

Claro Cloud Terms and Conditions



AGREED TERMS

INTERPRETATION

The definitions and rules of interpretation in these terms and conditions ("**Conditions**") apply in the Agreement.

Agreement: means the agreement between Claro and the Customer for the use of the Software and Documentation, subject to these Conditions.

Authorised Users: those students who are authorised by the Customer to use the Software and the Documentation.

Business Day: a day other than a Saturday, Sunday or public holiday in England when UK clearing banks in the City London are open for general business.

Claro: Claro Software Limited (registered in England and Wales with company number 05153389).

Claro ID Account: means the online account set up by the Customer, with Claro to access the Software, Documentation and (if applicable) the Services which the Customer has agreed to subscribe for (subject to these Conditions).

ClaroRead OCR Software: means, if purchased by the Customer, the ClaroRead OCR Software provided to the Customer by Claro.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information.

Customer: the education provider, person, firm or company who licenses the Software and Documentation and (if applicable) the Services from Claro.

Customer Data: the data inputted by the Customer, Authorised Users, or Claro on the Customer's behalf for the purpose of using the Software an/or the Services and/or facilitating the Customer's use of the Software and Services (if applicable).

Conversion: means the use of the ClaroRead OCR Software to convert text, diagrams and other representations

Documentation: the document made available to the Customer by Claro online when applying for the Claro ID Account, or via such other web address notified by Claro to the Customer from time to time which sets out a description of the Software and the user instructions for the Software and (if applicable) the Services.

Effective Date: the date on which the Software is provided to the Customer.

Initial Subscription Term: means the period of 12 months commencing on and from the Effective Date.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications 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.

Renewal Period: the period described in the clause entitled Term and Termination

Services: means the services, if any, agreed to be provided by, or on behalf of Claro, of which Claro permits the Customer to have access to, via the Claro ID Account, as agreed from time to time.

Site: means the website www.clarosoftware.com or such other website as notified by Claro to the Customer from time to time.

Software: the software provided by Claro to the Customer under the Agreement via the Claro ID Account or any other website notified to the Customer by Claro from time to time, as more particularly described in the Documentation.

Subscription Fees: the subscription fees payable by the Customer to Claro as notified by Claro to the Customer for the agreed Software and (if applicable) agreed Services.

Subscription Term: the Initial Subscription Term together with any subsequent Renewal Periods (as may be terminated or varied in accordance with these Conditions from time to time).

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

Virus: 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.

Clause, schedule and paragraph headings shall not affect the interpretation of these Conditions.

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

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

Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular, and unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

A reference to a statute or statutory provision is a reference to it as it is in force as at the date of these Conditions, and a reference to a statute or statutory provision shall include all subordinate legislation made as at the date of these Conditions under that statute or statutory provision.

CLARO ID ACCOUNT

In order to have access to the Software, and (if applicable) the Services which Claro has agreed to provide or make available to the Customer, under the Agreement, the Customer must register and create a Claro ID Account via the Site.

Only Customers who have registered for a Claro ID Account will be able to access the agreed Software and (if applicable) the agreed Services. Following the creation of the Customers Claro ID Account, the Customer must use the registered username and password to access the Claro ID Account.

Each Customer must keep its user name and password for the Claro ID Account confidential and secure.

In order to create a Claro ID Account. The Customer must supply information about the Customer as requested on the Site.

In creating a Claro ID Account, the Customer warrants that the information supplied to Claro is true, complete and accurate.

Claro reserves the right to refuse any application for a Claro ID Account for any reason whatsoever, including without limitation if Claro has reason to believe that the Customer has provided inaccurate or misleading information at any point.

Claro may delete, block (whether temporarily or permanently) or suspend a Claro ID Account for any reason whatsoever, including without limitation if Claro has reason to believe that the Customer has failed to keep its registered user details confidential, and/or is permitting third parties to use such Claro ID Account other than Authorised Users.

LICENCE

In consideration of the payment of the Subscription Fee by the Customer to Claro, Claro grants to the Customer a non-exclusive non-transferable licence to use the

Software and the Documentation, and (if applicable) the Services, for the duration of the Subscription Term, solely for educational purposes.

Where the Customer pays the Subscription Fee for the ClaroRead OCR Software the Customer's use of the ClaroRead OCR Software and the relevant Documentation is limited to the number of Conversions purchased by the Customer.

