

# Client Service Agreement

## Parties

This Client Service Agreement (**Agreement**) is made between The Big Blue Trading Company Limited (company number 07262973), trading as "Bluecoat" and "Bluecoat Software" with its principal place of business at 25 St Thomas Street, Winchester, Hampshire, SO23 9HJ ("**Bluecoat**" which expression shall include its subsidiaries, agents, and assigns); AND

You, the business whose details are set out on the Order Form (defined below) who wishes to contract with Bluecoat to receive the Services (defined below) (and the terms **You**, **Yours** and **Your** shall be construed accordingly).

## 1 Background

- 1.1 Bluecoat has developed software applications and Portals, access to which it licenses to clients on the terms of this Agreement.
- 1.2 Bluecoat does not sell its Software or Documentation. Bluecoat remains the owner of its Software and Documentation at all times and simply allows Bluecoat's clients (and their clients) to use Services (defined below) that derive from its Software.
- 1.3 You wish to use the Services in your business operations.
- 1.4 Bluecoat has agreed to provide and You have agreed to take and pay for the Services subject to the terms and conditions of this Agreement.

## 2 IMPORTANT NOTICE:

- 2.1 **BY ACCEPTING ANY ORDER FORM (DEFINED BELOW) YOU ARE AGREEING TO PURCHASE THE SERVICES ON THE TERMS OF THIS AGREEMENT AND THIS AGREEMENT WILL BIND YOU AND YOUR EMPLOYEES.**
- 2.2 **THE TERMS OF THIS AGREEMENT INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CLAUSE 13.**
- 2.3 **ALTERNATIVE PAYMENT ADMINISTRATION CHARGES WILL BE PAYABLE IF YOU DO NOT PAY FEES BY DIRECT DEBIT.**
- 2.4 **BLUECOAT SHALL CONTINUE TO CHARGE YOU DATA HOSTING FEES AFTER THE TERMINATION OF THIS AGREEMENT UNLESS YOU NOTIFY US IN WRITING AND IN ACCORDANCE WITH CLAUSE 19.8 THAT YOU WISH US TO DESTROY YOUR DATA.**
- 2.5 **DO NOT AMEND THE TERMS OF THIS AGREEMENT OR THE ORDER FORM WITHOUT BLUECOAT'S PRIOR WRITTEN APPROVAL. AMENDMENTS THAT BLUECOAT HAS NOT APPROVED WILL NOT BE INCORPORATED INTO THIS AGREEMENT.**
- 2.6 **YOU SHOULD PRINT A COPY OF THIS AGREEMENT FOR FUTURE REFERENCE.**

## 3 Contract Formation and Amendment

- 3.1 If Bluecoat issues a proposal document to the Client Contact (defined below) it is not an offer to contract with You on the terms of that document. A binding contract shall arise only if Bluecoat submits an Order Form to you and you accept the terms of that Order Form (including any schedule) and this Agreement.
- 3.2 When You accept or Approve any Order Form any prior Agreement (and any prior Order Form accepted by You under any prior Agreement) shall terminate with immediate effect and shall be replaced by a new Agreement as described in the most recent Order Form. For the avoidance of doubt:
  - 3.2.1 upon Your acceptance of any new Order Form the Commencement Date, Term and Minimum Agreement Period shall be recalculated by reference to the new Commencement Date as set out in the new Order Form; and
  - 3.2.2 any guarantee and/or indemnity provided to Bluecoat by Your director(s) or principal(s) under this Agreement or any previous agreement will apply to any agreement between You and Bluecoat and will therefore continue to apply to any subsequent agreement that replaces this Agreement.
- 3.3 Please note that, unless Bluecoat Approves otherwise, Order Forms may only be accepted via EchoSign and the person that accepts the Order Form via EchoSign on Your behalf warrants that they have the authority to contractually bind You.
- 3.4 In addition to its rights under Clause 12.3 below, Bluecoat may amend this Agreement or the terms of the Order Form (or any subsequent version of this Agreement or the Order Form Approved in accordance with this Clause 3.4) with Your Approval provided that:
  - 3.4.1 Subject to Sub-Clause 3.4.2 below, any Use that You (or Your Customers or Approved Users) make of the Services after Bluecoat has notified You In Writing that it has altered this Agreement or the Order Form shall be deemed to be an Approval of the amended Agreement/Order Form; and
  - 3.4.2 if You do not accept the amendment You may reject the change by giving Bluecoat notice In Writing within 14 days (or other period, as may be communicated to you) of notification of the proposed change, in which case the Agreement and provisions of the Order Form will continue until the end of the Term on the existing terms.
- 3.5 Notwithstanding Clause 3.4 above, whenever the Term of this Agreement is extended for a further Extended Period the parties accept that (unless Bluecoat gives its Approval otherwise) this Agreement will be amended to reflect the then current Client Service Agreement used by Bluecoat as it appears at <http://www.bluecoatsoftware.com/terms.pdf>
- 3.6 Where You request In Writing and Bluecoat agrees that any number of additional Approved Users may be added to this Agreement this will require you to accept a new Order Form and the terms of Clause 3.2 above shall apply.

- 3.7 The number of Approved Users may not be reduced to a number less than that set out on the Order Form without Bluecoat's Approval.
- 3.8 Please note that provision of the Services is subject to the provision of all Mandatory Information and in the event that this is not supplied on or before the date specified in the Order Form, provision of the Services may be delayed or suspended until the date one Business Day after completion of these obligations but that (i) the date on which the Fees are payable and (ii) the end of the Term shall not be affected by the delayed or suspended access.

#### 4 Interpretation

- 4.1 The following definitions and rules of interpretation shall apply in this Agreement.

**Additional Fees:** means any additional fees set out in the Order Form.

**Alternative Payment Administration Charge:** £5 (plus VAT), which shall be charged in the event that the Fees are not paid by Direct Debit.

**Approval:** prior approval In Writing and the terms Approve and Approved shall be construed accordingly.

**Approved Users:** such of Your employees as You wish to Use the Services and that have been Approved by Bluecoat.

**Business Day:** any day which is not a Saturday, Sunday or public holiday in the UK, and excluding other ad hoc dates which you will be notified of in advance.

**Client Contact:** the individual that signs the Order Form on Your behalf and any replacement of that individual Approved by Bluecoat in accordance with Clause 5.4 below.

