

TERMS & CONDITIONS PARTIES

1. CRECHECOM LIMITED T/A Little Vista oca is at Building 6, Rogans Court, Patrick St, Dun Laoghaire, Co. Dublin

2. Purchaser or subscriber of/to any Little Vista products & services ('Customer')

BACKGROUND

(A) The Supplier has developed certain cloud based software applications and platforms which it makes available to subscribers via the internet on a subscription basis for the purpose of enabling carers to easily record, manage and information about the children in their care and to allow parents access to that information.

(B) The Customer wishes to use the Supplier's service in its business operations.

(C) The Supplier has agreed to provide and the Customer has agreed to take and pay for the Supplier's service subject to the terms and conditions of this agreement.

AGREED TERMS

1. Definitions

1.1. Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation and Parents, as further described in clause 3.3.3.

1.2. Business Day: a day other than a Saturday, Sunday or public holiday in Ireland when banks in Dublin are open for business.

1.3. Confidential Information: information that is proprietary or Confidential and is either clearly labelled as such or identified as Confidential Information in clause 12.

1.4. Customer Data: the data inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

1.5 Data Protection Legislation: the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in Ireland.

1.5. Documentation: the document made available to the Customer by the Supplier online via www.crecheom.ie/documentation or such other web address notified by the Supplier to the Customer from time to time which sets out a description of the Services and the user instructions for the Services.

1.6. effective Date: the date of this agreement.

1.7. Normal Business Hours: [9.00 am to 6.00 pm] local Irish time, each Business Day.

1.8. Parents: means parents or authorised guardians of children attending the Customers business.

1.9. Privacy Policy: means the privacy policy of the Supplier as notified to the Customer from time to time, the current version of which can be found at [www.crecheom.ie/documentation];

1.10. Renewal Period: the period described in clause 14.1.

1.11. Services: the Software and associated services as more particularly described in the Documentation.

1.12. Software: the online software applications provided by the Supplier as part of the Services.

1.13. Subscription Fees: the subscription fees payable by the Customer to the Supplier for the Profile Subscriptions, as based on the subscription package selected by the Customer from time to time.

1.14. Subscription Cap: means the maximum number of active child profiles that may be created using the Services based on the Customer's Subscription package.

1.15. Subscription Package: means the level of service selected by the Customer

1.16 Subscription Term: means a rolling 30 day term.

1.17. Support Services Policy: the Supplier's policy for providing support in relation to the Services as made available at www.crecheom.ie/policy/

1.18 Tablet : means android tablets or other equivalent supplied by the Supplier from time to time as part of a Subscription Package

1.18. Virus: any thing or device (including any software, code, -le 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.

2. Interpretation

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

2.2. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.

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

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

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

2.6. A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.

2.7. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.

2.8. A reference to writing or written includes faxes but not e-mail.

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

3. Pro-le Subscriptions and Authorised Users

3.1. Subject to the Customer paying the Subscription Fees in accordance with clause 4.2 and clause 9.1 and the other terms and conditions of this agreement, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's internal business operations.

3.2. The Customer shall be entitled to use the Services to create such number of child pro-les up to the Subscription Cap.

3.3. In relation to the Authorised Users, the Customer undertakes that:-

3.3.1. the Customer shall only permit such persons as are necessary for the Customers business operations to be Authorised Users with access to and use of the Services and the Documentation;

3.3.2. each Authorised User shall keep a secure password for his use of the Services and

Documentation and that each Authorised User shall keep his password Confidential;

3.3.3. it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times; the Supplier within 5 Business Days of the Supplier's written request at any time or times;

3.4. The Customer shall not access, store, distribute or transmit any Viruses, or any material or data during the course of its use of the Services that:

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

3.4.2. facilitates illegal activity;

3.4.3. depicts sexually explicit images;

3.4.4. promotes unlawful violence;

3.4.5. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

3.4.6. in a manner that is otherwise illegal or causes damage or injury to any person or property;

3.4.7. that is not being used in compliance with the Data Protection Legislation and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

3.5. The Customer shall not:

3.5.1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

3.5.1.1. and except to the extent expressly permitted under this agreement, 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

3.5.1.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

3.5.2. access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

3.5.3. 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 except the Authorised Users, or

3.5.4. attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 3.

