

1. INTRODUCTION

- 1.1 This page sets out the general customer terms (**General Terms**) which apply to any Service (as defined below) which Zymplify (as defined below) licences or provides to any Customer (as defined below).
- 1.2 The parties' agreement for the licensing, use and provision of the Services is made up of (i) these General Terms and (ii) the Quotation (in written form or as accepted within the software billing pages); or any amendments or supplements to the agreement signed and agreed in writing between the parties. Together the above documents shall constitute and be known as the **Agreement** and apply to the contract between the parties to the exclusion of any other terms that Customer may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.3 When construing the meaning of the Agreement, the documents listed in clause 1.2 shall be interpreted in a reverse order of priority in the event of any inconsistency or conflict, with documents appearing later in the list taking priority over documents appearing earlier in the list.
- 1.4 These General Terms are published on Zymplify's website. Customer should print or save a copy of these General Terms for its records.
- 1.5 Any order placed by Customer shall only be deemed to be accepted upon Zymplify's signature of, or email agreement to, the Quotation at which point and on which date the Agreement shall come into existence.
- 1.6 Zymplify may amend these General Terms from time to time as set out in clause 15.14. Every time Customer agrees a new Quotation with Zymplify it should check these General Terms to ensure that it understands the terms which will apply to the Agreement at that time. This version 1.2 of these General Terms was most recently updated on 11 August 2023.
- 1.7 Any Quotation issued by Zymplify shall be valid for a period of 60 days from the date of issue, if not counter-signed and returned by Customer, at which point the offer outlined in the Quotation shall lapse.

2. INTERPRETATION

- 2.1 In the Agreement the following definitions and rules of interpretation shall apply:

Agreement has the meaning given to it in clause 1.2.

Authorised Users means those employees, representatives, consultants, contractors or agents of Customer only, who are authorised by Customer to use the Subscription Services and its ancillary documentation for the benefit of Customer, and who have agreed to the terms of the EULA, who shall each have unique user identifications and passwords for the Subscription Services, and for whom the Customer has paid for subscriptions as part of the Subscription Services (as specified in the Quotation).

Business Day means any day which is not a Saturday, Sunday, bank or public holiday in Northern Ireland or the jurisdiction in which Customer is based.

Commencement Date means the date specified for commencement of the licence in the Quotation, or if none is specified, the date the Quotation was first signed by Customer.

Communication Services means third-party forums, online communities, blogs, personal web pages, calendars, and/or social media communication facilities (such as Facebook, Twitter and LinkedIn) linked to or from the Subscription Services that enable Customer to communicate with the public or with a private group.

Confidential Information means in relation to either party, any or all information of a confidential nature (whether in oral, written or electronic form) including trade secrets and information of commercial value known and belonging to that party and concerning its business, suppliers, customers, products or services (including without limitation the Software and its ancillary documentation) and any other information which the recipient knows or is notified or has reason to believe is confidential to the disclosing party.

Contact means a single individual (other than an Authorised User) whose Contact Information is stored by Customer in the Subscription Services.

Contact Information means the name, email address, phone number, online user name(s), telephone number, and similar information submitted by visitors to Customer's landing pages on the Subscription Services or uploaded by Customer to the Subscription Services.

Consultancy Charges means the service charges detailed in the Quotation for any Consultancy Services, or which Zymplify confirms to Customer from time to time in respect of any further agreed Consultancy Services.

Consultancy Services means any bespoke professional services to be provided by Zymplify to Customer (as agreed from time to time or set out in the Quotation), other than the Subscription Services or basic Support, including, for example, technical assistance, training and Customer on-boarding.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures each have the meaning given to them in the Data Protection Legislation.

Customer means the person licensing and paying for the Services provided by Zymplify, as identified in the Quotation, or applicable account record or billing statement where the Quotation is unclear.

Customer Data means the data, content and images inputted by Customer, Authorised Users, or (if applicable) Zymplify (or its sub-contractors) on Customer's behalf for the purpose of facilitating Customer's use of the Subscription Services, excluding Enrichment Data.

Customer Equipment means a functioning mobile, desktop, laptop or handheld hardware device internet access, and software facilitating access to a modern internet browser, namely, Google Chrome, Mozilla Firefox, Safari or Microsoft Edge in the most recent versions, respectively.

Data Protection Legislation means the UK Data Protection Legislation and (for so long as and to the extent that they are legally binding upon the parties and relevant to the Personal Data in question) the General Data Protection Regulation ((EU) 2016/679) and/or any other directly applicable European Union other legislation and regulatory requirements 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).

Enrichment Data means the data Zymplify makes available to Customer as part of the Subscription Services. Zymplify may obtain Enrichment Data from public or third-party sources and Zymplify's internal data processes provided from Customer Data.

EULA means the end-user licence agreement (incorporating Zymplify's separate Privacy Policy and cookies policy) which all Authorised Users are required to sign up to before beginning to use the Subscription Services.

Free Services means the Subscription Services or other services or features made available by Zymplify to Customer during any Trial Period on a free of charge basis.

General Terms has the meaning given to it in clause 1.1.

Initial Subscription Term means the initial subscription term set out in the Quotation provided by Zymplify, exclusive of any Trial Period, which shall be six (6) months where no term is otherwise specified in the Quotation.

Lead Data has the meaning given to it in clause 10.12.

Licence Restrictions means the licence restrictions specified or referred to in the Quotation or elsewhere in the Agreement.

Payment Terms means the payment terms for payment of the Subscription Charges, Consultancy Charges and any other charges as agreed between the parties. If no payment terms are specified in the Quotation, the default shall be that all Consultancy Charges may be invoiced at the end of the relevant calendar month during which they were provided and such invoices shall be payable within 30 days of demand, and that all Subscription Charges shall be payable monthly in advance, by authorised credit card or other approved payment mechanism.

Purpose means approved Authorised Users accessing the Subscription Services to develop a framework for Customer's bespoke marketing automation, mailing, data and customer relationship management purposes, and utilizing the Subscription Services within that framework, and otherwise making use of any of the functionality offered by the Subscription Services (including that contemplated within its ancillary documentation) as it is functionally contemplated to operate, in accordance with the Agreement, only.

Privacy Policy has the meaning given to it in clause 10.2.

Processes has the meaning given to it in clause 12.6.

Quotation means the Zymplify approved form or online subscription process by which Customer agree to subscribe for Subscription Services and purchase any applicable Consulting Services.

Relevant Standards has the meaning given to it in clause 12.7.

