

Appendix 1 – Terms and Conditions

1 Interpretation

1.1 In these Conditions (as hereinafter defined):

“Agrecalc” is a trading name of SRUC Innovation Limited;

“API” means an application programming interface made available by us, which allows software applications to access or interact with certain features, data, or functionality of our Software or Platform, subject to any applicable usage limits, documentation, and licensing terms;

“Background IPR” means all IPR owned by or licensed to either party at the commencement of the Contract or created or acquired by or licensed to either party, independently of the performance of the Contract, after the commencement of the Contract;

“Customer” means a customer who has purchased the Goods or Services to use in connection, either directly or otherwise, with their trade, business, craft or profession, even if they are an individual or a student;

“Business Hours” means 9am to 5pm on a Working Day;

“Company Secretary” means our appointed secretary;

“Conditions” means the standard terms and conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between you and us; references to a Condition by number are to the appropriate numbered Condition of these Conditions;

“Contract” means any proposal, tender, service provision, or other engagement with the Platform, these Conditions and any variation agreed in writing between us;

“Contract price” means the total amount payable by you to us in respect of the Contract as provided for in the Proposal or our quotation or price list. In the event that no such prior provision has been made, the Contract price shall be calculated on a time and materials basis based on our then current fee rates;

“Customer Data” means the data inputted by you or any of your employees, agents or sub-contractors (if applicable) onto the Software or derived from your use of the Software or the Services;

“Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 or any successor legislation; the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications);

“Free Trial” means use of a limited number of our features for a limited period time, as decided by us from time to time;

“Free Trial User” means a service user who has subscribed to the Free Trial option on our Website.

“Goods” means any software, equipment or goods which are procured, designed or manufactured by us and delivered to you in accordance with the Project;

“IPR” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade business and domain names, rights in trade dress or get up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, moral rights, rights to confidential information (including know-how and

trade secrets) and other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights and all similar or equivalent rights or forms of protection in any part of the world;

“Our Group” means SRUC, SRUC Innovation Limited, and any company which is a subsidiary of either of them or any trust, person or other body which is a member of or a holding company of SRUC or any other person or body which is owned or controlled by such trust, person or body;

“Personal Data” has the meaning given in the UK GDPR;

“Platform” means the web-based portal and platform that hosts the Software and all Customer Data. You are only able to utilise the Software through this Platform. It is defined as the current version of the software solution developed and hosted by us for use by you, along with any updates, upgrades, modifications, or improvements made available thereto.

“Project” means the job specification and Services to be undertaken by us as set out in the proposal;

“Project Manager” means the person appointed by us to oversee the Project;

“Report” means results and documentation produced on the Platform for use by you or others.

“Software” means the online software applications (including all source code and content therein) provided by us as part of the Services;

“SRUC” means the company of that name being a Scottish charity with charity number SC003712 and a company limited by guarantee and registered in Scotland with number SC103046), having its registered office at Peter Wilson Building, King’s Buildings, West Mains Road, Edinburgh EH9 3JG;

“SRUC Innovation Limited” means the company of that name registered in Scotland, No. SC148684, having its registered office at Peter Wilson Building, King’s Buildings, West Mains Road, Edinburgh EH9 3JG;

“Services” means any services rendered to you in accordance with the Project and includes the Services and/or Goods to be provided thereunder;

“Term” means the term of this Contract as set out in the proposal;

“UK GDPR” means the General Data Protection Regulation ((EU) 2016/679) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018 (as amended or replaced from time to time); “we”/“us”/“our” means or refers to SRUC or SRUC Innovation Limited or connected partners outlined in the proposal;

“User” means a user with registered access to use the Platform, whether contracted with us directly or otherwise;

“Website” means any internet website owned, operated or hosted by us or Our Group through which we or Our Group conducts any of its business;

“Writing” includes email and any other comparable means of communication;

“you”/“your” means or refers to the person(s) other than us who is or are party to the Proposal (including Users registered through an authorised representative); and

“Working Day” means a day other than a Saturday, Sunday or public holiday when clearing banks in Scotland are open for business.

2 Basis of the Contract

- 2.1 We shall (subject to these Conditions) undertake the Project in exchange for payment of the Contract price. The Conditions shall be deemed incorporated into the Contract and shall govern the Contract to the exclusion of any other terms and conditions.

- 2.2 In the event of any conflict between any provision of the Conditions and any other provision of the Proposal, the relevant provision of the Proposal, provided the same has been clearly accepted by us, shall prevail.
- 2.3 No variation to these Conditions shall be binding on us unless agreed in Writing between our authorised representative and your authorised representative. Our employees or agents are not authorised to make any representations concerning the Project unless confirmed by us in Writing. In entering into the Contract you acknowledge that you are not relying on (and that you shall waive any claim for breach of) any representation which is not set out in the Contract.
- 2.4 We may sub-contract any provisions of the Goods or Services to a third party, provided that we remain responsible for the acts and omissions of these subcontractors as if they were our own. Where subcontractors are involved in the processing of personal data, we will ensure appropriate data protection agreements are in place in accordance with the applicable Data Protection Legislation.

