Cernel – SaaS Terms and Conditions

1. **DEFINITIONS AND INTERPRETATION**

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

"Applicable Laws" means the law of the European Union or of Denmark.

"Authorised Users" means those, employees, agents, independent contractors   and other affiliates of the Customer who are authorised by the Customer to access and use the Services, the Platform and/or the Documentation.

"Business Day" means a day other than a Saturday, Sunday or public holiday in Denmark.

"Conditions" these terms and conditions set out in clause 1 (Definitions and Interpretation) to clause 22 (Governing Law and Jurisdiction) (inclusive) and in the Schedules to these terms and conditions.

"Confidential Information" means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 9.5 or clause 9.6.

"Contract" the contract between the Customer and Cernel for the supply of the Services in accordance with the Order and these Conditions.

"Contract Year" means a 12-month period commencing with the Start Date or any anniversary of it.

"Customer" means the organisation that places an Order for the Services (or any Trial) that is accepted by Cernel.

"Customer Data" means (i) the data inputted on the Platform or the Cernel Apps by the Customer or the Authorised Users in connection with the use of the Services including the Customer Personal Data and (ii) output and results, including, information, text, images, statistics, instructions,   obtained from the use of the Services, the Software and the Documentation by the Customer, and the conclusions drawn from such results.

"Customer Personal Data" any personal data which Cernel processes in connection with the Contract, in the capacity of a processor on behalf of the Customer.

"Danish Data Protection Act" the Danish Data Protection Act (act. no. 502 of 23 May 2018).

"Data Protection Laws" the Danish Data Protection Act, GDPR and such other data protection and privacy legislation in force from time to time that applies to the provision of the Services.

"Documentation"   means any documentation made available to the Customer and/or any of the Authorised Users by Cernel which sets out a description of the Services and/or the Platform and the user instructions for use of the Services and/or the Software.

"GDPR" means the General Data Protection Regulation ((EU) 2016/679).

"Initial Subscription Term" means such period as referred to as the initial subscription term in the Order.

"Intellectual Property Rights" patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

"Cernel" means Cernel Aps, incorporated and registered in Denmark with CVR 44052857 whose office is at Inge Lehmanns Gade 10, 6, 8000 Aarhus C, Denmark.

"Cernel Apps" any applications provided by Cernel for the Customer's and/or the Authorised Users' use in connection with the provision of the Services, including both source code and object code.

"Cernel Personal Data" any personal data which Cernel processes in connection with the Contract, in the capacity of a controller.

"Normal Business Hours" 9.00 am to 4.00 pm local time in Denmark, each Business Day.

"Order" means the order for the Services placed by the Customer and agreed by Cernel either online through Cernel's website or other method or in hardcopy form.

"Platform" Cernel's infrastructure and cloud computing platform and runtime environment made available by Cernel in connection with the supply of the Services.

"Purpose" the purposes for which the Customer Personal Data is processed, as set out in clause 5.8(a).

"Renewal Period" means the period described in clause 12.1.

"Services" means the services to be provided by Cernel to the Customer under the Contract as referred to in the Order or as otherwise agreed by written approval of the parties.

"Software" the Platform and/or Cernel's Apps.

"Start Date" means the start date referred to in the Order.

"Term" has the meaning given in clause 12.1.

"Trial" the opportunity granted by Cernel for the Customer to access the Software and/or use the Services free of charge so that the Customer can evaluate whether the Software and/or the Services meet its needs.

"Trial Period" the duration of the Trial as agreed to by Cernel.

"User Subscriptions" means the user subscriptions purchased by the Customer pursuant to the Contract which entitle Authorised Users to access and use the Software and the Services in accordance with the Contract.

"User Subscription Fees" means the fees payable by the Customer to Cernel as referred to in the Order for the User Subscriptions.

