

# Bilateral Base Ltd - Terms Of Use

Updated 23<sup>rd</sup> March 2022

These subscription terms set out the terms of the relationship between you, the Subscriber and us Bilateral Base Limited company number 11481195 whose registered address is at 83 High Street, Hemel Hempstead, Hertfordshire HP1 3AH ("Company", "we" or "us").

We have agreed to grant you a non-exclusive licence to use the Service, on the terms set out below.

These terms should be read in conjunction with the information in your Account Profile (<https://app.bilateralbase.com/profile>) and any Schedules which together with these terms, comprise the contract between you and us for use of the Service.

## 1. Definitions

In this Agreement the following expressions have the meanings stated, unless the context otherwise requires:

<b>“Agreement”</b>	means the subscription terms set out herein including the Order Form and any Schedules;
<b>“Business Day”</b>	means Monday to Friday excluding any weekends and any public or bank holiday in England;
<b>“Client”</b>	means any person who is a client of yours as an EMDR Therapist who is authorised by you to access the online platform comprised in the Service;
<b>“Content”</b>	means text, graphics, software, audio recordings, data compilations, video recordings, underlying code and any other form of information capable of being stored in a computer that appears on or forms part of the Website or on any mobile applications offered as part of the Service and including any such content that is uploaded by Subscribers;
<b>“Data Protection Legislation”</b>	means all applicable laws and regulations relating to the processing of personal data and privacy as may be applicable from time to time, which at the date of this Agreement means the GDPR (EU General Data Protection Regulation 2016/679), the retained EU law version of the GDPR (UK GDPR), Data Protection Act 2018 and any successor legislation or as may be updated or amended from time to time;
<b>EMDR Therapist</b>	means a psychotherapist properly trained and qualified in the use of the therapy of Eye Movement Desensitisation and Reprocessing and entitled to provide such therapy service to members of the public;
<b>“Fees”</b>	means the fees payable in order to access or use the Service, including Subscriptions Fees as set out in the Order Form;

<b>“Order Form”</b>	means the form attached to these terms or otherwise agreed between the Parties from time to time which sets out the basic terms of your subscription to the Service;
<b>“Intellectual Property Rights”</b>	means patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world;
<b>“Normal Business Hours”</b>	means 9.00 to 17.30 (UK Time) on any Business Day;
<b>“Party”</b>	means the Company or the Subscriber (as the case may be) and collectively they are the “Parties”;
<b>"Software"</b>	refers to software integral to the operation of the Service and any background software which we use in providing the Service including but not limited to any software in connection with mobile applications made available as part of the Service;
<b>“Service”</b>	means the services to which you have subscribed as described in the Order Form;
<b>“Start Date”</b>	the date on which you register an account with us;
<b>“Subscription”</b>	means the subscription to the Software Service on the terms of this Agreement;
<b>“Subscription Term”</b>	means the term of your subscription to the Software Service;
<b>“Third Party” or “third party”</b>	means each person or entity which is not a party to this Agreement;
<b>“Use”</b>	the use, copying or transmission of the Software or of the Service in any manner whatsoever;
<b>“We” or “we”</b>	Means Bilateral Base Limited whose details are set out on the Order Form;
<b>“Website”</b>	means <a href="http://www.bilateralbase.com">www.bilateralbase.com</a>
<b>“You” or “you”</b>	means the Subscriber.

## 2. The Service

2.1 In order to subscribe to our Service you must be registered with us as a “Subscriber” as defined above and you must comply with the terms herein. You hereby confirm that you are over the age of 18 years. You accept sole responsibility for obtaining appropriate local or national accreditations, memberships, affiliations, insurances (or other relevant requirements) for conducting your business as a Subscriber but in any event, you are strictly prohibited from registering for the Service if you are not appropriately trained and qualified as an EMDR Therapist or if you are engaged in any business which is illegal, unethical or otherwise does not align with our values.

