

Master Customer Agreement

Last updated 22 July 2020

This Master Customer Agreement is made and entered into on the Effective Date by and between FUSE UNIVERSAL LIMITED incorporated and registered in England and Wales with company number 06636622 whose registered office is at 1 Curtain Road, London EC2A 3LT (“Supplier”), and the contracting entity as named in the Order (“Customer”). Supplier and Customer may be referred to collectively as the “Parties” or individually as a “Party”.

Background

(A) The Supplier is a provider of a web-based software platform providing access to the Services. The Customer wishes to access the Services in its business operations.

(B) The Supplier has agreed to provide, and the Customer has agreed to access and pay for the Services subject to the terms and conditions of this Agreement.

Agreed terms

1. Definitions and Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this agreement.

1. **Acceptable Use Policy:** means the policy outlining the conditions for the Customer’s access and use of the Services included at Annex C.

2. **Active User:** means a Provisioned User who has accessed the Services via a web browser or the app.

3. **Active User Subscriptions:** means the user subscriptions purchased by the Customer pursuant to clause 8.1, the number of which are noted in the Order Form, which entitle Provisioned Users to access and use the Services in accordance with this Agreement.

4. **Agreement:** means this agreement, its annexures and schedules.

5. **Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

6. **Change of Control:** shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

7. **Confidential Information:** information of a party concerning its business and/or affairs, including without limitation to information relating to a party’s operations, technical or commercial know-how, specifications, inventions, processes or initiatives, plans, product information, pricing information, know-how, designs, trade secrets, software, documents, details of the Services, data and information which, when provided by a party to the other: a) are clearly identified as “Confidential” or “Proprietary” or are marked with a similar legend; b) are disclosed orally or visually, identified as Confidential Information at the time of disclosure and confirmed as Confidential Information in writing within 10 days; or c) a reasonable person would understand to be confidential or proprietary at the time of disclosure.

8. **Customer Data:** the (i) data and information provided by Customer to Supplier and/or imported, inputted, uploaded and/or shared by Customer, Provisioned Users or Supplier on Customer’s behalf, for the purpose of using the Services or facilitating Customer’s use of the Services; or (ii) data

collected and processed by or for Customer through Customer's use of the Services, but excluding Supplier's data.

9. Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

10. Effective Date: the date of the first signature in the Order Form.

11. Enterprise Licence: mean a licence granted to a customer on a fixed Fee basis to authorise employees, agents and independent contractors of the customer to be Provisioned Users.

Fees: means the fees payable by the Customer to the Supplier which are calculated as set out in the Order Form, in accordance with (i) the provision of an Enterprise Licence, or (ii) the number of additional provisioned users or (iii) the number of Active User Subscriptions

12. Force Majeure Event: means circumstances where a Party 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, epidemic, 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.

13. Initial Term: the initial term of this agreement as set out in the Order Form.

14. Order Form: the order executed by both Parties which references this Master Customer Agreement which details the level of Services ordered by Customer, the Term and the Fees payable by Customer and any other additional terms in respect of Customer's access to and use of the Services;

15. Platform: the online video-sharing, social learning forum and software application developed and provided by the Supplier to the Customer as part of the Services and to be used in accordance with the Acceptable Use Policy.

16. Platform Content: all content including data, metadata, video, text, comments or captions and any other information published or created on the Platform by the Customer or any Provisioned Users.

17. Provisioned Users: those of the Customer's employees, agents and independent contractors of the Customer who are authorised by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement, as further described in clause 2.3(c).

18. Queried Invoice: shall have the meaning as detailed in clause 8.5.

19. Renewal Period: the period described in clause 13.1

20. Service Level Agreement: shall mean an element of the Services specified in Annex B;

21. Services: the Software and implementation and customisation of the Platform access to which is provided by the Supplier to the Customer under this agreement via any website notified to the Customer by the Supplier from time to time, as more particularly described in the Acceptable Use Policy and support services according to the Service Level Agreement.

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

23. Supplier Data: any information or data provided by Supplier to Customer as part of the Services and any feedback or suggestions on the Services provided by Customer to Supplier.

24. Supplier Materials: has the meaning given to it in clause 9.1.

25. Term: has the meaning given in clause 13.1 (being the Initial Term together with any subsequent Renewal Periods).

26. UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

27. Unauthorised Active Users: has the meaning given to it in clause 2.3(f).

28. User Clean Up: has the meaning given to it in clause 2.3(f).

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

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

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

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

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

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

1.7. 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.

1.8. 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.

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

1.10. 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.

2. Access and Use of Services

2.1. Subject to payment of the applicable Fees, the restrictions set out in this clause 2 and the other terms and conditions of this agreement, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Provisioned Users to use the Services in accordance with the Acceptable Use Policy during the Term solely for the Customer's internal business operations.

2.2. In relation to the Provisioned Users, the Customer undertakes that:

(a) each Provisioned User shall keep a secure password for their use of the Services, that such password shall be changed frequently and that each Provisioned User shall keep his password

confidential; and

(b) Customer shall permit Supplier to audit Customer's use of the Services in order to establish that the use of the Services by Customer is in accordance with the agreed scope.

2.3. In relation to the Provisioned Users, where the Fee payable is calculated in accordance with the number of Provisioned User Subscriptions, the Customer undertakes that:

(a) the maximum number of Provisioned Users that it authorises to access and use the Services shall not exceed the number of Provisioned User Subscriptions it has purchased from time to time;

(b) it will not allow or suffer any Provisioned User Subscription to be used by more than one individual Provisioned User unless it has been reassigned in its entirety to another individual Provisioned User, in which case the prior Provisioned User shall no longer have any right to access or use the Services;

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

(d) it shall permit the Supplier or the Supplier's designated auditor to audit the Services in order to establish the name and password of each Provisioned User and to audit compliance with this Agreement. Each such audit may be conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;

(e) if any of the audits referred to in clause 2.3(d) reveal that any password has been provided to any individual who is not an Provisioned User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier may choose not to issue any new passwords to any such individual;

(f) if any of the audits referred to in clause 2.3 (d) reveal that the Customer has underpaid Fees to the Supplier based on the number of Provisioned Users exceeding the number of Provisioned User Subscriptions purchased ("Unauthorised Provisioned Users"), then without prejudice to the Supplier's other rights, the Supplier shall notify the Customer of such underpayment and the number of Unauthorised Provisioned Users and the Customer shall have 14 Business Days to remove the foregoing users from the Platform ("User Clean Up"); and

(g) subject to clause 2.3(f), if the Customer continues to allow the Unauthorised Provisioned Users access to the Services the Customer shall (i) enter into a new Order Form with the Supplier for a number of additional Provisioned User Subscriptions including the Unauthorised Provisioned Users and/or (ii) pay to the Supplier an amount equal to the underpayment referred to in clause 2.3(f), as calculated in accordance with the prices set out in the order form, within 10 Business Days of the date of the User Clean Up.