Renewal Period means successive rolling terms (each of the length of the Initial Subscription specified in the Quotation or applicable by default under the Agreement where none is specified) over which the Agreement shall be automatically renewed in accordance with its terms.

Retail Prices Index or RPI means the index of that name published by the UK Office of National Statistics, or such successor body or successor index as shall apply from time to time in future (so as to most closely mirror RPI).

Sensitive Information means (a) credit or debit card numbers; personal financial account information; national insurance or social security numbers or equivalents; passport numbers; driver's licence numbers or similar identifiers; passwords; details of racial or ethnic origin; physical or mental health condition or information; or other employment, financial or health information, including any information defined under the UK Data Protection Legislation as 'Sensitive Personal Data' (or any analogous term which may apply from time to time), or any information subject to the US Health Insurance Portability and Accountability Act, the Payment Card Industry Data Security Standards, and other regulations, laws or industry standards designed to protect similar information as amended or applicable worldwide from time to time.

Services means the Subscription Services, Consultancy Services, Support and any other services provided by Zymplify to Customer from time to time.

Software means the relevant browser-based marketing automation, mailing, data and customer relationship management software applications, collectively marketed under the Zymplify® or LeadOnion® brands, which Customer has subscribed for as detailed in the Quotation only, including any upgrades to such Software either: (a) purchased by

Customer from time to time in return for payment of Zymply's then prevailing charges; or (b) to which Customer is otherwise entitled under the terms of the Agreement.

Subscription Charges means the total amount set out or provided for in the Quotation or otherwise payable in accordance with the terms of the Agreement, to be paid in accordance with the timeframes and other stipulations set out in the Agreement. More comprehensive licences may be purchased by Customer from time to time in return for payment of Zymply's then prevailing fees.

Subscription Term means the term beginning on the Commencement Date, and continuing for the Initial Subscription Term, and any Renewal Periods (subject to clause 14.2), unless and until the Agreement is terminated in accordance with its terms.

Subscription Services means hosting of the Software and making it available for access to Authorised Users via Zymply's Software platform available via the URL Zymply may specify from time to time, and any ancillary products and services, including website hosting.

Support means the reasonable level of support services (subject to fair usage restrictions) to be provided by Zymply in relation to each Authorised User, for the relevant Subscription Term, and made available, unless otherwise specified, during Zymply's standard business hours (9am to 5pm UK time on Business Days), either within the Software platform using Zymply's integrated support platform, by email to support@zymply.com or by telephone to +4428 7087 8244. Remote access must be provided by Customer to allow Zymply access to Customer Equipment for emergency fixes, if required and requested. Zymply may also provide online support resources for Authorised Users.

Term means the term of the Agreement as defined in clause 14.1.

Third-Party Services means non-embedded software products provided as a service, and professional services that are provided by third parties, which interoperate with or are used in connection with the Subscription Services.

Third-Party Sites means third-party websites linked to from within the Subscription Services, including Communications Services.

Trial Period means a free-of-charge trial licence period, if offered to Customer in the Quotation.

UK Data Protection Legislation means 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.

Zymply means Zymply Limited, a company incorporated in Northern Ireland under registered company number NI068866, whose registered office address is at 27-28 The Promenade, Portstewart, Northern Ireland, BT55 7AE.

Zymply Data means all information and data that Zymply incorporates into the Subscription Services or Consultancy Services, including Enrichment Data

- 2.2 Clause headings shall not affect the interpretation of the Agreement. References to clauses are to the clauses of these General Terms.
- 2.3 Words in the singular shall include the plural and vice versa.
- 2.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 2.5 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 2.6 Where these General Terms refer to "use of", or a "licence to", the Software, or include any similar expression, this shall mean a licence to access the Subscription Services. Obligations relating to use of the Software shall be construed as use of the Software via the Subscription Services.

3. SUBSCRIPTION FOR THE SOFTWARE

- 3.1 Subject to payment and the other restrictions set out in the Agreement, Zymply hereby grants to Customer, subject to the Licence Restrictions, and subject to the EULA applicable to each Authorised User, a non-exclusive, non-transferable, non sub-licensable right to permit the number of Authorised Users specified in the Quotation to use the Software during the Subscription Term, solely for the Purpose.
- 3.2 In relation to the Authorised Users, Customer undertakes that: (a) it shall be responsible for compliance by Authorised Users (who must be aged 18 or over, or 20 in Japan, to use the Subscription Services) with the terms of the Agreement and the EULA, and that the restrictions on Customer set out within the Agreement shall, unless the context requires otherwise, equally apply to any such persons; (b) the number of Authorised Users shall not exceed the number specified in the Quotation; (c) it will not allow or suffer any one Authorised User's account to be used by more than one individual unless it has been reassigned in its entirety to another individual, in which case the prior individual shall no longer have any right to access or use that account; (d) each Authorised User

shall keep a secure and confidential password for their use of the Subscription Services; (e) it shall maintain a written, up to date list of current Authorised Users and provide such list to Zymply within 5 Business Days of request at any time; (f) it shall permit Zymply to audit its use of the Subscription Services in order to establish the name and password of each Authorised User; (g) if any of the audits referred to in clause 3.2(f) reveal that Customer has underpaid Subscription Fees to Zymply, then without prejudice to any other right to which it may be entitled, Customer shall pay to Zymply an amount equal to such underpayment (as calculated by reference to the Subscription Fees for additional Authorised Users) within five (5) Business Days of the date of the relevant audit; and (h) if any of the audits referred to in clause 3.2(f) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Zymply's other rights, Customer shall promptly disable such passwords and Zymply shall not issue any new passwords to any such individual.