AUTHORISED USERS

The Customer shall be permitted to allow Authorised User's to access the Software, Documentation and (if applicable) Services purchased by the Customer for the duration of the Subscription Term (or, such shorter period in the event that the Agreement is terminated), provided that:

- (a) each Authorised User shall keep a secure password for his use of the Software and Documentation and (if applicable) the Services, and that each Authorised User shall keep his password confidential;
- (b) it shall maintain a written, up to date list of current Authorised Users and provide such list to Claro within 5 Business Days of Claro's written request at any time or times;
- (c) it shall permit Claro to audit the Customer's records in order to establish the name and password of each Authorised User. Such audit may be conducted no more than once per quarter, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;
- (d) if any of the audits reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Claro's other rights, the Customer shall promptly disable such password and accounts; and
- (e) in the case of the ClaroRead OCR Software (if applicable) the total number of Conversions in aggregate across all Authorised Users, does not exceed the number of Conversions purchased by the Customer;

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

INFRINGEMENT AND UNLAWFUL ACTS

The Customer shall not, and shall procure that an Authorised User shall not, access, store, distribute or transmit any Viruses, or any material during the course of its use of the Software and (if applicable) the Services that:

- (a) breaches or otherwise infringes any Intellectual Property Rights of any third party, including but not limited to a breach of copyright;
- (b) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (c) facilitates illegal activity;
- (d) depicts sexually explicit images;
- (e) promotes unlawful violence;

- (f) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (g) in a manner that is otherwise illegal or causes damage or injury to any person or property;

and Claro reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access and/or the Authorised User's access, to the Software and (if applicable) the Services in relation to any material that breaches the provisions of this clause.

The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
 - (i) and except to the extent expressly permitted under these Conditions, 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 Documentation (as applicable) and/or (if applicable) the Services in any form or media or by any means; or
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software and/or (if applicable) the Services; or
- (b) access all or any part of the Software and/or Documentation and/or and (if applicable) the Services in order to build a product or service which competes with the Software and/or the Documentation and/or and (if applicable) the Services; or
- (c) use the Software and/or Documentation and/or and (if applicable) the Services to provide software and/or services to third parties; or
- (d) unless agreed in writing with Claro, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software and/or Documentation and/or (if applicable) the Services, available to any third party except the Authorised Users, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Software and/or Documentation and/or (if applicable) the Services, other than as permitted under these Conditions .

The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and/or the Documentation and/or (if applicable) the Services and, in the event of any such unauthorised access or use, promptly notify Claro.

ADDITIONAL CONVERSIONS IN RELATION TO CLAROREAD OCR

This clause applies where the Customer has agreed to purchase the ClaroRead OCR Software.

The Customer may, from time to time during any Subscription Term, purchase additional Conversions, in accordance with this clause.

If the Customer wishes to purchase additional Conversions, the Customer shall notify Claro. Claro shall evaluate such request for additional Conversions and respond to the Customer with approval or rejection of the request.

If Claro approves the Customer's request to purchase additional Conversions, the Customer shall, within 14 days of the date of Claro's invoice, pay to Claro the relevant fees for such additional Conversions as notified by Claro from time to time, and, if such additional Conversions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

ADDITIONAL SOFTWARE AND/OR SERVICES

If the Customer wishes to purchase additional Software and/or Services (if applicable), the Customer shall notify Claro. Claro shall evaluate such request for additional Software and (if applicable) Services and respond to the Customer with approval or rejection of the request.

If Claro approves the Customer's request to purchase additional Software and (if applicable) Services, the Customer shall, within 14 days of the date of Claro's invoice, pay to Claro the relevant fees for such additional Software and (if applicable) Services as notified by Claro from time to time, and, if such additional Software and (if applicable) Services are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

SOFTWARE

Claro shall, during the Subscription Term, provide the Software and make available the Documentation, and (if applicable) the Services to the Customer on and subject to these Conditions.

Claro shall use commercially reasonable endeavours to make the Software and (if applicable) the Services available 24 hours a day, seven days a week, except for:

- (a) planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am UK time; and
- (b) unscheduled maintenance, provided that Claro has used reasonable endeavours to give the Customer at least 1 Hours' notice in advance.

CUSTOMER DATA

The Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

If Claro processes any personal data on the Customer's behalf when performing its obligations, the parties record their intention that the Customer shall be the data controller and Claro shall be a data processor and in any such case:

- (a) the Customer acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Software and Claro's obligations;
- (b) the Customer shall ensure that the Customer is entitled to transfer the relevant personal data to Claro so that Claro may lawfully use, process and transfer the personal data on the Customer's behalf;
- (c) the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
- (d) Claro shall process the personal data only as necessary to perform its obligations and any lawful instructions reasonably given by the Customer from time to time; and
- (e) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

THIRD PARTY PROVIDERS

The Customer acknowledges that the Software and (if applicable) Services may enable or assist it to access the website content of, correspond with, and purchase products and software from, third parties via third-party websites and that it does so solely at its own risk. Claro makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer and/or any Authorised User, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer (or as the case may be, and Authorised User) and the relevant third party, and not Claro. Claro recommends that the Customer and any Authorised User refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Claro does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Software.