3 Liaison

- 3.1 In respect of Customers, we and you will each nominate a suitable representative for the purpose of liaison. Your representative shall be available for consultation with our representative at appropriate intervals. The Project will be controlled by our Project Manager or such other person agreed between you and us. Any changes to the Project will require to be approved by you and us in Writing.
- 3.2 In respect of Users, you or a representative will follow the registration process on our Website to create an account. We will communicate with you or your representative through the contact details provided in your account registration. A User registered on the Platform may appoint a representative to communicate with us on their behalf via the registration process.

4 Registration

- 4.1 You will complete the registration process by following the directions provided by us.
- 4.2 You are responsible for ensuring that your information (or the information of your authorised representative) is complete and accurate. By providing information to register for an account, you confirm that you (or your authorised representative) have the authority to agree to the terms and conditions laid out in this Contract on your behalf.
- 4.3 Should it be agreed between us that you will be issued with API credential(s), these will provide you with access and access management rights to the API. You must keep the credentials and all other log-in information secure, and you must use the API credentials as your sole means of accessing the API. You may not provide access to the API to any third-party without our prior written consent, and any third-party must agree to our license terms before access may be granted. You are responsible for all access to the API through your credential including any third-party accessing the API on your behalf. If any unauthorized party accesses or may have accessed the API, you must notify us immediately, so we can delete the API credential and provide you a new one. We reserve the right to periodically refresh credentials to protect the security of our systems and will notify you of such updates.

5 The Project

- 5.1 The Project to be undertaken by us will be as specified in the Proposal but, where given, time limits, projected results and performance specification quoted are best estimates only. Time shall not be of the essence for performance of the Services.
- 5.2 All our work is undertaken in good faith and we will use all reasonable endeavours to ensure accuracy. Advice, information, findings, results and professional opinions, diagnoses and interpretations which we give you are given on the understanding that they are subject to normal experimental error and that the advice given or conclusions drawn are based on the evidence, methods, techniques and scientific knowledge at the time. We do not guarantee that any of the foregoing arising out of the Project will meet your expectations and we shall have no liability where any error is attributable to any of the foregoing. Our work is undertaken on the basis that the outputs will be used for the purposes detailed in the Proposal. We will have no liability or responsibility to you (or any third party) for any use you make of, or for any reliance which you may place on, our advice, information, findings, results and professional opinions, diagnoses and interpretations for any purposes which are not within the scope of the Proposal.
- 5.3 Furthermore, where the Contract requires the carrying out of tests or the giving of professional opinions or interpretations:-
- 5.3.1 tests for which we do not hold the relevant accreditation may be subcontracted;
- 5.3.2 professional opinions, diagnoses and interpretations will be based on experimental or test results and may be given by a sub-contractor nominated by us (and, if so, will be identified as such in the report given to you); and
- 5.3.3 experimental or test results generated from non-accredited methods may be used in providing professional opinions, diagnoses and interpretations and will be noted as such in the report given to you.
- 5.4 You will provide us, our agents, sub-contractors and employees in a timely manner and at no charge with access to your premises where required for the Project and be responsible at your own cost for preparing and maintaining your premises for the supply of the Services.
- 5.5 Unless specified in the proposal, the Services are not intended to replace direct consultative advice as provided by a specialist in your sector and all Reports are for your information only. You acknowledge that any Reports are reliant on the Customer Data used to provide the Services. We shall not be liable for any loss, claim or damage whether in contract, negligence or breach of statutory duty or otherwise, arising out of any reliance place on any Reports.

6 Orders and Specifications

- 6.1 No offer which you submit shall be deemed to be accepted by us unless and until confirmed in Writing by our authorised representative. You shall be responsible to us for ensuring the accuracy of the terms of any offer, deed or document (including any applicable drawing, design or specification) which you submit (whether forming part of the Proposal or otherwise), and for giving us all necessary information relating to the Project within a sufficient time to enable us to perform the Contract in accordance with its terms.
- 6.2 If anything is done under the Contract by us in accordance with a specification which you have submitted you shall indemnify us against all loss, damages, costs and expenses awarded against or incurred by us in connection with or paid or agreed to be paid by us in settlement of any claim for infringement of any IPR of any other person which results from our use of your specification.
- 6.3 We reserve the right to make any changes in your specifications which are required to conform with any applicable safety or other statutory requirements.

- 6.4 You may request to upgrade to a different package of Goods, Services, or Software during the Term. Such upgrade is at our sole discretion and may incur extra costs. Please note that we do not allow for downgrades to a different package of Goods, Services, or Software during the Term and we cannot offer a refund after the purchase of Goods, Services, or Software, except as defined in relevant consumer protection laws.