2.2 You will be required to register an account with us in order to access the Service. Your account is strictly for your use and you are not authorised to share or otherwise permit any other person firm or company to have access to or use your account including any Clients or other EMDR Therapists whether within your organisation or outside of it. You confirm that the details registered in your account are now accurate, complete and up-to-date and you will keep such details updated to ensure they are accurate and complete at all times.

2.3 Notwithstanding the above, and provided applicable Fees have been paid in full by you in accordance with the Agreement, we will provide you with the means to grant your Clients access to the online platform provided as part of the Service for the purpose of providing your services as an EMDR Therapist to the Client. For the avoidance of doubt, Clients are not permitted to have access to your account with us nor to use the Service otherwise than for the provision of your EMDR Therapy services to them.

2.4 We may offer differing levels of subscription with access to different levels of functionality or services. Accordingly access to certain features may be restricted or limited, depending on your subscription type. In addition, we reserve the right to add or remove services and functionality from any subscription type or to add or remove subscription types at any time and from time to time.

2.5 We may offer a free service (“**Free Service**”) under which access is granted to certain features without charge. If you subscribe to the Free Service then certain features will not be available to you and the number of hours that you can use the Service will be subject to limitations which may be released with a paid subscription. Please note that under clause 9 our liability is limited with respect to use of the paid for and the Free Service.

2.6 Clients may be subject to differing permission or access levels depending on the subscription you have taken out and which we will specify. We reserve the right to change the level of access or permissions applicable at any time and from time to time.

2.7 You are solely responsible for all agreements, contracts and other interactions with your Clients and you hereby undertake and confirm that you have received all necessary consents from each of your Clients (or from others on their behalf) to use the Services in connection with your interaction with that Client.

2.8 You agree to use commercially reasonable efforts to prevent unauthorised access to, or use of, the Service or your account by Clients or by other third parties and will notify us as soon as possible if you become aware of any such unauthorised access or use. You agree to only use the Service for lawful purposes and not to violate any law of any country or the intellectual property rights of any third party.

### **3. Restrictions**

3.1 **You agree that you will not**, except as may be allowed by any applicable law which is incapable of exclusion by this Agreement between the Parties or except to the extent expressly permitted under these terms or agreed between us in writing:

3.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Service or Software or Content in any form or media or by any means;

3.1.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Service or Software;

3.1.3 access all or any part of Service or Software in order to supply similar services to any third party or in order to build a product or service which competes with the Service;

3.1.4 provide the Service to third parties other than in the context of allowing use by Clients which is permitted hereunder;

3.1.5 license, sell, rent, lease, transfer, assign, distribute, display, disclose, commercially exploit, or otherwise make the Service available to any third party except to Clients in accordance with this Agreement;

3.1.6 make available in any way for the use or benefit of any unauthorised party, any information, materials, software, or other proprietary information received from us, in whole or in part, unless we agree in writing;

3.1.7 unless we otherwise agree, remove, deface, obscure, or alter our or any third party's copyright notices, trademarks or other proprietary rights notices affixed to or provided as part of the Service;

3.1.8 input, upload or otherwise store any documentation, materials, information or other content to the Software platform which is illegal, defamatory, fraudulent, offensive, inaccurate or infringing on any party;

3.1.9 not to upload any files or content that contain viruses, corrupted files, or malicious code or any other similar software or programs that may damage the operation of the Software or Service;

3.1.10 modify, incorporate into or use the Service or Software with other software, or create a derivative work;

3.1.11 use any robot, spider, scraper, or other automated means to access the Service or Software for any purpose without our written consent; or

3.1.12 attempt to obtain, or assist third parties in obtaining, access to the Service other than in accordance with these terms

3.1.13 process any personal data, recording or notes made during the course of or ancillary to your use of the Services save strictly in accordance with Data Protection Legislation and all other applicable laws, regulations and professional codes of conduct in respect of such processing.