- 3.3 Customer shall not access, store, distribute or transmit any viruses, or any material during the course of its use of the Subscription 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 any other illegal activity; or (f) causes damage or injury to any person or property; and Zymply reserves the right, without liability to Customer, to disable Customer's access to any material that breaches the provisions of this clause.
- 3.4 Customer shall not: (a) other than as permitted by law, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or its documentation (as applicable) in any form or media or by any means; nor attempt to 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 Software in order to build a product or service which competes with the Software; or (c) use the Software to provide services to third parties; or (d) subject to clause 15.7, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software available to any third party except the Authorised Users; or (e) attempt to obtain, or assist third parties in obtaining, access to the Software, other than as provided under the Agreement; or (f) interfere with or disrupt the integrity or performance of the Software or third party data contained therein; or (g) attempt to gain unauthorised access to the Software or their related systems or networks, including with a view to making alterations to, or modifications of, the whole or any part of the Software, or permitting the Software or any part of it to be combined with, or become incorporated in, any other programs.
- 3.5 Customer shall not (i) use or launch any automated system, including, "robots," "spiders," or "offline readers," that sends more request messages to Zymply's servers in a given period of time than a human can reasonably produce in the same period by using a conventional browser; (ii) use the Subscription Services in any manner that damages, disables, overburdens, or impairs any of our websites or interferes with any other party's use of the Subscription Services; (iii) attempt to gain unauthorized access to the Subscription Services; (iv) access the Subscription Services other than through our interface; or (v) use the Subscription Services for any purpose or in any manner that is unlawful or prohibited by this Agreement.
- 3.6 Customer may not use the Subscription Services if Customer is legally prohibited from receiving or using same under the laws of the country in which Customer are resident or from which Customer proposes to access or use same. The Subscription Services are not designed to comply with industry-specific regulations such as the US Health Insurance Portability and Accountability Act (HIPAA), Gramm-Leach-Bliley Act (GLBA), or the Federal Information Security Management Act (FISMA), or other laws relating to industries where financial data or other sensitive information is regularly exchanged, so Customer may not use the Subscription Services where Customer's communications would be subject to such laws.
- 3.7 **CUSTOMER AGREES NOT TO USE THE SUBSCRIPTION SERVICES TO COLLECT, MANAGE OR PROCESS SENSITIVE INFORMATION. ZYMPLY WILL NOT HAVE ANY LIABILITY THAT MAY RESULT FROM CUSTOMER'S USE OF THE SUBSCRIPTION SERVICES TO COLLECT OR MANAGE SENSITIVE INFORMATION.**
- 3.8 Customer agree to use Communication Services, Third Party Sites and Third Party Services only in compliance with any terms of use specified by each relevant site or service. Zymply do not control such sites or services or the content, messages or information found in or on, or accessible through, same. Zymply disclaims and will have no liability with regards to such sites or services and any actions resulting from Customer's use of same. The availability of such sites or services does not mean Zymply endorses, supports or warrants such sites or services.
- 3.9 Customer shall use best endeavours to prevent any unauthorised access to, or use of, the Services and/or its documentation and, in the event of any such unauthorised access or use, promptly notify Zymply.
- 3.10 The rights provided under this clause 3 are granted to Customer and to any subsidiary, affiliated or holding company of Customer.

- 3.11** Customer must ensure that its use of the Subscription Services and all Customer Data is at all times compliant with the terms of the Agreement, all applicable laws and regulations (nationally and internationally) and Customer represents and warrants that: (i) it has obtained all necessary rights, releases and permissions to provide all Customer Data to Zymplify and to grant the rights granted to Zymplify in the Agreement and (ii) Customer Data and its transfer to and use by Zymplify as authorized by Customer under the Agreement do not violate any laws (including without limitation those relating to export control and electronic communications) or rights of any third party, including without limitation any intellectual property rights, rights of privacy, or rights of publicity, and any use, collection and disclosure authorized herein is not inconsistent with the terms of any applicable privacy policies. Other than its security obligations under clause 9.4, Zymplify assumes no responsibility or liability for Customer Data, and Customer shall be solely responsible for Customer Data and the consequences of using, disclosing, storing, or transmitting it.
- 3.12** Customer acknowledges that it has no right to have access to the Software in source code form or in unlocked coding or with comments.
- 3.13** Zymplify may, from time to time at its discretion, generally upgrade and improve the Software as it sees fit and Customer acknowledges that such upgrades and improvements may affect its use of the Software. Any specific upgrades requested by Customer, which are technically feasible and agreed by Zymplify, may be separately chargeable.
- 4. SERVICES AND SUPPORT**
- 4.1** Zymplify shall, during the Subscription Term provide any agreed Services to Customer on and subject to the terms of the Agreement.
- 4.2** Zymplify may provide Customer access to use Free Services at any time by activating them in Customer's account.
- 4.3** Customer may subscribe to additional features of the Subscription Services by placing an additional order or activating the additional features from within Customer's account (if this option is made available by Zymplify). This Agreement will apply to all Subscription Services that Customer activates from within Customer's account.
- 4.4** Customer may purchase Consulting Services by agreeing a Quotation with Zymplify. Unless Zymplify otherwise agrees (including in the Quotation), the Consultancy Services Zymplify provide are described in the Services List and will be delivered in English. Consultancy Charges are in addition to Subscription Charges. All Consultancy Services shall be performed remotely, unless Customer and Zymplify otherwise agree.
- 4.5** For Consultancy Services performed on-site (where specifically agreed in the Quotation), Customer will reimburse Zymplify its (or its sub-contractor's) reasonable costs for all expenses incurred in connection with the Consultancy Services.
- 4.6** Where Zymplify has been appointed on an ad-hoc basis to provide Consultancy Services, and no monthly retainer or other fixed project fee or retainer arrangement exists (as may be set out within the Quotation), the charges for all Consultancy Services shall be calculated on a time and materials basis at Zymplify's then prevailing hourly rates, with any reasonably incurred expenses in the provision of the Services also recoverable upon demand.
- 4.7** Zymplify may appoint a suitably qualified sub-contractor to perform or provide certain Services on its behalf. Customer will continue to be liable to pay Zymplify any fees due under the Agreement and shall not be liable directly for any of the fees or expenses of the sub-contractor (unless otherwise specifically agreed in the Quotation in respect of Consultancy Services).
- 4.8** Zymplify may need access to Customer's property, information, tools and resources for, and during the course of, provision of Consultancy Services. If requested by Zymplify, Customer will provide free and unfettered access to these. Customer hereby warrants and acknowledges that it is entitled to grant all such access, and provide any such information, tools or resources as may be reasonably sought by Zymplify pursuant to this clause.
- 4.9** Customer acknowledges that, in giving any opinion or advice in the course of provision of the Services, Zymplify may rely on the information about Customer and its business and will not seek to establish the reliability of such information. Accordingly, Customer: (i) undertakes to provide complete and accurate information about itself and about anything which is or may be relevant to the Services and to provide such other information as Zymplify may reasonably request; and, (ii) warrants and represents that any such information provided is accurate, complete and not misleading.
- 4.10** Customer acknowledges that it will retain responsibility at all times for compliance with all relevant laws, protocols and regulations with respect to its business and responsibility for all costs of such compliance, and that the Software only provides a tool to assist it in managing its requirements (as outlined in the definition of the Purpose). Customer also generally warrants on an ongoing basis that it will comply with all laws in Customer's use of the Subscription Services and Consultancy Services, including any applicable export laws.
- 4.11** Zymplify shall procure hosting of the Software from its hosting sub-contractor and make the Subscription Services available to Customer in accordance with the terms imposed upon it by its hosting sub-contractor from time to time, a copy of which will be provided to Customer upon

request. Zymplify shall use reasonable endeavours to inform Customer in advance of any planned service interruption.