**Commencement Date:** the date as specified in the Order Form.

**Confidential Information:** information that is proprietary or confidential and is either clearly labelled as such or identified as confidential information.

**Customer:** such of Your clients/customers as You wish to Use the Services and have been Approved by Bluecoat.

**Customer Data:** the data and documents relating to Your Customers inputted by You, the Customer, Approved Users, or Bluecoat for the purpose of using the Services or facilitating Your or the Customer's use of the Services but excluding, for the avoidance of doubt, Documents.

**Data:** Customer Data and Your Data.

**Data Controller and Data Processor and Data Subject:** shall have the meaning set out in the DP Legislation.

**Data Fee:** the fee for Bluecoat's storage of the Documents and the Data.

**Data Feed:** the supply of an XML data file providing product feature and rate data on mortgages and associated data which may include data on ERCs, fees, incentives, lending criteria, higher lending charges and valuation fees related to mortgages, which will form part of the Services.

**Data Feed Fee:** the fee for the supply of the Data Feed.

**Data Processing Addendum:** as set out in Schedule 1.

**Documentation:** the documents, training materials and recorded materials made available to You and Your Approved Users and/or Customers by Bluecoat as part of the provision of the Services.

**Documents** means all of the electronic documents generated by You and/or Customers when using the Services including fact finds, scheduled reports, letters as well as the emails collected by the Software and any other electronic files or scanned documents that You and/or Customers choose to attach or store through Your or their Use of the Services but excluding, for the avoidance of doubt, Data and Documentation.

**DP Legislation:** means the GDPR (as defined in the Data Processing Addendum) and all other applicable laws, enactments, regulations, orders, standards and other similar instruments in the United Kingdom.

**End User Terms:** as set out in Schedule 2.

**Extended Period:** the period commencing at the end of the Minimum Agreement Period or any Extended Period thereafter and continuing for a period of twelve months (unless specified otherwise in the Order Form) subject to any termination in accordance with Clauses 19.4 or 19.5.

**Fees:** the fees payable by You to Bluecoat as set out in the Order Form and comprising the Licence Fee, Data Fee, Installation Fee, any Additional Fee each as specified in the Order Form or the Data Processing Addendum (as varied in accordance with Clause 12.3) and (if applicable) the Alternative Payment Administration Charge.

**Installation Fee:** means the fee for installing the Software. In Writing: in writing, by email or in app using the contact details set out on the Order Form or any amended contact details Approved or notified to the other party in accordance with Clause 5.5 or Clause 5.6.

**Licence Fee** means the fee charged to You by Bluecoat for making the Software, Documentation and the Services available to Approved Users.

**Mandatory Information:** the information and documents as specified in the Order Form that must be supplied by You before the Services can be accessed by You and Your Approved Users and/or Customers.

**Minimum Agreement Period:** the period commencing on the Commencement Date and continuing for a period of twenty four months (unless specified otherwise in the Order Form) subject to any termination in accordance with Clauses 19.4 or 19.5.

**Normal Business Hours:** 9.00 am to 17.00 pm local UK time, each Business Day.

**Notice in Writing:** means a notice to terminate the Agreement given in accordance with Clauses 25.2 or 25.3 (as applicable).

**Order Form:** means a document entitled "Order Form" which has been prepared by Bluecoat and submitted to You in accordance with Clause 3.1.

**Personal Data:** means any personal data as defined in the Data Protection Legislation within the Data.

**Relevant Reference Rate:** the relevant reference rate provided for under the Late Payment of Commercial Debts (Interest) Act 1998.

**Services:** those services provided to You by Bluecoat as set out in the Order Form (as varied in accordance with Clauses 7.2 and 7.3).

**Software:** the online and desktop software applications used by Bluecoat in order to provide the Services.

**Term:** the Minimum Agreement Period and all Extended Periods subject to Clause 19.

**Use:** avail Yourself/themselves of the benefits of.

**Virus:** any thing 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.

**Your Data:** the data and documents relating to You or Approved Users inputted by You, the Customer, Approved Users, or Bluecoat for the purpose of using the Services or facilitating Your or the Customer's use of the Services but excluding, for the avoidance of doubt, Documents.

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

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

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

4.5 Words in the singular shall include the plural and vice versa.

4.6 A reference to one gender shall include a reference to the other genders.

4.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

4.8 References to paragraphs, clauses and schedules are to the paragraphs, clauses and schedules of this Agreement.

4.9 In the event of any inconsistency between the terms of this Agreement and the terms of an Order Form, the terms of the Order Form shall have precedence.

## 5 Client Contact

5.1 You must identify a Client Contact on the Order Form who has the ability to contractually bind You.

5.2 Any request, authorisation, notification, Approval or authority given/received to/by the Client Contact will be deemed to have been given/received to/by You.

5.3 You must always retain a Client Contact and may only have one Client Contact at any given time.

5.4 In the event that You wish to replace the Client Contact described on the Order Form (or any subsequent Client Contact Approved in accordance with this Clause 5.4), You may only do so with the Approval of Bluecoat.

5.5 You must always ensure that the contact details for You described on the Order Form (or any subsequent contact details for You Approved in accordance with this Clause 5.5) remain current and relevant and You may only amend those contact details with the Approval of Bluecoat.

5.6 Bluecoat may amend its own contact details (as set out in the Order Form or any subsequent contact details for Bluecoat amended in accordance with this Clause 5.6) by notifying You In Writing in accordance with Clause 25.4.

## 6 Use of Services

6.1 Subject to Your payment of all Fees in accordance with the terms and conditions of this Agreement and to the provisions of Clause 3.8, Bluecoat hereby grants to You a non-exclusive, non-transferable right for You and Your Approved Users to Use the Services during the Term solely for Your own internal business operations and Your Customer's own personal financial administration purposes.

6.2 You shall not Use the Services to access, store, distribute or transmit any Viruses, or any material that:

6.2.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

6.2.2 facilitates illegal activity;

6.2.3 depicts sexually explicit images;

6.2.4 promotes unlawful violence;

6.2.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or

6.2.6 causes damage or injury to any person or property, including reputational damage;

and Bluecoat reserves the right, without liability to You or Your Customers, to disable Your and/or any of Your Approved Users' and Customers' access to the Services where any breach of the provisions of this Clause 6 occurs or is suspected.