2.4. The Customer shall not, and shall procure that its Provisioned Users shall not, access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

(a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

(b) facilitates illegal activity;

(c) depicts sexually explicit images;

(d) promotes unlawful violence;

(e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

(f) is otherwise illegal or causes damage or injury to any person or property;

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.

2.5. The Customer shall not:

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

(i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or

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

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

(c) use the Services and/or Documentation to provide services to third parties; or

(d) subject to clause 21.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Provisioned Users, or

(e) attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 2; or

(f) introduce or permit the introduction of, any Virus into the Supplier's network and information systems.

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

2.7. The rights provided under this clause 2 are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.

3. Additional user subscriptions

3.1. Subject to clause 3.3, where the Fee payable is calculated in accordance with the number of Provisioned User Subscriptions the Customer may, from time to time during any Term, purchase additional Provisioned User Subscriptions in excess of the number set out in the Order Form and the Supplier shall grant access to the Services to such additional Provisioned Users in accordance with the provisions of this Agreement.

3.2. If the Customer wishes to purchase additional Provisioned User Subscriptions, the Customer shall notify the Supplier in writing. The Supplier shall evaluate such request for additional Provisioned User Subscriptions and respond to the Customer with approval or rejection of the request (such approval not to be unreasonably withheld).

3.3. If the Supplier approves the Customer's request to purchase additional Provisioned User Subscriptions the Parties shall enter into a new Order Form for these users and, subject to clause 3.4 the Supplier shall issue an additional invoice for the amount stipulated therein.

3.4. The Customer shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the relevant fees for such additional Provisioned User Subscriptions as set out in the Order Form and, if such additional Provisioned User Subscriptions are purchased by the Customer part way through the Initial Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by the Supplier for the remainder of the Initial Term or then current Renewal Period (as applicable).

4. Services

4.1. The Supplier shall, during the Term, provide the Services on and subject to the terms of this Agreement.

4.2. Subject to Customer paying the Fees as outlined in the Order Form, Supplier will, as part of the Services provide to Customer the level of support services stated in the Order Form and in accordance with the Service Level Agreement (Annex B). Supplier will provide the support services with due skill and care and in accordance with good industry practice.

5. Customer data

5.1. The Customer shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.

5.2. Customer hereby grants to Supplier a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for Supplier to provide the Services to Customer.

5.3. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

5.4. The Customer is the data controller of the Customer Data and appoints Supplier as the data processor to process the Customer Data for the purposes described in this Agreement.

5.5. Without prejudice to the generality of clause 5.4, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of this agreement so that the Supplier may lawfully use, process and transfer the personal data in accordance with this agreement on the Customer's behalf.

5.6. The parties shall comply with the provisions of the data processing agreement ("DPA") at Annex A with respect to the processing of any personal data pursuant to this Agreement.

6. Supplier's Warranties

6.1. The Supplier warrants and represents that:

(a) the Services will be performed substantially in accordance with the Acceptable Use Policy and with reasonable skill and care;

(b) in providing the Services, it will comply with its Security Policy relating to the privacy and security of the Customer Data as such document may be amended from time to time by the Supplier in its sole discretion; or

(c) it has the right, power and authority to enter into this Agreement and to grant the Customer the right to use the Platform.

6.2. The undertaking at clause 6.1 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 6.1

6.3. The Supplier:

(a) does not warrant that:

(i) the Customer's use of the Services will be uninterrupted or error-free; or

(ii) use of the Services will be compliant with all applicable laws, which is the responsibility of the Customer; and

(b) 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 may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.4 .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. Customer's obligations

The Customer shall:

(a) provide the Supplier with:

(i) all necessary co-operation in relation to this agreement; and

(ii) all necessary access to such information as may be required by the Supplier; in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

(b) without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement;

(c) 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;

(d) ensure that the Provisioned Users use the Services in accordance with the terms and conditions of this Agreement and the Acceptable Use Policy shall be responsible for any Provisioned User's breach of this Agreement;

(e) 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;

(f) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time;

(g) be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing 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; and

(h) adhere to, and ensure that the Provisioned Users adhere to, the Fuse Terms of Use (as amended from time to time by the Supplier and available via <http://www.fuseuniversal.com>)

8. Charges and payment

8.1. The Customer shall pay the Fees to the Supplier for the Services either for an Enterprise Licence or based on the number of Active User Subscriptions and in accordance with this clause 8 and the Order Form.

8.2. The Supplier shall invoice the Customer:

(i) on the Effective Date for the Fees payable in respect of the Initial Term; and

(ii) subject to clause 13.1, at least 30 days prior to each anniversary of the Effective Date for the Fees payable in respect of the next Renewal Period, and the Customer shall pay each invoice within 30 days after the date of such invoice.

8.3. If the Supplier has not received payment within 14 days after the due date for any invoice which is not a Queried Invoice, and without prejudice to any other rights and remedies of the Supplier:

(a) 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

(b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 1.5% over the then current base lending rate of the Supplier's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

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

(a) shall be payable in pounds sterling and without deduction;

(b) are, subject to clause 12.3 (b), non-cancellable and non-refundable;

(c) are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

8.5. If the Customer receives an invoice which it reasonably believes includes a sum which is not valid and properly due ("Queried Invoice"):

(a) the Customer shall immediately notify the Supplier of the Queried Invoice in writing;

(b) upon resolution of the Queried Invoice the Supplier shall provide a corrected invoice; and

(c) where the Customer has already made payment of a Queried Invoice, the Supplier shall issue a credit note within 10 working days.

8.6. The Fees during any Renewal Period will increase by the CPI rate as set at the date of the invoice unless Supplier notifies Customer of different pricing with written notice not less than thirty (30) days prior to the Fee increase. Subject to this clause, the Order Form shall be deemed to have been amended accordingly.

9. Proprietary rights

9.1. The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services, Software, Platform, any pre-existing content which is used by the Supplier in order to provide the Services and any other materials arising out of the provision of the Services and which were not developed solely for the Customer ("Supplier Materials"). Except as expressly stated herein, this agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services or Platform

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

9.3. Subject to the clause 9.1, the Customer shall be entitled to all intellectual property rights in all Platform Content maintained by the Supplier on behalf of the Customer. The Supplier, as beneficial owner, assigns with full title guarantee all intellectual property rights (and by way of present assignment of future copyright) absolutely to the fullest extent possible in the Platform Content to the Customer who shall have the right to use such Platform Content for any purpose without further payment.

