



# HIGHBROW DILIGENCE SERVICES

## TERMS OF SERVICE

HIGHBROW DILIGENCE SERVICES PRIVATE LIMITED AND/OR ITS AFFILIATES (“HDS”) IS WILLING TO GRANT ACCESS TO THE SAAS PRODUCTS TO YOU AS THE COMPANY OR THE LEGAL ENTITY THAT WILL BE UTILIZING THE SAAS PRODUCTS (REFERENCED BELOW AS “CLIENT”) ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS AGREEMENT (AS DEFINED BELOW). BY ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ENTITY OR ORGANIZATION, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ENTITY OR ORGANIZATION TO THIS AGREEMENT. CLIENT AND HDS MAY EACH ALSO BE REFERRED TO AS A “PARTY” AND TOGETHER, THE “PARTIES”.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SAAS PRODUCTS. THIS SAAS TERMS OF SERVICE (“AGREEMENT”) CONSTITUTES A LEGAL AND ENFORCEABLE CONTRACT BETWEEN CLIENT AND HDS. BY INDICATING CONSENT ELECTRONICALLY, OR ACCESSING OR OTHERWISE USING THE SAAS PRODUCTS, CLIENT AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF CLIENT DOES NOT AGREE TO THIS AGREEMENT, DO NOT INDICATE CONSENT ELECTRONICALLY AND MAKE NO FURTHER USE OF THE SAAS PRODUCTS.

### 1. ACCESS AND USE

1.1. Access and Use. Subject to payment of all applicable fees set forth in the License Agreement directly by HDS or through HDS authorized Channel Partners (as appropriate) and the terms and conditions of this Agreement, HDS grants Client, during the Subscription Term, a non-exclusive, non-transferable right to access and use (and permit Authorized Users to access and use) the SaaS Products and applicable Documentation solely for Client’s and its Affiliates’ internal business purposes in accordance with the Documentation and in the quantity specified in the applicable License Agreement. Client will operate the SaaS Products in accordance with the Documentation and be responsible for the acts and omissions of its Authorized Users.

1.2. Access and Use Restrictions. Client shall not (directly or indirectly): (i) remove any notice of proprietary rights from the SaaS Products; (ii) modify or reverse engineer any part of the SaaS Products; (iii) except to the limited extent applicable laws specifically prohibit such restriction, decompile, attempt to derive the source code or underlying ideas or algorithms of any part of the SaaS Products, attempt to recreate the SaaS Products or use the SaaS Products for any competitive purpose; (iv) copy, modify, translate or otherwise create derivative works of any part of the SaaS Products; (v) sell, resell, encumber, rent, lease, time-share, distribute, transfer or otherwise use or exploit or make available any of the SaaS Products to or for the benefit of any third party; (vi) use the SaaS Products to infringe on the Intellectual Property rights, publicity rights, or privacy rights of any third party, or to store defamatory, trade libellous, or otherwise unlawful data; or



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(vii) send, store or process in the SaaS Products any personal health data, credit card data, personal financial data or other such sensitive data which may be, without limitation, subject laws of the state of Government of India. Client's authorized use and Fees of the SaaS Products is subject to the purchased quantities and features set forth in the applicable License Agreement for the SaaS Products. If Client's usage is in a manner outside of the Documentation, then Client will cooperate with HDS to address any applicable burden on the SaaS Products or pay an additional mutually agreed upon fee.

1.3. Login Access to the SaaS Products. Client is solely responsible for ensuring: (i) that only appropriate Authorized Users have access to the SaaS Products, (ii) that such Authorized Users have been trained in proper use of the SaaS Products, and (iii) proper usage of passwords, tokens and access procedures with respect to logging into the SaaS Products. HDS reserves the right to refuse registration of, or to cancel, login IDs that it reasonably believes to violate the terms and conditions set forth in this Agreement, in which case HDS will promptly inform Client in writing of such refusal or cancellation.