6.3 You shall not:

6.3.1 except to the extent expressly permitted under this Agreement or as may be allowed by any applicable law and which is incapable of exclusion by agreement between the parties:

- (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
  - (b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- 6.3.2 access all or any part of the Services, Software or Documentation in order to build a product or service which competes with the Services; or
- 6.3.3 use the Services and/or Documentation to provide services to third parties other than Customers;
- 6.3.4 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party other than Customers; or
- 6.3.5 attempt to obtain, or assist third parties in obtaining, access to the Software, Services and/or Documentation, other than as provided under this Clause 6.
- 6.4 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software, Services and/or the Documentation and, in the event of any such unauthorised access or use, shall promptly notify Bluecoat and take all steps reasonably required by Bluecoat to address the misuse.
- 6.5 You shall comply with any security requirements notified to you by Bluecoat in relation to Your Use of the Services. You shall immediately notify Bluecoat on becoming aware of any unauthorised use or attempted unauthorised use of or access to the Services.
- 6.6 The rights provided under this Clause 6 are granted to You only, and shall not be considered granted to any of Your subsidiaries, assigns or holding companies.

## **7 Services**

- 7.1 Bluecoat shall, during the Term, provide the Services and make available to You the Documentation on and subject to the terms of this Agreement.
- 7.2 In the event that You wish to alter the Services described on the Order Form (or any subsequent Services Approved in accordance with this Clause 7.2) You may only do so with the Approval of Bluecoat which may require you to accept a new Order Form.
- 7.3 In the event that Bluecoat alters the Services described on the Order Form (or any subsequent Services Approved in accordance with this Clause 7.3) it may only do so with Your Approval or as set out in Clauses 3.4 or 12.3.
- 7.4 Bluecoat shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for when maintenance is performed (whether planned or unplanned, routine or not) or due to events outside of its control.
- 7.5 Bluecoat will, as part of the Services and at no additional cost to You, provide You with the Bluecoat standard customer support services during Normal Business Hours. Bluecoat may amend its standard customer support services in its sole and absolute discretion from time to time. Bluecoat may make support services available via premium rate telephone line. Should You choose to use these support services, the entire cost of the premium rate call and any support charges notified by Bluecoat for these support services will be borne by You.
- 7.6 As part of the Services it may be necessary for Bluecoat to make changes to Your system(s) or Your Data or to re-locate the Data or files used by the Software and You acknowledge that it is Your responsibility to ensure that You have in place sufficient back-up facilities to enable Your Data and system(s) to be restored in the event of any hardware or other systems failure. Bluecoat's liability in respect of any loss of Your Data is limited as set out at Clause 8.4.

## **8 Data Protection**

- 8.1 You shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Data.
- 8.2 You agree and acknowledge that Bluecoat processes Personal Data when performing its obligations under this Agreement, and the parties record their intention that You shall be the Data Controller and Bluecoat shall be a Data Processor and the terms of the Data Processing Addendum shall apply.
- 8.3 You shall ensure that Bluecoat is entitled to process all Personal Data so that Bluecoat may lawfully use, process and transfer the Personal Data in accordance with this Agreement on Your and the Customers' and Approved Users' behalf. Specifically, You shall ensure that the relevant third parties have been informed of, and have given their consent to or that You have appropriate legal grounds to such use, processing, and transfer as required by the DP Legislation and envisaged by this Agreement.
- 8.4 Bluecoat shall follow its archiving procedures for Data and Documents. In the event of any loss or damage to Data or Documents, Yours and the Customer's sole and exclusive remedy from Bluecoat shall be for Bluecoat to use reasonable commercial endeavours to restore the lost or damaged Data or Documents from the latest back-up of such Data or Documents maintained by Bluecoat.
- 8.5 In the event of any complaint, notice or communication relating directly or indirectly to the processing of the Personal Data or to either party's compliance with the DP Legislation (including, without limitation, a request from a Data Subject for access to that person's Personal Data), You or Bluecoat (as applicable) shall:
- 8.5.1 promptly inform the other party of any such complaint, notice or communication received by it from a third party; and
  - 8.5.2 provide the other party with reasonable co-operation and assistance and comply with all its reasonable instructions in the handling of any such complaint, notice or communication.
- 8.6 By using the Services, You agree to be responsible for ensuring in accordance with the Data Protection Legislation including using appropriate privacy notices and legal grounds that we are entitled to (i) use and collect information about You and Your Approved Users and Customers'

computer or device (for example IP address, operating system and browser type), for security purposes and to administer and monitor Use of the Services and (ii) use and collect and process the Personal Data on your behalf and anonymize it for use in an anonymized and aggregated format by us to enable us to use it and to provide it to third parties.

## **9 Third Party Providers**

- 9.1 You acknowledge that the Services may enable or assist You, Approved Users and/or Customers to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that You, Approved Users and the Customers do so solely at Your and its own risk. Bluecoat makes no representation 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 website, or any transactions completed, and any contract entered into by You and/or the Approved User or Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between You and/or the Customer and the relevant third party, and not Bluecoat. Bluecoat recommends that You and/or the Customer refer to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Bluecoat does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.
- 9.2 You acknowledge and agree that Bluecoat may advertise third party products or services on the Portal or any portal.

## **10 Bluecoat's Obligations**

- 10.1 Bluecoat shall ensure that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
- 10.2 The obligation at Clause 10.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Bluecoat's instructions, or modification or alteration of the Services by any party other than Bluecoat or Bluecoat's duly authorised contractors or agents. If the Services do not conform with the foregoing obligation, Bluecoat will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide You with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes Your sole and exclusive remedy for any breach of the obligation set out in Clause 10.1. Notwithstanding the foregoing, Bluecoat:
- 10.2.1 does not warrant that Your and the Approved Users' and Customer's use of the Services will be uninterrupted or error-free; nor that the Services, Documentation and/or the information obtained by You and/or the Approved Users' and Customer through the Services will meet Your and/or the Customer's requirements; and
- 10.2.2 is not 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 You and the Approved Users and Customers acknowledge that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 10.3 This Agreement shall not prevent Bluecoat from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.
- 10.4 Bluecoat warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