9.4. The Supplier shall procure that, where relevant, all moral rights in respect of the Platform Content are waived by the relevant third parties and at the request and reasonable expense of the Customer, the Supplier shall do and/or shall procure that its consultants, employees, agents, contractors and sub-contractors shall do all such things and sign all such documents or instruments necessary in the opinion of the Customer to enable the Customer to obtain, defend and enforce its rights in the Platform Content.

9.5. The Supplier reserves the right to remove any Platform Content that is the subject of a claim by a third party that the Platform Content infringes the intellectual property rights of any party.

9.6. The provisions of this clause 9 shall survive the expiry or termination of this Agreement.

10. Confidentiality

10.1. 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:

- (a)** is or becomes publicly known other than through any act or omission of the receiving party;
- (b)** was in the other party's lawful possession before the disclosure;
- (c)** is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
- (d)** is independently developed by the receiving party, which independent development can be shown by written evidence.

10.2. Subject to clause 10.3 and 10.4, each party shall hold the other's Confidential Information in confidence and 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.

10.3. During the Term the receiving party may disclose the Confidential Information of the disclosing party to its affiliates, employees, agents or contractors ("Affiliates") but only to the extent reasonably necessary to perform properly its obligations under this Agreement and provided that:

- (a)** before disclosure of any of the Confidential Information to any of the Affiliates the receiving party procures that they are aware of the obligation of confidentiality and undertakes to keep Confidential Information confidential; and
- (b)** the receiving party shall be responsible for any unauthorised disclosure of Confidential Information by the Affiliates as though such breach were committed by it as a party to this Agreement.

10.4. 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.

10.5. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or

other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 10.5, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

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

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

10.8. 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.

10.9. Without prejudice to any other rights or remedies that the disclosing party may have, the receiving party acknowledges and agrees that if the Confidential Information is used or disclosed other than in accordance with the terms of this Agreement, the disclosing party shall, without proof of special damage, be entitled to an injunction or other equitable relief for any threatened or actual breach of the provisions of this clause, in addition to any damages or other remedy to which it may be entitled.

10.10. The obligations of confidentiality under this clause 10 shall survive any expiration or termination of the Agreement for a period of 3 years from the date of termination, except for any information which is deemed a trade secret of a party in respect of which the obligations of confidentiality shall continue for as long as such information remains a trade secret.

11. Indemnity

11.1. The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and the Platform Content, provided that:

(a) the Customer is given prompt notice of any such claim;

(b) the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

(c) the Customer is given sole authority to defend or settle the claim.

11.2. The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the Services in accordance with this agreement infringes any patent 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:

(a) the Supplier is given prompt notice of any such claim;

(b) the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and

(c) the Supplier is given sole authority to defend or settle the claim.

11.3. 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.

11.4. 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:

- (a) a modification of the Services by anyone other than the Supplier; or
- (b) the Customer's use of the Services in a manner contrary to the instructions given to the Customer by the Supplier; or
- (c) the Customer's use of the Services after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

11.5. The foregoing states 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. Limitation of liability

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

- (a) the Customer assumes sole responsibility for results obtained from the use of the Services 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 or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction;
- (b) 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
- (c) the Services are provided to the Customer on an "as is" basis.

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

- (a) for death or personal injury caused by the Supplier's negligence; or
- (b) for fraud or fraudulent misrepresentation.

12.3. Subject to clause 12.1 and clause 12.2:

- (a) 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 pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement;
- (b) Without prejudice to the provisions of clause 11 and subject to clause 12.3(c), neither party's total aggregate liability in each calendar year (whether arising 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 exceed and amount equal to 125% of the total Fees paid during the 12 months immediately preceding the date on which the claim arose or £100,000 whichever is greater; and
- (c) in respect of the indemnity at clause 11.2, the Supplier's aggregate liability shall be limited to £2,000,000

12.4. The provisions of this clause 12 shall survive the termination or expiry of this Agreement for any reason.

13. Term and termination

13.1. This agreement shall, unless otherwise terminated as provided in this 13, commence on the Effective Date and shall continue for the Term as specified in the applicable Order Form and, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a “Renewal Period”), unless:

(a) either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Term or Renewal Period; or

(b) otherwise terminated in accordance with the provisions of this Agreement; and the Initial Term together with any subsequent Renewal Periods shall constitute the Term.

13.2. 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:

(a) 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 30 days after being notified in writing to do so;

(b) 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 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

(c) 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;

(d) 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;

(e) 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; or

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

13.3. On termination of this agreement for any reason:

(a) all licences granted under this agreement shall immediately terminate and the Customer shall immediately cease all use of the Services;

(b) 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;

(c) the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with the DPA, unless the Supplier receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, 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 returning or disposing of Customer Data; and

(d) 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.

14. Force majeure

A Party will not be in breach of this Agreement or otherwise liable to the other Party for any failure to perform or delay in performing its obligations under this Agreement to the extent that such failure of delay is due to a Force Majeure Event.

15. Conflict

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

16. Variation

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

17. 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.

18. 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.

19. Severance

19.1. If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

19.2. If any provision or part-provision of this agreement is deemed deleted under clause 19.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

20. Entire agreement

20.1. This agreement, and any documents referred to in it, constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21. Assignment

21.1. 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.

21.2. 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.

22. 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).

23. Third party rights

This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

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 first-class post or recorded delivery post to the other party at its address set out in the Order Form, or such other address as may have been notified by that party for such purposes.

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 England and Wales.

26. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales 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).

Annex A Data Processing Agreement

Schedule 1 – Data Processing Agreement

1. Data Processing Agreement preamble

1.1. This Data Processing Agreement (“DPA”) is entered into between the Data Processor and the Data Controller (together the “Parties”) and sets out the rights and obligations that apply to the Data Processor’s handling of personal data on behalf of the Data Controller. “Personal Data” shall mean personal data as defined by the GDPR.

1.2. This DPA is incorporated by reference into the Master Customer Agreement dated [fill in date of the Agreement] between the Parties (“Agreement”) for the supply of Services by the Data Processor to the Data Controller.

1.3. This DPA has been designed to ensure the Parties’ compliance with Applicable Data Protection Laws. “Applicable Data Protection Laws” shall mean all applicable federal, state and foreign data protection, privacy and data security laws, regulations, and directives, including, without limitation, the General Data Protection Regulation (Regulation (EU) 2016/679) (“GDPR”) and the California Consumer Privacy Act of 2018 (“CCPA”).

1.4. The terms used in this DPA shall have the meanings set forth in this DPA. Capitalised terms not otherwise defined herein shall have the meaning given to them in the Agreement. Except as modified below, the terms of the Agreement shall remain in full force and effect.