1.4. Trial Access. If Client is using a free trial, a proof of concept version of the SaaS Products, a beta version of the SaaS Products, or using the SaaS Products on any other free-of-charge basis as specified in the License Agreement including any related support services to the extent provided by HDS in its sole discretion (collectively, "Trial Access"), HDS makes such Trial Access available to Client until the earlier of (i) the end of the free trial or proof of concept period or beta testing period as communicated by HDS or specified in the License Agreement, (ii) the start date of any purchased version of such SaaS Products, or (iii) written notice of termination from HDS ("Trial Access Term"). HDS grants Client, during the Trial Access Term, a non-exclusive, non-transferable right to access and use the Trial Access for Client's internal evaluation purposes in accordance with the Documentation and subject to the access and use restrictions set forth in this Agreement. Client is authorized to use Trial Access only for evaluation and not for any business or productive purposes, unless otherwise authorized by HDS in writing. Any data Client enters into the Trial Access and any configurations made to the Trial Access by or for Client during the term of such Trial Access will be permanently lost unless Client (a) has purchased a subscription to the same SaaS Products as covered by the Trial Access or (b) exports such data or configurations before the end of such free term. There is no guarantee that features or functions of the Trial Access will be available, or if available will be the same, in the general release version of the SaaS Products, and Client should review the SaaS Products features and functions before making a purchase. HDS will be under no obligation to provide Client any maintenance or support services with respect to the Trial Access. Notwithstanding anything to the contrary, HDS provides the Trial Access "as is" and "as available" without any warranties or representations of any kind. To the extent permitted by law, HDS disclaims all implied warranties and representations, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose and non-infringement. Client assumes all risks and all costs associated with its use of the Trial Access. Client's sole and exclusive remedy in case of any dissatisfaction or HDS's breach of the Agreement with respect to such Trial Access is termination of the Trial Access.



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Any obligations on behalf of HDS to indemnify, defend, or hold harmless under this Agreement are not applicable to Clients using Trial Access.

1.5. **Third Party Materials.** The SaaS Products include open source software programs that are made available by third parties under their respective open source licenses. HDS warrants that such Third Party Materials will not diminish the rights provided to Client herein, or limit Client's ability to use the SaaS Products in accordance with the Documentation, or create any obligation on the part of Client to license Client's software or products under any open source or similar license.

1.6. **Support.** As part of its provision of the SaaS Products, HDS shall make available technical support to Client in accordance with HDS's then applicable SaaS support terms. Upon notification from HDS, Client shall promptly update any locally-installed software agents on Client systems that interact with the SaaS Products. Client acknowledges and agrees that its failure to timely install such an update may result in disruptions to or failures of the SaaS Products, or suspension of Client's access to the SaaS Products, without any liability on the part of HDS to Client.

1.7. **Mobile Applications.** With regard to SaaS Products that require the use of mobile applications by an Authorized User, Client shall ensure that all Authorized Users promptly download and install all available updates for the mobile applications. Client further acknowledges and agrees that the SaaS Products may not properly operate should any Authorized User fail to do so.

## **2. PAYMENT AND TAXES**

2.1. **Payment Terms.** Client shall pay all invoices within thirty (30) days of date of invoice, without any deduction or set-off (except for any amount disputed promptly and in writing by Client in good faith), and payment will be sent to the address specified by HDS. Any amounts arising in relation to this Agreement not paid when due will be subject to a late charge of one and one-half percent (1 1/2 %) per month on the unpaid balance or the maximum rate allowed by law, whichever is less. Without prejudice to Client's rights set out elsewhere in this Agreement, all SaaS Products fees are non-refundable and payable in advance. HDS may invoice for purchases of SaaS Products upon delivery.

2.2. **Taxes.** The fees and charges covered by this Agreement are exclusive of any excise, sales, use, gross-turnover, value added, goods and services tax or other similar types of indirect taxes, duties or tariffs (however designated, levied or based and whether foreign or domestic) ("Indirect Taxes") imposed or levied, currently or in the future based on applicable legislation, on the SaaS Products provided under this Agreement. Unless otherwise agreed between the Parties, Client will be liable for compliance with and payment of such Indirect Taxes. HDS shall include the Indirect Taxes on its invoice to Client and remit such Indirect Taxes to the relevant authority if required by applicable law. For the avoidance of doubt, HDS will be responsible for direct taxes imposed on HDS's net income or gross receipts.