3.2 We will not be responsible for your integration of the Software within your systems and are not liable for any loss, damage or liability that may arise as a result of this.

## **4. Fees & Payment**

4.1 You agree to pay all applicable Fees (including the Subscription Fee) in accordance with these terms and your Account Profile (<https://app.bilateralbase.com/profile>). Unless your Account Profile sets out otherwise, the Subscription Fee shall be payable monthly in advance

with the first payment due upon the expiry of one month from the Start Date or from the date on which you choose a paid subscription, whichever comes first. In the event the Subscriber purchases additional services following the Start Date, the relevant additional fees shall be invoiced to you immediately, unless you have arranged payment of services by invoice, in which case payment is due within 30 days. You acknowledge and agree that only once the appropriate Subscription Fees have been paid in accordance with this Agreement will we be required to provide you with access to the Service.

4.2 We reserve the right to charge you interest in respect of the late payment of any sum due under this Agreement (after as well as before judgment) at the rate of 4 per cent per annum above the base rate from time to time of the Bank of England from the due date until payment.

4.3 Notwithstanding clause 4.1 above, to the extent we have provided the Service but there remains Fees due from you which are outstanding for 14 days or more from the payment due date, we may at our discretion suspend access to the Software and Service immediately and, we may delete your accounts with the Company including any information uploaded or otherwise inputted into the Software or Service.

4.4 No Subscription Fees paid in advance by you will be refundable to you, unless there are exceptional circumstances.

4.5 We may at our sole discretion offer a free trial to help you determine whether our Service is right for you. At the end this period, you will automatically transition onto the free 'Occasional' subscription plan. No payment will be taken or requested at this time. Payment will only be taken or requested when you select a paid subscription.

4.6 We reserve the right to change or amend our Subscription Fees at any time and from time to time upon no less than 1 month prior notice of such change in fees (including a notification on our Website). In the event the Subscription Fees are increased and you do not wish to continue your Subscription at the increased revised fees, you must terminate your account prior to these changes taking effect. Failure to terminate your account in time will result in you being billed in full for the then applicable relevant subscription Fees for your Service.

## **5. Support and Maintenance Services**

5.1 We conduct comprehensive data security audits on a regular basis to ensure that any data held by us is secure. In addition, we will provide you with certain support and maintenance services during the term of this Agreement, as set out in Schedule 1 ("SLA"). Notwithstanding this, we may from time to time and at our discretion, vary our support services. If you require enhanced support please contact us.

5.2 We may undertake scheduled maintenance from time to time and where possible we will give you prior written notice of maintenance services that are likely to affect the availability of the Service or are likely to have a material negative impact upon the Service. We will endeavor to provide advance notice of the provision of any major upgrade.

5.3 We may suspend the provision of the support and maintenance services if any amount due to be paid by you to us under this Agreement is overdue, and we have given you at least 14 days' written notice, following the amount becoming overdue, of our intention to suspend the support and maintenance services on this basis.

5.4 You acknowledge that the Service may be unavailable during planned maintenance carried out during our planned maintenance windows as well as unscheduled

maintenance (provided that we have used reasonable endeavours to give you notice in advance).

5.5 We may from time to time, and by agreement in writing between the Parties, carry out additional professional or consultancy services (“**Professional Services**”), including without limitation bespoke integrations of onsite systems and co-branding services. We warrant that any such Professional Services will be subject to any terms agreed between us in writing including applicable fees and charges. Professional Services will be carried out with reasonable skill and care in accordance with good industry practice. Please note that the limitations on liability set out in this Agreement will apply to Professional Services unless otherwise agreed in writing.

## **6. Data Protection**

6.1 The Company and the Subscriber agree to comply with their respective obligations under the Data Protection Legislation in the processing of personal data. This clause does not relieve, remove or replace a Party's obligations under the Data Protection Legislation.