## **11 Your Obligations**

- 11.1 You shall:
- 11.1.1 provide Bluecoat with:
- (a) all necessary co-operation in relation to this Agreement; and
- (b) all necessary access to such information as may be required by Bluecoat;
- in order to render the Services, including but not limited to Your Data, Customer Data, security access information and configuration services;
- 11.1.2 comply with all DP Legislation and all applicable laws and regulations with respect to Your activities under this Agreement;
- 11.1.3 carry out all other of Your responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in Your provision of such assistance as agreed by the parties, Bluecoat may adjust any agreed timetable or delivery schedule as reasonably necessary;
- 11.1.4 ensure that Your Approved Users send an Email message to all Customers to enable them to activate their Use of the Services;
- 11.1.5 ensure that the Customers and the Approved Users use the Services and the Documentation in accordance with the terms and conditions of this Agreement and be responsible for any Customers' and Approved Users' breach of this Agreement;
- 11.1.6 obtain and shall maintain all necessary licences, consents, and permissions necessary for Bluecoat, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services and the right for Bluecoat to access and transfer Data in accordance with this Agreement;
- 11.1.7 ensure that Your network and systems comply with the relevant specifications provided by Bluecoat from time to time;

- 11.1.8 be solely responsible for procuring and maintaining Your network connections and telecommunications links from Your systems to Bluecoat's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Your or the Customer's network connections or telecommunications links or caused by the internet; and
- 11.1.9 provide the third party supplier of the Data Feed with all co-operation and assistance as may be requested by such third party supplier in relation to the Data Feed.
- 11.2 You undertake:
- 11.2.1 not to copy the Software (other than for normal system operation) or Documentation or otherwise reproduce the same;
- 11.2.2 not to translate, adapt, vary, or modify the Software or Documentation;
- 11.2.3 not to provide or otherwise make available the Software in whole or in part (including but not limited to program listings, object and source program listings, object code and source code), in any form to any person other than the Approved Users and then only as part of the Services; and
- 11.2.4 within fourteen (14) days after the date of termination or discontinuance of this Agreement for whatever reason, to return or destroy (as Bluecoat shall instruct) the Software and Documentation and all updates, upgrades or copies, in whole and in part, in any form including partial copies or modifications of the Software received from Bluecoat or made in connection with this Agreement and all Documentation relating thereto and to furnish Bluecoat with a certificate, undertaking that the same has been done.
- 11.3 You also undertake to procure that Your Approved Users and Customers shall each comply with each of the obligations set out in Clauses 11.1 and 11.2, in which "You" shall be construed as applying to the applicable Approved User or Customer.
- 11.4 You shall procure that Approved Users and Customers enter into and comply with terms equivalent to the End User Terms.
- 12 Fees**
- 12.1 The Licence Fees specified in the Order Form are expressed as an aggregate monthly figure relating to the total number of Approved Users. In the event that the Agreed total number is exceeded, then additional fees will apply.
- 12.2 The Fees are payable as follows:
- 12.2.1 The Licence Fees, the Data Feed Fee and (if applicable) the Alternative Payment Administration Charge are payable monthly in advance unless otherwise Approved by Bluecoat.
- 12.2.2 The Installation Fees and any Additional Fees set out in the Order Form are payable on the date on which You return the Order Form.
- 12.2.3 The Data Fee is payable monthly in arrears.
- 12.2.4 Any other Fees and fees arising during the Term are payable upon receipt of an invoice or as otherwise Approved by Bluecoat.
- 12.3 The Fees are subject to a reasonable annual increase. Such increased fees shall take effect on or around 15 November of each year of the Term.
- 12.4 All Fees are to be paid by Direct Debit. In the event that You require payment to be made otherwise than by Direct Debit Bluecoat shall add the Alternative Payment Administration Charge to the Fee to cover the costs incurred and work involved in facilitating Your request.
- 12.5 Any discount included in the Fees will be for the Minimum Agreement Period only. Once the Minimum Agreement Period has expired any discount may be removed and the Fees will revert to the currently prevailing non-discounted rates.
- 12.6 Any discount that has been applied to the Fees are granted subject to Your account remaining within Bluecoat's standard billing and settlement terms. Should payment not be received or the account be subject to dispute, all discounts can, at Bluecoat's discretion, be removed.
- 12.7 The Fees may be dependent on You being a member of a network or other specific organisation to which a discount on the standard published charges has been granted. Should You leave that network or specific organisation on which these discounts are based, the Fees will be amended to remove any discounts granted due to this relationship.
- 12.8 All charges herein before referred to are exclusive of and subject to any taxes, duties or such other additional sums including, but without prejudice to the foregoing generality, value added/purchase tax, excise tax, (tax on sales, property or use), import or other duties, and whether levied in respect of this Agreement, the Software, its use or otherwise.
- 12.9 If You default in making payment of any sum payable pursuant to this Agreement then Bluecoat shall (without prejudice to any other right or remedy it may have) be entitled to:
- 12.9.1 withhold the Services until such time as all outstanding fees have been paid in full, and shall not be responsible for any loss or damage You and/or the Customer may suffer in consequence. It is expressly agreed that You will continue to remain bound by all the obligations of this Agreement during the period that the Services are withheld, including notice periods and further Fees payable;
- 12.9.2 if you have not paid the outstanding fees in full by the date 30 days from the payment date:
- (a) charge You a reasonable administration fee and interest on the outstanding sums at the Relevant Reference Rate from the date the payment became due until actual payment is made (irrespective of whether the date of payment is before or after any judgement or award is made); and
- (b) refer the matter to our debt collection agents, Daniels Silverman Limited, which will incur a surcharge of 15% of the debt, plus VAT at the prevailing rate. You agree that you will be legally liable to pay us that surcharge, and that payment of the same can be enforced against you in court.

### **13 Bluecoat's Liability**

- 13.1 Bluecoat shall not be liable to You or the Customer for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this Agreement, the Software, the Services, their use or otherwise, except to the extent to which it is unlawful to exclude such liability under the applicable law.
- 13.2 Notwithstanding the generality of Clause 13.1 above, Bluecoat expressly excludes liability for any indirect, special, incidental or consequential loss or damage which may arise in respect of (i) any loss of or damage to the Data or Documents beyond the remedies set out in Clause 8.4 and (ii) the Software and Services including all Documentation and manuals relating thereto, their Use or in respect of equipment or property, or for loss of profit, business, revenue, time, contracts goodwill or anticipated savings whether or not such losses were reasonably foreseeable or the party in default or its agents had been advised of the possibility of incurring such losses.
- 13.3 In the event that any exclusion contained in this Agreement shall be held to be invalid for any reason and Bluecoat becomes liable for loss or damage that may lawfully be limited, such liability shall be limited to the Licence Fee (save where the loss or damage relates to the supply (or lack thereof) of the Data Feed, in which case such liability shall be limited to the Data Feed Fee).
- 13.4 Bluecoat does not exclude liability for death or personal injury to the extent only that the same arises as a result of the negligence or fraudulent misrepresentation of Bluecoat, its employees, agents or authorised representatives.