1.5. This DPA shall not exempt the Parties from their respective obligations under Applicable Data Protection Laws.

Now therefore, in consideration of the mutual promises herein and other good and valuable consideration, the Parties to this DPA agree as follows:

2. The rights and obligations of the Data Controller and processing of personal data

2.1. The Data Controller appoints the Data Processor to process the personal data described in Appendix A.

2.2. The details on the subject matter, duration, nature and purpose of processing and the Personal Data categories and data subject types in respect of which will be subjected to processing by the Data Processor in the performance of the Services pursuant to the Agreement are specified in Appendix A.

2.3. The Data Controller shall have both the right and obligation to make decisions about the purposes and means of the processing of personal data and shall be responsible for ensuring that the processing that the Data Processor is instructed to perform is authorised in law.

3. Obligations of the Data Processor

3.1. The Data Processor shall solely be permitted to process personal data on documented instructions from the Data Controller to the extent as is necessary to perform its obligations under the Agreement unless processing is required under EU or Member State law to which the Data Processor is subject. In this case, and where possible to do so, the Data Processor shall inform the Data Controller of this legal requirement prior to processing unless that law prohibits such information on important grounds of public interest

3.2. The Data Processor shall inform the Data Controller as soon as reasonably possible if the instructions, in the opinion of the Data Processor, contravene the GDPR or data protection provisions contained in other EU or Member State law.

4. Confidentiality

4.1. The Data Processor shall reasonably ensure that:

(a) only those persons who are currently authorised to do so are able to access the personal data being processed on behalf of the Data Controller;

(b) only persons who require access to the personal data in order to fulfil the obligations of the Data Processor to the Data Controller shall be provided with authorisation; and

(c) that persons authorised to process personal data on behalf of the Data Controller have undertaken to observe confidentiality or are subject to suitable statutory obligation of confidentiality.

5. Security of processing

5.1. The Data Processor shall implement appropriate technical and organisational measures to protect the personal data (i) from accidental or unlawful destruction, and (ii) loss, alteration, unauthorised disclosure of, or access to the personal data (“Safeguards”).

5.2. Safeguards shall, taking into account the state of the art and the costs of the implementation and execution of the measures, ensure an adequate level of protection taking into account the risks involved in the processing and the nature of the personal data to be secured.

5.3. The Data Processor shall, in ensuring the above – in all cases –implement the level of security and the measures specified in Appendix C to this DPA.

5.4. Where the Parties agree on the requirement of establishing additional security measures, the terms and cost of implementing such measures shall be dealt with in the Agreement.

6. Use of Sub-Processors

6.1. The Data Processor shall not engage a third party processor (“Sub-Processor”) for the fulfilment of this DPA without the prior consent of the Data Controller.

6.2. A list of approved Sub-Processors as at the date of this DPA is listed in Appendix B to this DPA and the Data Processor shall maintain and provide updated copies of this list to the Data Controller when it adds or removes Sub-Processors in accordance with this Agreement.

6.3. Notwithstanding this, the Data Controller consents to the Data Processor engaging Sub-Processors to process the personal data, provided that:

(a) the Data Processor shall inform the Data Controller of any planned changes with regard to additions to or replacement of Sub-processors (including details of the processing it performs or will perform) as listed in Appendix B to this DPA; and

(b) the Data Processor shall ensure that the Sub-Processor is subject to the same data protection obligations as those specified in this DPA on the basis of a contract or other legal document under EU law or the national law of the Member States.

6.4. If the Sub-Processor does not fulfil his data protection obligations, the Data Processor shall remain liable to the Data Controller as regards the fulfilment of the obligations of the Sub- Processor.

7. Transfer of data to third countries or international organisations

7.1. Without the instructions or approval of the Data Controller, the Data Processor cannot – within the framework of this Data Processing Agreement:

(a) disclose personal data to a data controller in a third country or in an international organisation;

(b) assign the processing of personal data to a sub-processor in a third country; or

(c) have the data processed in another of the Data Processor’s divisions which is located in a third country.

7.2. The Data Controller’s instructions or approval of the transfer of personal data to a third country, if applicable, shall be set out in Appendix C to this Data Processing Agreement.

7.3. The Data Processor may only process, or permit the processing, of personal data outside the European Economic Area (“EEA”) under the following conditions:

(a) the Data Processor is processing personal data in a territory which is subject to a current finding by the European Commission under the Applicable Data Protection Laws that the territory provides adequate protection for the privacy rights of individuals;

(b) the Data Processor participates in a valid cross-border transfer mechanism under the Applicable Data Protection Laws, so that the Data Processor (and, where appropriate, the Data Controller) can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of individuals as required by Article 46 of the GDPR; or

(c) processing is required under EU or Member State law to which the Data Processor is subject. In such a case, the Data Processor shall inform the Data Controller of that legal requirement prior to processing unless that law prohibits such information on important grounds of public interest.

7.4. If any Personal Data transfer between the Data Controller and the Data Processor requires execution of EC Standard Contractual Clauses (“SCC”) in order to comply with the Applicable Data Protection Laws (where the Data Controller is the entity exporting personal data to the Data Processor from outside the EEA), the parties shall complete all relevant details in, and execute, an SCC as can be found at Schedule 1, and take all other actions required to legitimise the transfer.

8. Assistance to the Data Controller and Data Subject Rights

8.1. The Data Processor shall, as far as reasonably possible, assist the Data Controller in the fulfilment of the Data Controller’s obligations to respond to requests for the exercise of the data subjects’ rights including with: the right of access by the data subject, the right to rectification, the right to erasure (“the right to be forgotten”), the right to restrict processing, the right to data portability, the right to object; and the right to object to the result of automated individual decision-making, including profiling (“Data Subject Request”).

8.2. Taking into account the nature of the processing, the Data Processor shall provide reasonable assistance at the Data Controller’s expense, to the Data Controller by providing appropriate technical and organizational measures, insofar as this is reasonably possible, for the fulfilment of Philips’s obligation to address any Data Subject Request.

9. Notification of personal data breach

9.1. On discovery of personal data breach at the Data Processor’s facilities or a Sub-Processor’s facilities (“Security Incident”), the Data Processor shall as soon as reasonably practicable notify the Data Controller.

9.2. The Data Processor’s notification to the Data Controller shall, if possible, take place within 48 hours after the Data Processor has discovered the breach to enable the Data Controller to comply with its data breach reporting obligations under (and in accordance with the timescales required by) GDPR.

9.3. The Data Processor shall provide reasonable assistance to the Data Controller in the reporting of the breach to the relevant supervisory authority.

10. Erasure of data

10.1. On termination of the Agreement, the Data Processor shall, at the Data Controller’s discretion, return all the personal data to the Data Controller and erase existing copies, except to the extent that EU law or Member State law requires storage of the personal data.