6.2 The Parties acknowledge that for the purposes of this Agreement and the Data Protection Legislation, the Subscriber is the Controller and Company is the Processor and the Parties shall accordingly comply with the provisions as set out in Schedule 2. The table in Schedule 2 includes details of the scope, nature and purpose of the processing of data under this Agreement, the duration of the processing, the types of personal data processed and the data subjects involved as required by Article 28(3) GDPR.

6.3 Without prejudice to the foregoing provisions in this clause, Company agrees to process the personal data for which it is a controller in accordance with its Privacy Notice (available here: <https://www.bilateralbase.com/support/privacy/>).

## **7. Intellectual Property and Third Party Licence**

7.1 You acknowledge that all Intellectual Property Rights in the Software and Service and all Content on the Website (save for Content uploaded by Subscribers) belong and shall belong to us or our licensors (as the case may be), and you shall have no rights in or to the Software or Service or Content other than the right to access the Service in accordance with the terms of this Agreement.

7.2 You agree to comply with the terms of any third party end-user licence agreement to the extent that we incorporate third party elements into the Service and communicate these terms to you prior to the commencement of your subscription.

7.3 You acknowledge and agree the Service may include links to other external websites or materials. We are not responsible for content on any site outside the Service and in the event that you follow a link to any of these websites, you acknowledge you do so at your own risk and we will not be liable or otherwise be responsible in any way in relation to this.

## **8. Warranty**

8.1 Subject to the exceptions set out below and the limitations on our liability, we warrant that we have the right power and authority to authorise access to the Service upon the terms and conditions of this Agreement and, if you have a paid subscription, that the Service will comply in material respects with the functionality described in the Order Form .

8.2 The Software and Service is provided “as is” and we do not warrant that the use of the Service will be uninterrupted, error-free or 100% accurate.

8.3 You accept responsibility for the selection of the Service to achieve your intended results and acknowledge that the Service has not been developed to your specific requirements and we do not guarantee any particular level of engagement or outcome.

8.4 You hereby warrant that you have full right, power and authority to post all Content included by you on the Website and undertake that the same is and will remain wholly accurate and up-to-date in all respects.

8.5 Any links on the Website to other sites or services does not form part of the Service hereunder nor indicates our endorsement of the same and we make no warranty in connection with any such sites whether as to their availability, practices, content efficacy or otherwise.

8.6 We will have no liability to remedy a breach of warranty where such breach arises as a result of any breach by you of the terms of this Agreement.

8.7 All other conditions, warranties or other terms which might have effect between the Parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to including but not limited to the warranties of satisfactory quality, merchantability, fitness for a particular purpose and non-infringement.

8.8 We may, at our discretion, remedy any breach of warranty by the provision of technical support free of charge.

## **9. Limitation of Liability**

9.1 Except as expressly stated in this clause 9:

9.1.1 Neither party shall in any circumstances have any liability for any losses or damages which may be suffered by the other party (or any person claiming under or through you), whether the same are suffered directly or indirectly and whether the same arise in contract, tort (including negligence) or otherwise howsoever, and which fall within any of the following categories:

- (a) loss of profits;
- (b) loss of revenue;
- (c) loss of anticipated savings;
- (d) loss of business opportunity, goodwill or reputation;
- (e) loss or corruption of data or information;
- (f) indirect or consequential losses.

9.2 The Subscriber acknowledges and agrees the Company is not responsible for any contracts, materials, information or other content uploaded or otherwise stored in the Service platform by the Subscriber or their Clients or in either case on their behalf. Any decisions made by the Subscriber in relation to any treatment or the provision of any therapy are decisions for the Subscriber only. Any such decisions are not within the duty of care of the Company and it will not make any such decision on behalf of the Subscriber nor does it intend that any relationship of agency is created by this Agreement.

