Test Drive Agreement

A   The Supplier provides the Cloud Services as described in this Agreement to various third party customers.

B   The Customer wishes to evaluate the Cloud Services for use in its business.

C   As set out in this Agreement, the Supplier has agreed to run certain Tests on various Customer Content during the Test Drive Period utilising the Cloud Services and to produce a Report of the outcome of those Tests.

THE PARTIES AGREE

1   Definitions and interpretation

1.1   In this Agreement:

Assumptions means these assumptions set out in the scope of work

Business Day means a day other than a Saturday, Sunday or bank or public holiday in England;

Cloud Services means provision of the Test Drive Analysis by the Supplier via the Supplier System and managed service as detailed in the Scope of Work;

Customer means the Customer named in the scope of work;

Customer Confidential Information means (a) all information (whether in oral, written or electronic form) relating to the Customer's business which may reasonably be considered to be confidential in nature including information relating to the Customer's technology, know-how, Intellectual Property Rights, assets, finances, strategy, products and customers; (b) the Customer Content; and (c) the Report;

Customer Content means any data made available by the Customer including any set out in a Scope of Work;

Data Protection Laws means as applicable and binding on either party or the Services: means as applicable and binding on either party or the Services:

the GDPR;

the Data Protection Act 2018;

any laws which implement any such laws; and

any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;

Customer Dependencies means those identified as such a Scope of Work and any other reasonable requirements made known to the Supplier by the Customer in writing;

Effective Date means the date set out in the Scope of Work;

Intellectual Property Rights means any and all copyright, rights in inventions, patents, know-how, trade secrets, trade-marks and trade names, service marks, design rights, rights in get-up, database rights and rights in data, semiconductor chip topography rights, utility models, domain names and all similar rights and, in each case:

(a)   whether registered or not;

(b)   including any applications to protect or register such rights;

(c)   including all renewals and extensions of such rights or applications;

(d)   whether vested, contingent or future; and

(e)   wherever existing;

Report means a summary or presentation of the results of the Test Drive in the format agreed in the Scope of Work;

Supplier means Exonar Limited, 2 Blagrave Street, Reading, Berkshire, RG1 1AZ;

Supplier System means the Exonar Reveal Application;

Test Drive Period means 20 Business Days from the Test Drive Start Date or such other period as may be agreed in a Scope of Work;

Test Drive Analysis means the analysis of Customer Content against the Use Cases;

Test Drive Start Date means the date on which the Tests will start as set out in a Scope of Work

Use Cases means the Test Drive Analysis objectives in the Scope of Work

1.2   In this Agreement:

1.2.1   a reference to this Agreement includes the Scope of Work which along with these terms and conditions shall form an "Agreement";

1.2.2   the table of contents, background section and the clause, paragraph, schedule or other headings in this Agreement are included for convenience only and shall have no effect on interpretation;

1.2.3   a reference to a 'party' includes that party's successors and permitted assigns;

1.2.4   words in the singular include the plural and vice versa;

1.2.5   any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase,

term, definition or description preceding those words; and

1.2.6   a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form, including email. In the event of discrepancy between the terms and conditions on this Test Drive Agreement and the Scope of Work, the Scope of Work shall prevail.

2   Consideration

2.1   In consideration of a charitable donation from the Customer of £1000 to the National Society for the Prevention of Cruelty to Children (NSPCC), or any other charity agreed by the parties in a Scope of Work, the parties agree to be bound by the provisions of this Agreement. This Agreement does not commit the Customer to purchase any further services from the Supplier.

2.2   The Customer shall provide reasonable evidence to that it has paid the consideration referred to in clause 2.1 above to the Supplier's satisfaction prior to the Test Drive Start Date.

3   Use of the Cloud Services

3.1   The Supplier hereby grants the Customer a personal, non-transferable, non-exclusive licence to the Cloud Services during the Test Drive Period solely for the purposes of the Supplier carrying out the test Drive Analysis. The Client acknowledges and agrees that the Cloud Services will automatically end and cease to operate at the end of the Trial Period.

3.2   The Supplier shall use reasonable endeavours to:

3.2.1   commence the Tests on the Test Drive Start Date;

3.2.2   carry out the Test Drive Analysis based on the Use Cases using the Customer Content during the Test Drive Period; and

3.2.3   prepare or present the report as detailed in the Scope of Work on completion of the Test Drive Analysis

in each case subject to the terms of this Agreement and timely fulfilment of the Customer Dependencies by the Customer and the Assumptions.

3.3   Save for death and personal injury caused by the Supplier's negligence, the Supplier shall have no liability of any kind in any circumstances whatever to the Customer in respect of the Cloud Services or Customer Content. In particular, the Supplier shall have no liability in any circumstances whatever for any data loss or corruption and the Client agrees that it has sole responsibility for protecting back- up copies of the Customer Content during the Tests.

3.4   No representations. conditions, warranties or other terms of any kind are given in respect of the Software or the Information, and all statutory warranties and conditions are excluded to the fullest extent possible.

4   Intellectual property

4.1   Subject to the Supplier complying with its obligations under this Agreement and clause 5, the Customer hereby grants the Supplier a non-exclusive, non-transferable, non-assignable, revocable licence for the duration of the Test Drive Period to use and access the Customer Content as is reasonably necessary for the Supplier to conduct the Tests.

4.2   The Supplier owns the Supplier System and all related documentation. The Customer acknowledges that any disclosure pursuant to this Agreement shall not confer on the Customer any intellectual property or other rights in relation to the Cloud Services or the Supplier System other than its right to use under clause 3.1. All outputs of the Test (excluding the Customer Content in its original format) shall remain the property of the Supplier.