CLARO'S OBLIGATIONS

Claro undertakes that the Software and (if applicable) Services will perform substantially in accordance with the Documentation.

The undertaking set out above, shall not apply to the extent of any non-conformance which is caused by use of the Software and/or (if applicable) the Services contrary to Claro's instructions, or modification or alteration of the Software and/or (if applicable) the Services by any party other than Claro or Claro's duly authorised contractors or agents. If the Software and/or (if applicable) the Services does not conform with the foregoing undertaking, Claro 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 above. Notwithstanding the foregoing, Claro:

- (a) does not warrant that the Customer's (or as the case may be the Authorised User's) use of the Software and/or (if applicable) the Services will be uninterrupted or error-free; or that the Software, and/or (if applicable) the Services, and/or the Documentation and/or the information obtained by the Customer (or as the case may be the Authorised User's) through the Software and/or (if applicable) the Services will meet the Customer's (or as the case may be the Authorised User'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 Software and/or (if applicable) the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

Neither the Agreement, nor these Conditions, shall prevent Claro from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or Software and/or the Services which are similar to those provided under the Agreement .

Claro warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these Conditions.

CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) provide Claro with:
 - (i) all necessary co-operation in relation to the Agreement; and
 - (ii) all necessary access to such information as may be required by Claro;

in order to provide the Software and/or (if applicable) the Services, including but not limited to Customer Data, security access information and configuration software;

- (b) comply with all applicable laws and regulations with respect to its use of the Software and/or (if applicable) the Services and Documentation;
- (c) carry out all other Customer responsibilities set out in these Conditions in a timely and efficient manner;

- (d) ensure that the Authorised Users use the Software and/or (if applicable) the Services and the Documentation in accordance with these Conditions and shall be responsible for any Authorised User's breach of these Conditions;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Claro, its contractors and agents to perform their obligations under these Conditions;
- (f) ensure that its network and systems comply with the relevant specifications provided by Claro from time to time;

CHARGES AND PAYMENT

The Customer shall pay the Subscription Fees to Claro for the Software and/or (if applicable) the Services to be provided by Claro, for the Subscription Term in accordance with this clause.

Claro shall invoice the Customer:

- (a) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
- (b) at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period,

and the Customer shall pay each invoice within 30 days after the date of such invoice.

If Claro has not received payment within 14 days after the due date, and without prejudice to any other rights and remedies of Claro:

- (a) Claro may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Software and/or (if applicable) the Services, including access to the Customer's Claro ID Account, and Claro shall be under no obligation to provide any or all of the Software and/or (if applicable) the Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of Claro's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment, and being compounded quarterly.
- (c) Claro reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998;

All amounts and fees due to Claro:

- (a) shall be payable in pounds sterling;
- (b) are, subject to the Limitations of Liability clause, non-cancellable and non-refundable;
- (c) are exclusive of value added tax, which shall be added to Claro's invoice(s) at the appropriate rate.

Claro shall be entitled to increase the Subscription Fees, and, in the case of the ClaroRead OCR Software the fees payable in respect of the additional Conversions, at the start of each Renewal Period upon 30 days' prior notice to the Customer.

PROPRIETARY RIGHTS

The Customer acknowledges and agrees that Claro and/or its licensors own all Intellectual Property Rights in the Software, the Services (if applicable) and the Documentation. Except as expressly stated herein, nothing contained in these Conditions, or the Agreement, grants the Customer (and/or any Authorised User) any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Software and/or (if applicable) the Services and/or the Documentation.

Claro confirms that it has all the rights in relation to the Software and (if applicable) the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of these Conditions.

CONFIDENTIALITY

Each party may be given access to Confidential Information from the other party in order to perform its obligations. 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;
- (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
- (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

Each party shall hold the other's Confidential Information in confidence and, unless required by law, 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 Agreement.

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

Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

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

Claro acknowledges that the Customer Data is the Confidential Information of the Customer.

This clause (confidentiality) shall survive termination of the agreement, however arising.

No party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

INDEMNITY

the Customer shall indemnify and keep indemnified and hold harmless Claro from and against any and all claims, costs, damages, awards, penalties fines, interest, professional fees and costs (including VAT) suffered and/or incurred by Claro as a result of any claim by any person that the activities of the Customer and/or any Authorised User in using the Software and/or the Services has infringed or breach any relevant statutory or legal right of any third party including but not limited to any breach of or infringement of any Intellectual Property Rights of any person, including but not limited to any copyright.