9.3 It is further acknowledged that the Company is not a medical advisor or have any psychotherapy or professional or legal knowledge and does not hold itself out as such. The

terms of any contract between the Subscriber and other third parties and whether or not the Subscriber enters into any contract are a matter solely for the Subscriber and its, his or her own judgement and professional expertise. The Company will not be liable under any circumstance and hereby excludes to the fullest extent permitted by law any claims, loss or damage whatsoever which the Subscriber may suffer arising from any decision or advice of the Subscriber.

9.4 We comply with Data Protection Regulations (GDPR) which impose some of the most rigorous standards globally. As part of our commitment to Data Protection we also pay particular attention to ensuring compliance with HIPAA, PIPEDA, Australian Privacy Act 1988 & New Zealand Privacy Act 2020. We will not be responsible to ensure that the Service operates within applicable regulatory requirements in the country in which you are providing services to Clients nor will we be responsible for or liable for any regulatory requirements or obligations. We are not in a position to evaluate risks associated with your use of the Service for regulatory compliance.

9.5 We will not be liable for any losses arising from the integration of the Software with any other software or systems used by you.

9.6 Subject to clause 9.8 our total liability, whether in contract, tort (including negligence) or otherwise and whether in connection with this Agreement or any collateral contract, shall in no circumstances exceed a sum equal to 100% of the Subscription Fees paid by you in the 12 month period leading up to the claim. Save that If you are using our Free Service then our total liability, whether in contract, tort (including negligence) or otherwise and whether in connection with this Agreement or any collateral contract, shall in no circumstances exceed the sum of £100

9.7 The exclusions in this clause 9 shall apply to the fullest extent permissible at law, but we do not exclude liability for:

9.7.1 death or personal injury caused by our negligence, or the negligence of our officers, employees, contractors or agents;

9.7.2 fraud or fraudulent misrepresentation; or

9.7.3 any other liability which may not be limited or excluded by law.

## **10. Confidentiality**

10.1 The Parties will keep confidential all information (whether written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the entering into of this Agreement save that which is:

10.1.1 trivial or obvious;

10.1.2 already in its possession other than as a result of a breach of this clause; or

10.1.3 already in or subsequently enters the public domain other than as a result of a breach of this clause.

10.2 It is agreed that the Company may disclose such confidential information to its employees, professional advisers, insurers, agents and subcontractors, as required by (i) law, regulation, judicial or administrative process, (ii) in accordance with applicable professional standards, or (iii) as deemed necessary in the performance of the Services pursuant to this Agreement.



10.3 You agree that we are authorised to collect and process data relating to your use of the Service and to aggregate and combine that data with other data we hold for the purposes of analysing the Software and Service and providing information and reports to our subscribers. We undertake that any such information will not contain any personal data and will not relate to any identified individual and will only be provided to third parties on an aggregated, anonymised basis.

10.4 For the avoidance of doubt, these terms apply throughout the term of this Agreement and shall continue following termination of this Agreement. In addition, any information relating to the running of the Company, such as processes relating to technology, methodologies, machine learning and/or other items relating to our Software and Service will also remain confidential beyond the Subscription Term.

## **11. Term, Renewals & Termination**

11.1 The Agreement shall, unless otherwise terminated as provided in this clause or agreed between the Parties in writing, commence on the Start Date and shall continue unless you cancel your paid subscription before the commencement of the next billing cycle in your Account Profile. If you are paying for services via invoice, then we require prior written notice of at least 1 month of your intent to terminate the Agreement in which case this Agreement shall terminate at the end of the month following the month in which a termination notice is served. Termination may include termination of your account and registration with us.

11.2 We may suspend or deactivate your account at any time and from time to time whether following a suspected breach of this Agreement or otherwise and, in the event that we shall subsequently re-instate your account, we shall reimburse to you all the Fees you paid to us during the period of suspension of your account.

11.3 The Subscriber acknowledges and agrees that upon termination or suspension of account you will not be able to use the Service and access to any documentation, materials, information or other content in the Service platform will also cease.