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

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

1.3   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. USER RIGHTS

2.1   Subject to the Customer paying the User Subscription Fees in accordance with the Contract, (or, if relevant, subject to Cernel granting the Customer a Trial) and subject to the other terms and conditions in the Contract, Cernel grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to access and use the Services, the Software and the Documentation during the Term or the Trial Period, as applicable, solely for the Customer's internal use of the Services.

2.2   In relation to the Authorised Users, the Customer undertakes that:

(a)   the maximum number of Authorised Users that it authorises to access and use the Services, the Software and/or the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;

(b)   it will not allow or suffer any User Subscription

to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services, the Software and/or the Documentation; and

(c)   each Authorised User shall keep a secure password for their use of the Services, the Software and/or the Documentation and that each Authorised User shall keep their password confidential.

2.3   The Customer shall not and shall ensure that the Authorised Users shall not access, store, create, distribute or transmit any material during the course of its or their use of the Services and the Software that:

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

(b)   facilitates illegal activity;

(c)   depicts sexually explicit images or promotes unlawful violence;

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

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

and Cernel reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's and the Authorised Users' access to any material that breaches the provisions of this clause.

2.4   The Customer shall not and shall ensure that its Authorised Users shall not:

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

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

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

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

(c)   except to the extent expressly permitted under the Contract use the Services, the Software and/or Documentation to provide services to third parties; or

(d)   subject to clause 18, license, sell, rent, lease,

transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services, the Software and/or the Documentation available to any third party except the Authorised Users; or

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

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

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

2.6 Services may be subject to usage limits specified in Order Forms and Documentation. If Customer exceeds a contractual usage limit, Cernel will assist Customer in reducing Customer's usage so that it conforms to the applicable limit. If Customer continues to exceed the specified limit, Customer must, at Cernels request, either execute an Order for additional quantities of the applicable Services, and/or pay any invoice for excess usage.

2.7 The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer unless Cernel expressly agrees in writing.

3. ADDITIONAL USER SUBSCRIPTIONS

3.1 The Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions and Cernel shall grant access to the Services, the Software and the Documentation to such additional Authorised Users in accordance with the provisions of the Contract.

3.2 If such additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by Cernel for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

4. SERVICES

4.1 Cernel shall, during the Term, provide the Services and make available the Software and the Documentation to the Customer and its Authorised Users on and subject to the provisions of the Contract.

4.2 Cernel shall use all reasonable commercial endeavours to make the Software and the Services available in accordance with the support and service levels set forth herin..

5. CUSTOMER DATA

5.1 For the purposes of this clause 5, the terms **controller**, **processor**, **data subject**, **personal data**,

personal data breach and processing shall have the meaning given to them in the Danish Data Protection Act.

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

5.3 The parties have determined that, for the purposes of the Data Protection Laws:

(a) Cernel shall act as controller of the personal data set out in paragraph 1.1 of Part 1 of Schedule 1;

(b) Cernel shall process the personal data set out in paragraph 1.2 of Part 1 of Schedule 1 as a processor on behalf of the Customer.

5.4 Should the determination in clause 5.3 change, then each party shall work together in good faith to make any changes which are necessary to Schedule 1.

5.5 By entering into the Contract, the Customer consents to (and shall procure all required consents, from its Authorised Users) in respect of all actions taken by Cernel in connection with the processing of Cernel Personal Data.

5.6 Without prejudice to the generality of clause 5.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Cernel Personal Data and Customer Personal Data to Cernel and/or lawful collection of the same by Cernel for the duration and purposes of the Contract.

5.7 In relation to the Customer Personal Data, Part 2 of Schedule 1 sets out the scope, nature and purpose of processing by Cernel, the duration of the processing and the types of personal data and categories of data subject.