### **14 Copyright, Patents, Trade Marks and Other Intellectual Property Rights**

- 14.1 You acknowledge that any and all of the copyright, trade marks, trade names, patents and other intellectual property rights subsisting in or used in connection with the Software and the Services including all Documentation and manuals relating thereto, are and shall remain the sole property of Bluecoat (or its licensors, as the case may be). You shall not during or at any time after the expiry or termination of this Agreement in any way question or dispute the ownership by (or licence of, as applicable) Bluecoat thereof.
- 14.2 In the event that new inventions, designs or processes evolve in performance of or as a result of this Agreement, You acknowledge that the same shall be the property of Bluecoat unless otherwise Approved by Bluecoat.
- 14.3 You shall indemnify Bluecoat fully against all liabilities, costs and expenses which Bluecoat may incur as a result of work done in accordance with Your (or Your Approved Users' or Customers') specifications involving infringement of any patent or other proprietary right.

### **15 Warranty**

- 15.1 You acknowledge that software in general is not error-free nor without interruption and You agree that the existence of such errors or interruptions in the Software or Services shall not constitute a breach of this Agreement.
- 15.2 Bluecoat does not warrant that the Documentation or documents or reports produced by the Software will be accurate, complete or comply with any particular statutory legislative requirements and You should ensure that the performance of the Software complies with all Your requirements and obligations. Bluecoat makes no representation or warranty (express or implied) as to continued availability of the information, materials and data available from time to time on or through the Services. In the event that You discover a material error which substantially affects Your (or Your Approved Users' or Customers') use of the same and You notify Bluecoat of the error, Bluecoat shall at its sole option either refund an appropriate proportion of the Fees or use reasonable endeavours to correct by patch or new release (at its option) that part of the Software which does not so comply PROVIDED THAT such non-compliance has not been caused by any modification, variation or addition to the Software not performed by Bluecoat or caused by its incorrect use, abuse or corruption of the Software or by use of the Software with other software or on equipment with which it is incompatible.
- 15.3 The information, materials and data provided to You, Approved Users and Customers via the Services are for general information purposes and should not be construed as investment advice. If You, Approved Users or Customers require any advice on investments, You/they should contact a financial or other professional adviser.
- 15.4 Without prejudice to Bluecoat's obligations under Clause 10.1, Bluecoat does not warrant that the provision of or access to the Data Feed will be uninterrupted, up-to-date, complete, wholly accurate or error-free or that the Data Feed will meet Your, the Approved Users' and/or the Customer's individual requirements. You acknowledge that Bluecoat, in providing the Data Feed, refers and relies on information supplied by third parties and cannot guarantee the accuracy of such information. You additionally acknowledge that Bluecoat is unable to update the Data Feed immediately upon becoming aware of any change in information supplied by third parties, and that there may be a time lag in making any updates.
- 15.5 To the extent permitted by the applicable law, Bluecoat disclaims all other warranties with respect to the Software and the Services and Documentation and their availability, either express or implied, including but not limited to any implied warranties of merchantability or fitness for any particular purpose.
- 15.6 Although Bluecoat does not warrant that the Software supplied hereunder shall be free from all known viruses it has used commercially reasonable efforts to check for the most commonly known viruses prior to packaging but You are solely responsible for virus scanning the Software.

### **16 Indemnity**

- 16.1 Bluecoat agrees to indemnify You at its own expense from and against any and all claims of infringement of copyright, patents, trade marks, industrial designs, or other intellectual property rights affecting the Software (which, for the avoidance of doubt, does not extend to the software forming part of the Data Feed) PROVIDED THAT:

- 16.1.1 You (and Your Approved Users and Customers) shall not have done, permitted or suffered to be done anything which may have been or become an infringement of any rights in any copyright, patent, trade mark or other rights as hereinbefore provided, and
- 16.1.2 You (and Your Approved Users and Customers) shall have exercised a reasonable standard of care in protecting the same; and
- 16.1.3 You comply with Clause 16.2.

failing which, You shall indemnify Bluecoat against all actions, proceedings, costs, claims and expenses incurred in respect thereof.

- 16.2 You undertake that Bluecoat shall be given prompt notice of any claim specified in Clause 16.1 above that is made against You (or Your Approved Users or Customers) and Bluecoat shall have the right to defend any such claims and make settlements thereof at its own discretion and You shall give such assistance as Bluecoat may reasonably require to settle or oppose any such claims.
- 16.3 In the event that any such infringement occurs or may occur, Bluecoat may at its sole option and expense:
  - 16.3.1 procure for You the right to continue using the Software or infringing part thereof; or
  - 16.3.2 modify or amend the Software or infringing part thereof so that the same becomes non-infringing; or
  - 16.3.3 replace the Software or infringing part thereof by other software of similar capability; or
  - 16.3.4 repay to You an appropriate proportion of the Fees relating to the whole or the infringing part of the Software.

## 17 Confidential Information

- 17.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:
  - 17.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
  - 17.1.2 was in the other party's lawful possession before the disclosure;
  - 17.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
  - 17.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or
  - 17.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 17.2 Each party (which, in respect of You, shall include Your Approved Users and Customers) shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 17.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 17.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 17.5 You acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Bluecoat's Confidential Information.
- 17.6 Subject to clause 8.4 and 8.6 Bluecoat acknowledges that the Data is the Confidential Information of You.
- 17.7 This Clause 17 shall survive termination of this Agreement, however arising.

## 18 Force Majeure

Bluecoat shall have no liability to You under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Bluecoat or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that You are notified of such an event and its expected duration.