11. Inspection and audit

11.1. The Data Processor shall make available to the Data Controller all information reasonably necessary to allow for and contribute to audits, including inspections performed by the Data Controller or another third party auditor mandated by the Data Controller, at the Data Controller's expense, provided that the Data Controller: (i) gives the Data Processor reasonable prior notice of its intention to audit; (ii) conducts its audit during normal business hours; and (iii) and takes all reasonable measures to prevent unnecessary disruption to the Data Processor's operations.

11.2. The Data Controller will not exercise its audit rights under this clause 11 more than once in any twelve (12) calendar month period, except (i) if and when required by instruction of a competent data protection authority, or (ii) where the Data Controller believes a further audit is necessary due to a Security Incident by the Data Processor.

11.3. The Data Controller's inspection of sub-processors, if applicable, shall be performed through the Data Processor.

12. Applicability of the CCPA

12.1. To the extent that the Data Processor will process any personal data that is subject to the CCPA, the Data Processor shall act as a "service provider," as such term is defined in the CCPA, and shall assist the Data Controller by appropriate technical and organizational measures for the fulfilment of the Data Controller's obligations under the CCPA, including without limitation responding to verified requests by a "consumer," as such term is defined in the CCPA.

12.2. Furthermore, the Data Processor will not engage a Sub-Processor with access to personal data except with the Data Controller's prior written consent in accordance with Clause 6 of this DPA and the Data Processor will only do so for a "business purpose," as such term is defined in the CCPA, pursuant to a written contract by and between the Data Processor and such Sub-Processor. Any such approved Sub-Processor shall agree to terms that are at least as protective of personal data as the terms of this DPA.

12.3. The Data Processor certifies that it understands it will comply with the responsibilities and restrictions imposed by this DPA as a service provider under the CCPA.

13. The Parties' agreement on other terms

13.1. The consequences of the Parties' breach of this DPA, if applicable, shall be specified in the Agreement.

13.2. In the event of a conflict between DPA and the data protection provisions within the Agreement (except where explicitly agreed otherwise in writing between the Parties), the terms and conditions set forth in this DPA shall prevail and govern and control the relationship between the Parties.

14. Commencement and termination

14.1. This DPA shall become effective on the date of both Parties' signature to the Agreement.

14.2. This Data Processing Agreement may be terminated according to the terms specified in the Agreement.

14.3. This DPA shall apply for as long as the processing is performed. Irrespective of the termination of the Agreement and/or this DPA, the DPA shall remain in force until the termination of the processing and the erasure of the data by the Data Processor and any sub-processors.

14.4. The DPA and the Agreement shall be interdependent and cannot be terminated separately. The DPA may however – without termination of the Agreement – be replaced by an alternative valid data processing agreement.

15. Governing Law and Jurisdiction

15.1. The Parties to this DPA shall submit to the choice of jurisdiction stipulated in the Agreement with respect to any disputes or claims howsoever arising under this DPA, including disputes regarding its existence, validity or termination or the consequences of its nullity.

15.2. The DPA and all non-contractual or other obligations arising of or in connection with it are governed by the laws of the country or territory stipulated for this purpose in the Agreement.

16. Severance

16.1. Should any of the provisions of this DPA be invalid or unenforceable, then the remainder of this DPA shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, preserving the Parties intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part has never been contained therein.

17. Data Controller and Data Processor contacts/contact points

17.1. The Parties may contact each other using the contacts/contact points below:

Name:

Position:

Telephone number:

E-mail:

17.2. The Parties shall be under obligation continuously to inform each other of changes to contacts/contact points.

Appendix A Information about the processing

The purpose of the Data Processor's processing of personal data on behalf of the Data Controller is:

- The purpose of data processing is to provide learning and training functionality for the data controller's users.

The Data Processor's processing of personal data on behalf of the Data Controller shall mainly pertain to (the nature of the processing):

- The data processor maintains and runs the Fuse service that stores and processes user and learning data.

Processing includes the following categories of data subject:

- Data Controller's employees, contractors.

The Processing concerns the following categories of data:

- Data Controller's employees' data.

The processing includes the following types of personal data about data subjects:

The only mandatory user data requirement for Fuse is a unique username for each user on the customer's instance. All other data is optional and defined by the Data Controller. This is typically generic business personal data. For example:

- Personal data such as:
 - first name/last name
 - email address (unique)
 - custom fields such as: location, department, role, hire date, line manager etc.

In addition, the Data Controller collects the following personal data:

- Technical data such as:
 - IP address
 - browser language
 - browser type and version
 - geolocation
 - operating system
 - third-party cookie information (where we use third-party services to provide Fuse functionality)
- Fuse activity:
 - login history and transactional activity information (views, likes, shares etc.)
 - training history and learning completion
 - error logs
 - metadata for user-generated content such document uploads and video recordings

The Data Processor's processing of personal data on behalf of the Data Controller may be performed when this DPA commences. Processing has the following duration:

- Processing and storage of user data for the term of the license agreement and for the period of 60 days thereafter at which point the personal data is destroyed in line with Data Processor's service termination process.

Appendix B Terms of the Data Processor's use of sub-processors and list of approved sub-processors

B.1 Approved sub-processors

The Data Controller shall, on commencement of this DPA, approve the engagement of the following sub-processors:

Name	Address	Description of processing
Amazon Web Services	One Burlington Plaza, Burlington Rd, Dublin 4	Hosting Services - processed in EU West (Dublin, Ireland)
SendGrid	(Twilio) 375 Beale St,	SMTP Relay email notifications - processed EU & US covered by EU-US Privacy

	Suite 300, San Francisco CA 94105 USA	Shield Certified
Good Data	San Francisco 1, Post Street, Suite 400. San Francisco CA 9410 USA	System Analytics – processed in Rackspace, London
Telestream	848 Gold Flat Road Nevada City, CA 95959 USA	Video Transcoding - processed in EU West (Dublin, Ireland)
SDL	New Globe House, Vanwall Business Park, Maidenhead SL6 4UB UK	Language translation (if enabled) – processed in EU & US, covered by EU-US Privacy Shield
Voicebase	44 Montgomery St, San Francisco, CA 94104 USA	Audio Transcribing – processes in EU
DataDog	New York Times Bldg, 620 8th Ave 45th Floor New York USA	Logging and Application Performance Monitoring - anonymised data processed in EU & US covered by Privacy Shield Framework
Dell Boomi	US East Coast Office,	HR Integrations (if enabled) – processed in EU West (Dublin,

	1400 Liberty Ridge Drive, Chesterbrook PA19087 USA	Ireland)
--	---	----------

Appendix C Instruction pertaining to the use of personal data

C.1 The subject of/instruction for the processing

The Data Processor's processing of personal data on behalf of the Data Controller shall be carried out by the Data Processor performing the following:

The purpose of data processing is to provide learning and training functionality for the Data Controller's users as describe in the Agreement.