5.8 Without prejudice to the generality of clause 5.2 Cernel shall, in relation to Customer Personal Data:

(a) process that Customer Personal Data only on the documented instructions of the Customer, unless Cernel is required by Applicable Laws to otherwise process that Customer Personal Data. Where Cernel is relying on Applicable Laws as the basis for processing Customer Processor Data, Cernel shall notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Cernel from so notifying the Customer on important grounds of public interest. Cernel shall inform the Customer if, in the opinion of Cernel, the instructions of the Customer infringe Data Protection Laws;

(b) implement 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, which the Customer has reviewed and confirms are 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 any personnel engaged and authorised by Cernel to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

(d) assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to Cernel), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(e) notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data;

(f) at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the Contract unless Cernel is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this clause 5.8(f) Customer Personal Data shall be considered deleted where it is put beyond further use by Cernel; and

(g) maintain records to demonstrate its compliance with this clause 5 and allow for reasonable audits by the Customer or the Customer's designated auditor, for this purpose, on reasonable written notice.

5.9 The Customer hereby provides its prior, general authorisation for Cernel to:

(a) appoint processors to process the Customer Personal Data, provided that Cernel:

(i) shall ensure that the terms on which it appoints such processors comply with Data Protection Laws, and are consistent with the obligations imposed on Cernel in this clause 5;

(ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of Cernel; and

(iii) shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to Cernel's reasonable satisfaction, that the objection is due to an actual or likely breach of the Data Protection Laws, the Customer shall indemnify Cernel for any losses, damages, costs (including legal fees) and expenses suffered by Cernel in accommodating the objection;

(b) transfer Customer Personal Data outside of the EEA as required for the Purpose, provided that Cernel shall ensure that all such transfers are effected in accordance with the Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of Cernel, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time.

5.10 Either party may, at any time on not less than 30 days' notice, revise clause 5.9 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

5.11 If any loss or damage to Customer Data is caused by the Customer or any of the Authorised Users, Cernel may charge the Customer for the reasonable costs of restoring the Customer Data, such costs to be agreed between Cernel and the Customer in advance.

6. CERNEL'S OBLIGATIONS

6.1 Cernel undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care and that the Software will function substantially in accordance with the Documentation.

6.2 The undertaking at clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services or the Software contrary to Cernel's instructions, or modification or alteration of the Services or the Software by any party other than Cernel or Cernel's duly authorised contractors or agents. If the Services or the Software do not conform with the foregoing undertaking, Cernel will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 6.1.

6.3 Cernel:

(a) does not warrant that the Customer's use of the Services or of the Software will be uninterrupted or error-free; or that the Services, the Software, the Documentation and/or the information or functionality obtained by the Customer through the Services and the Software will meet the Customer's requirements; and

(b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services, the Software and the Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.4 The Contract shall not prevent Cernel 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 Contract.

7. CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:

(a) provide Cernel with:

  (i) all necessary co-operation in relation to the Contract, and

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

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

(c) carry out all other Customer responsibilities set out in the Contract in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Cernel may adjust any agreed timetable or delivery schedule as reasonably necessary;

(d) ensure that the Authorised Users use the Services, the Software and the Documentation in accordance with the Contract and shall be responsible for any Authorised User's breach of the Contract;

(e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Cernel, its contractors and agents to perform their obligations under the Contract, including, without limitation, the Services;

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

(g) be, to the extent permitted by law and except as otherwise expressly provided in the Contract, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Cernel's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

7.2 Sensitive personal data may not be submitted to or processed through the Services. Sensitive personel data includes any data (example sounds, videorecordings, text images) data containing or revealing government-issued identification numbers; financial information; racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, information concerning health or sex life; information related to an individual's physical or mental health; and information related to the provision or payment of health care.

8. CHARGES AND PAYMENT

8.1 The Customer shall pay the User Subscription Fees to Cernel in accordance with this clause 8.

8.2 Unless otherwise specified in the Order or on the relevant invoices, the Customer shall pay the payments due under each invoice raised by Cernel within 30 days of receipt of the relevant invoice.