- 4.12** Zymplify will, at no additional cost to Customer other than the Subscription Fees, provide Customer with the Support in accordance with Zymplify's support services policy (if any) in effect at the time that the Support is provided, subject to fair usage of the Support by Customer. Any on-site Support, or level of Support beyond the basic service levels set out herein and in Zymplify's standard support policy, where required by Customer and agreed by Zymplify, will be chargeable as a separate Service.
- 4.13** There may be limits associated with particular Subscription Services, which are generally subject to fair usage limits, including as regards the data volumes, email send limits, Authorised User limits or other applicable limits. Zymplify reserves the right to charge additional Subscription Charges, based on Zymplify's standard rates from time to time (as set out either on Zymplify's website or otherwise) where the Authorised User limits or other applicable limits have exceeded the limits agreed in the quotation.. Zymplify reserves the right to monitor or audit remotely this data by accessing the Subscription Services in connection with any Subscription Charges that are subject to such limits. If such monitoring reveals that Customer has underpaid Subscription Charges to Zymplify, then Customer shall pay to Zymplify an amount equal to such underpayment (as calculated by reference to the additional Subscription Charges for such excessive use historically and over the remainder of the then current Initial Subscription Term or Renewal Period) within five (5) Business Days of the date of invoice by Zymplify.
- 4.14** Zymplify may impose new, or may modify existing, storage limits for the Subscription Services at any time in Zymplify's discretion, giving notice to Customer, either on Zymplify's website or otherwise.

5. ZYMPLIFY'S OBLIGATIONS

- 5.1** Zymplify undertakes that the Services and Support will be provided with reasonable skill and care, and that it will use reasonable endeavours to maintain the Subscription Services for the duration of the Subscription Term, subject to downtimes for planned maintenance.
- 5.2** Customer acknowledges and agrees that the Services are available with only limited functionality when accessed through a mobile device.
- 5.3** The undertaking at clause 5.1 shall not apply to the extent of any non-conformance which is caused by (a) use of the Software or Services contrary to Zymplify's instructions or otherwise than as permitted by the Agreement, (b) modification or alteration of the Software by any party other than Zymplify or Zymplify's duly authorised contractors or agents, without Zymplify's written consent; (c) use of the Software in an application, or with any software, hardware or materials for which it was not intended; (d) the Software or Services are used otherwise than as permitted by the Agreement; (e) issues with Customer Equipment; (f) interaction of the Software with other software programmes or plugins maintained by Customer; or (g) acts or omissions otherwise attributable to Customer and/or outside Zymplify's reasonable control. If the Services, Support or Subscription Services do not conform to the undertaking in clause 5.1, Zymplify will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes Customer's sole and exclusive remedy for any breach of such undertaking. Notwithstanding the foregoing, Zymplify does not warrant that Customer's use of the Subscription Services and Software will be uninterrupted or error-free.
- 5.4** The Agreement shall not prevent Zymplify 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 the Agreement.
- 5.5** Zymplify warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Agreement.
- 5.6** Timing for performance of Zymplify's obligations under the Agreement shall not be of the essence.

6. CUSTOMER'S OBLIGATIONS

Customer shall: (a) at its cost, provide Zymplify with all necessary co-operation in relation to the Agreement, and all necessary data and access to information as may be required by Zymplify, its agents or contractors, in order to provide the Services and Support, including but not limited to applicable specifications, data management decisions, approvals, security access information and configuration services; (b) comply with all applicable laws and regulations with respect to its activities under the Agreement; (c) carry out all other Customer responsibilities set out in the Agreement in a timely and efficient manner (in the event of any delays, Zymplify may adjust any agreed timetable or delivery schedule as reasonably necessary); (d) ensure that the Authorised Users use the Software in accordance with the terms and conditions of the Agreement and shall be responsible for any breach of the Agreement by either; (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Zymplify, its contractors and agents to perform their obligations under the Agreement vis-à-vis Customer; (f) ensure that

its network and systems comply with the relevant specifications provided by Zymplify from time to time; (g) be solely responsible for procuring and maintaining its network connections and telecommunications links, and maintaining appropriate Customer Equipment; (h) provide a single main point of contact who can address questions or issues relating to the Software, provide timely feedback and review any changes to the Software; and (i) be solely responsible at its own cost for generating Customer Data, content and data required to utilise the Software and uploading all such content and data to the site provided to Customer using the Software. In the event that Customer requires any assistance from Zymplify in this regard, Zymplify may provide such assistance as it deems appropriate at its then prevailing charges.

7. CHARGES AND PAYMENT

- 7.1** Customer shall pay the Subscription Charges (and any Consultancy Charges, or other charges specified or agreed) to Zymplify in accordance with the Payment Terms.
- 7.2** Customer will keep its contact information, billing information and credit card information (where applicable) up to date through its account.
- 7.3** If Customer is paying by credit card or direct debit, it authorizes Zymplify to charge Customer's credit card or bank account for all fees payable during the Subscription Term. Customer further authorizes Zymplify to use a third party to process payments, and consent to the disclosure of Customer's payment information to such third party.
- 7.4** If Zymplify has not received payment of any amount due and owing under the Agreement within ten (10) days after the due date, and without prejudice to any other rights and remedies of Zymplify: (a) Zymplify may, without liability to Customer, disable Customer's and any Authorised Users' passwords, accounts and access to all or part of the Software and Zymplify shall be under no obligation to provide any or all of the Services or Support while the invoice(s) concerned remain unpaid; and (b) interest shall accrue on such due amounts at an annual rate equal to 4% over the then current base lending rate of HSBC plc at the date the relevant invoice was issued, compounded monthly, commencing on the due date and continuing until fully paid, whether before or after judgment, where Zymplify is not satisfied that Customer has not acted reasonably and in good faith in disputing any amount due and owing. If any Subscription Services are suspended for non-payment, Zymplify may charge a re-activation fee to re-activate same.
- 7.5** All amounts and fees stated or referred to in the Agreement: (a) shall be payable in pounds sterling (unless another currency is denominated in the Quotation); (b) are non-cancellable and non-refundable; (c) are exclusive of taxes (including VAT or GST), which shall be added to Zymplify's invoice(s) at the appropriate rate. Customer shall have no liability for any taxes based upon Zymplify's gross revenues or net income.
- 7.6** If Customer is located in the EU, the Customer must provide Zymplify with the VAT registration number under which Customer is registered in Customer's member state. If Customer does not provide Zymplify with a VAT registration number prior to Customer's transaction being processed, Zymplify will not issue refunds or credits for any VAT that was charged.
- 7.7** If Customer is required to deduct or withhold any tax, Customer must pay the amount deducted or withheld as required by law and pay Zymplify an additional amount so that Zymplify receives payment in full as if there were no deduction or withholding.
- 7.8** If, at any time whilst using the Software, Customer exceeds the Licence Restrictions, Zymplify shall charge Customer, and Customer shall pay, Zymplify's then prevailing charges for such excessive use.
- 7.9** Zymplify shall be entitled to increase the Subscription Charges and the rate for any Consultancy Charges at the start of each Renewal Period in line with the percentage increase in the RPI over either the immediately preceding Renewal Period or Initial Subscription Term (as applicable). The Subscription Charges and Consultancy Charges set out in the Quotation shall be deemed to have been amended accordingly. The first such increase shall take effect on the date of commencement of the first Renewal Period and shall be based on the latest available figure for the percentage increase in the RPI.