7 Price

- 7.1 Our costs in completing the Proposal may increase due to (i) circumstances beyond our control or (ii) if you ask us to do more than what is set out in the Proposal. We shall notify you in advance to obtain your permission to charge for the extra costs incurred. You will not be liable for any costs above the quoted price unless so agreed.
- 7.2 In respect of Goods supplied under this Contract, except as otherwise stated in our quotation or any price list, and unless otherwise agreed in Writing between you and us, all prices are given by us on an ex-works basis.
- 7.3 Prices stated in our Proposal, quotations and price lists are exclusive of applicable VAT, unless otherwise stated. You shall be liable to pay any applicable Value Added Tax to us.
- 7.4 Customers who have purchased Goods or Services from us shall be charged at the current rate at the time of purchase. We reserve the right to change our prices from time to time, and such increases will affect the price of Goods and Services for the remainder of the Term.
- 7.5 We reserve the right to amend the pricing from time to time upon providing thirty (30) days written notice to you. Any such price amendment shall take effect on the date specified in the notice and shall apply to all Customers from that date, irrespective of the remaining duration of the Term specified in the proposal.

8 Payment

- 8.1 Payment(s) to us shall fall due as provided in the Proposal and shall be payable within 28 days of our invoice. The time for payment of each invoice is of the essence. If you fail to make payment in full in accordance with this condition then we shall be entitled:
- 8.1.1 to suspend this Contract and any access to the Platform or Software;
 - 8.1.2 to terminate this Contract and any access to the Platform or Software;
 - 8.1.3 to charge you interest on a daily basis (both before and after any decree) on the amount unpaid at the rate of 4% per annum above the Royal Bank of England base rate from time to time in force from the date falling 28 days after the date of our invoice until payment in full is made.
- 8.2 Upon expiry of the Term, the Customer must renew the Term and the Contract if they wish to continue using the Goods and/or Services provided for in this Contract. We reserve the right to send notifications in order to remind the Customer of an upcoming expiry date.
- 8.3 The rights described in Condition 8.1 do not limit any other legal rights which we may have and we reserve the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

9 Delays, Suspensions and Interruptions

- 9.1 Failure to complete the Project by any agreed date or dates due to force majeure shall not constitute a breach of contract.

- 9.2 Force majeure for the purposes of this Contract is defined as acts of God (including fire, storm, flood or other natural disaster), war, civil war, riot, terrorist activities, nationalisation, government sanction, labour dispute, strike or interruption or failure of electricity or telephone service, breakdown of plant or machinery and compliance with any law or governmental order, rule, regulation.
- 9.3 If a party asserts force majeure as an excuse for failure to perform the party's obligation, then the nonperforming party must prove that they took reasonable steps to minimise delay or damages caused by foreseeable events, that the party substantially fulfilled all non-excused obligations and that the other party was timely notified of the likelihood or actual occurrence of the event. If the *force majeure* event prevents, hinders or delays the affected party's performance of its obligations for a continuous period of more than four weeks, the party not affected by the *force majeure* event may terminate this Contract by giving two weeks' written notice to the affected party
- 9.4 Should work in relation to the Project be suspended at our request or delayed through any default of yours or through any change in the specification which you agree with us in Writing, we shall be entitled to payment for work already carried out and materials specifically purchased in connection with the Proposal.
- 9.5 If our ability to perform the Services is prevented or delayed by any failure by you to fulfil any obligation listed in clause 11, hereinafter is defined as "The Customer's Default":
- 9.5.1 We will be entitled to suspend performance of the Services until you remedy your Default, and to rely on the Customer's Default to relieve us from the performance of the provision of the Goods and/or Services, in each case to the extent the Customer's Default prevents or delays performance of the provision of the Goods and/or Services. In certain circumstances the Customer's Default may entitle us to terminate the Contract under clause 20 (Termination);
- 9.5.2 We will not be responsible for any costs or losses you sustain or incur arising directly or indirectly from our failure or delay to perform the provision of the Goods and/or Services, as outlined above.

10 Support

- 10.1 We will, at no additional cost to you, provide access to our standard customer support services for the Software and the Platform during Business Hours. These support services are limited to technical assistance related to the functioning and performance of the Software and the Platform. For the avoidance of doubt, support services do not include consultative advice, strategic guidance, or recommendations regarding your use of the Software or how it may be applied within your business or operational context.
- 10.2 When reporting technical issues, please provide all necessary documentation and assistance to demonstrate the issue and enable us to diagnose it.

11 Your Obligations

- 11.1 In relation to this Contract, you shall:
- 11.1.1 comply with all applicable laws and regulations with respect to your activities under this Contract and shall carry out all your other responsibilities set out in this Contract in a timely and efficient manner.
- 11.1.2 obtain and maintain all necessary licences, consents and permissions necessary to enable you to receive the Goods and Services from us.