11.4 In addition to, but without prejudice to the other rights and remedies of each Party under this Agreement, in the event that:

11.4.1 either Party fails to perform or comply with any of its material obligations under this Agreement (including for the avoidance of doubt the obligation to pay the Subscription Fee);  
or

11.4.2 either Party enters into insolvency

then the other Party may terminate this Agreement immediately by written notice.

11.5 For the purposes of clause 11.4, a Party shall be regarded as entering into insolvency if (in the event that Party is a company or LLP or other legal entity other than a person):

11.5.1 it suspends or ceases or threatens to suspend or cease all or a substantial part of its operations;

11.5.2 a meeting is convened, an order made or a resolution passed for its winding-up (except for the purposes of a reconstruction or amalgamation whilst solvent);

11.5.3 a petition is presented for its winding up and not stayed, dismissed or withdrawn within 10 days (unless it is demonstrated to the other party's satisfaction that the petition is frivolous

or vexatious and it is dismissed before the petition is advertised and in any event within 14 days of presentation);

11.5.4 a petition is presented for the appointment of an administrator in relation to it and is not dismissed within two days or in the case of a petition presented by a creditor, within two days of actual service by that creditor on it;

11.5.5 a distress, execution or other legal process is levied against any of its assets and is not discharged or paid out in full within three days;

11.5.6 an encumbrancer takes possession of or a receiver or an administrator or similar official is appointed in respect of the whole or any part of its assets or undertaking;

11.5.7 it ceases or suspends generally the payment of its debts or is unable to pay its debts or is deemed unable to pay its debts within the meaning of s123 Insolvency Act 1986; or

11.5.8 if any event occurs which, under the applicable law of any relevant jurisdiction, has an analogous or equivalent effect to any of the events mentioned above.

11.6 For the purposes of clause 11.4, a Party shall be regarded as entering into insolvency if (in the event that Party is a person) that Party makes any composition or arrangement with his or her creditors or petitions for or appoints a Trustee in Bankruptcy or Supervisor over all or any part of his or her assets.

## **12. HIPAA compliance**

12.1 In the event that the Subscriber is a 'Covered Entity' under the terms of the Health Insurance Portability and Accountability Act 1996, the Health Information Technology for Economic and Clinical Health Act and their implementing regulations as amended from time to time ('HIPAA') then:

12.1.1 the Subscriber hereby undertakes to comply with the relevant provisions of HIPAA and related laws and regulations.

12.1.2 The Parties shall enter into the Business Associates Agreement on the terms of the attached agreement [available here: [app.bilateralbase.com/baa](http://app.bilateralbase.com/baa)]

## **13. General**

13.1 Entire Agreement: This Agreement constitutes the whole agreement and understanding of the Parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this agreement. Each Party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement, provided always that nothing in this clause shall limit or exclude any liability for fraud.

13.2 No Waiver: The Parties agree that a failure by either Party to enforce the performance of any provision in this Agreement shall not constitute a waiver of the right to subsequently enforce that provision or any other provision of this Agreement. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

13.3 **Severance:** If any provision of this Agreement (or part of a provision) 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 the minimum modification necessary to make it legal, valid and enforceable.

13.4 **Variation:** Unless otherwise expressly provided elsewhere in this Agreement, this Agreement may be varied only in writing by both of the Parties. A reference to “writing” or “written” in this Agreement includes email.

13.5 **Notices:** All notices or communication given under this Agreement shall be in writing. Notices shall be deemed to have been duly given:

- when delivered, if delivered by courier or other messenger (including registered mail) during Normal Business Hours of the recipient;
- when sent by e-mail, at the time of transmission (provided a postmaster email delivery failure notification has not been received);
- on the fifth Business Day following mailing, if mailed by national ordinary mail, postage prepaid;
- on the tenth Business Day following mailing, if mailed by airmail, postage prepaid.

If deemed receipt as set out above would occur outside Normal Business Hours, it shall be deferred until business hours resume.