3.6. The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.

4. Increase Subscription Cap

4.1. Subject to clause 4.2, the Customer may, from time to time during any Subscription Term, vary their Subscription Package. .

4.2. If the Supplier changes their Subscription Package during a Billing Period, Subscription Fees shall be adjusted on a pro-rata basis for the remainder of that Billing Period and the Subscription Fee applicable to the new Subscription Package shall apply thereafter .

5. Services

5.1. The Supplier shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this agreement.

5.2. The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

5.2.1. planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am local time; and

5.2.2. unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 6 Normal Business Hours notice in advance.

5.3. The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Supplier's standard customer support services during Normal Business Hours in accordance with the Supplier's Support Services Policy in effect at the time that the Services are provided. The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time.

6. Customer Data

6.1 The following provisions apply to any Personal Data contained in the Customer Data.

6.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 6 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

6.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

6.4 The Supplier has makes the Software available to the Customer to allow the Customer to manage certain data including Personal Data that they collect as part of their business. The Supplier hosts the storage of that data for the Customer. It is acknowledged that a significant portion of the data collected and stored by the Customer using the Software is personal data relating to Children which may include special categories of data.

6.5 Without prejudice to the generality of clause 6.2, the Customer retains control of the Personal Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation, including providing any required notices and obtaining any required consents, and for the processing instructions it gives to the Processor or the use of the Services.

6.6 Without prejudice to the generality of clause 6.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Agreement:

6.6.1 process that Personal Data only to the extent required to provides the Services or otherwise on the written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (Applicable Laws). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

6.6.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard

to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- 6.6.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - 6.6.4 not transfer any Personal Data outside of the European Economic Area;
 - 6.6.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 6.6.6 notify the Customer without undue delay on becoming aware of a Personal Data breach. In the event of a breach the Supplier shall first attempt to notify the Customer by phone and by email;
 - 6.6.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
 - 6.6.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 6.5 and allow for audits by the Customer or the Customer's designated auditor.
- 6.7 The Supplier may appoint a third party (subcontractor) to provide hosting and storage of the Personal Data. The Supplier shall enter into a written contract with the sub-contractor that contains terms requiring appropriate technical and organisational data security measures, and, upon the Customer's written request, provides the Customer with copies of such contracts.

6.7.1 The Supplier currently uses Stripe to process the payment of Subscription Fees. The Supplier does not directly collect or store any payment information. Stripe data may be stored in the US but Stripe is a signatory to the EU-US Privacy Shield.

6.7.2 The Supplier uses Amazon Web Services (AWS) for hosting of the Customer Data. Such data is currently stored within the EU but may be transferred to the AWS US servers. AWS is a signatory to the WU-US Privacy Shield.

6.8 At the Customer's request, the Supplier will give the Customer a copy of or access to all or part of the Customer's Personal Data in its possession or control in the format and on the media reasonably specified by the Customer.

6.9 On termination of this Agreement for any reason or expiry of its term, the Supplier will securely delete or destroy or, if directed in writing by the Customer, return and not retain, all or any Personal Data related to this Agreement in its possession or control, except for one copy that it may retain and use for 6 for audit purposes only.

6.10 If any law, regulation, or government or regulatory body requires the Supplier to retain any documents or materials that the Supplier would otherwise be required to return or destroy, it will notify the Customer in writing of that retention requirement, giving details of the documents or materials that it must retain, the legal basis for retention, and establishing a specific timeline for destruction once the retention requirement ends.

6.11 If so requested, the Supplier will provide the Customer in writing with confirmation that it has destroyed the Personal Data within 14 days after it completes the destruction.

6.12 The Supplier warrants that considering the current technology environment and implementation costs, it will take appropriate technical and organisational measures to prevent the unauthorised or unlawful processing of Personal Data and the accidental loss or destruction of, or damage to, Personal Data, and ensure a level of security appropriate to:

- 6.12.1 the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage;
 - 6.12.2 the nature of the Personal Data protected; and
 - 6.12.3 comply with all applicable Data Protection Legislation and its information and security policies, including the security measures required in clause 6.5.2.
- 6.13 The Customer warrants that the Personal Data supplied by the Customer will comply with the Data Protection Legislation