LIMITATION OF LIABILITY

This clause (Limitation of Liability) sets out the entire financial liability of Claro (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer and any Authorised User:

- (a) arising under or in connection with these Conditions;
- (b) in respect of any use made by the Customer and/or Authorised User of the Software and/or Documentation and/or the Services, or any part of them; and
- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

Except as expressly and specifically provided in these Conditions:

- (a) the Customer and Authorised User (if any) assumes sole responsibility for results obtained from the use of the Software and the Documentation and the Services (if applicable) by the Customer and Authorised User (if any), and for conclusions drawn from such use. Claro shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Claro by the Customer in connection with the Software and/or (if applicable) the Services, or any actions taken by Claro at the Customer's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Agreement and these Conditions;
- (c) Claro shall not be liable (save to the extent that such exclusion is unlawful) for any claim arising from (whether directly or indirectly) howsoever arising which is caused by, or due to (in whole or in part) any unlawful use of the Software and/or Services by the Customer and/or any Authorised User, or any such other person who has used the Software and/or Services in breach of these Conditions.

Nothing in the Agreement or these Conditions excludes the liability of Claro:

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

Subject to the previous two paragraphs:

- (a) Claro shall not in any circumstances be liable, whether in contract, tort (including without limitation for breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent) or otherwise for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill or similar losses; or
 - (iv) loss of anticipated savings; or
 - (v) loss of goods; or
 - (vi) loss of contract; or
 - (vii) loss of use; or
 - (viii) loss or corruption of data or information; or
 - (ix) any special, indirect, consequential or pure economic loss, or
 - (x) costs, damages, charges or expenses.
- (b) Claro's total aggregate liability in contract, tort (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 Fees paid during the 12 months immediately preceding the date on which the claim arose.

In no event shall Claro, its employees, agents and sub-contractors be liable to the Customer and/or any Authorised User (if any) to the extent that any claim for alleged infringement of any Intellectual Property Rights against Claro is based on:

- (a) a modification of the Software and/or Documentation and/or Services (if applicable) by anyone other than Claro; or
- (b) the Customer's and/or Authorised User's use of the Software and/or Documentation and/or Services (if applicable) in a manner contrary to the instructions given to the Customer by Claro; or
- (c) the Customer's and/or Authorised User's use of the Software and/or Documentation and/or Services (if applicable) after notice of the alleged or actual infringement from Claro or any appropriate authority; or
- (d) any unlawful use of the Software and/or Services by the Customer and/or any Authorised User, or any such other person who has used the Software and/or Services in breach of these Conditions.

TERM AND TERMINATION

The Agreement shall, unless otherwise terminated as provided in these Conditions, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, shall automatically renew for successive periods equal to the duration of the Initial Subscription Term (each a Renewal Period), unless:

- (a) either party notifies the other party of termination, in writing, at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case the Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of these Conditions;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.

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

- (a) the other party fails to pay any amount due under the Agreement on the due date for payment and remains in

default not less than 14 days after being notified in writing to make such payment;

- (b) the other party commits a material breach of any other term of this Agreement and/or these Conditions which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (c) the other party repeatedly breaches any of the terms of the Agreement and/or these Conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the Agreement and/or these Conditions;
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- (h) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject

that has an effect equivalent or similar to any of the events mentioned above (inclusive);

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

On termination of the Agreement for any reason:

- (a) all licences granted to the Customer (and, if applicable, any Authorised User) shall immediately terminate;
- (b) the Customer shall cease to use the Software and the Services (if applicable);
- (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) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced;
- (e) for the avoidance of doubt, save in the case provided under the limitation of liability clause, Claro shall not be required to repay, refund or otherwise compensate the Customer for any Subscription Fees in the event that the Agreement is terminated part way through the Initial Subscription Term, or a Renewal Period

FORCE MAJEURE

Claro shall have no liability to the Customer or the Authorised User if it is prevented from or delayed in performing its obligations under these Conditions, 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 Claro 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.

VARIATION

Claro shall be permitted to vary these Condition by notice to the Customer.

WAIVER

No failure or delay by a party to exercise any right or remedy under these Conditions 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.

RIGHTS AND REMEDIES

Except as expressly provided in these Conditions, the rights and remedies provided are in addition to, and not exclusive of, any rights or remedies provided by law.

SEVERANCE

If any provision (or part of a provision) of these Conditions 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.

ENTIRE AGREEMENT

The Agreement, and any documents referred to in it, and these Conditions constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

Each of the parties acknowledges and agrees that in entering into the Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Agreement or not) relating to the subject matter, other than as expressly set out in these Conditions.

ASSIGNMENT

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

Claro 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 Agreement.

NO PARTNERSHIP OR AGENCY

Nothing in these Conditions 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).

THIRD PARTY RIGHTS

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

NOTICES

Any notice required to be given under these Conditions shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address as provided to the other party, or such other address as may have been notified by that party for such purposes.

A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at 9 am 2 Business Days after posting.

GOVERNING LAW

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

JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement and/or these Conditions and/or its subject matter or formation (including non-contractual disputes or claims).

Licence Date Version 13 March 2015