8.3 If Cernel has not received a payment due to it under the Contract by its due date, then, without prejudice to any other rights and remedies of Cernel:

(a) Cernel may, without liability to the Customer, disable the Customer's and the Authorised Users' passwords, accounts and access to all or part of the Services or the Software and Cernel shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

(b) interest shall accrue on a daily basis on such due amounts at a monthly rate of 1.5% commencing on the due date and continuing until fully paid, whether before or after judgment; and

(c) if non-payment continues for a period of more than 60 days, Cernel may, at its option, delete all Customer Data.

8.4 All amounts and fees stated or referred to in the Contract shall (i) be payable in the currency in which they are invoiced (ii) are non-cancellable and non-refundable and (iii) are exclusive of value added tax, which shall be added to Cernel's invoice(s) at the appropriate rate, if applicable.

9. PROPRIETARY RIGHTS

9.1 The Customer acknowledges and agrees that Cernel and/or its licensors own all intellectual property rights in the Services, the Software and the Documentation including, without limitation, in the product of any development, design and/or integration work that Cernel may carry out for the Customer including where any elements of such product were developed as a result of or using the Customer's ideas, suggestions or other feedback supplied by the Customer. Except as expressly stated herein, the Contract does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services, the Software, the Documentation or the product of any development, design and/or integration work that Cernel may carry out for the Customer.

9.2 Cernel confirms that it has all the rights in relation to the Services, the Software and the Documentation that are necessary to grant all the rights it purports to grant under the Contract.

9.3 Customer grants Cernel, its affiliates and serviceproviders a worldwide, limited-term license to host, copy, use, transmit, and display any thirdparty Apps created by or for Customer or for use by Customer with the Services, and Customer Data, each as appropriate for Cernel to provide and ensure proper operation of the Services in accordance with the Contract. If Customer chooses to use a thirdparty App with a Service, Customer grants Cernel permission to allow the thirdparty App and its provider to access Customer Data and information about Customer's usage of the thirdparty App as appropriate for the interoperation of that thirdparty App with the Service. Subject to the limited licenses granted herein, Cernel acquires no right, title or interest from Customer or its licensors under this Contract in or to any Customer Data or thirdparty App.

10. CONFIDENTIALITY

10.1   Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Contract. A party's Confidential Information shall not be deemed to include information that:

(a)   is or becomes publicly known other than through any act or omission of the receiving party;

(b)   was in the other party's lawful possession before the disclosure;

(c)   is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

(d)   is independently developed by the receiving party, which independent development can be shown by written evidence.

10.2   Subject to clause 10.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Contract.

10.3   Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its affiliates, employees or agents in violation of the provisions of the Contract.

10.4   A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 10.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

10.5   The Customer acknowledges that details of the Services, the Software and the Documentation constitute Cernel's Confidential Information.

10.6   Cernel acknowledges that the Customer Data is the Confidential Information of the Customer.

10.7   Cernel may access and/or compile Customer Data submitted to the Services) for the purpose of developing, training and improving the Services, and any other of Cernels current and future similar or related features, products and/or services, provided however Cernel will not share Customer's Customer Data with any other customers in connection with the foregoing. Customer retains all ownership of its Customer Data submitted to the Services and Cernel retains all ownership in and to all system performance data, machine learning algorithms, and aggregated results of such machine learning.

10.8   Unless the Customer requests otherwise in writing, Cernel may include the Customer's name and logo in its marketing materials.

10.9   The above provisions of this clause 10 shall survive termination of the Contract, however arising.

11. NON CERNEL SERVICES

11.1   Cernel or third parties may make third-party products or services, including, for example, Non-Cernel Apps, software and API available to Customer. Any use by Customer of such products or services, and any exchange of data between Customer and any third party provider, product or service is solely between Customer and the applicable provider.

11.2   Cernel does not warrant or support any third party Apps or other third party products or services, unless expressly provided otherwise in an Order. Cernel is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by such thirdparty applications, products or services.