7. Supplier's obligations

7.1. The Supplier undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

7.2. The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1. Notwithstanding the foregoing, the Supplier:-

- 7.2.1. does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or any information obtained by the Customer through the Services will meet the Customer's requirements; and
 - 7.2.2. 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 the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 7.3. This agreement shall not prevent the Supplier 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.
- 7.4. The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

8. Customer's obligations

The Customer shall:

8.1. provide the Supplier with:-

- 8.1.1. all necessary co-operation in relation to this agreement; and
- 8.1.2. all necessary access to such information as may be required by the Supplier;
- 8.1.3. comply with all applicable laws and regulations with respect to its activities under this agreement; in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
- 8.1.4. carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as

agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

- 8.1.5. ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;
- 8.1.6. obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
- 8.1.7. ensure that all Parents have consented to the use of the Services by Customer;
- 8.1.8. ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and
- 8.1.9. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9. Charges and payment

9.1. The Customer shall pay the Subscription Fees to the Supplier for the Subscription Package in accordance with this clause 9.

9.2. The Customer shall on the effective date provide to the Supplier valid, up-to-date and complete bank account details or approved purchase order information acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:

9.3. Subscription Fees shall be automatically deducted monthly in advance by the payment method supplied in accordance with clause 9.2

9.4. Customers will be invoiced at the end of each month in respect of the forthcoming month.

9.5. payment must be received prior to the commencement of the each month.

9.6. If the Supplier has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of the Supplier:

- 9.6.1. the Supplier may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- 9.6.2. interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Allied Irish Bank from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

9.7. All amounts and fees stated or referred to in this agreement:

9.7.1. shall be payable in Euro;

9.7.2. are non-refundable;

9.7.3. are inclusive of value added tax.

9.8. The Supplier shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional Pro-Le Subscriptions purchased pursuant to clause 4.2 at the start of each Renewal Period upon 90 days' prior notice to the Customer.

10. Proprietary rights

10.1. The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

10.2. The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

11. Confidentiality

11.1. 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:

- 11.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
- 11.1.2. was in the other party's lawful possession before the disclosure;
- 11.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- 11.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence; or
- 11.1.5. is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

11.2. For the avoidance of doubt, Customer Data is Confidential Information save to the extent use or disclosure is permitted by the Customer.

11.3. Each party 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.

11.4. 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.

11.6. The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.

11.7. The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.

11.8. This clause 12 shall survive termination of this agreement, however arising.

11.9. No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction save that the Supplier shall be entitled for marketing purposes to confirm that the Customer is a customer and user of the Services.

12. Indemnity

12.1. The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any patent valid in Ireland effective as of the effective Date, copyright, trade mark, database right or right of Confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- 12.1.1. the Supplier is given prompt notice of any such claim;
 - 12.1.2. the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
 - 12.1.3. the Supplier is given sole authority to defend or settle the claim.
- 12.2. In the defence or settlement of any claim, the Supplier may procure the right for the

to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- 6.6.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - 6.6.4 not transfer any Personal Data outside of the European Economic Area;
 - 6.6.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 6.6.6 notify the Customer without undue delay on becoming aware of a Personal Data breach. In the event of a breach the Supplier shall first attempt to notify the Customer by phone and by email;
 - 6.6.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
 - 6.6.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 6.5 and allow for audits by the Customer or the Customer's designated auditor.
- 6.7 The Supplier may appoint a third party (subcontractor) to provide hosting and storage of the Personal Data. The Supplier shall enter into a written contract with the sub-contractor that contains terms requiring appropriate technical and organisational data security measures, and, upon the Customer's written request, provides the Customer with copies of such contracts.

6.7.1 The Supplier currently uses Stripe to process the payment of Subscription Fees. The Supplier does not directly collect or store any payment information. Stripe data may be stored in the US but Stripe is a signatory to the EU-US Privacy Shield.

6.7.2 The Supplier uses Amazon Web Services (AWS) for hosting of the Customer Data. Such data is currently stored within the EU but may be transferred to the AWS US servers. AWS is a signatory to the WU-US Privacy Shield.

6.8 At the Customer's request, the Supplier will give the Customer a copy of or access to all or part of the Customer's Personal Data in its possession or control in the format and on the media reasonably specified by the Customer.

6.9 On termination of this Agreement for any reason or expiry of its term, the Supplier will securely delete or destroy or, if directed in writing by the Customer, return and not retain, all or any Personal Data related to this Agreement in its possession or control, except for one copy that it may retain and use for 6 for audit purposes only.