5   Confidential information

5.1   Each party shall maintain the confidentiality of the Confidential Information of the other and shall not without the prior written consent of the other, disclose, copy or modify such Confidential Information (or permit others to do so) other than as necessary for the exercise of its rights and performance of its obligations under this Agreement.

5.2   When receiving Confidential Information (the "Receiving Party") from the other party (the "Disclosing Party"), the Receiving Party undertakes to:

5.2.1   disclose such Confidential Information only to those of its persons to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under this Agreement;

5.2.2   procure that such persons are made aware of and agree in writing to observe the obligations in this clause 5; and

5.2.3   be responsible for the acts and omissions of those third parties referred to in this clause 5.2 as if they were the disclosing party's own acts or omissions.

5.3   The provisions of this clause 5 shall not apply to information which:

5.3.1   is or comes into the public domain through no fault of the Receiving Party;

5.3.2   is lawfully obtained by the Receiving Party from a third party free of any obligation of confidence at the time of its disclosure;

5.3.3   is independently developed by the Receiving Party, without access to or use of Confidential Information; or

5.3.4   is required by law, by court or governmental or regulatory order to be disclosed provided that the Receiving Party where possible, notifies the Disclosing Party at the earliest opportunity before making any disclosure.

5.4   This clause 5 shall survive the termination or expiry of this Agreement for a period of three years.

6   Term and termination

6.1   This Agreement shall come into force Effective Date unless terminated earlier in accordance with the provisions of this clause 6 shall continue for the duration of the Test Drive Period after which it shall automatically expire.

6.2   Either party may terminate this Agreement for convenience at any time on 5 Business Day's prior written notice to the other. Termination of this Agreement for any reason shall not give rise to any refund of consideration paid under clause 2.1.

6.3   On termination or expiry of this Agreement (for any reason)

6.3.1   the Customer shall promptly cease to use the Cloud Services;

6.3.2   the Supplier shall disable the Customer's access to the Cloud Services; and

6.3.3   subject always to clause 5, the Supplier may retain copies of the Customer Content in the Customer System for a period of 12 months, or such other period as may be agreed between us in a Statement of Work or otherwise in writing.

6.4   Termination or expiry of this Agreement shall not affect any accrued rights and liabilities of either party at any time up to the date of termination or expiry and shall not affect any provision of this Agreement that is expressly or by implication intended to continue beyond termination.

6.5   Clauses 3, 4, 5 and 6 to 12(inclusive) shall survive termination or expiry of this Agreement for any reason.

7   Data Processing

7.1   In this Clause 7, "personal data", "data subject", "data controller", "data processor", and "personal data breach" shall have the meaning defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation ("GDPR").

7.2   The Parties hereby agree that they shall both comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 7 shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.

7.3   For the purposes of the Data Protection Legislation and for this Clause 7, Customer is the "Data Controller" and Supplier is the "Data Processor".

7.4   The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing are set out in the Scope of Work

7.5   The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in this Agreement.

7.6   The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under this Agreement:

7.6.1   Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.

7.6.2   Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of

implementing those measures. Measures to be taken are set out in the Scope of Work.

7.6.3   Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and

7.6.4   Not transfer any personal data outside of the UK or European Economic Area without the prior written consent of the Data Controller and only if the following conditions are satisfied:

7.6.5   The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;

7.6.6   Affected data subjects have enforceable rights and effective legal remedies;

7.6.7   The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and

7.6.8   The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.

7.6.9   Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);

7.6.10   Notify the Data Controller without undue delay of a personal data breach;

7.6.11   On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of this Agreement unless it is required to retain any of the personal data by law; and

7.6.12   Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 7 by the Data Controller and/or any party designated by the Data Controller.

7.7   The Data Processor shall not sub-contract any of its obligations to a sub-processor with respect to the processing of personal data under this Clause X without the prior written consent of the Data Controller (such consent not to be unreasonably withheld). In the event that the Data Processor appoints a sub-processor, the Data Processor shall:

7.7.1   Enter into a written agreement with the sub-processor, which shall impose upon the sub-processor the same obligations as are imposed upon the Data Processor by this Clause 7 and which shall permit both the Data Processor and the Data Controller to enforce those obligations; and

7.7.2   Ensure that the sub-processor complies fully with its obligations under that agreement and the Data Protection Legislation.

8   Entire agreement

This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them in respect of its subject matter, whether in writing or oral. Each party acknowledges that it has not entered into this Agreement in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement. Nothing in this Agreement shall limit or exclude any liability for fraud.

9   Notices

9.1   Any notice or other communication given by a party under this Agreement shall be in writing and signed electronically by, or on behalf of, the person giving it, and in English and sent to the other party's email address as set out in the

Scope of Work and shall be deemed to have been received within one Business Day if sent to the correct email address and no notice of delivery failure is received.

9.2   Any change to the contact details of a party as set out in clause 8.1 shall be notified to the other party in accordance with clause 8.1 and shall be effective on the date specified in the notice as being the date of such change or if no date is so specified, [five] Business Days after the notice is deemed to be received.

9.3   This clause does not apply to notices given in legal proceedings or arbitration.

10   Variation

No variation of this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.

11   Third party rights

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions.

12   Governing law

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

13   Jurisdiction

The parties irrevocably agree 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, its subject matter or formation (including non-contractual disputes or claims).

Signed on behalf of Supplier

Signed on behalf of Customer

Date

Date