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2.3. Indirect Orders. If Client places an order for the SaaS Products from HDS's Authorized Channel Partner of Client's choosing pursuant to an independent commercial agreement ("Indirect Order"), then HDS grants the rights described in this Agreement in consideration for and subject to (a) Client's agreement to comply with the pricing and payment terms of the Indirect Order, to be separately agreed between Client and HDS's Authorized Channel Partner, and (b) Client's agreement to comply with its obligations set forth in this Agreement (including the restrictions on use of the SaaS Products). Notwithstanding the foregoing, the final sales price or rate shall be freely and independently determined between that channel partner and Client. For the avoidance of doubt, in the case of such an Indirect Order, any indication in this Agreement of an agreement between Client and HDS for the price payable by Client for such Indirect Order shall be null and void and not form a binding part of this Agreement and the provisions of this Agreement related to payment terms, pricing, and/or order procedures shall not apply.

### **3. RIGHTS IN INTELLECTUAL PROPERTY**

3.1. Intellectual Property. Except for the rights granted in this Agreement, all rights, title, and interest in and to the SaaS Products, Documentation, and HDS Intellectual Property are hereby reserved by HDS, its Affiliates or licensors. Except as provided for herein, all rights, title, and interest in and to Client Intellectual Property are hereby reserved by Client, its Affiliates or licensors. Nothing in this Agreement shall (a) transfer ownership of any Intellectual Property rights from one Party to the other, or (b) provide either Party a right to use the other Party's trade names, logos, or trademarks.

3.2. Client Data. Client owns all right, title and interest in all Client Data. Nothing in this Agreement shall be construed to grant HDS any rights in Client Data beyond those expressly provided herein. Client grants HDS and its Affiliates the limited, non-exclusive right to view and use the Client Data solely for the purpose of providing and improving the SaaS Products.

3.3. Usage Data and Suggestions. HDS shall be permitted to collect and use the Usage Data internally and for Client's benefit. In the event HDS wishes to disclose the Usage Data or any part thereof to third parties (either during the Subscription Term or thereafter), such data shall be anonymized and presented in the aggregate so that it will not identify Client or its Authorized Users. The foregoing shall not limit in any way HDS's confidentiality obligations pursuant to Section 4 below. To the extent that Client provides HDS with Suggestions, such Suggestions shall be free from any confidentiality restrictions that might otherwise be imposed upon HDS pursuant to this Agreement, and may be implemented by HDS in its sole discretion. Client acknowledges that any HDS products or materials incorporating any such Suggestions shall be the sole and exclusive property of HDS.



## 4. CONFIDENTIALITY

4.1. Confidential Information. The Parties acknowledge that each may disclose certain valuable confidential and proprietary information to the other. "Confidential Information" means all information provided by the disclosing Party to the receiving Party concerning the disclosing Party or its Affiliates' business, products or services that is not generally known to the public, including information relating to Clients, vendors, trade secrets, prices, products, services, computer programs and other Intellectual Property, and any other information which a Party should reasonably understand to be considered Confidential Information whether or not such information is marked "Confidential" or contains such similar legend by the disclosing Party at the time of disclosure. The receiving Party may only use the disclosing Party's Confidential Information to fulfil the purposes of this Agreement. The receiving Party will protect the disclosing Party's Confidential Information by using at least the same degree of care as the receiving Party uses to protect its own Confidential Information of a like nature (but no less than a reasonable degree of care) to prevent the unauthorized use, dissemination, disclosure or publication of such Confidential Information. Notwithstanding the foregoing, the receiving Party may disclose Confidential Information to its (and its Affiliates) employees, advisors, consultants, and agents on a need-to-know basis and provided that such party is bound by obligations of confidentiality substantially similar to those contained herein. This Section 4 supersedes any and all prior or contemporaneous understandings and agreements, whether written or oral, between the Parties with respect to Confidential Information and is a complete and exclusive statement thereof. Additionally, the obligations set forth in Section 5.3 and not Section 4 herein apply to Client Data.

4.2. Exceptions. Information will not be deemed Confidential Information if it (i) is known to the receiving Party prior to receipt from the disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party, (ii) becomes known (independently of disclosure by the disclosing Party) to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party, (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving Party, or (iv) is independently developed by the receiving Party without use of or reliance upon the disclosing Party's Confidential Information, and the receiving Party can provide documentary evidence to that effect. The receiving Party may disclose Confidential Information pursuant to the requirements of a court, governmental agency or by operation of law but shall (to the extent permissible by law) limit such disclosure to only the information requested and give the disclosing Party prior written notice sufficient to permit the disclosing Party to contest such disclosure.