- 11.1.3 ensure that your network and systems comply with any relevant specifications provided by us from time to time and be solely responsible for procuring and maintaining its network and internet connections.
- 11.1.4 not, during the course of your use of the Goods and/or Services, access, store, distribute or transmit any material that:
 - 11.1.4.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 11.1.4.2 facilitates illegal activity;
 - 11.1.4.3 introduces viruses, trojans, worms, logic bombs or other material that is malicious or technologically harmful;
 - 11.1.4.4 infringes the intellectual property rights or data protection rights of any third party;
 - 11.1.4.5 depicts sexually explicit images;
 - 11.1.4.6 promotes unlawful violence;
 - 11.1.4.7 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 11.1.4.8 is otherwise illegal or causes damage or injury to any person or property.
- 11.2 You shall be solely responsible for procuring and maintaining your network and internet connections.
- 11.3 You shall provide us with all necessary co-operation in relation to this Contract and all necessary access to such information as may be required by us in order to provide the Services, including but not limited to Customer Data, security access information and configuration services.
- 11.4 You shall ensure that your network and systems comply with any relevant specifications provided by us from time to time and be solely responsible for procuring and maintaining your network and internet connections.
- 11.5 Should you be provided with access to the API, you are solely responsible for the software, tools and applications with which you integrate the API ("Your Software"). You agree that, where necessary (in the case of two way interfaces) for the integration or functionality of the API, we may use and access Your Software, and any data made available therein to provide access to and use of the API, and represent and warrant that you have all necessary rights in Your Software and such data to allow us to do so. You also agree that you will not, and will not permit any third party to, use the API, Your Software, or any other systems or tools to adapt, train, or develop any artificial intelligence (AI), machine learning algorithms, or any other software systems or tools using our API, data or content.
- 11.6 If we have granted you access to the API, please note that we may make available new enhancements, updates, upgrades, versions or releases of the API from time to time (collectively, "Changes"), and will use reasonable efforts to provide you with notice of such Changes. You acknowledge that you are responsible for installing such Changes our update your application(s) to maintain compatibility with and preserve the functionality of the API.

12 Right of Use

- 12.1 We grant to you a non-exclusive, non-transferable right to use the Goods and/or Services during the Term.

- 12.2 Software provided in relation to your use of the Goods and/or Services is to be used only in accordance with this Contract, and is expressly not provided, or to be used, for any other purpose.
- 12.3 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Goods and/or Services and, in the event of any such unauthorised access or use, promptly notify us.
- 12.4 A Customer may authorise Users to access and use the Software, in accordance with this Contract. If authorising other Users, you are responsible for its Users' compliance with this Contract and all activities of its Users, including how Users access and use Customer Data. Customers agree that they are responsible for the Users that access the Goods and/or Services through their account.
- 12.5 Any registered User may print off their report generated as part of the Services for their own internal non-commercial uses only.
- 12.6 A registered User may not modify the paper or digital copies of any documentation or other materials printed off or downloaded in any way from our Platform or through our Services.
- 12.7 Any use of data, information, reporting, results, estimates, calculations, outputs, and extrapolations generated through our Platform must credit Agrecalc as the source.
- 12.8 You must ensure that each User keeps its login credentials confidential and must promptly notify us if it becomes aware of any unauthorized access to any User login credentials or other unauthorized access to or use of the Software.
- 12.9 Further, you shall not (except to the extent expressly permitted under this Contract):
- 12.9.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means;
 - 12.9.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
 - 12.9.3 access all or any part of the Goods and Services in order to build a product or service which competes with the Services;
 - 12.9.4 do anything which could reasonably be expected to damage, disable, overburden, or materially impair the Goods and/or Services or our Platform or Website generally, or which is likely to interfere with any other party's use or enjoyment of the Goods and/or Services;
 - 12.9.5 except as otherwise stated in the proposal or this Contract, use the Goods and/or Services to provide services to third parties;
 - 12.9.6 except as otherwise stated in this Contract, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Goods and/or Services available to any third party;
 - 12.9.7 attempt to obtain, or assist third parties in obtaining, access to the Goods and/or Services other than as provided under this Contract;
 - 12.9.8 use or attempt to use any artificial intelligence (AI) technology to the detriment of the Goods, Services, Software, Platform, Website, or us by any other means.
- 12.10 For Free Trial Users or for subscriptions that are no longer active, you may be allowed to download or print off any Report generated as part of the Services. However, we reserve the right to exclude any Free Trial or inactive subscriptions from being able to download or print

reports and may restrict the level of detail contained in these reports at our discretion and without prior notice.

13 Intellectual Property Rights

13.1 In this Condition:

13.1.1 references to any Software and the IPR therein or to any IPR being vested in us shall be a reference either to us or, if different, to such company or body forming part of Our Group as has the right to that IPR and the benefit of this section 13 and of your obligations under this section 13 shall extend to any such company or body forming part of Our Group which owns or has right to any Software and the IPR therein and any other IPR.

13.2 Our Background IPR in any data, information, goods or materials supplied to you by us shall not pass to you, but shall remain vested in us (or in any third party who may have such rights in goods or services supplied to us) and, unless expressly authorised to do so in terms of the Contract, you may not alter or interfere with the same. We hereby grant to you a royalty free, fully paid up, non-exclusive licence to use our Background IPR to the extent that this is reasonably necessary for the you to obtain the full benefit and use of the Services and of any IPR acquired by you pursuant to the Contract.

