deleterious programs or code.

3 Engaging in activities or transmitting through the Lative Services any information that is libelous or defamatory or otherwise malicious or harmful to any person or entity, or discriminatory based on race, sex, religion, nationality, disability, sexual orientation or age.

4 Adversely impacting the availability, reliability or stability of any Lative Services.

5 Launching or facilitating, whether intentionally or unintentionally, a denial of service attack on any Lative Services or on any third party.

6 Attempting to bypass or break any security mechanism on any of the Lative Services or using the Lative Services in any other manner that poses a security or service risk to Lative, to any user of the Lative Services, to any of our respective customers or to their customers.

7 Using the Lative Services in any manner that may subject Lative or any third-party to liability, damages or danger.

8 Using the Lative Services to engage in or in connection with fraudulent activity. Using your account to engage in fraudulent activity with respect to third parties.

9 Promoting or engaging in illegal activities.

10 Harvesting or otherwise collecting information about others without their express consent.

11 Interfering with or disrupting networks connected to the Lative Services or violating the regulations, policies or procedures of such networks.

12 Violating or facilitating the violation of any local, state, federal, or foreign law or regulation, including laws and regulations. Registering with the Lative Services with an email of a throw-away email address provider or any other publicly accessible email address.

13 Using the Lative Services, or a component of the Lative Services, in a manner not authorized by Lative.

14 Creating a Lative account for the purpose of competitive evaluation or research.

15 Revealing your account password to others or allowing use of your account by others.

16 Failing to make a reasonable effort to protect your passwords and to secure resources against unauthorized use or access. You must configure hardware and software in a way that reasonably prevents unauthorized users from accessing your account.

This list of prohibited uses is provided by way of example and should not be considered exhaustive. All determinations related to violations of this Acceptable Use Policy will be made by Lative in its sole discretion acting reasonably.

Schedule Two

Support and Service Level Agreement

Definitions

Terms not defined herein will have the meanings ascribed to them in the relevant agreement for the Lative Services entered into between the Parties (the "Agreement") that incorporates this Service Level Agreement by reference or related Service Order. In addition, the following terms, when used in this Service Level Agreement will have the following meanings:

"SLA Plan" means the level of availability and support Lative Services that Customer selects in the Service Order (Gold, Silver or Bronze).

1 Service Availability and Performance.

1.1 **Service Components.** Lative provides this Service Level Agreement during the Subscription Term as measured by automated performance tests on each of the "**Service Components**" set forth below:

1. Lative Frontend
2. Lative API (Backend)

1.2 **Service Component Availability.** The "Service Component Availability" shall be calculated as the number of Downtime Hours of the specific **service**, divided by the corresponding total number of hours in that calendar month; provided that service issues or outages relating to any Exclusions (as defined below) shall not be included in the calculation. Lative will report Downtime Hours and upon request of Customer will make the number, the times and the affected Service Component available.

1.3 **Scheduled Maintenance.** "Scheduled Maintenance" means maintenance that is announced on <https://lative.statuspage.io/> (or by email if Customer subscribed to updates) at least three (3) business days in advance, during which any or all of the Service Components are unavailable to Customer's Account. Scheduled Maintenance shall not exceed four (4) hours in a calendar month. Lative will use commercially reasonable efforts to schedule Scheduled Maintenance for off-peak hours and to avoid any Scheduled Maintenance causing unavailability of the Service Components.

- 1.4 Lative will use commercially reasonable endeavors to keep the operation of the Lative Services uninterrupted and error free. Lative shall ensure availability is at a minimum of 99.8% in month excluding any Scheduled Maintenance ("**Service Availability**"). Service Availability shall mean the percentage of time during each calendar month that the Lative Services are available and accessible to Customer, calculated as follows:
- 1.5

Service Availability = ((Total Minutes in Month - Downtime Minutes) / Total Minutes in Month) × 100

Excluding:

- (a) Scheduled Maintenance;
- (b) Third-Party infrastructure outages (including Amazon Web Services (AWS) service disruptions beyond Lative's reasonable control);
- (c) Customer-caused outages or network connectivity issues;
- (d) Force Majeure events; or
- (e) Cyber security incidents requiring emergency maintenance.

Lative delivers the Services through AWS infrastructure. Service Availability calculations shall exclude any downtime directly attributable to:

- (a) AWS service outages or degradation as reported on the AWS Service Health Dashboard;
- (b) AWS planned maintenance activities;
- (c) Internet backbone or DNS provider failures affecting AWS regions; or
- (d) Third-party integrations or dependencies required for AWS service delivery

1.8 Lative will integrate AWS service status information into its status page and will not be deemed in breach of Service Availability commitments during periods when AWS reports service degradation or outages affecting the relevant AWS services or regions used by Lative.