8. PROPRIETARY RIGHTS

- 8.1** Customer acknowledges and agrees that Zymplify and/or its licensors own all intellectual property rights in, or arising from, the Services, Software and their documentation, as well as in any Zymplify® trademarks (word marks, picture marks or integrated marks) and associated unregistered trademarks and tradenames used by Zymplify. Except as expressly stated herein, the Agreement does not grant Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services, Software, their documentation and the Zymplify trademark and associated unregistered trademarks. This shall be without prejudice to Customer's ownership of any background intellectual property rights owned by it separately from the Agreement and/or pre-dating the Agreement.
- 8.2** Customer shall own all rights, title and interest in and to all of Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of Customer Data and the means by which it acquired such Customer Data. Zymplify reserves the right to withhold

Customer's access to any Customer Data if and to the extent Customer owes money to Zymplify pursuant to the Agreement.

- 8.3** Where Zymplify creates any specific content or material for Customer through the Consultancy Services, and such content is unique to such Customer, subject to payment in full of any charges owing under the Agreement, Zymplify agrees to assign all its right and title in the intellectual property rights subsisting in such content to Customer, with effect from the date of its creation.
- 8.4** Zymplify encourages Customer provide feedback on the Subscription Services or Consultancy Services. Customer agree that all such feedback will be non-confidential and non-proprietary and that Zymplify own all rights to use and incorporate them into the Subscription Services or Consultancy Services, without payment or attribution to Customer.
- 8.5** Zymplify shall use reasonable endeavours to maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. However, Customer understands and acknowledges that use of the Subscription Services necessarily involves transmission of Customer Data over networks that are not owned, operated or controlled by Zymplify, and that Zymplify cannot be held responsible for any Customer Data lost, altered, intercepted or stored across such networks. Zymplify does not guarantee that its security procedures will be error-free, that transmissions of Customer Data will always be secure or that unauthorized third parties will never be able to defeat Zymplify's security measures or those of Zymplify's third-party service providers.
- 8.6** Zymplify shall not modify Customer Data, disclose Customer Data or access Customer Data, which shall be treated as the Confidential Information of Customer, except: (a) as required by law; (b) as expressly permitted by Customer; (c) to provide the Services; (d) to address technical problems or issues with the Services; (e) at Customer's request when providing Support; or (f) under its lien over such data as contemplated in clause 9.2 above, or as otherwise contemplated under the Agreement.
- 8.7** Zymplify shall not use, or allow anyone else within its control to use, Customer Data to contact any person except as Customer directs or permits. Zymplify will use Customer Data only in order to provide the Subscription Services and Consultancy Services to Customer and only as permitted by applicable law, the Agreement, and Zymplify's Product Privacy Policy. If Customer have engaged with a partner of Zymplify's that is one of Zymplify's agents authorised to resell Subscription Services on its own behalf, Zymplify may monitor Customer's partner's activity within Customer's Zymplify account and make information related to Customer's subscription available to Customer's partner for the purposes of managing and improving the Zymplify's programmes. Zymplify will not use Contact Information for Zymplify's own marketing purposes.
- 9. DATA PROTECTION**
- 9.1** Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 9.2** The parties acknowledge that for the purposes of the Data Protection Legislation, in relation to any Personal Data comprised within Customer Data (**Customer Personal Data**), Customer is the Data Controller and Zymplify is the Data Processor. Such Personal Data shall only be processed by Zymplify in accordance with the terms of Zymplify's privacy notice and policy, which is available at zymplify.com/privacy-policy (**Privacy Policy**).
- 9.3** As between the parties, where each party processes any Personal Data provided by or relating to the other party or its employees otherwise than Customer Personal Data, including employee names and email addresses, each party acknowledges that they shall act as a Data Controller in relation to such Personal Data and only process it for specified purposes in accordance with each party's respective privacy policy for the purposes of contract administration or otherwise in its own legitimate interests, as permitted under applicable laws.
- 9.4** Without prejudice to the generality of clause 10.1, Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of any Personal Data provided to Zymplify, including Customer Personal Data, for the duration and purposes of the Agreement.
- 9.5** Without prejudice to the generality of clause 10.1, Zymplify shall, in relation to any Customer Personal Data: (a) process that Customer Personal Data only on the written instructions of Customer unless Zymplify is required by applicable laws to otherwise process that Customer Personal Data; (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures; (c) ensure that all personnel who have access to and/or process Customer Personal Data are obliged to keep Customer Personal Data

confidential; (d) assist Customer, at Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators; (e) notify Customer without undue delay on becoming aware of a Personal Data breach; and (f) at the written direction of Customer, delete or return Customer Personal Data and copies thereof to Customer on termination of the agreement unless required by Applicable Law to store Customer Personal Data (subject always to Customer having paid Zymplify any then outstanding charges owing under the Agreement).