## 19 Term and Termination

- 19.1 This Agreement shall commence on the Commencement Date and shall, subject to Clause 19.2 below, continue for the Minimum Agreement Period and thereafter in accordance with Clause 19.3 below.
- 19.2 Where you accept any new Order Form after the Commencement Date in accordance with Clause 3.2 above both You and Bluecoat agree that this Agreement (and any prior Order Form accepted by You under this Agreement) shall terminate with immediate effect and shall be replaced by a new Agreement as described in the most recent Order Form.
- 19.3 At the end of the Minimum Agreement Period and any Extended Period(s) that follow, this Agreement shall automatically renew and, subject to Clauses 3.5 and 12.3 above extend for a (further) Extended Period unless either party has served a Notice of Termination of this Agreement on the other side, in which case the Term shall terminate on the later of (i) the end of the Minimum Agreement Period and (ii) the date 12 months after the date on which the Notice of Termination was served.
- 19.4 In addition to the provisions for termination as herein provided, either party may by notice In Writing to the other terminate this Agreement if any of the following events shall occur:
  - 19.4.1 if the other party is in breach of any term, condition or provision of this Agreement or required by the applicable law and fails to remedy such breach (if capable of remedy) within 30 days of having received written notice of such breach from the party not in breach;



- 19.4.2 if the other party, being a body corporate, shall present a petition or have a petition presented by a creditor for its winding up, or shall convene a meeting to pass a resolution for voluntary winding up, or shall enter into any liquidation (other than for the purposes of a bona fide reconstruction or amalgamation); shall call a meeting of its creditors, or shall have a receiver of all or any of its undertakings or assets appointed, or shall be deemed by the relevant statutory provisions under the applicable law to be unable to pay its debts; or
- 19.4.3 the other party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply; or
- 19.4.4 the other party (being an individual) is the subject of a bankruptcy petition or order.
- 19.5 In addition to the provisions for termination as herein provided, Bluecoat may by notice In Writing to You terminate this Agreement if You fail to pay any Fees within a period of thirty (30) days from it becoming due.
- 19.6 Upon termination, You shall (i) comply with the undertaking specified in Clause 11.2.4 above and shall pay to Bluecoat all costs and expenses, including legal and other fees incurred, the balance of all payments which would but for such termination have accrued due up to the earliest date on which the Agreement could have been terminated by You in accordance with the terms hereof and all arrears of fees, charges or other payments arising in respect of the Software, this Agreement or otherwise and (ii) complete such further paperwork and steps as Bluecoat may require.
- 19.7 Subject to Clause 19.8 below upon termination of this Agreement for any reason Bluecoat may:
- 19.7.1 continue to retain and/or host Data on its systems; and
- 19.7.2 charge you a fee for retaining and/or hosting the Data.
- 19.8 Where You give Bluecoat 28 days' notice (or less if Approved by Bluecoat) In Writing (such notice expiring after the date of termination) that You wish Bluecoat to destroy the Data or You wish the Data to be provided to You, Bluecoat shall do so subject to your payment of an applicable administration fee in advance.
- 19.9 Notwithstanding Clause 19.7 above but subject to Clause 19.8 above, Bluecoat shall have the right to destroy all Data (and copies held thereof) upon termination of this Agreement for any reason.
- 19.10 Termination, howsoever or whenever occasioned shall be subject to any rights and remedies Bluecoat may have under this Agreement or in law.
- 19.11 The accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination shall not be affected or prejudiced. For the avoidance of doubt, clauses 15 and 16 shall survive the termination of this Agreement for any reason.

## **20 Assignment**

You shall not assign or otherwise transfer all or part of your rights and/or obligations under this Agreement without the Approval of Bluecoat.

## **21 Waiver**

Failure or neglect by Bluecoat to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of Bluecoat's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice Bluecoat's rights to take subsequent action.

## **22 Third Party Rights**

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement save that you agree that we may enforce the terms of the End User Agreement.

## **23 Headings**

The headings of the terms and conditions herein contained are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms and conditions of this Agreement.

## **24 Severability**

- 24.1 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 shall remain in force.
- 24.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

**25 Notices**

- 25.1 Any notice required to be given under this Agreement (other than a Notice in Writing) shall be In Writing and shall be delivered to the other party at its address set out in the Order Form, or such other address as may have been notified in accordance with Clauses 5.5 and 5.6.
- 25.2 A Notice in Writing served by You must be printed on Your headed paper and sent to the Finance Department at the address set out in the Order Form (or such other address as may have been notified to You In Writing under Clause 5.6) by hand or recorded delivery post.
- 25.3 A Notice in Writing served by Us will be sent to Your Client Contact In Writing.
- 25.4 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in Business Hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission (or if delivery is not in Business Hours, at 9 am on the first Business Day following delivery) provided no error message is received.

**26 Law**

The parties hereby agree that the contract concluded between them and constituted under this Agreement shall be construed in accordance with the Law of England and Wales. The parties hereby agree to submit to the jurisdiction of the Courts of England and Wales in resolution of any issue under this Agreement and You agree that if You need to commence proceedings against Bluecoat under this Agreement You will do so at the High Court in London unless that Court lacks jurisdiction in the action.

**SCHEDULE 1****DATA PROCESSING ADDENDUM**

For the purposes of this Data Protection Addendum, the following words shall have the following meanings:

Agreement means our existing arrangements with You;

GDPR means the General Data Protection Regulation (Regulation (EU) 2016/679), or similar legislation as implemented under English law (including any national implementing laws, regulations and secondary legislation), in each case as applicable and in force in the United Kingdom from time to time including the Data Protection Act 2018; references to Article numbers of the GDPR shall be deemed to include the equivalent provisions in the event the Article numbers in the legislation are changed from time to time;

Model Clauses means the clauses established pursuant to Article 26(2) of Directive 95/46/EC for the transfer of Personal Data to processors established in third countries which do not ensure an adequate level of data protection (or any equivalent clauses subsequently introduced after the implementation of the GDPR); and Privacy Shield means the EU-US Privacy Shield Framework developed by the US Department of Commerce and the EU Commission, including the Privacy Shield Principles and the Supplemental Principles (or any equivalent or replacement mechanism implemented between the USA and the EU, or the UK and the USA).