11.3   The Services may contain features designed to interoperate with Non-Cernel Apps. Cernel undertakes no warranties towards the continued availability of such Service features, and may cease providing themwithout entitling Customer to any refund, credit, or other compensation.

12. LIMITATION OF LIABILITY

12.1   Except as expressly and specifically provided in the Contract:

(a)   the Customer assumes sole responsibility for results obtained from the use of the Services, the Software and the Documentation by the Customer, and for conclusions drawn from such use. Cernel shall have no liability for any damage caused by errors or omissions in any information, statistics, text, images, instructions, "prompts" or scripts provided to Cernel, the Services, Software and Documentation, by the Customer in connection with the Services, or any actions taken by Cernel at the Customer's direction;

(b)   The Customer is solely responsible for any results generated by the Services and has been made aware that results are auto-generated and as such Customer is obligated to ensure that the results are appropriate for the intended use.

(c)   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 Contract; and

(d)   the Services, the Software and the Documentation are provided to the Customer on an "as is" basis.

12.2   Nothing in the Contract excludes the liability of Cernel:

(a)   for death or personal injury caused by Cernel's negligence;

(b)   for fraud or fraudulent misrepresentation; or

(c)   for any other liability that cannot be excluded in law.

12.3   Subject to Clause 12.1 and Clause 12.2:

(a)   Cernel 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 Contract; and

(a)   Cernel's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall not exceed the cap. The cap is one hundred per cent (100%) of the total charges in the Contract Year in which the breach of contract, tort, duty, misrepresentation or other default attributable to Cernel occurred. The total charges means all sums paid to Cernel by the Customer under the Contract in the Contract Year in which the breach of contract, tort, duty, misrepresentation or other default attributable to Cernel occurred.

13.   TERM AND TERMINATION

13.1   The Contract shall, unless otherwise terminated as provided in this clause 13, commence on the Start Date and shall continue for the Initial Subscription Term and, thereafter, the Contract shall be automatically renewed for successive periods each equal to the period of the Initial Subscription Term (each a Renewal Period), unless:

(a)   either party notifies the other party in writing at least three month before the expiry of the Initial Subscription Term or any subsequent Renewal Period that it does not wish to receive or supply the Services beyond the expiry of the Initial Subscription Term or any subsequent Renewal Period; or

(b)   otherwise terminated in accordance with the provisions of the Contract;

The Initial Subscription Term together with any subsequent Renewal Period shall constitute the Term.

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

(a)   the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 15 days after being notified in writing to make such payment;

(b)   the other party commits a material breach of any other provisions of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 15 days after being notified in writing to do so; or

(c)   the other party makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed.

13.3   On termination of the Contract for any reason:

(a)   all licences granted under the Contract shall immediately terminate and the Customer shall and shall procure that the Authorised Users shall immediately cease all access and use of the Services, the Platform and the Documentation;

(b)   the Customer shall and shall procure that the Authorised Users shall immediately and permanently erase any software made available or supplied by Cernel to the Customer;

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

(d)   Cernel may destroy or otherwise dispose of any of the Customer Data in its possession unless Cernel receives, no later than 30 days after the effective date of the termination of the Contract, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Cernel shall use reasonable commercial endeavours to deliver the back-up to the Customer within 45 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination); and

(e)   any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced.

14.   SERVICE LEVEL

14.1   The Services shall be available 99.7%, measured monthly, excluding holidays and weekends and scheduled maintenance. If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Company's reasonable control will also be excluded from any such calculation.

14.2   Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be that for each period of downtime lasting longer than two hours, Company will credit Customer 5 % of the monthly payable fee for each period of 30 or more consecutive minutes of downtime; provided that no more than one such credit will accrue per day. Downtime shall begin to accrue as soon as Customer (with notice to Company) recognizes that downtime is taking place, and continues until the availability of the

Services is restored.