13.3 Any IPR in any Software supplied to you by us shall not pass to you but shall remain vested in us. By virtue of the Contract, you will have a personal non-exclusive and non-transferable right by way of licence to use the Software and the IPR therein, but only so far as necessary to enable you to make use of the same in your own business and name for the purposes of the Project. You are bound to treat the Software and the IPR as secret and confidential to us, both during and after the period of use authorised hereunder. You will not (without our prior written consent) sell, charge, sub-license, publish, disclose, permit to be disclosed or part with possession of either the Software or the IPR therein, or any other information relating thereto. Notwithstanding the foregoing, we may require you at any time to enter into our standard form licensing agreement in respect of the computer software and the IPR therein. Where we further agree that you may make use of the Software and the IPR therein beyond the limits authorised above, you will enter into a licensing agreement with us in such terms as we require.

13.4 Subject to section 15, your Background IPR in any Customer Data, information, goods or materials supplied to us shall not pass to us, but shall remain vested in you (or in any third party who may have such rights in goods or services supplied to you) and, unless expressly authorised to do so in terms of the Contract, we may not alter or interfere with the same. You grant to us a royalty-free, fully paid-up, non-exclusive licence to copy any materials provided by you to us to the extent that this is reasonably necessary for the purpose of providing the Services in terms of the Contract including performing statistical analysis of your Customer Data. You shall grant us a perpetual, non-terminable, non-exclusive and transferrable licence to use your Background IP at no cost.13.5 IPR discovered or created during the course of the Project (including any original drawings, designs, proposals, reports, recordings and original works, data, products or processes and discoveries or inventions) ("**Arising IPR**") shall be vested in us and we shall have the right to use any data generated for other projects unless otherwise agreed in writing. We grant to you (unless you are a Free Trial Customer) a personal, non-exclusive and non-transferable right by way of licence to use the Arising IPR as set out in this clause 13.5 to extent that this is reasonably necessary for you to obtain the full benefit of the Services. Under said licence, you may print off any Report generated as part of the Services for your own personal or business use only but you must not modify the paper or digital copies of the Reports in any way and any use of data, information, reporting, results, estimates, calculations, outputs, and extrapolations generated through the Platform must credit us as the source. Furthermore, you agree to maintain the Arising IPR secret and

confidential and to use the Arising IPR exclusively for the purposes of the Project and only to disclose the Arising IPR with our express consent and in any event only to the extent reasonably necessary for the purposes of the Project. Any exceptions to this clause 13.5 will be stated in the proposal.

- 13.6 Further, subject to the other terms of this Contract, we may permit you a non-exclusive, revocable licence to access and use the API solely for the purpose of accessing the data, functions, and capabilities made available to you via the API. You understand that access to Agrecalc data, functions or capabilities via an API may not always provide the same functionality or experience as access via the web application. For certain API's, we may make available to you, additional connectors to allow you to integrate the API with certain technology platforms.
- 13.7 Where you are provided with access to Agrecalc data via the API, you may integrate such data into only (a) Your Software for your internal business purposes, or (b) if you are in the business of providing farming consultancy or advice, dashboards you create for your individual clients, and provided such dashboards are not publicly available. Dashboards means a tool incorporating our content with other content within a shared interface. You will comply with any additional use restrictions that we provide to you in the context of a Project.
- 13.8 You shall notify us promptly of any actual, threatened or suspected infringement of any IPR in relation to the Project which comes to your notice and, if so required by us, you shall do everything (at our expense) reasonably required to take or resist any proceedings in relation to any such infringement or claim.
- 13.9 If any processes or inventions are created, discovered or made by you in the course of the Project, you shall disclose full details of such invention to us. We shall in our sole discretion be entitled to apply for patent(s) in respect of any such invention and shall be responsible for the maintenance and renewal of such patent(s). You agree to assign to us all right, title and interest in and to any such invention and further agree to provide reasonable assistance to us in connection with any application for patent rights and to do all such reasonable acts and things as are necessary in connection with any such assignment or assistance.
- 13.10 You will indemnify us against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any IPR by the availability of the Services, except to the extent that they have been caused by or contributed to by our acts or omissions.

14 Your Property

- 14.1 Where relevant, all equipment, materials and apparatus supplied either by you or on your instructions shall be delivered to, assembled, maintained, dismantled and collected from our premises by you or your agent free of all charge to us. If any equipment, materials or apparatus remain uncollected six months after we have notified you that it is ready for collection, we reserve the right to dispose of the equipment, materials or apparatus as we think fit without recompense to you.
- 14.2 We accept no liability for any damage, or consequential loss arising from any damage, however caused, to equipment, materials and apparatus supplied by you. You shall be responsible for insuring all such equipment, materials and apparatus.
- 14.3 While on our premises, you shall ensure that any personnel at all times shall:
 - 14.3.1 comply with all of our policies in respect of those premises; and
 - 14.3.2 comply with our policies in relation to (i) anti-bullying and harassment and (ii) sexual harassment.