4.3. Advertising and Publicity. Neither Party shall make or permit to be made any public announcement concerning the relationship between the Parties without the prior written consent of the other Party.



## 5. SECURITY AND PROCESSING OF PERSONAL DATA

5.1. Client Data Content. As between HDS and Client, Client is solely responsible for (i) the content, quality and accuracy of Client Data as made available by Client and by Authorized Users, (ii) providing notice to Authorized Users with regards to how Client Data will be collected and used for the purpose of the SaaS Products (including, for certain SaaS Products, with regard to biometric data), (iii) ensuring Client has a valid legal basis for processing Client Data and for sharing Client Data with HDS (to the extent applicable), and (iv) ensuring that the Client Data as made available by Client complies with applicable laws and regulations including (where applicable) The (Indian) Information Technology Act, 2000, the General Data Protection Regulation in effect from May 25, 2018 (“GDPR”) in each case as amended, consolidated, re-enacted or replaced from time to time and only if and insofar as they apply (collectively, “Applicable Data Protection Laws”).

5.2. Security of Client Data. HDS shall (i) ensure that it has in place appropriate administrative, physical and technical measures designed to protect the security and confidentiality of Client Data against any accidental or illicit destruction, alteration or unauthorized access or disclosure to third parties; (ii) have measures in place designed to protect the security and confidentiality of Client Data; and (iii) access and use the Client Data solely to perform its obligations in accordance with the terms of this Agreement, and as otherwise expressly permitted in this Agreement. HDS shall not materially diminish its security controls with respect to Client Data during a particular SaaS Products term.

## 6. WARRANTIES

6.1. SaaS Products Warranty. During the applicable Subscription Term, HDS warrants that the SaaS Products will perform in substantial conformity with the Documentation, and that the SaaS Products are not designed to contain viruses, worms, Trojan horses or other unintended malicious or destructive code. The foregoing warranties are void if the failure of the SaaS Products has resulted from negligence, error, or misuse of the SaaS Products by Client, the Authorized User or by anyone other than HDS. Client shall be required to report any breach of warranty to HDS within a period of thirty (30) days of the date on which the incident giving rise to the claim occurred. HDS’s sole and exclusive liability, and Client’s sole and exclusive remedy, for breach of these warranties will be for HDS, at its expense, to use reasonable commercial efforts to correct such nonconformity within thirty (30) days of the date that notice of the breach was provided; and, if HDS fails to correct the breach within such cure period, Client may terminate the affected License Agreement and, in such event, HDS shall provide Client with a pro-rata refund of any unused pre-paid fees paid for the period following termination as calculated on a monthly basis for the affected SaaS Products.

6.2. Compliance with Law. Each Party shall comply with all applicable, laws and regulations in connection with the performance of its obligations and the exercise of its rights under this Agreement.



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6.3. Disclaimer. Any and all warranties, expressed, incorporated or implied, are limited to the extent and period mentioned above. To the maximum extent allowed by applicable law, HDS disclaims all other warranties, conditions and other terms, whether implied or incorporated into this Agreement by statute, common law or otherwise, including the implied conditions and warranties of merchantability and fitness for a particular purpose. HDS will have no liability for delays, failures or losses attributable or related in any way to the use or implementation of third-party software or services not provided by HDS.

## 7. INDEMNIFICATION

7.1. Infringement Indemnity. HDS shall defend and indemnify Client and/or its Affiliates or their officers, directors and employees against all third-party claims, suits and proceedings resulting from the violation, misappropriation, or infringement of such third party's patent, copyright, trademark or trade secret caused by Client's use of the SaaS Products in accordance with this Agreement and Documentation, and all directly related losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees).

7.2. Client Data and Use Indemnity. Client shall defend and indemnify HDS and/or its Affiliates or their officers, directors and employees against any third-party claims, suits and proceedings resulting from an alleged infringement or violation by the Client Data of such third party's patent, copyright, trademark, trade secret, or Client's use of the Client Data in accordance with the terms of this Agreement and (where applicable) with the terms of the applicable Data Protection Acts, and all directly related losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees).