- 1 In the event the Data Processor processes Personal Data in the course of performing its obligations under the Agreement, the parties agree that, for the purposes of the GDPR, this Schedule shall apply.
- 2 The Data Controller:
  - 2.1 instructs the Data Processor (and authorises the Data Processor to instruct any sub-processor it appoints) to process the Personal Data; and
  - 2.2 permits the Data Processor to transfer the Personal Data outside the EEA in accordance with clause 1.6.
- 3 The subject-matter and duration of the processing, the nature and purpose of the processing, the type of Personal Data and categories of data subjects shall be as set out in Part A of this Schedule (which may be updated by the parties in writing from time to time).
- 4 The Data Processor, to the extent it is acting as Data Processor in respect of such Personal Data, agrees to:
  - 4.1 process the Personal Data on documented instructions from the Data Controller as set out in this Agreement, unless required to do so by English, European Union ("EU") or EU Member State law to which the Data Processor is subject. In such a case, the Data Processor shall inform the Data Controller of that legal requirement before processing (unless that law prohibits such information on important grounds of public interest);
  - 4.2 ensure that the Data Processor's personnel authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
  - 4.3 taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing, as well as the risk of the varying likelihood and severity of rights and freedoms of natural persons, in relation to the Personal Data, implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk including considering those measures referred to in Article 32 of the GDPR ('Security of processing');
  - 4.4 taking into account the nature of the processing, assist the Data Controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Data Controller's obligation to respond to requests for exercising data subjects' rights laid down in Chapter III ('Rights of the data subject') of the GDPR;
  - 4.5 taking into account the nature of the processing and information available to the Data Processor, provide assistance to the Data Controller in order to assist the Data Controller with the Data Controller's compliance with the obligations set out in GDPR Article 32 ('Security of processing'), Article 33 ('Notification of a Personal Data breach to the supervisory authority'), Article 34 ('Communication of a Personal Data breach to the data subject'), Article 35 ('Data protection impact assessment'), and Article 36 ('Prior consultation'), in each case solely in relation to processing of the Personal Data on behalf of the Data Controller;
  - 4.6 comply with the terms of the Agreement in respect of deletion and retention of the Personal Data;
  - 4.7 make available to the Data Controller information reasonably necessary to demonstrate compliance with Article 28 of the GDPR and, subject to clause 1.5, permit audits and inspections conducted by the Data Controller or an auditor appointed by the Data Controller; and
  - 4.8 immediately inform the Data Controller if, in its opinion, an instruction of the Data Controller pursuant to this Schedule infringes the GDPR.
- 5 The Data Controller shall give the Data Processor prior reasonable notice of any audit or inspection to be conducted under clause 1.4.7 and shall (and ensure that each of its appointed auditors shall) avoid causing any damage, injury or disruption to the Data Processor's business. The Data Processor need not give access for the purposes of such an audit or inspection:
  - 5.1 to any individual unless he or she produces evidence to the Data Processor's satisfaction of identity and authority;
  - 5.2 outside normal business hours; or
  - 5.3 for the purposes of more than one audit or inspection in any calendar year, except where the Data Controller is required or requested to carry out such audit or inspection by a supervisory authority or any similar regulatory authority responsible for the enforcement of data protection laws.

- 6 The Data Controller permits the Data Processor to transfer the Personal Data outside the EEA provided that, in respect of any transfers outside of the EEA:
- 6.1 an adequacy decision applies in relation to the relevant third country (such as the Privacy Shield); or
  - 6.2 an appropriate safeguard is in place in relation to the transfer (such as the Model Clauses or binding corporate rules); or
  - 6.3 one of the derogations in Article 49 of the GDPR applies,
- in each case as reasonably necessary for the provision of the processor Services and in accordance with the terms of this Agreement.
- 6.4 For these purposes, if the Data Processor wishes as processor to transfer Personal Data to a third party sub-processor located outside of the EEA and wishes to rely on the Model Clauses to do so, the Data Controller hereby authorises the Data Processor to enter into the Model Clauses on its behalf with the third party sub processor.
- 7 The Data Controller consents to the Data Processor engaging sub-processors in relation to the Personal Data and consents to the engagement of those processors listed in Part B of this Schedule.
- 8 The Data Processor shall inform the Data Controller of any changes concerning the addition or replacement of such sub-processors and shall be deemed to be entitled to appoint such sub-processors unless, within five days of informing the Data Controller, the Data Processor receives written notice from the Data Controller objecting to such changes.
- 9 Where the Data Processor receives written notice from the Data Controller in accordance with clause 1.8 objecting to such changes, the Data Processor shall have a right to terminate the Agreement by written notice with immediate effect without liability to the Data Controller.
- 10 The Data Processor shall seek to ensure that the arrangement between it and each sub-processor is governed by a written contract including equivalent data protection obligations as required by Articles 28(3) and (4) of the GDPR.
- 11 The Data Controller shall reimburse the Data Processor for all costs, expenses and time (at the Data Processor's standard rates) spent or incurred in connection with compliance with clauses 1.4.4 to 1.4.8 and 1.5. The Data Processor shall invoice the Data Controller in relation thereto and such invoices shall be paid in accordance with the terms of the Agreement.
- 12 The Data Controller shall (at its own cost) provide assistance requested by the Data Processor in relation to the fulfilment of the Data Processor's obligation to cooperate with the relevant supervisory authority under Article 31 GDPR. Notwithstanding any other provision of this Agreement, the Data Processor shall be entitled to respond to and provide all relevant information in respect of requests or orders issued by any supervisory authority.
- 13 The Data Controller warrants and represents that:
- 13.1 it has all authority, grounds, rights and consents necessary to enable the Data Processor to process the Personal Data in accordance with the GDPR for the purposes of this Agreement;
  - 13.2 it shall comply with the GDPR and all other applicable laws and regulations, relevant industry codes of practice and guidance in relation to the processing of personal data; and
  - 13.3 the information set out at the end of Part A of this Schedule is accurate.
- 14 The Data Controller shall indemnify the Data Processor at all times against all claims, demands, costs (including legal costs on a full indemnity basis), damages, expenses, losses, fines and liabilities incurred by the Data Processor arising out of or in connection with:
- 14.1 any breach by the Data Controller of clause 1.13 or the Agreement;
  - 14.2 any act or omission of processing by the Data Controller, its affiliates or third party suppliers which infringes the GDPR; and
  - 14.3 notwithstanding clause 1.4.8, the provision of unlawful or inadequate instructions by the Data Controller in relation to the Personal Data.
- 15 For the avoidance of doubt, the Data Processor shall not be liable for or responsible for any breach of this Schedule or the Agreement due to the acts or omissions of the Data Controller.