1.9 Lative shall use a reliable monitoring system to measure availability, shall provide regular reporting of uptime status to Customer through <https://lative.statuspage.io/> (to which Customer can subscribe), and such system shall be the sole basis for resolution of any dispute regarding Lative compliance with the 99.8% availability. If the Service Availability is less than 99.8% in (a) any two months during a six-month period, or (b) any two consecutive months during the Subscription Term, Customer may as its sole and exclusive remedy terminate the applicable Service Order and this Agreement upon written notice to Lative. In the event of such termination, Lative will issue a pro-rated refund for unused Services up to the date of termination.

2 Support

2.1 **Language.** Lative will provide the Support Lative Services Customer as below. Support is **provided** in English as the sole language.

2.2 **Ticket Submission.** Customer's Authorised Users may submit a ticket (a "**Support Ticket**") that **shall** contain a detailed description of the issue to Lative as follows:

2.2.1 Multiple Support Tickets submitted related to substantially the same occurrence or subject matter shall be deemed a single Support Ticket.

2.2.2 Lative will respond to each Support Ticket in accordance with this Service Level Agreement and will use commercially reasonable efforts to promptly resolve each Support Ticket. Actual resolution time will depend on the nature of the Support Ticket and the resolution itself. A resolution may consist of a fix,

workaround, new feature request, delivery of information or other commercially reasonable solution of the issue. Lative may, from time to time, develop additional methods for Customer to submit a Support Ticket and will make information regarding such methods available to the Customer

2.3 Scope of Support. Support covers (i) development and production issues for the Lative Service Components; (ii) informational and implementation questions about the Lative Service and its features; and (iii) troubleshooting operational problems with the Lative Service **Components**. Support does not include issues resulting from the Exclusions or code development, debugging or fixing of Customer's or third party's software that interacts with the Lative Service Components. Lative may assist Customer and its third party providers in diagnosing and resolving issues or errors but Customer acknowledges that these matters are outside of Lative's support obligations

2.4 Lative Support Commitment. Lative will respond to Support Tickets based on the Response Times below. For Critical and High severity issues, Lative will provide support 24/7/365 (including outside Business Hours). "Response Time" means the period of time in which Lative responds to Customer after submission of a Support Ticket. For Critical and High severity issues, Response Time is measured 24/7/365. For all other severity levels, Response Time is measured within Business Hours only. "Business Day" shall be defined as every day from Monday through Friday, however, excluding any holidays in the State of Berlin. "Business Hours" shall be defined as the time on each Business Day between 9am to 5pm (Irish Time). "Resolution Time" means the period of time in which Lative resolves the Customer's Support Ticket, which may include providing a fix, workaround, or other commercially reasonable solution, measured from the time the Support Ticket was submitted. For Critical and High severity issues, Resolution Time is measured 24/7/365. For all other severity levels, Resolution Time is measured within Business Hours only. The Response Time and Resolution Time to a Support Ticket depends on the Severity Level Determination and the SLA Plan selected described herein.

SLA Plan

Critical: Complete service outage affecting all users
High: Major functionality unavailable or severely degraded

Medium: Partial service degradation or individual user issues

Low: Minor issues or general inquiries

Response Times

Critical = 2 hours

High = 4 hours

Medium = 24 hours

Low = 48 hours

Resolution Times

Critical = 4 hours

High = 8 hours

Medium = 48 hours

Low = 5 Business Days

2.5 Customer Support Commitment. Lative's provision of Support is subject to Customer providing reasonable support and assistance to Lative as follows based on the Severity Level of the Support Ticket: Severity Level Customer Support Commitment.

2.6 Severity 1 – Critical. Customer's technical team or technical personnel shall remain accessible available via phone or chat from the time Support Ticket is submitted until issue is resolved

2.7 Severity 2 – High. Customer's technical team or technical personnel shall respond to Lative's requests for additional information and shall implement recommended solution in a timely manner.

Lative is not responsible for any delays, failures, deficiencies or non-conformities with regards to Support if such delays, failures, deficiencies or non-conformities are due to a delay or failure by Customer to reasonably comply with their obligations set forth above. Agreed deadlines (if any) will be automatically extended by the amount of time during which Customer is not in full compliance with these obligation