7.3. Process. Each Party's defence and indemnification obligations herein will become effective upon, and are subject to, (a) the indemnified Party's prompt notification to the indemnifying Party of any claims in writing, and (b) the indemnified Party providing the indemnifying Party with full and complete control, authority and information for the defence of the claim, provided that the indemnifying Party will have no authority to enter into any settlement or admission of the indemnified Party's wrongdoing on behalf of the indemnified Party without the indemnified Party's prior written consent (not to be unreasonably withheld). At the indemnifying Party's request, the indemnified Party shall reasonably cooperate with the indemnifying Party in defending or settling any Claim.

7.4. Exclusions. The above HDS obligations to defend and indemnify will not apply in the event that a claim arises from or relates to (a) use of the SaaS Products not in accordance with the Documentation and this Agreement (b) Client's use of the SaaS Products in violation of Applicable Data Protection Laws; (c) any modification, alteration or conversion of the SaaS Products not created or approved in writing by HDS, (d) any combination or use of the SaaS Products with any computer, hardware, software, data or service not required by the Documentation, (e) HDS's compliance with specifications, requirements or requests of Client, or (f) Client's gross negligence or willful misconduct.



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7.5. Remedies. If the SaaS Products becomes, or HDS reasonably determines that the SaaS Products is likely to become, subject to a claim of infringement for which HDS must indemnify Client as described above, HDS may at its option and expense: (a) procure for Client the right to continue to access and use the SaaS Products, (b) replace or modify the SaaS Products so that it becomes non-infringing without causing a material adverse effect on the functionality provided by the infringing SaaS Products, or (c) if neither of the foregoing options are available in a timely manner on commercially reasonable terms, terminate the affected License Agreement and provide Client with a pro-rata refund of any unused pre-paid fees paid for the period following termination as calculated on a monthly basis for the affected SaaS Product. This Section states the sole liability of HDS and the exclusive remedy of Client with respect to any claims arising out of or related to Section 7.1 of this Agreement.

## **8. LIMITATION OF LIABILITY**

8.1. Maximum Liability. Except for liability caused by HDS's intellectual property infringement indemnification obligations in Section 7.1, Client's data infringement indemnity in Section 7.2, and Client's payment obligations herein, in no event will either Party's maximum aggregate liability arising out of or related to this Agreement, regardless of the cause of action and whether in contract, tort (including negligence), warranty, indemnity or any other legal theory, exceed the total amount paid or payable to HDS under this Agreement during the twelve (12) month period preceding the date of initial claim.

8.2. No Consequential Damages. Neither Party will have any liability to the other Party for any loss of profits or revenues, loss of goodwill, or for any indirect, special, incidental, consequential or punitive damages arising out of, or in connection with this Agreement, however caused, whether in contract, tort (including negligence), warranty, indemnity or any other legal theory, and whether or not the Party has been advised of the possibility of such damages.

8.3. Construction. This Agreement is not intended to and will not be construed as excluding or limiting any liability which cannot be limited or excluded by applicable law, including liability for (a) death or bodily injury caused by a Party's negligence, or (b) gross negligence, willful misconduct, or fraud.

## **9. ASSIGNMENT**

9.1 Neither Party may assign any of its rights or obligations under this Agreement without the other Party's prior written consent, which will not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign any and all of its rights and obligations under this Agreement to a successor in interest in the event of a merger or acquisition or to an Affiliate, upon written notice to the other Party.





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## 10. RESTRICTED RIGHTS AND EXPORT CONTROL

10.1. Commercial Computer Software. If Client is an agency or contractor of the United States Government, Client acknowledges and agrees that (i) the SaaS Products (including any software forming a part thereof) were developed entirely at private expense, (ii) the SaaS Products (including any software forming a part thereof) in all respects constitute proprietary data belonging solely to HDS, (iii) the SaaS Products (including any software forming a part thereof) are not in the public domain, and (iv) the software forming a part of the SaaS Products is “Commercial Computer Software” as defined in sub-paragraph (a)(1) of DFAR Section 252.227-7014 or FAR Part 12.212.