15 Data, Provision of Data and Data Protection

- 15.1 You shall own all right, title, and interest in and to all of the Customer Data that you provide to us under this Contract.
- 15.2 You shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of any Personal Data you provide to us under this Contract. Subject to clause 15.2, we do not monitor any of the Personal Data you provide to us. We shall only process Personal Data you provide to us in accordance with this Contract and as set out in our privacy notice ("Privacy Notice").
- 15.3 By uploading your Data, you grant us an irrevocable, worldwide, royalty-free, non-exclusive licence to use your Data:
 - 15.3.1 to provide the Goods and/or Services; and
 - 15.3.2 to anonymise and aggregate your Data
- 15.3 We shall have the right to perform statistical analysis of any Customer Data you provide to us under this Contract for the creation of anonymised statistical data.
- 15.4 Anonymised data generated using your Customer Data shall belong to us and may be licensed to third parties. We will never disclose your Personal Data except as required, in accordance with our Privacy Notice. Anonymised data is defined as having all personally identifiable information removed.
- 15.5 The Customer's Data is held by us and is only accessed and managed by us or Our Group, the Customer/User that owns the Customer's Data, or an authorised representative. The Customer's Data will be held by us indefinitely to support benchmarking data anonymously. The Customer or User (or an authorised representative) that owns that Customer Data can request the deletion of their account and subsequent identifiable data by writing to us, at which point all account and relevant Customer Data will be removed and permanently deleted, following the end of the Term.
- 15.6 For research purposes, we may share the Customer Data and other results with Our Group. This will be subject to the confidentiality provisions at clause 17.
- 15.7 We will use any personal information you provide to us to provide the Services, process your payment for the Services (where applicable), and inform you about similar products or services that we provide, but you may stop receiving these at any time by contacting us.
- 15.8 In relation to Customers:
 - 15.8.1 Each Party acknowledges that for the purposes of the Data Protection Legislation each Party is a data controller (data controller has the meaning given in the Data Protection Legislation); and
 - 15.8.2 Each Party shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the other Party to breach any of its obligations under the Data Protection Legislation.
- 15.9 In relation to Users:
 - 15.9.1 Where the User is also the Customer, clause 14.6 shall apply;
 - 15.9.2 Where the User has an authorised representative as per clause 3.2, it is acknowledged that for the purposes of the Data Protection Legislation, we are the data controller (data controller has the meaning given in the Data Protection Legislation) and the authorised representative of the User is the data processor

(data processor has the meaning given in the Data Protection Legislation) on behalf of the User.

- 15.9.3 Each Party shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the other Party to breach any of its obligations under the Data Protection Legislation.

16 Health and Safety

- 16.1 You will ensure that any machinery or equipment provided by you complies with all current laws, including the requirements of the Health and Safety at Work etc. Act 1974 as amended or re-enacted from time to time. If, in our opinion, the equipment does not comply with current laws, or with our safety standards you will be responsible for making the necessary modifications before the Project begins.
- 16.2 You will provide accurate information as to the composition of any materials supplied by you and will give us notice of any hazards in their use or suspected by you.
- 16.3 You will inform us of all health and safety rules and regulations and any other reasonable security requirements that apply at those of your premises we attend in connection with the Project. We shall use reasonable endeavours to observe all those health and safety rules and regulations you tell us about, provided that we shall not be liable under the Contract if, as a result of observing such rules and regulations, we are in breach of any of our obligations under the Contract.

17 Publication and Confidentiality

- 17.1 You shall be entitled to use the agreed outputs from this Project, including, if relevant any Reports for your own non-commercial purposes. Except where the parties have agreed that the IPR shall be jointly owned, you will not refer to us in any publication, report, statement, drawing, design, proposal, recording or other original work nor any extract therefrom, nor refer to the fact that any product or process has been the subject of a contract with us in any communication, publication or publicity material without written permission through our Company Secretary. Consent will depend on the content and form of such communication or publication and its intended distribution. You shall indemnify us against all loss, claims, damages, costs and expenses (including legal costs and any loss suffered by us as a result of loss of reputation, damage to goodwill, loss of business, loss of contracts, indirect or consequential loss) arising from or incurred by reason of your breach of this condition 10.1.
- 17.2 Neither you nor anyone on your behalf or authority shall issue an advertisement showing a statement or by implication that a product has been approved or "recommended" by us or any company or body in our group.
- 17.3 The draft of any communication or publication relating to the Project must be submitted to us and receive our written approval through our Company Secretary before publication.
- 17.4 We are committed to open research and reserve the right to publish research carried out by us and any results produced by us (except those results which constitute personal data given by you to us) after the date of the final report to you unless a specific restriction on publication has been agreed with you. We reserve the right both for ourselves and for any other company or body in Our Group to draw on the results of investigations of products which are already commercially available in answering advisory enquiries from any client or customer.
- 17.5 We may, provided we do not disclose your identity or any of your personal data, use any information we obtain in relation to your business in compiling reports, statistics and advice

in relation to the industry of which your business forms part or in relation to businesses generally of the same type as your business.