C.2 Security of processing

The level of security shall reflect the following:

The Data Processor shall implement the following measures that have been agreed with the Data Controller (on the basis of the risk assessment that the Data Controller has performed):

- Provide mechanisms for the Data Controller to manage and pseudonymise its user data.
- Control unauthorised access to personal data and content in line with Data Processor's access control and privacy policies.
- Ensure availability of the platform in line with Data Processor's SLA.
- Provide the level of service, security, auditing and disaster recover as outlined in Data Processor's ISO27001 policies.

C.3 Storage period/erasure procedures

In line with Data Processor's service termination process the Data Processor will destroy all data and content belonging to the Data Controller within the agreed mutually grace period.

C.4 Processing location

Processing of the personal data under this DPA cannot be performed at other locations than the following without the Data Controller's prior written consent:

- The Data Controller user data is held, stored and processed in AWS West-1 Region – Dublin, Ireland

C.5 Instruction for or approval of the transfer of personal data to third countries

The Data Controller does not in this clause or by subsequent written notification provide instructions or consent pertaining to the transfer of personal data to a third country, the Data Processor shall not be entitled within the framework of this DPA to perform such transfer.

Annex B – Service Level Agreement

1 Introduction

1.1 Purpose

The document defines Service Level Agreements for:

- Platform Availability.
- Customer Service and Support.

1.2 Applicability

The Fuse Service Level Agreement (“SLA”) shall apply with effect from the Commencement Date as set out in the Order Form (“Agreement”) and in accordance with the Fuse Terms of Use.

2 Platform Availability

We measure availability as the number of minutes that the Fuse Software Platform is available in a calendar month as a percentage of the total number of minutes in that calendar month. We call this measure of availability the “Platform Uptime”. Within this calculation we include our Core Fuse Platform, Reporting, 121s, Performance Assessments (including surveys) and Audience management.

The SLA covers full production quality services only. On occasion we may elect to pre- release software in Beta form. These are known as “Beta Services” or “Beta Releases”. Beta services and releases are not subject to the same service levels and therefore not included in Platform Uptime calculations or any subsequent service credit. Beta services and releases are marked as Beta and communicated in the Release Notes.

The SLA also covers our technology and service partners such as AWS, where Fuse is managing the relationships and the environment or has outsourced the management of the service. These are referred to as “Managed Partners”

Our SLA does not cover systems beyond our control such as the customer’s SSO or HR systems, Internet connectivity and telecommunications, etc. or any other systems that integrate with the Fuse platform but are not managed by Fuse or its Managed Partners.

2.1 Platform Uptime Measurement

The Platform Uptime is measured by a third-party service which regularly and automatically tests the services that comprise the Fuse platform to confirm they are available and functioning correctly. The Uptime reports are produced monthly and available on request.

2.2 Service Credits

The Fuse Uptime Goal is 99.5%. If the Uptime Goal falls below this on a monthly basis, a Service Credit for the affected month may become due.

Platform Uptime	Service Credit
99.5% - 95.0%	5% of the platform fee for the month during which the outage occurred

94.995 – 90.0%	7.5% of the platform fee for the month during which the outage occurred
89.99% and below	10% of the platform fee for the month during which the outage occurred

Service Credits may not be issued:

(i) Where the Customer is in breach of the terms set out in the agreement

(ii) If the uptime goal is not met due to, in whole or in part, any of the following:

- a. A force majeure event as described in the terms of service
- b. Failure in Customer's environment or systems and/or in systems or services that are not managed by Fuse or its Managed Partners and are out of our control.
- c. unavailability of telecommunications, faults or omission of ISPs and/or any lack of connectivity caused by a third party
- d. any DNS issues not within the direct control of the Company i.e. a fault on the Customer's network or own equipment configuration
- e. any denial of service attacks, network floods and hacking
- f. Failure by the Customer to take any remedial action in relation to the Services as recommended by Fuse
- g. The Customer's negligence or wilful misconduct, which may include failure to follow agreed upon procedures
- h. Scheduled and/or Emergency outages for release, maintenance, and/or upgrades.

2.3 Maintenance schedules

The Fuse Platform is designed as a Global 24x7 platform and the vast majority of changes and maintenance to the platform are carried out without service interruption. However, there may be occasions where selective services may need to be taken offline for release, maintenance or upgrade purposes.

Scheduled outages

Fuse reserve the right to conduct scheduled outage for the purpose of release, maintenance and or upgrade for up to 4 hours in any calendar month. Customers who will be affected will be notified at least 1 week in advance. Fuse will detail the service(s) that will be offline and the expected duration of the outage. Fuse will endeavour to carry out this work at a time where the fewest users will be impacted and will also attempt to accommodate any customer specific events and timings. However, given the global nature of the services it may not be possible to accommodate all requests and Fuse reserve the right to determine the timing and duration of any outage.

Emergency outages

It may be necessary on occasion for Fuse to take some or all of the services offline in order to perform activities required to ensure the quality and security of our service. Fuse will always look for perform any activities proactively in advance or via a scheduled outage. However, if this is not possible and Fuse are obliged to carry our work in order to fulfil other contractual obligations, then will reserve the right to conduct an emergency outage. Fuse will endeavour to give as much notice as possible to the affected users.

2.4 Service Credit Request Process

To receive a Service Credit the Customer must submit a request with the description “Request for service credit” in the subject line of the email to fusesupport@fuseuniversal.com not later than twenty (20) calendar days after the last day of the month in which the alleged failure occurred.

Each request must include the following information:

- (i) the Customer’s name
- (ii) the Customer’s contact name, email and telephone information
- (iii) date and beginning and end time(s) of outage(s)
- (iv) a brief description of the characteristics of the failed uptime goal.

If the unavailability is confirmed by Fuse, then a service credit will be applied within two calendar months after Fuse’s receipt of the Customer’s credit request. Service Credits are not refundable and can be used only towards future billing charges. Service Credits are exclusive of any applicable taxes charged to the Customer or collected by Fuse and are the Customer’s sole and exclusive remedy with respect to any failure or deficiency in the Platform Availability.

3 Fuse Customer Service and Support

Fuse provides Customer Service and Technical Support to help you with any issues or incidents you may encounter whilst you are using the Fuse platform.

Fuse Support is provided on a 24 x 7 basis. Our contracted support language is English although we do have support staff who speak other languages and may be available.

3.1 Teams

Customer Service Team

All incoming queries are handled first by our Customer Service Team. The Customer Service team has an excellent knowledge of the Fuse platform and can help you with any general questions you may have.

If you believe you have an issue or incident where the Fuse platform is not working in a way that is described, the Customer Service Team will carry out the initial checks to see if they can replicate your issue and resolve it accordingly.