**DATA PROCESSING**

**PART A**

Subject-matter of the processing	The performance of the Services.
Duration of the processing	The term of this Agreement and for such further time as the parties shall agree in writing.
Nature and purpose of the processing	Holding (i) contact data or (ii) other personal data on the system.
Type(s) of personal data	Name, contact details.
Categories of data subjects	Suppliers of customers.

**PART B**

Sub-processors	Rackspace, Microsoft Azure, Amazon S3, Twenty7Tec, iPipeline, IRESS, Synaptic, Defaqto
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## SCHEDULE 2

### PORTAL TERMS OF USE

#### 1 PORTAL

Please read these terms of use (Terms) as they apply to your use of the Portal. By accessing or using the Portal you confirm you have read, understand and agree to be legally bound by these Terms.

#### 2 ACCESS AND USE OF THE PORTAL

You must use the Portal in accordance with any guidelines or instructions provided to you from time to time. You may access and use the Portal for lawful purposes only. You must not access or use the Portal in any way that breaches any applicable local, national or international law or regulation or which is in any way unlawful or fraudulent.

You must not:

- copy, distribute, publish, alter, adapt, create derivative works from, or otherwise use any material or software which form the Portal (or any part of it), either in whole or in part, or attempt to do so,
- disassemble, decompile, reverse engineer the whole or any part of any software used in or in relation to the Portal, or attempt to do so (except where such actions cannot be prohibited under applicable law because they are required to achieve inter-operability with another program),
- seek to interfere with or damage the Portal or its content or inhibit others from using the Portal,
- frame, harvest or link to the Portal or its content or use any content or material on the Portal or any part of it on any other application, website or social media Portal unless you have received our prior written approval to do so,
- compromise, or attempt to compromise, the security of the Portal or incite or encourage any other person or entity to do the same, and/or
- attempt to gain unauthorised access to the Portal, the server(s) on which it is stored or any server computer or data base connected to the Portal. You will not measure, scan or otherwise test the vulnerability of the Portal.

#### 3 YOUR ACCOUNT

It is your responsibility to keep access to your account secure. You must not:

- allow any other person or entity to access or use your account and you must keep your user details (including without limitation your username and password) confidential and not share them with anyone else,
- access or use (or attempt to access or use) the account belonging to any other user of the Portal,
- create (or attempt to create) more than one account on the Portal, or
- create (or attempt to create) an account using false, untrue or misleading details or using the personal details of another individual.

If you believe that another person or entity has accessed your account or has obtained your user details, you should notify us immediately on the contact details provided above.

You agree that at any time we may suspend or cancel your Portal account if you have breached any of these Terms.

#### 4 CONTENT

The Portal may allow you to upload, create, store and/or use your own content on the Portal (Content).

You warrant that you own all Content or that you have the necessary licences, rights or consents to use the Content on the Portal and in the manner contemplated by these Terms. You shall at all times remain responsible for the Content.

You grant us and our providers The Big Blue Trading Company Limited (Bluecoat) a world-wide, royalty free, perpetual, sub-licensable and transferable right and licence to use, modify, store, distribute and/or display (in any format) the Content for the purposes of providing the Portal to you, improving and developing the Portal and otherwise in connection with your use of the Portal.

You must respect the rights of others when using the Portal. In particular, you agree that the Content will not:

- infringe the intellectual property rights (including without limitation any copyright) of any other person or entity,
- violate or infringe the privacy of any other person or entity,
- defame, bully, harass or intimidate any other person or entity,
- contain any content which is pornographic, abusive, violent (or inciting of violence), threatening or inciting of hatred or discrimination, or
- contain any misleading or false statements that could harm us, the Portal or any third party.

You agree that, at any time and without notice, we or Bluecoat may access, review and/or delete the Content (or any part of it) for any reason, including, without limitation, if you have breached any of these Terms.

## 5 **THIRD PARTY CONTENT**

The Portal may contain links to sites operated by third parties and/or content or materials belonging to or uploaded by third parties (Third Party Content). You acknowledge that Bluecoat does not endorse, and is not responsible for, and shall not have any liability in respect of, any Third Party Content that you may have access to as a result of your use of the Portal.

## 6 **OUR CONTENT**

You are not granted any rights or licences to use in any way any trademarks, logos, branding, designs or other intellectual property rights except to the extent required to access and use the Portal.

Except for the Content and Third Party Content, you acknowledge that our provider is the owner or licensee of all intellectual property rights arising out of in relation to the Portal and any related software and materials.

## 7 **LIABILITY**

Nothing in these Terms is intended to limit or exclude liability to any extent not permitted under applicable law.

No guarantee is made in respect of the availability of the Portal and you acknowledge that Bluecoat shall have no liability for any temporary or permanent unavailability of the Portal. Bluecoat reserves the right to suspend access to all or part of the Portal.

Bluecoat does not guarantee that the functions or content on, or accessed from or through, the Portal shall be free from errors, complete or accurate.

You are solely responsible for ensuring that you have suitable equipment and security and virus protection in place before using the Portal. Bluecoat cannot and does not guarantee:

- that the Portal, its content or the server(s) that make it available are error or virus free or free of other harmful components;
- the security of information transmitted over the internet.

Bluecoat will not be liable for any loss or damage which was not foreseeable however it arises. Bluecoat does not make any other warranty or guarantee in respect of the Portal or your use of it.

Bluecoat is not responsible for and will have no liability for:

- any Third Party Content,
- any unauthorised access or use of the Portal (or the servers on which the Portal are hosted),
- any damage or loss incurred as a result of your use of the Portal or the use of any content you access on or in relation to the Portal, or
- any errors or omissions in, or damage to or loss of any Content arising out of or in relation to your use of the Portal.

## 8 **CHANGES TO THE PORTAL**

Bluecoat may develop, update and/or improve the Portal from time to time. These developments, updates and/or improvements may be applied automatically from time to time. Bluecoat reserves the right to alter, remove or update materials and information on the Portal at any time.

## 9 **LAWS**

If any provisions of these Terms are or become invalid or contravenes any law then the remaining provisions shall not be affected.

These Terms and all non-contractual obligations connected to them are governed by English law. You and we agree to submit to the non-exclusive jurisdiction of the English courts in respect of the same.

No waiver shall constitute a waiver of any other terms. No failure by us to exercise a remedy shall constitute a waiver to subsequently exercise any remedy.

You acknowledge and agree Bluecoat has the benefit of and may enforce any of the terms of these Terms.