10.2. Export Control. The exportation of the SaaS Products and Documentation, and all related technology and information thereof are subject to U.S. laws and regulations pertaining to export controls and trade and economic sanctions, including the U.S. Export Administration Act, Export Administration Regulations, the Export Control Reform Act, and the Office of Foreign Assets Control’s sanctions programs, the laws of the State of Israel, and the laws of any country or organization of nations within whose jurisdiction Client (or its Authorized Users who may use or otherwise receive the SaaS Products as expressly authorized by this Agreement) operates or does business, as amended, and the rules and regulations promulgated from time to time thereunder. Specifically, Client hereby undertakes not to export, re-export or grant access to the SaaS Products and all related technology, information, materials and any upgrades thereto to: (a) anyone on the U.S. Commerce Department’s Denied Persons, Entity, or Unverified Lists or the U.S. Treasury Department’s list of Specially Designated Nationals and Consolidated Sanctions list (collectively, “Prohibited Persons”); (b) any country to which such export, re-export or grant of access is restricted or prohibited per the foregoing applicable laws; or (c) otherwise in violation of any applicable export or import restrictions, laws or regulations. Client also certifies that it is not a Prohibited Person nor owned, controlled by, or acting on behalf of a Prohibited Person.

## 11. PROFESSIONAL SERVICES

11.1 Client may separately purchase from HDS professional services in relation to the SaaS Products as may be generally available by HDS to its Clients, pursuant to HDS’s then applicable professional services terms.

## 12. TERM AND TERMINATION

12.1. Term. This Agreement will be effective upon the Effective Date and shall remain in force during the applicable Subscription Term of the SaaS Products or unless or until terminated by either Party pursuant to this Section. Prior to the end of the Subscription Term, Client may contact HDS to extend the term of their Subscription Term for the period stated in any such agreed upon renewal License Agreement.



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12.2. Termination for Convenience. Either Party may terminate this Agreement, upon sixty (60) days prior written notice, for any reason, provided however that: (i) if HDS terminates the Agreement, it will refund the fees paid to it for the unused Subscription Term to the Client, pro-rated, and (ii) if Client terminates the Agreement, it shall not be entitled to any refund.

12.3. Termination for Cause. Either Party may terminate this Agreement immediately upon notice to the other Party if the other Party: (i) materially breaches this Agreement and fails to remedy such breach within thirty (30) days after receiving written notice of the breach from the other Party, or (ii) commences bankruptcy or dissolution proceedings, has a receiver appointed for a substantial part of its assets, or ceases to operate in the ordinary course of business. In addition, a Party may terminate this Agreement, in whole or in part, or cease provision of SaaS Products if required to comply with applicable law or regulation, and such termination will not constitute a breach of this Agreement by the terminating Party.

12.4. Effects of Termination/Expiration. Upon termination or expiration of this Agreement: (i) Client will have no further right to access or use the SaaS Products; and (ii) each Party shall within thirty (30) days after written request return or destroy any tangible Confidential Information of the other Party within its possession or control that is not contained on the SaaS Products. Any Client Data contained on the SaaS Products will be deleted within sixty (60) days of termination/expiration of Client's Subscription Term. Client acknowledges that it is responsible for exporting any Client Data to which Client desires continued access after termination/expiration, and HDS shall have no liability for any failure of Client to retrieve such Client Data and no obligation to store or retain any such Client Data after such sixty (60) day period. Following termination of the SaaS Products, HDS may immediately deactivate Client's account. Any accrued rights and obligations will survive termination.

## **13. MISCELLANEOUS**

13.1. Independent Contractors. Nothing in this Agreement will be construed to imply a joint venture, partnership or principal-agent relationship between HDS and Client, and neither Party will have the right, power or authority to obligate or bind the other in any manner whatsoever.

13.2. Notices. All notices and other communications required or permitted under this Agreement will be in writing and will be deemed to have been duly given: (a) when delivered by hand; (b) three (3) days after being sent by Registered or Certified Mail, return receipt requested and postage prepaid; (c) one (1) day after deposit with a nationally recognized overnight delivery or express courier service; or (d) when provided via email, when the sender has received a delivery/read receipt.

13.3. Force Majeure. Neither Party will be liable to the other Party for any delay or failure to perform which is due to fire, pandemic, virus, epidemic, travel advisories as to health, security and/or terrorism, flood, lockout, transportation delay, war, acts of God, governmental rule or order, strikes or other labor difficulties, or



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other causes beyond its reasonable control. However, in such event, both Parties will resume performance promptly after the cause of such delay or failure has been removed.