- 17.6 We are subject to the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 and regulations made under it ("FOI Law"), which require us and may require you to make certain information (which may include results) available to members of the public on request. Wherever possible, and in accordance with any applicable Code of Practice issued with the legislation, each party will consult with the other before making any disclosure of results or other information pursuant to FOI Law however it will be up to the party in receipt of the request for information to decide whether to disclose it.
- 17.7 Subject to any requirements of FOI Law that may apply to you in terms of clause 17.6, you will keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives (including the technical information) which are of a confidential nature and have been disclosed to you by us or by our employees or employees of Our Group, agents or sub-contractors and any other confidential information concerning our business or products which you may obtain in connection with the Project.
- 17.8 The Parties may disclose any of the information referred to in clause 17.7 or clause 17.9:-
- 17.8.1 to its employees (or employees of any member of its group), officers, representatives, advisors, agents or subcontractors who need to know such information for the purposes of carrying out your obligations under the Contract; and
- 17.8.2 as may be required by law, court order or any governmental or regulatory authority.
- 17.9 Save as otherwise provided in the Contract, we will maintain security of information provided by you when it is agreed with us in writing that work will be done on a confidential basis, as provided for in the proposal. Information obtained under such an agreement will not be disclosed to individuals or organisations other than you without prior written agreement. Subject to our open research aims in clause 17.4 and the requirements of FOI Law in clause 17.6 we will secure from the sight of visitors all confidential documents, data and equipment relating to the Project provided by you to us for the period agreed between the parties as stated in the Proposal.

18 Warranties

- 18.1 We warrant to you that the Goods and Services will be provided using reasonable care and skill.
- 18.2 Clause 18.2 shall not apply to the extent of any nonconformance which is caused by your use of the Goods and/or Services which are contrary to our instructions, or due to any modification or alteration of the Goods and/or Services by a third party.
- 18.3 Our Goods and Services are provided "as is". We make no guarantee that the Goods or Services will be suitable for your intended use, neither do we guarantee that either will be error-free, timely, reliable, entirely secure, virus-free or available, especially since we are dependent on the reliability of the Internet and your use of your own computer to access the Goods and/or Services. You acknowledge that the Goods and Services may be subject to limitations and other problems inherent in the use of any such Software.
- 18.4 We will try and keep disruptions to our Goods and Services to a minimum, but the Goods and Services may be unavailable from time to time to allow us to carry out maintenance and support work. We exclude all liability for business interruption resulting from the Goods and Services being unavailable for whatever reason.

- 18.5 The Software is designed to be controllable by you and therefore its function, operation, and performance is entirely dependent on the data inputted by you. We cannot warrant that the Software, as used by you, will meet any specific performance criteria.
- 18.6 If we have provided you with access to the API, we may from time to time set limits on the use of that API (e.g., limit the number of calls on the API or the number of searches or, rate between searches, etc. as applicable to the use of the relevant API) to protect the integrity of our systems. We reserve the right to throttle or suspend usage in our sole discretion if you exceed such limits. You may not access the API or related documentation in a manner that compromises, breaks or circumvents any of our technical processes or security measures associated with the API.
- 18.7 Except for the warranty in clause 18.1 all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

19 Limitation of Liability

- 19.1 We shall not be liable to you whether in contract, delict, breach of statutory duty or otherwise, for any loss of profits, goodwill or any type of special, indirect or consequential loss (including loss or damage suffered by you as a result of an action brought by a third party), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by our negligence, our employees or agents or otherwise) with the Contract.
- 19.2 The Company may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and the Company shall be under no obligation to provide any or all of the Services while there are outstanding invoice(s).
- 19.3 If you have been granted access to the API, we may suspend, disable or withdraw access to the API at any time if, in our reasonable opinion, you have breached any material term of the Contract or if there is risk of any breach of security. We will not be responsible for any loss, damage, costs, expenses or other claims of yours or any user or any third party resulting from the suspension of access via the API.
- 19.4 We are not responsible for losses you suffer caused by us breaking this contract if the loss is:
- 19.4.1 Unexpected. It was not obvious that it would happen and nothing you said to us before we accepted your order meant we should have expected it (so, in the law, the loss was unforeseeable).
 - 19.4.2 Caused by a delaying event outside our control. As long as we have taken the steps set out in section 9. We are not responsible for delays outside our control.
 - 19.4.3 Avoidable. Something you could have avoided by taking reasonable action. For example, damage to your own digital content or device, which was caused by digital content we supplied and which you could have avoided by following our advice to apply a free update or by correctly following the installation instructions or having the minimum system requirements advised by us.
- 19.5 Our total liability to you in respect of all losses arising under or in connection with the Contract, whether in contract, delict, breach of statutory duty or otherwise shall be limited to the Contract Price.
- 19.6 Nothing we say in this Contract limits the rights you have as a consumer or other legal rights that we may not legally exclude. We do not in any way exclude or limit our liability for death or personal injury caused by our negligence, fraud, or misrepresentation.