In each case notices should be addressed to the address or e-mail address given in this Agreement or as otherwise notified to the other Party in writing. In the case of Company, the email address for service of notices is as set out in the Order Form.

13.6 **Assignment:** You are not entitled to assign or otherwise transfer this Agreement or any of your rights or obligations, nor are you permitted to sub-license the use (in whole or in part) of the Software Service without our prior written consent.

13.7 **Force Majeure:** Neither Party will be liable to the other for any delay in performing or failure to perform any of its obligations (other than a payment obligation) under this Agreement as a result of any cause outside its reasonable control. Subject to the affected Party promptly notifying the other Party in writing of the cause and the likely duration of the delay or non-performance and provided that the affected Party shall use reasonable endeavours to limit the effect of such event on such other Party, such delay or failure, to the extent affected by the cause will not constitute a breach of the Agreement.

13.8 **Rights & Remedies:** except as otherwise expressly provided in this Agreement, all rights contained in this Agreement and all remedies available to either Party for breach of this Agreement are cumulative and may be exercised separately or concurrently. The exercise of any one right or remedy shall not be deemed an election of such right or remedy to the exclusion of other rights and remedies. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

13.9 **Contracts (Rights of Third Parties) Act 1999:** except as otherwise expressly provided in this Agreement, a person who is not a Party to this Agreement or a permitted assignee has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

13.10 **Governing Law and Jurisdiction:** This Agreement 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 and the Parties irrevocably submit to the exclusive jurisdiction of the English courts in respect thereof.

## Schedule 1 – “SLA”

We shall provide you with certain day to day support and maintenance services in relation to the use of, and the identification and resolution of errors in, the Service, including the provision of updates and upgrades but this shall not include the provision of training services. Support communications will be with the Subscriber alone and not with Clients or other third parties.

### SUBSCRIBER RESPONSIBILITIES

The provisions in this Schedule 1 shall apply subject to the Subscriber:

- Notifying us of issues or problems relating to the Software or Service in a timely manner
- Co-operating and maintaining good communication with us at all times

### UPTIME

Subject to the exclusions below, we will aim to deliver the following uptime levels and/or target responses in supplying the Software Service support and maintenance services:

	Measure	Target
<b>Uptime</b>	Software Service available and operational	>95%

### SUPPORT

Remote support will be provided at [support@bilateralbase.com](mailto:support@bilateralbase.com). Support operates 24/7.

We will also include support for general enquiries up to 2 hours per Subscriber per calendar month. After that we reserve the right to charge additional fees.

### INCIDENT RESPONSE

**We will endeavour to respond to incidents within the following target response times.** For the avoidance of doubt we will decide in our absolute discretion the relevant Priority Level applicable to any incident or series of incidences.

Priority Level	Target Response
P0 – Catastrophic The Service is not operational	We will use reasonable efforts to resolve the issue within <b>24 hours.</b>
P1 – Critical Material functionality is not available and there is no temporary work around.	We will use reasonable efforts to resolve the issue within <b>3 Business Days.</b>
P2 – Serious	We will use reasonable efforts to resolve the issue within <b>5 Business Days.</b>

Important but non-material or non-critical functionality is unavailable and there is no temporary work around.	
P3 – Normal  Important but non-material or non-critical functionality is unavailable and there is no temporary work around.	We will use reasonable efforts to resolve the issue within <b>15 Business Days.</b>
P4 – Minor  Any other incident	We will use reasonable efforts to resolve the issue within <b>1 month.</b>

Response times do not apply:

- outside of Normal Business Hours;
- when the incident has been caused by using software or service(s) for a use other than as permitted;
- if you have prevented us from performing required maintenance and update tasks; or
- in circumstances that could be reasonably said to be beyond our reasonable control.