- 9.6** Customer consents to Zymplify appointing the third-party processors listed in the Privacy Policy, or otherwise notified to Customer from time to time by Zymplify, as third-party processors of any Personal Data processed by Zymplify under the Agreement. Zymplify confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between Customer and Zymplify, Zymplify shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 10.6.
- 9.7** Zymplify shall use reasonable commercial endeavours to back-up all Customer Data on a reasonably regular basis. In the event of any loss or damage to Customer Data, save for a breach of obligations arising pursuant to the Data Protection Legislation, Customer's sole and exclusive remedy shall be for Zymplify to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Zymplify (or its Subscription Services provider) in accordance with its archiving procedure. Customer should note that Zymplify's typical retention periods for Customer Data are as set out in its Privacy Policy. Zymplify shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party or any damages (whether direct, indirect or consequential) suffered as a result, save for any breaches of Data Protection Legislation which cannot be excluded or disclaimed under relevant law and provided always that Zymplify uses reasonable endeavours to (where appropriate) restore such Customer Data from the latest backup maintained by it as at that date.
- 9.8** Customer acknowledges and agrees that Customer Personal Data may be transferred or stored outside the EEA or the country where Customer and the Authorised Users are located in order for Zymplify to provide the Services and access to the Software and fulfil Zymplify's other obligations under the Agreement.
- 9.9** Customer shall ensure that (a) it is entitled to transfer the relevant Customer Personal Data to Zymplify so that Zymplify may lawfully use, process and transfer the personal data in accordance with the Agreement on Customer's behalf; and (b) that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by the Data Protection Legislation.
- 9.10** Zymplify may monitor use of the Subscription Services by Customer and use Customer Data gathered in an aggregate and anonymous manner. Customer agree that Zymplify may use and publish such information, provided that such information does not contain any personal data, identify Customer or any of its contacts specifically and is used solely in an aggregated and anonymised manner, for example, stating numbers of contacts falling within particular job categories contacted within particular industries. This data is used by Zymplify as part of internal data processes to develop and improve Enrichment Data. With these internal data processes, in no event will specific Customer Data be disclosed, included within or provided to other customers or third parties. For clarity any data provided to other customers or third parties will only be in an aggregated and anonymous manner.
- 9.11** If Zymplify makes Enrichment Data available to Customer, then Customer may only use that Enrichment Data in connection with Customer's use of the Subscription Services (unless, of course, Customer have a source other than the Subscription Services for such Enrichment Data). Enrichment Data may be made available to Customer based on Customer Data, but Zymplify will not use Customer Data to enrich data for other parties, except as Zymplify describe in clause 10.10 above. The Enrichment Data Zymplify provide may be provided from or through third party service providers or public sources.
- 9.12** As part of the Other Services, Zymplify may provide specific data leads to Customer, which may include Personal Data relating to third parties (**Lead Data**). Such Lead Data may only be used by Customer for its internal business purposes, and the provisions in clause 9.10 above regarding Enrichment Data shall equally apply to Lead Data (as applicable). All Lead Data obtained has been collected by third parties with whom Zymplify works and has been sourced from both publicly available data and from those third parties' proprietary databases. Zymplify has carried out supplier assessments on the provision of lead data to ensure that its suppliers meet their obligations under GDPR and other privacy legislation. It shall be Customer's sole responsibility to ensure that any such Lead Data resold to it is used lawfully in accordance with relevant Data Protection Legislation and other relevant laws. Customer agrees that where any individual whose Personal Data has been captured in the Lead Data has indicated to Customer that they no

longer wish to be contacted by third parties, that this is communicated to Zymplify so that such individual's Personal Data can be removed from the Lead Data.

10. CONFIDENTIALITY

- 10.1** Each party shall maintain the confidentiality of the other party's Confidential Information and shall not, without the prior written consent of the other, use, disclose, copy or modify the other party's Confidential Information (or permit any third party to do so) other than as strictly necessary for the performance of its rights and obligations under the Agreement (including in Zymplify's case, communicating the Confidential Information to its third party services providers). The provisions of this clause shall not apply to any information which: (a) is or comes into the public domain without breach of the Agreement; or (b) was in the possession of the receiving party prior to receipt from the disclosing party without an obligation of confidence; or (c) was obtained from a third party free to divulge such information; or (d) is required to be disclosed by law or by any legal, regulatory or administrative body.
- 10.2** Customer grants Zymplify the right to add Customer's name and company logo to Zymplify's customer list and website with its prior written consent.

11. INDEMNITY

- 11.1** Customer shall defend, indemnify and hold harmless Zymplify 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 its and/or the Authorised Users' use of the Services and Software for any purpose outside of the Purpose or any claim relating to Customer Data, including, without limitation, any claim brought by a third party alleging that Customer Data, or Customer's use of the Services or Software in breach of the Agreement infringes or misappropriates the intellectual property rights of a third party or violates applicable law, save to the extent directly attributable to Zymplify's breach of the Agreement.
- 11.2** Zymplify shall, subject to clause 12.5 and the limitations in clause 13, defend Customer against any third party claim that the Software infringes any United Kingdom patent effective as of the Commencement Date, and shall indemnify Customer for any amounts awarded against Customer in final judgment or settlement of such claims, provided that: (a) Zymplify is given prompt notice of any such claim; (b) Customer provides reasonable co-operation to Zymplify in the defence and settlement of such claim, at Zymplify's expense; and (c) Zymplify is given sole authority to defend or settle the claim.
- 11.3** In the defence or settlement of any claim, Zymplify may procure the right for Customer to continue using the Software, replace or modify the Software so that it becomes non-infringing or, if such remedies are not reasonably available, terminate the Agreement without any additional liability or obligation to pay liquidated damages or other additional costs to Customer.
- 11.4** In no event shall Zymplify, its employees, agents and sub-contractors be liable to Customer to the extent that the alleged infringement is based on: (a) a modification of the Software by anyone other than Zymplify; or (b) Customer's use of the Software in a manner contrary to the instructions given to Customer by Zymplify; or (c) Customer's use of the Software after notice of the alleged or actual infringement from Zymplify or any appropriate authority.
- 11.5** The foregoing states Customer's sole and exclusive rights and remedies, and Zymplify's (including Zymplify's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trademark, database right or right of confidentiality.

12. LIMITATION OF LIABILITY

- 12.1** This clause 12 sets out the entire financial liability of the parties (including any liability for the acts or omissions of its employees, agents and sub-contractors) in respect of: (a) any breach of the Agreement (including without limitation, any claim under clause 12.2); (b) any use made by Customer of the Software, Services, Support or any part of them; and (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.
- 12.2** Except as expressly and specifically provided in the Agreement: (a) 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 the Agreement; (b) the Services, the Software and all other services provided, procured and/or sub-contracted by Zymplify under the Agreement, are provided to Customer on an "as is" basis; and (c) Customer assumes sole responsibility for the use of the Services, Software and their associated documentation by it, the Authorised Users, and for conclusions drawn from such use. Zymplify shall have no liability for any damage caused by errors or omissions in any information, instructions or data provided to Zymplify by Customer in connection with the Services, Software or Support, or any actions taken by Zymplify at Customer's direction.
- 12.3** Nothing in the Agreement excludes Zymplify's liability: (a) for death or personal injury caused by Zymplify's negligence; or (b) for fraud or fraudulent misrepresentation; or (c) any other liability which cannot strictly be excluded or limited by relevant law.