20 Termination

- 20.1. You may terminate this Contract on 30 Working Days' written notice in respect to the next invoicing period. Payment will be required for any Goods and/or Services given or deemed 'in term.' We may terminate the Contract on giving 14 days written notice if you fail to give us the instructions or information we need to perform the provision of the Goods and/or Services.
- 20.2. Either Party may (without prejudice to any other rights the other Party may have arising out of any pre-existing breach of this Contract or arising out of termination itself) terminate this Contract immediately for any of the following reasons:-
- 20.2.1 the other party commits a material breach of any term of this Contract and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 20.2.2 if the other Party, being an individual, becomes apparently insolvent or dies, or being a partnership, is dissolved, or any of your partners become apparently insolvent or die; or
 - 20.2.3 if the other Party, being a company or other corporate body, go into liquidation or have a receiver or an administrator appointed to all or any part of your assets or you become subject to an administration order or make any voluntary arrangement with your creditors.
- 20.3. We may (without prejudice to any other rights we may have arising out of any pre-existing breach of this Contract or arising out of the termination itself) terminate this Contract immediately in the event of non-payment by you of any sums due under this Contract in accordance with Condition 7.1 or non-payment by you of any sums due under any other contract between you and any other member of our group.
- 20.4. On termination of the Contract for any reason, without prejudice to any other right or remedy available to us:
- 20.4.1 all subscriptions shall revert to a free trial use
 - 20.4.2 you will pay all our outstanding invoices and, if any Goods or Services under the Contract have been delivered but not paid for and if any work has been carried out in relation to the Contract but is not yet the subject of any Goods or Services capable of being delivered, the price shall become immediately due and payable notwithstanding any previous arrangement or agreement to the contrary;
 - 20.4.3 we shall be entitled to payment for materials specifically purchased in connection with the Project;
 - 20.4.4 all provisions of the Contract intended to survive that termination shall continue in full force and effect, including, without prejudice to that generality, sections 11 (Your Obligations), 12 (Right of Use), 13 (Intellectual Property), 14 (Your Property), 15 (Data, Data Provisions, and Data Protection), 18 (Publication and Confidentiality), 18 (Warranties) and 19 (Limitation of Liability); and
 - 20.4.5 you will return to us all our equipment, documents and materials and if you fail to do so, we can enter your premises and take possession of them. Until they are returned to us, you will be responsible for their safekeeping.
- 20.5. If we have provided you access to the API, and that access is terminated by any means under this Contract, you shall shutdown any and all applications accessing our Software to avoid impacting our services

20.6 If you do not renew the subscription for a farm, your access to your data for that farm will be downgraded to the Free Trial version. Free Trial Users have three (3) months to trial out the Software. Please bear in mind that the Free Trial accounts come with limited Software features.

21 Anti Corruption

You will throughout the term of the Contract comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Anti-corruption laws") and will have and will maintain in place and enforce where appropriate policies and procedures, including adequate procedures under the Bribery Act 2010 to ensure compliance with the anti-corruption laws.

22 No Partnership or Agency

Nothing in the Contract shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as expressly specified by the terms of the Contract.

23 Jurisdiction

These Conditions, every Proposal to which these Conditions apply, and the Contract, unless otherwise stated, shall be governed by and construed in accordance with Scots law and you submit to the exclusive jurisdiction of the Scottish courts.

24 General

- 24.1 No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy or preclude or restrict its further exercise.
- 24.2 If any provision of the Contract is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable then:
- 24.2.1 that provision or part provision shall to the extent required by deemed not to form part of the Contract and the validity or enforceability of the other provisions of the Contract shall not be affected; and
 - 24.2.2 the parties shall negotiate in good faith to amend that provision so that, as amended, it is legal, valid and enforceable and so far as possible achieves the parties' original intention.
- 24.3 The Contract constitutes the whole agreement between the parties and supersedes all previous agreement between the parties relating to its subject matter.
- 24.4 Any notice or other communication required to be given by one party to the other under the Contract shall be in writing and shall be:
- (a) delivered personally or sent by prepaid first class post, recorded delivery or by commercial courier to the other party's registered office (if a company) or its principal place of business (in any other case); or
 - (b) sent by email as follows: (i) to Agrecalc at contracts@sruc.ac.uk or (ii) to the you to such email address as has been provided by you to us, (or an address substituted in writing by the party to be served); or
 - (c) in the case of a User, sent by email to the contact details provided at account registration.

Any such notice or other communication shall be deemed to have been duly received: (i) if delivered personally when left at the address or, if sent by prepaid first class post or recorded delivery at 09.00am on the second business day after posting or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed or (ii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, at 09.00am on the next business day.