This may be by providing product advice, offering an alternative way of processing or a work around.

If we believe your issue is caused by something outside of the control of the Customer Support Team or they are unable to resolve your query they will pass your ticket to the Technical Support Team.

Technical Support Team

The Technical Support Team has an excellent knowledge of the Fuse platform and the underlying technical architecture and systems used to run Fuse. They have access to system logs and diagnostic tools which help them to perform a deeper level of analysis than the Customer Service Team.

The Technical Support Team may be able to resolve your issue if it is a configuration or settings issue on Fuse or on the customer’s infrastructure (internet browser configuration for example).

Technical Support may need to ask you additional questions to gather information to help resolve the issue.

Third-line Support Team

If your issue has been attributed to our software not working in a way that has been specified and described, then we will raise this as a Bug. Our development team resolve bugs that have been passed to them by the Technical Support Team, prioritised according to our SLAs.

We may also need to escalate to other Third-line support teams in order to get full resolution.

3.2 How We Support You

Fuse offers an omni-channel support approach enabling you to choose the channel that works best for you. The different channels are described below.

All channels are routed into our ticketing system where they can be allocated a reference number allowing you to track the progress as Fuse's Service and Support teams manage your case to resolution.

Fuse Support Hub

The Fuse Support Hub is available on your instance of Fuse and is accessible from the Fuse side bar menu. (Please note the Support Hub will only be accessible to your named site administrators).

The Fuse Support Hub provides a rich support experience enabling you to:

- Submit new tickets
- Review the status of your existing tickets
- Respond and comment on any of your existing ticket

Email Support

You can contact the Fuse Support and Services team directly by email at the address below:

fusesupport@fuseuniversal.com.

All Email sent to the above address will generate a ticket and you will be kept informed of the status of your ticket with frequent email updates.

3.3 Guidance on reporting issues and incidents

When reporting an issue or incident please supply as much of the information listed below as possible. This will enable our Customer Service and Support teams to investigate the issue as quickly as possible and provide a faster resolution.

- Operating system
- Browser and version
- Number of users experiencing issue
- Location (home, office etc) and firewall/security software installed
- Link to example content

Why Not Use Your Fuse Screen Recorder?

If the Fuse Screen Recorder is enabled and working on your site you can use it to record a video showing the issue you are encountering.

- (i) Create a video and save it to one of your communities
- (ii) Copy the link and include it in the description when you report your issue
- (iii) We will use the video to help answer questions and aid effective triage

3.4 Definitions

Help and Advice

A query on the use, layout or functionality of the Fuse platform or a request for further information on an outstanding change, release, issues, etc.

An Issue or Incident

Is an unplanned interruption to the Fuse platform or a reduction in the quality or normal functionality of the Fuse platform that has a material impact on the end user.

Issue or Incident Resolution

Resolution of the issue or incident is the reinstatement of the original service or functionality or the application of a change or workaround to allow for the user to continue to use the Fuse platform to achieve their business goals. Fuse may provide a workaround allowing for an issue or incident to be resolved but also accept that there is an underlying problem (Bug).

Target Resolution Date

The Target Resolution Date is the latest date by which we expect your issue or incident to be resolved. Every effort will be made to resolve your issue or incident as soon as possible

Configuration Change

A change to a feature that already exists within the Fuse platform. For example, changing minimum requirements for passwords or turning off the ability for a user to upload content.

Functional Change Request

A request for a feature or option that does not already exist within the Fuse platform or a change to the functional working of that feature which requires developer time and work to build and introduce to the platform. Please note that these requests may incur additional cost and it is at the sole discretion of Fuse for any functional change to be accepted.

Core Functionality

Core functionality is defined as the primary Fuse features. These include

- Post (Question, Article and Link)
- Record
- Upload
- Notifications

In addition the social features associated with an item of content in Fuse are also considered

Core Functionality. These include:

- The ability to Comment on and Share content.

A Bug

A bug is an error, flaw, failure or fault in the Fuse platform that causes it to produce an incorrect or unexpected result, or to behave in unintended ways or different way from the product specification.

3.5 Fuse Support Levels and Teams

The table below defines the different levels of support required and the responsible party for each level.

3.6 Fuse Support Service Level Agreements

The following Service levels agreements are defined for Fuse Support Services to cover the resolution of issues and incidents. These do not cover requests for information, Functional Change requests or Configuration Changes.

Please note that the resolution for issues that require software releases to the mobile application may be subject to additional checks by the App Store provider (for example Apple App Store or Google Play). These checks are outside Fuse's control and may introduce delays which could impact the Target Resolution times provided below.

Priority	Definition	Description	First Response	Target Resolution
P1	Critical	<p>An issue that prevents you from accessing or using critical functionality of the Fuse platform with severe business and service impact.</p> <p>There is no workaround or alternative solution.</p>	30 Minutes	2 Hours
P2	High	<p>An issue restricting use of some critical functionality such as reduced availability of core features for which there is no effective workaround; or a performance degradation that severely impacts but does usage.</p>	2 Hours	7 Days

P3	Medium	An issue that is non-critical and has operational impact but no significant business impact or results in reduced availability of core features for which there is a workaround; or creates a performance degradation with limited impact on usage.	4 Hours	30 Days
P4	Low	An issue that has minimal impact on a small number of users; or is purely cosmetic in nature.	8 Hours	60 Days

3.7 Escalation Process

Target Resolution Dates for identified issues or incidents are calculated based on the prioritisation defined above and are allocated to each issue or incident when they are initially Triaged. These may also be modified subsequently. Fuse provides an escalation mechanism for customers who do not agree with the assigned priority would like to request that a particular issue or incident be resolved before the ERD provided.

How To Request An Escalation

If you would like to make an escalation request please respond to your current open ticket stating that you would like the issue to be escalated and providing your justification.

How Fuse Manages Escalation Requests

Escalated tickets are assigned to the Head of Support. They will then be raised and discussed with our Service Management team as part of our daily prioritisation meeting. The result of the escalation request will be communicated either via a response on the ticket or via your CSM.

The resolution date and time of the issue, after it has been re-prioritised, will depend on the following:

- Availability of resource
- Further investigation and root cause analysis
- Application of any change
- Quality Assessment of any change applied
- Next scheduled or available Release date

You will receive updates on your ticket as it progresses through the different phases until it is confirmed resolved with you in production.