- 12.4** Subject to clauses 13.2 and 13.3: (a) The parties shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Agreement; and (b) The parties total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to the total Subscription Charges and Consultancy Charges paid during the 12 months immediately preceding the date on which the claim arose.
- 12.5** Zymplify shall have no liability to Customer whatsoever in respect of anything arising during the Trial Period, which limitation the parties agree to be reasonable having regard to the free of charge nature of the Trial Period. Specific email and data limits may apply during the Trial Period, which shall normally be outlined in any Quotation or online form by which Customer signs up for any Free Services.
- 12.6** Customer acknowledges and accepts that the Software and Services have not been developed specifically to meet its requirements, and that it is therefore it is its sole responsibility to ensure that the functions of the Software and Services meet such requirements. In particular, Customer acknowledges that the Software and Services simply provide a digital platform with various tools permitting the it and its Authorised Users to manage Customer's protocols or processes (and organise and undertake) (collectively **Processes**) for marketing automation, mailing, data and customer relationship management.
- 12.7** Customer acknowledges and accepts that Zymplify shall have no liability or responsibility for ensuring that such Processes (as determined and set by Customer's Authorised Users) or their exercise are compliant with any applicable legal, regulatory or industry standards or requirements in the country or jurisdiction within which Customer operates or is based (the **Relevant Standards**), nor that such Processes are in any way adequate, complete, relevant and/or appropriate for the purposes for which they are intended.
- 12.8** The results and outcomes of Customer's use of the Software and Services cannot be in any guaranteed and use of the Software and Services is something for which Customer acknowledges and accepts that Zymplify cannot and do not accept any liability or responsibility. Customer shall be entirely responsible for same. It is Customer's sole responsibility to monitor and audit its Authorised Users' use of the Services and ensure that any Processes are lawful and proper and are properly and lawfully set, used and adhered to.
- 12.9** Customer acknowledges and accepts that (a) Zymplify do not and cannot warrant or represent that the Software and Services are compliant with any regulatory or legal requirements to which it may be subject, or which may be relevant to the purposes for the Software may be used, including the Relevant Standards; (b) Zymplify cannot be held responsible or liable for human error and negligent or fraudulent use of the Subscription Services.
- 13. TERM, TERMINATION AND SUSPENSION**
- 13.1** The Agreement shall commence on the Commencement Date, or the date the Quotation is signed by both parties, whichever is earlier, and shall (unless terminated earlier in accordance with these terms) continue in full force and effect until the end of the Subscription Term.
- 13.2** Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Agreement without liability to the other if: (a) the other party commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing of the breach; or (b) an order is made or a resolution is passed for the winding up of the other party or if an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or if such an administrator is appointed or if documents are filed with the court for the appointment of an administrator or if notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying charge holder, or if a receiver is appointed of any of the other party's assets or undertaking or if circumstances arise which entitle the court or a creditor to appoint a receiver or manager or which entitle the court to make a winding-up order or if the other party takes or suffers any similar or analogous action in consequence of debt; or (c) the other party ceases, or threatens to cease, to trade. Zymplify may also terminate the Agreement for cause on thirty (30) days' notice if Zymplify determines that Customer is acting, or has acted, in a way that has or may negatively reflect on or affect Zymplify, Zymplify's prospects, or Zymplify's customers. The Agreement may not otherwise be terminated prior to the end of the Subscription Term.
- 13.3** Zymplify may suspend any Authorised User's access to any or all Subscription Services without notice for: (i) use of the Subscription Services in a way that violates applicable laws or regulations or the terms of the Agreement or the EULA, (ii) use of the Zymplify email send service that results in excessive hard bounces, spam complaints via feedback loops, direct spam complaints (to Zymplify's DPO), or requests for

removal from a mailing list by recipients, or (iii) repeated instances of posting or uploading material that infringes or is alleged to infringe on the intellectual property rights of any person. Zymplify may, without notice, review, edit and delete any Customer Data that Zymplify has reason to determine in good faith violate the Agreement or the terms of the EULA, provided that the parties acknowledge and agree that Zymplify have no duty to, and shall not, pre-screen, control, monitor or edit Customer Data.