13.4. **Governing Law and Jurisdiction.** Each Party agrees to the applicable governing law below without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts below with respect to any dispute, claim, action, suit or proceeding (including non-contractual disputes or claims) arising out of or in connection with this Agreement, or its subject matter or formation. To the extent not prohibited by law, each of the Parties hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

13.5. **Entire Agreement, Execution, and Modification.** This Agreement supersedes all prior agreements and representations between the Parties regarding the subject matter of this Agreement. The terms and conditions contained in any purchase order issued by Client will be of no force or effect, even if the order is accepted by HDS. HDS may make changes to these Terms of Service from time to time. If HDS makes a material change to any of the foregoing, HDS will inform Client by e-mail to the e-mail address(es) noted on the License Agreement (or subsequently designated by Client in writing as a contact for notifications from HDS), or through a banner or other prominent notice within the SaaS Products, or through the HDS support platform. If Client does not agree to the change, Client must so notify HDS by e-mail to support@highbrowdiligence.com within thirty (30) days after HDS's notice. If Client so notifies HDS, then Client will remain governed by the most recent terms of service applicable to Client until the end of the then-current year of the Subscription Term. The updated terms shall apply upon the commencement of the subsequent Subscription Term.

13.6. **Severability and Waiver.** This Agreement shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Should any term or provision of this Agreement be declared void or unenforceable by any court of competent jurisdiction, the Parties intend that a substitute provision will be added to this Agreement that, to the greatest extent possible, achieves the intended commercial result of the original provision. The failure of either Party to enforce any rights granted to it hereunder or to take action against the other Party in the event of any breach hereunder will not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

13.7. **Definitions and Interpretation.** The following definitions and rules of interpretation apply in this Agreement:

**“Affiliate”** means a company controlling, controlled by, or under common control with a Party (an entity will be deemed to have control if it owns over 50% of another entity).

**“Authorized Channel Partner”** means a company that HDS has appointed as an approved partner to market and sell its SaaS Products



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**“Authorized Users”** means employees, agents, consultants, contractors, or vendors authorized by Client to use the SaaS Products solely for the internal use of Client and its Affiliates, subject to the terms and conditions of this Agreement.

**“Client Data”** means all data and/or content uploaded to the SaaS Products by Client (including where applicable Authorized Users), and in all data derived from it, including personal data. For the avoidance of doubt, Client Data does not include Usage Data.

**“HDS”** means the Highbrow Diligence Services Private Limited, legal entity specified on the signature line below, at the address specified in Section 13.4 “Governing Law and Jurisdiction.”

**“Documentation”** means the user guides, installation documents, security fundamentals documentation, and specifications for the SaaS Products that are made available from time to time by HDS in electronic or tangible form, but excluding any sales or marketing materials.

**“Intellectual Property”** means a Party’s proprietary material, technology, or processes (excluding the SaaS Products and Documentation), including services, software tools, proprietary framework and methodology, hardware designs, algorithms, objects and documentation (both printed and electronic), network designs, know-how, trade secrets and any related intellectual property rights throughout the world (whether owned or licensed by a third party) and any derivatives, improvements, enhancements or extensions of such Intellectual Property conceived, reduced to practice, or developed.

**“License Agreement”** means the License Agreement mutually accepted by Client and HDS by the authorised personnel from the Parties, mentioning the details about the SaaS Product, pricing, payment terms, quantities and other applicable terms required for using the SaaS product by the Client.

**“SaaS Products”** means the software-as-a-service products specified in the License Agreement as further described in the Documentation (including any updates and upgrades to the SaaS Products provided by HDS in its sole discretion, and any software, systems and locally-installed software agents and connectors that interact with the SaaS Products as may be provided by HDS in connection with the SaaS Products).

**“Subscription Term”** means the period of time during which Client is subscribed to the SaaS Products, as specified in the License Agreement and which shall begin upon delivery of the SaaS Products.

**“Suggestions”** means, any ideas or suggestions for improvements, new features, functionalities, corrections, enhancements or changes to the SaaS Products suggested by Client to HDS, which constitute Intellectual Property rights under applicable law.

**“Usage Data”** means data generated in connection with Client’s access and use of the SaaS Products and data derived from it.



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Any words following the terms including or include shall be regarded as examples only and not construed as an exhaustive list.

Should Client have any questions concerning this Agreement, or if Client desires to contact HDS for any reason, please e-mail us at: [support@highbrowdiligence.com](mailto:support@highbrowdiligence.com)

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