3.8 Ticket Status Definitions

Ticket Status	Definition
Submitted	Ticket has been received and is awaiting assignment.
Customer Service team investigating	A Customer service agent is looking into the reported issue and is investigating the possible cause.
Technical Support team investigating	Your issue has been passed to our Technical Support team for investigation
Awaiting your reply	<p>We have asked for further information regarding the issue to enable us to continue with our investigations.</p> <p>Please note: Tickets left in this state for over two weeks will automatically be closed.</p>
Awaiting development resource	We have confirmed the case requires a Developer's input and it has been placed in a queue for assignment. The time expected for a fix to be developed is detailed in section 10.
Developer fixing issue	A developer is working on a fix for the case.
Resolved	<p>A fix has been deployed to the platform and we are waiting on customer confirmation the issue is resolved.</p> <p>An email will be sent to request confirmation.</p>
Closed	The issue has been confirmed as resolved by you and ticket closed.

Annex C – Acceptable Use Policy

The online video-sharing and social learning forum platform known as 'Fuse' (the "Platform") is operated by Fuse Universal Limited, a company registered in England and Wales with company number 06636622 whose registered office is at 1 Curtain Road, London EC2A 3LT, ("Fuse").

This Acceptable Use Policy applies to your use of the Platform.

By accessing or using the Platform you confirm that you have read and accepted this Acceptable Use Policy and that you will access and use the Platform in accordance with this Acceptable Use Policy.

You acknowledge and agree that you access and use the Platform and any content on the Platform at your own discretion and risk. Fuse is under no obligation whatsoever to pre-screen, review, edit, monitor, oversee or moderate any content.

1. YOUR ACCOUNT

Prior to using the Platform, Fuse may require you to provide certain information when you create your account. You may edit this information at any time via the Platform.

If you do not provide all information required to create your account this may prevent access and use of the Platform. You must make sure that the information you provide us is accurate and that you keep your account information up to date. Fuse will use this information and other information generated from your use of the Platform to provide the Platform and as set out in the Fuse Privacy Policy which is available at www.fuseuniversal.com.

Access to your account requires your account details and a secure, individual password. You must use reasonable efforts to prevent unauthorised access and use of the Platform through your account (including by keeping your account details and password confidential and not sharing them with anyone) and you should also log-out at the end of each of your sessions. You must inform Fuse as soon as possible if you suspect there has been any unauthorised access to or use of the Platform. Other than where this is a result of a failure of Fuse's to use reasonable security measures, you are responsible for all activity which takes place under your account.

2. YOUR USE OF THE PLATFORM

In accessing and using the Platform, you must comply with any Fuse instructions and any user guides as are made available by Fuse from time to time.

You must also comply with any terms, licences, requirements, procedures, policies or regulations relating to any third party components, networks or services connected to the Platform.

You must not:

- sub-licence, rent, distribute, exploit, make available or resell access or use of the Platform, or allow any third party to access or use the Platform
- reproduce, copy, disassemble, decompile, reverse translate or in any other manner attempt to decode the Platform, create derivatives works based on the Platform or obtain or access its source code, except as permitted by applicable law;
- in using or accessing the Platform, infringe any rights of third parties (including privacy, confidentiality and intellectual property rights);
- gain unauthorised access to the accounts, information, data or content of others or attempt to circumvent any security measures within the Platform;
- engage in any action that could interfere or disrupt with the operation, functionality or integrity of the Platform (including where this could restrict or inhibit use or enjoyment of Platform for other users) or that could interfere with or disrupt the infrastructure of Fuse or its suppliers or customers;
- impersonate or otherwise misrepresent yourself or any person or entity, make false or misleading indications of origin or fact (including your relationship with Fuse), employ misleading email addresses or falsify information in the header, footer, return path, or any part of any communication, including emails, transmitted through the Platform;
- use the Platform to undertake any activities that are illegal or which constitute or aid piracy, including making available tools that can be used for no purpose other than for "cracking" software or other content;
- use the Platform to collect or store personal data about others for commercial or unlawful purposes; or
- alter, destroy or otherwise remove any proprietary notices, images or logos displayed, provided on or embedded within the Platform.

3. YOUR CONTENT

You are solely responsible for all matters arising out of or in connection with content, including video, sounds, images, artwork, logos, graphics, text, comments, captions and information and any other

content, which you publish or create on the Platform, including where such content is provided to you, or developed for you by a third party (your "Content").

You must ensure that you:

- have obtained all necessary consents, permissions, licences and waivers from copyright owners, artists, actors, directors, performers, writers, producers, or any other individuals who appear in your Content or whose services are utilised in any of your Content;
- have obtained any required synchronisation and master use licences from the owners of the musical compositions and sound recordings embodied in any of your Content, or their designated representatives;
- make all any payments to any trade unions, guilds and others, to the extent required under applicable collective bargaining agreements or otherwise, including residuals, re-use, re-run and other similar fees in connection with any of your Content; and
- have obtained all public performance licences from public performance rights collection organisations necessary in connection with any of your Content.

You must not publish or create (including uploading, posting, e-mailing, transmitting, transferring, distributing, displaying or linking to) any Content that:

- infringes any rights of third parties (including privacy, confidentiality and intellectual property rights);
- promotes illegal activity, or provides instructions for illegal activity;
- is unlawful, harmful, alarming, threatening, abusive, violent, harassing, tortious, defamatory, vulgar, obscene, pornographic, libellous, hateful or racially, sexually, ethnically or otherwise objectionable, including anything which contains child pornography or harm minors, or promotes any such behaviour;
- uses images of or discloses personal data of any one under eighteen (18) years of age;
- you do not have the right to use, including inside information and confidential information learned or disclosed as part of employment or agency relationships or pursuant to non-disclosure agreements;
- contains advertising, offers for sale, or sells any item that you are prohibited from advertising or selling by any applicable law, including in relation to any of the following: any firearms, explosives or weapons, any food that is not packaged or does not comply with all laws governing the sale of food to consumers by commercial merchants, any alcoholic beverages, any tobacco products including cigarettes and cigars, any items that are counterfeit or stolen, any dangerous items, any goods or services that do not exist, any registered or unregistered securities, any items that infringe any rights of third parties, any items that you do not have the legal right to sell, or any items where doing so through the Platform causes Fuse to violate any applicable law;
- directly or indirectly is used for junk, spam, chain letters, pyramid schemes or other solicitation; or
- contains any malicious or invasive software or code (including viruses), or that could diminish the quality of, interfere with the performance of, or impair the functionality of the Platform or the infrastructure of Fuse or its suppliers or customers.

4. MANAGEMENT OF YOUR ACCOUNT

Fuse may give warnings or may immediately terminate or suspend access to your account and/or remove any of your Content, without any liability to you, if Fuse reasonably believes (which may be based on information provided by third parties) that:

- your account information is inaccurate or you fail to keep your account information up to date; or
- you have not complied, or do not intend to comply, with this Acceptable Use Policy in any respect.

5. CHANGES

Fuse can amend this Acceptable Use Policy from time to time by uploading an updated version which will be available at www.fuseuniversal.com.