- 13.4** If Customer's website, or use of, the Subscription Services: (i) is being subjected to denial of service attacks or other disruptive activity, (ii) is being used to engage in denial of service attacks or other disruptive activity, (iii) is creating a security vulnerability for the Subscription Services or others, (iv) is consuming excessive bandwidth, or (v) is causing harm to Zymplify or others, then Zymplify may, with electronic or telephone notice to Customer, suspend all or any access to the Subscription Services. Zymplify will try to limit the suspension to the affected portion of the Subscription Services and promptly resolve the issues causing the suspension of the Subscription Services. Nothing in this clause limits Zymplify's right to terminate for cause as set out in clause 14.2 above, if Zymplify determine that Customer are acting, or have acted, in a way that has or may negatively reflect on or affect Zymplify, Zymplify's prospects, or Zymplify's customers.
- 13.5** Following expiry of the Initial Subscription Term and any Renewal Period, the Subscription Term shall automatically renew over subsequent Renewal Periods unless and until either party gives notice to the other in writing (including by email) that it does not wish the Agreement to continue beyond the then current Renewal Period or Initial Subscription Term (as applicable), such notice to expire no later than 30 days prior to the end of the then current Renewal Period or Initial Subscription Term (as applicable).
- 13.6** Customer shall be entitled to upgrade its subscription to the Subscription Services (such that the level of Subscription Charges increases) at any time, by selecting the relevant options within the Software platform, and such upgrades shall take effect on a pro-rated basis (or the basis otherwise specified in the platform) with immediate effect, and apply to the end of the then current Initial Subscription Term or Renewal Period.
- 13.7** The subscription level may not be downgraded before the end of the then current Initial Subscription Term or Renewal Period, and Customer may serve notice that it wishes to downgrade its subscription no later than 30 days prior to the end of the then current Renewal Period or Initial Subscription Term (as applicable). Such downgrade shall take effect from the end of such applicable period.
- 13.8** Where Customer is offered a Trial Period in the Quotation, Customer shall be entitled to terminate the Trial Period at any time. Customer makes no commitment to purchase Subscription Services from Zymplify by availing of any Free Services (unless otherwise agreed in any Quotation). Zymplify may suspend, limit, or terminate the Trial Period and any Free Services for any reason at any time without notice.
- 13.9** On expiry or termination of the Agreement for any reason: (a) the Customer's right to access or use the Subscription Services and any Zymplify Data or Confidential Information shall immediately cease, even if the Initial Subscription Term or Subscription Term is defined as "perpetual" in, or if no expiration date is specified in, the Quotation; (b) Zymplify may offer Customer Free Services for a time limited period to allow them to stay on, in which case the Agreement shall continue to apply (but subject to the provisions around such Free Services) and Customer's Authorised User accounts shall remain open (subject always to Zymplify's right to cancel or close same, and withdraw the offer of Free Services) at any time; (c) each party shall return and make no further use of any Confidential Information belonging to the other party; and (d) the accrued rights of the parties as at expiry or termination, or the continuation after expiry or termination of any provision expressly stated to survive (including, without limitation, clauses 1, 2, 9, 10, 11, 12.1, 13, 14.9 and 15) or implicitly surviving termination, shall not be affected or prejudiced; (e) as long as Customer have paid all fees owed to Zymplify, if Customer make a written request within thirty (30) days after termination or expiration the Agreement, Zymplify will provide Customer with temporary access to the Subscription Services to retrieve, or Zymplify will provide Customer with copies of, all Customer Data then in Zymplify's possession or control. If Zymplify provide Customer with temporary access to the account, Zymplify may charge a re-activation fee. Zymplify may withhold access to Customer Data until Customer pay any fees owed to Zymplify. Thirty (30) days after termination or expiration of Customer's Subscription, Zymplify will have no obligation to maintain or provide Customer the Customer Data and may, unless legally prohibited, delete all Customer Data in Zymplify's systems or otherwise in Zymplify's control. Customer shall pay all reasonable expenses incurred by Zymplify in returning or disposing of Customer Data; and (e) if Customer has terminated the Agreement for cause, Zymplify will promptly refund any prepaid but unused fees covering use of the Subscription Services after termination. If Zymplify has terminated the Agreement for cause, Customer will promptly pay all unpaid fees due through the end of the Subscription Term. Fees are otherwise non-refundable.

14. GENERAL

- 14.1** Zymplify shall have no liability to Customer under the Agreement if it is prevented from or delayed in performing its obligations under the 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 Zymplify or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that Customer is notified of such an event and its expected duration.
- 14.2** A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given. No delay in exercising any right or remedy or failure to object will be a waiver of such right or remedy or any other right or remedy. A waiver on one occasion will not be a waiver of any right or remedy on any future occasion.
- 14.3** Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.
- 14.4** If any provision (or part of a provision) of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 14.5** The Agreement, and any documents referred to the constituent documents forming it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. For the avoidance of doubt, the Agreement shall apply to the exclusion of any terms introduced by Customer, through custom, dealing or otherwise. Zymplify's obligations are not contingent on the delivery of any future functionality or features of the Subscription Services or dependent on any oral or written public comments made by Zymplify regarding future functionality or features of the Subscription Services.
- 14.6** Zymplify might make versions of the Agreement available in languages other than English. If Zymplify do, the English version of the Agreement will govern Zymplify's relationship and the translated version is provided for convenience only and will not be interpreted to modify the English version of this Agreement.
- 14.7** Customer shall not, without the prior written consent of Zymplify (such consent not to be unreasonably withheld), assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement. Zymplify shall be free to assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement without the consent of Customer, but providing notice of any assignment or transfer.
- 14.8** Nothing in the 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).
- 14.9** Notwithstanding any other provisions of the Agreement, nothing in the Agreement confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.
- 14.10** Any notice required or permitted to be given under the Agreement shall be in writing and shall be delivered or transmitted to the intended recipient's address as specified in the Agreement or such other address as either party may notify in writing to the other from time to time for this purpose. It may also, in the case of notice by Zymplify only, be generally posted on Zymplify's website portal, or notified by way of email to the email address Zymplify has on account for a given Customer. Any notice shall be treated as having been served on delivery if delivered by hand or 4 Business Days after posting if sent by pre-paid first-class post. In the case of notice served by posting on the website or by email, the notice shall be deemed given at the time such upload goes live onto the website and at the time of transmission of the email (respectively).
- 14.11** The construction, validity and performance of the Agreement shall be governed by the laws of Northern Ireland, and the parties submit any dispute regarding the construction, validity and performance of the Agreement, or its subject matter, to the exclusive jurisdiction of the courts of Northern Ireland.
- 14.12** The Agreement is a contract for the provision of services and not a contract for the sale of goods. Where Customer is based in the USA the provisions of the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), or any substantially similar legislation as may be enacted, shall not apply to this Agreement. If Customer is based outside the USA, the parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not govern the Agreement or the rights and obligations of the parties under it.
- 14.13** The Quotation may be executed in any number of counterparts, each of which will be considered an original, but all of which together will constitute the same agreement. The exchange of a fully executed Quotation (in counterparts or otherwise) by electronic transmission shall be sufficient to bind the parties to the terms and conditions of the Agreement.
- 14.14** Unless otherwise stated in these General Terms, no amendment or variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives). The above notwithstanding, Zymplify may, acting in its sole discretion, amend these General Terms from time to time. Every time Zymplify enters into a new Quotation with any Customer, the terms applying to the Agreement between the Parties shall be as outlined in the relevant version of these General Terms in force at the time of the signing of the relevant Quotation.
- 14.15** Each party represents and warrants to the other that it has full power and authority to enter into the Agreement and that it is binding upon such party and enforceable in accordance with its terms.
- 14.16** Zymplify may update and change any part or all of these General Terms, (other than those relating to fees and charges) at any time. If Zymplify update or change these General Terms or any other document comprising part of the Agreement, and the updated General Terms or constituent document will be posted at the URL at which Customer originally accessed it and Zymplify will let Customer know via email or through a pop up notification when using the Software. The updated document will become effective and binding on the next Business Day after notice of any update is so given. When Zymplify change any document, the "Last Updated" date and version reference in the relevant document (e.g. clause 1.6 of these General Terms) will be updated to reflect the date of the most recent version. Zymplify encourage Customer to review the documents forming part of the Agreement periodically. If Customer does not agree with a modification, Customer must notify Zymplify in writing within thirty (30) days after receiving notice of modification. If Customer give Zymplify this notice, Customer's subscription will continue to be governed by the terms and conditions of the Agreement prior to modification for the remainder of Customer's current term. Upon renewal, the amended terms published by Zymplify will apply.