6.10 If any law, regulation, or government or regulatory body requires the Supplier to retain any documents or materials that the Supplier would otherwise be required to return or destroy, it will notify the Customer in writing of that retention requirement, giving details of the documents or materials that it must retain, the legal basis for retention, and establishing a specific timeline for destruction once the retention requirement ends.

6.11 If so requested, the Supplier will provide the Customer in writing with confirmation that it has destroyed the Personal Data within 14 days after it completes the destruction.

6.12 The Supplier warrants that considering the current technology environment and implementation costs, it will take appropriate technical and organisational measures to prevent the unauthorised or unlawful processing of Personal Data and the accidental loss or destruction of, or damage to, Personal Data, and ensure a level of security appropriate to:

- 6.12.1 the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage;
 - 6.12.2 the nature of the Personal Data protected; and
 - 6.12.3 comply with all applicable Data Protection Legislation and its information and security policies, including the security measures required in clause 6.5.2.
- 6.13 The Customer warrants that the Personal Data supplied by the Customer will comply with the Data Protection Legislation

7. Supplier's obligations

7.1. The Supplier undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

7.2. The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1. Notwithstanding the foregoing, the Supplier:-

- 7.2.1. does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or any information obtained by the Customer through the Services will meet the Customer's requirements; and
 - 7.2.2. 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 the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 7.3. This agreement shall not prevent the Supplier 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.
- 7.4. The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

8. Customer's obligations

The Customer shall:

- 8.1. provide the Supplier with:-
 - 8.1.1. all necessary co-operation in relation to this agreement; and
 - 8.1.2. all necessary access to such information as may be required by the Supplier;
 - 8.1.3. comply with all applicable laws and regulations with respect to its activities under this agreement; in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
 - 8.1.4. carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as

agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

- 8.1.5. ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;
- 8.1.6. obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
- 8.1.7. ensure that all Parents have consented to the use of the Services by Customer;
- 8.1.8. ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and
- 8.1.9. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9. Charges and payment

- 9.1. The Customer shall pay the Subscription Fees to the Supplier for the Subscription Package in accordance with this clause 9.
- 9.2. The Customer shall on the effective date provide to the Supplier valid, up-to-date and complete bank account details or approved purchase order information acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:
- 9.3. Subscription Fees shall be automatically deducted monthly in advance by the payment method supplied in accordance with clause 9.2
- 9.4. Customers will be invoiced at the end of each month in respect of the forthcoming month.
- 9.5. payment must be received prior to the commencement of the each month.
- 9.6. If the Supplier has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of the Supplier:
 - 9.6.1. the Supplier may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - 9.6.2. interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Allied Irish Bank from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 9.7. All amounts and fees stated or referred to in this agreement:
 - 9.7.1. shall be payable in Euro;
 - 9.7.2. are non-refundable;
 - 9.7.3. are inclusive of value added tax.
- 9.8. The Supplier shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional Pro-Le Subscriptions purchased pursuant to clause 4.2 at the start of each Renewal Period upon 90 days' prior notice to the Customer.

10. Proprietary rights

- 10.1. The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.
- 10.2. The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

11. Confidentiality

- 11.1. 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:
 - 11.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
 - 11.1.2. was in the other party's lawful possession before the disclosure;
 - 11.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 11.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 11.1.5. is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 11.2. For the avoidance of doubt, Customer Data is Confidential Information save to the extent use or disclosure is permitted by the Customer.
- 11.3. Each party 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.
- 11.4. 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.
- 11.6. The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.
- 11.7. The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.
- 11.8. This clause 12 shall survive termination of this agreement, however arising.
- 11.9. No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction save that the Supplier shall be entitled for marketing purposes to confirm that the Customer is a customer and user of the Services.