## Schedule 2 – Data Processing Schedule

Personal Data Details	
What types of data are processed under this agreement?	Contact details of the Subscriber (name, address, email address, telephone number), payment information in connection with payment of the Subscription Fee, hours of Service provision, [limited details of Clients including name and email address, but only if you have elected to enter these, which is strictly optional]
What is included in the data we process? (subject matter)	<p>The following shall be processed by us on the Subscriber's behalf as a data processor: personal data obtained in the course of the Subscriber uploading or otherwise storing contracts, materials and other content to the Software or Service platform (e.g. personal data relating to the parties to the contract).</p> <p>Personal data falling outside of this scope will be processed by us as a data controller (e.g. details when you register an account with Company for access to the Service).</p> <p>For more information of the data we process as controller, see our Privacy Notice at <a href="https://www.bilateralbase.com/support/privacy">https://www.bilateralbase.com/support/privacy</a>.</p>
Who are the data subjects? (categories)	Subscribers, Clients
For how long do we hold/ process data? (duration)	The data will be held and processed during the term of the Agreement or for otherwise as long as is deemed necessary by us pursuant to the Agreement. The data will be automatically deleted after such time.
How do we process the data? (nature and purpose)	<ul style="list-style-type: none"> <li>- Collection of data</li> <li>- Recording of data</li> <li>- Organisation of data</li> <li>- Structuring of data</li> <li>- Storage of data</li> <li>- Adaptation of data</li> <li>- Alteration of data</li> <li>- Combining data</li> <li>- Erasure of data</li> <li>- Destruction of data</li> </ul> <p>The purpose of the processing is to facilitate the provision of the Service by us pursuant to the Agreement.</p>

What are the rights in relation to the data?	As set out in clause 6 of the Subscription Terms.
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1. In this Schedule, “**Controller**”, “**Processor**”, “**Data Subject**”, and “**processing**” will have the same meaning as in the Data Protection Legislation and their cognate terms shall be construed accordingly. “**Personal Data**” refers to any personal data (as defined in Data Protection Legislation) which we are processing on your behalf.
2. We agree that we will not process Personal Data in connection with the performance of our obligations under this Agreement other than as set out in this Agreement or in accordance with your written instructions unless required by law in which case we will (to the extent permitted by law) inform you of that legal requirement before the processing.
3. We agree that all staff who have access to and/or process Personal Data are obliged to keep the Personal Data confidential.
4. We will ensure that we have in place appropriate technical and organisational measures to ensure that Personal Data is subject to an appropriate level of security, including to the extent required the measures referred to in Article 32(1) of the GDPR / UK GDPR. In reaching our judgement as to the appropriate level of security we will take into account current technology, costs of implementation and the nature, scope, context and purposes of the processing we undertake as well as the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage of the Personal Data.
5. We will not transfer any Personal Data outside the UK or the European Economic Area unless there are appropriate safeguards in relation to the transfer and we are providing an adequate level of protection to any Personal Data that is transferred or we have the written consent of the Data Subject.
6. We will notify you without undue delay upon becoming aware of any Personal Data breach affecting Personal Data and we will assist you in responding to any request from a Data Subject and in ensuring compliance with your obligations under Data Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.
7. We will maintain complete and accurate records and information to demonstrate our compliance with this clause and Data Protection Legislation and we will cooperate with and allow for audits by you or your designated independent auditor in relation to the processing of Personal Data by us, subject to prior reasonable notice by you of any such audit.
8. You agree that we may appoint third-party processors in connection with the provision of the Service under this Agreement (such as a payment processor). With respect to each third-party processor, we will take steps to ensure that the applicable terms with that processor will offer at least the same level of protection for Personal Data as those set out in this agreement and which meet the requirements of article 28(3) of the GDPR. As between you and us, we will remain fully liable for all acts or omissions of any third-party processor appointed by us. You may also notify us in writing of any objections (on reasonable grounds) to any appointment and we will take reasonable steps to address the objections raised by you.



9. We will delete or return all Personal Data to you at the end of this Agreement if requested in writing by you. We may retain Personal Data if required by law only to the extent and for such period as required by those laws.