14.3   In order to receive downtime credit, Customer must notify Company in writing within 72 hours from the time of downtime, and failure to provide such notice will forfeit the right to receive downtime credit. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of Service fees in any one (1) calendar month in any event. Company will only apply a credit to the month in which the incident occurred. Company's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Company to provide adequate service levels under this Agreement.

15.   FORCE MAJEURE

Cernel shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including epidemic, pandemic, strikes, lock-outs or other industrial disputes (whether involving the workforce of Cernel or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

16.   VARIATION

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

17.   WAIVER

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

18.   SEVERANCE

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

18.2   If any provision or part-provision of the Contract is deemed deleted under clause 18.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

19.   ENTIRE AGREEMENT

19.1   The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

19.2   Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

19.3   Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

20.   ASSIGNMENT

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

20.2   Cernel may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

21.   THIRD PARTY RIGHTS

The Contract does not confer any rights on any person other than Cernel and the Customer.

22.   NO PARTNERSHIP

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other party, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23.   NOTICES

23.1   Any notice given to a party under or in connection with the Contract shall be in writing and shall be: (a) delivered by hand to its registered office (if a company) or its principal place of business (in any other case); (b) sent by email to (for Cernel) mb@cernel.ai or (for the Customer) one of the email addresses registered on the Customer's account with Cernel.

23.2   Any notice shall be deemed to have been received if (a) delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; or (b) if sent by email at the time of the transmission provided that no bounce back message is received. This clause 21 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24.   CHANGE OF THE TERMS

24.1   Cernel may modify the terms and conditions pursuant to this Contract with three (3) months notice after such modifications have been posted on the Cernels website. It is the Customer's obligation to keep up to date on changes to the terms as posted on Cernels

website.

24.2   Notwithstanding the above, if the terms are materially changed to the detriment of the Customer, Crnel must provide a notice of not less than 30 calendar days to the Customer, and the Customer has the right to terminate the Contract with a notice of 30 days. Use of the Service, Software or Ducementation after the change of the terms has come into force constitutes acceptance of such changed terms.

25.   GOVERNING LAW AND JURISDICTION

25.1   The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Denmark, to the exclusion of any rules on choice of law or jurisdiction that would refer the subject matter to another governing law or jurisdiction.

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

Schedule 1 – Data Protection

Part 1 – Role of the parties

1.1   Where Cernel acts as a controller:
   (a)   when processing personal data contained within correspondence between the Customer's staff (including Authorised Users) and Cernel's staff and/or documents relating to the establishment, management, audit and operation of the Contract including the Services, orders for Services and payment for the Services and any other communications which Cernel may wish to rely on to establish its rights and liabilities under the Contract; and
   (b)   when processing the personal data of the Customer's staff (including Authorised Users) for marketing purposes.

1.2   Where Cernel acts as a processor:
   (a)   save as set out in paragraph 1.1 of this Part 1 of this Schedule, when processing the personal data of the Customer's staff (including Authorised Users) and any other data subjects (other than Cernel's staff) whose personal data is inputted on or collected by the Platform and/or Cernel's Apps in connection with the Contract.

Part 2 – Particulars of processing

1.1   Scope:

The collection and storage of the personal data of the Authorised Users on the Platform and/or Cernel's Apps.

1.2   Nature

Collecting and storing personal data on the Platform and on Cernel's Apps.

1.3   Purpose of processing

To enable Cernel to deliver the Services and the Customer and its Authorised Users to receive the benefit of the Services including access to the Platform and the use of Cernel's Apps.

1.4   Duration of the processing

The duration of the Contract and such reasonable time after this period to enable Cernel to transfer or delete the relevant data or as otherwise agreed between the parties.

1.5   Types of personal data

Name, contact details, training data, work performance data and such other personal data as processed by Cernel as a data processor in connection with the Contract.

1.6   Categories of data subject

The Authorised Users and such other data subjects whose personal data is processed by Cernel as a data processor in connection with the Contract.