12. Indemnity

- 12.1. The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any patent valid in Ireland effective as of the effective Date, copyright, trade mark, database right or right of Confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
 - 12.1.1. the Supplier is given prompt notice of any such claim;
 - 12.1.2. the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
 - 12.1.3. the Supplier is given sole authority to defend or settle the claim.
- 12.2. In the defence or settlement of any claim, the Supplier may procure the right for the

Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

12.3. In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

12.3.1. a modification of the Services or Documentation by anyone other than the Supplier; or

12.3.2. the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by the Supplier; or

12.3.3. the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

12.4. The foregoing [and clause 13.4.2 state the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of Confidentiality.

12.5. The Customer shall indemnify and keep indemnified the Supplier against any loss against any loss it may suffer arising from or in connection with:-

12.5.1. Any failure of the Customer to comply with any applicable law or regulation;

12.5.2. Any breach by the Customer of this Agreement;

12.5.3. The content of or use by the Customer or Authorised Users of the Customer Data.

13. Limitation of liability

13.1. This clause 13 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

13.1.1. arising under or in connection with this agreement;

13.1.2. in respect of any use made by the Customer of the Services and Documentation or any part of them; and

13.1.3. in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.

13.2. Except as expressly and specifically provided in this agreement:

13.2.1. the Customer assumes sole responsibility for information and results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions, data provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction;

13.2.2. 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

13.2.3. the Services and the Documentation are provided to the Customer on an "as is" basis.

13.3. Nothing in this agreement excludes the liability of the Supplier:

13.3.1. for death or personal injury caused by the Supplier's negligence; or

13.3.2. for fraud or fraudulent misrepresentation.

13.4. Subject to clause 13.2 and clause 13.3.2:

13.4.1. the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and

13.4.2. the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the lesser of €1,000 or the total Subscription Fees paid for the Pro-le Subscriptions during the 12 months immediately preceding the date on which the claim arose.

14. Term and termination

14.1. This agreement shall, unless otherwise terminated as provided in this clause 14, commence on the effective Date and shall continue for the Subscription Term and which shall be automatically renewed successive periods of 30 days (each a Billing Period), unless:

14.1.1. either party notifies the other party of termination, in writing, before the end of the Billing Period, in which case this agreement shall terminate upon the expiry of the applicable Billing Period; or

14.1.2. otherwise terminated in accordance with the provisions of this agreement.

14.2. Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

14.2.1. the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

14.2.2. the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

14.2.3. the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

14.2.4. 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 is deemed unable to pay its debts within the meaning of section 570 of the Companies Act 2014 ;

14.2.5. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

14.2.6. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

14.2.7. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

14.2.8. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2.4 to clause 14.2.7 (inclusive);

14.2.9. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

14.3. On termination of this agreement for any reason:

14.3.1. all licences granted under this agreement shall immediately terminate;

14.3.2. each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;

14.3.3. the supplier shall deliver to the Customer the then most recent back-up of the Customer Data. The Supplier shall use reasonable commercial endeavours to deliver the Customer Data to the Customer within 30 days of termination provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Supplier in delivering the Customer Data.

14.3.4. Subject to clause 6.7, the Supplier shall continue to store Customer Data for so long as is legally required after which time the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession; and

14.3.5. 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.

15. Force majeure

The Supplier shall have no liability to the Customer 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 the Supplier 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 the Customer is notified of such an event and its expected duration.

16. Conflict

If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.

17. Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. Waiver

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

19. Rights and remedies

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20. Severance

20.1. 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.

20.2. 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.

21. Entire agreement

21.1. This agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

21.2. Each of the parties acknowledges and agrees that in entering into this agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement, other than as expressly set out in this agreement.

22. Assignment

22.1. The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

22.2. The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

23. No partnership or agency Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24. Notices

24.1. Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this agreement.

24.2. 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 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 fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

25. Governing law

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Ireland.

26. Jurisdiction

Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

28. Tablet Rental

If the Customer Subscription Package includes Hardware rental the following terms shall apply;

28.1 The Supplier may apply an administration fee of €50 for the replacement of any faulty Hardware item unless the fault or malfunction occurs within 24 months of receipt by the Customer of the Hardware .

28.2 Upon termination of this Agreement for any reason the Customer shall be required to

return to the Supplier, all Hardware supplied by the Supplier within 7 days of such termination. If the Hardware is not so returned, the Supplier shall be entitled to deduct from the Customers bank, per Hardware item €540 less such amount as the Customer has paid for that item of Hardware during the Subscription Term.

28.3 Data usage for Hardware supplied by the Supplier as part of a Subscription Package that include 3G data sims is limited to 250MB per tablet per month to accommodate all data usage for the Little Vista application. Any usage over this threshold will be charged at €0.05 per MB

