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Last updated: 10 November 2023

IAM Technology Group Ltd

Software Reseller Agreement

The terms and conditions herein form the Partner Agreement between:

- IAM Technology Group Ltd, a company incorporated in England and Wales under number 10482739 whose registered office is at The Media Centre, Northumberland Street, Huddersfield, United Kingdom, HD1 1RL (“Vendor”); and
- Company agreeing to market, promote and sell Subscription Services to Customer, in accordance with the terms herein, of the Vendor (“Partner” as defined by “Reseller Agreement Form”),

each of the Vendor and Partner being a **party** and together the Vendor and Partner are the **parties**.

Background

(A) The Vendor owns or has rights to certain software.

(B) The Partner is an experienced provider of software resale services.

(C) The Vendor wishes to appoint the Partner as an authorised Partner of certain Vendor software, to market and distribute the software and Subscribed Services in accordance with the terms of this Agreement.

1. Definitions and interpretation

1.1 In this Agreement:

“Business Day”	means a day other than a Saturday, Sunday or bank or public holiday in England;
“Commencement Date”	the date the Reseller Agreement Form is signed and this Agreement commences;
“Confidential Information”	means all information (whether in oral, written or electronic form) relating to a party’s business which may reasonably be considered to be confidential in nature including information relating to that party’s technology, business, management, Know-how, Intellectual Property Rights, assets, finances, strategy, products and customers;
“Control”	has the meaning given to it in section 1124 of the Corporation Tax Act 2010 and the expressions “change of Control”, “Controls” and “Controlled” shall be construed accordingly;
“Critical Support”	as to mean support relating to an issue arising from the Vendor’s infrastructure, such as an outage or significant degradation in service, that affects multiple users at the same time
“Customer”	means a customer of the Partner who is authorised by an End User Licence Agreement to use the Software in accordance with the terms of the End User Licence Agreement;
“Documentation”	means the current user guides that are provided by the Vendor from time to time for use with the Software;
“End User Licence Agreement (EULA)”	means an end user licence agreement between the Partner and a Customer which is in a form and identical in all material respects to the template set out at https://www.iamcloud.com/eula or in such other form as the Vendor and Partner may agree in writing from time to time;
“Fees”	means: (a) the Licence Royalties for the Software (including the Documentation) as paid by the Vendor to the Partner; and (b) any other amounts payable by the Partner to the Vendor for any other services under this Agreement, each as varied from time to time in accordance with this Agreement;
“Force Majeure Event”	means any act, event, omission or accident beyond the reasonable control of a party that could not have been reasonably anticipated or avoided by a party, which prevents it from, or delays it in, performing its obligations under this Agreement;
“Good Industry Practice”	in relation to any undertaking and any circumstances, means the exercise of that degree of care, professionalism, skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or company engaged in the same type of activity under the same or similar circumstances;
“Intellectual Property Rights”	means copyright, patents, rights in inventions, rights in Confidential Information, Know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, utility models, domain names, rights in computer software and all similar rights of whatever nature and, in each case: (a) whether registered or not; (b) including any applications to protect or register such rights; (c) including all renewals and extensions of such rights or applications; (d) whether vested, contingent or future; and (e) wherever existing;

“IP Claim”	means any claim brought against the Partner by any third party (including any claim brought against the Partner by a Customer relating to a claim by any other third party) alleging that the use of the Software by any Customer under an EULA or by the Partner infringes any copyright, database right, registered trade mark, registered design right or registered patent in the United Kingdom or other relevant territories;
“Jurisdiction Specific Term”	means any additional terms that are applicable to the subscription, depending on your location. Such shall be referred to in the Reseller Agreement Form(s), Order Form and EULA. These terms form part of the Agreement and are available at https://www.iamcloud.com/jurisdiction-specific-terms ;
“Know-how”	means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, tests, reports, component lists, manuals, instructions, drawings and information relating to customers and suppliers (whether written or in any other form and whether confidential or not);
“License Royalties”	the amount of commission/fee paid from the Vendor to the Partner if the Partner successfully sells a Subscription of the Vendor Software/Services to a Customer authorised by an EULA Agreement to use the Software/Services;
“Master Services Agreement” (“MSA”)	the Agreement governing the terms of use of the Software/Services between the Vendor, Partner and Customer as found at https://www.iamcloud.com/master-services-agreement ;
“Month”	means a calendar month or part thereof;
“Order Form”	means the electric or physical form (including its schedules, annexes and appendices (if any)) ordering the Subscribed Services entered into by or on behalf of the Customer and Vendor, incorporating these Terms and the Master Service Terms and our Agreement (and as varied by the parties by agreement in writing from time to time);
“Partner Products”	any third party products sold by the Partner to the Customer;
“Partner Support”	means the relevant services provided by the Partner to Customers in relation to the Software, Standard Partner Support includes but is not limited to: full business hours technical support via email and web ticket, troubleshooting and issue resolution by web ticket and accompanied screenshare, product and service SLAs, notifying Customers of new releases of the Subscribed Services when they become commercially available, 24/7 Critical Support, product training via screenshare and webinar, access to our knowledge base of Documentation, access to sales and marketing materials, commercial support for quotes as well as formal RFIs/RFPs/RFPs, and assistance with licensing enquiries; and Additional Support measures may be required from time to time, if applicable these will be set out in the Reseller Agreement Form;
“Partner’s Responsibilities”	means the Partner’s obligations set out in clauses 5 and 6;
“Partner’s Rights”	has the meaning given in clause 3.4;
“Reseller Agreement Form”	means the electric or physical form (including its schedules, annexes and appendices (if any)) entered into by or on behalf of the Partner and Vendor, incorporating these Terms (and as varied by the parties by agreement in writing from time to time);
“Software”	including but not limited to SaaS (cloud software), desktop software, mobile applications and server-side software created and licensed by the Vendor;
“Specification”	means the relevant product specifications can be found at https://www.iamcloud.com ;
“Sub-License/s”	means the Customer in the agreement between the Licensor/Vendor and a Customer or Licensor/Vendor, Licensee/Partner and a Customer for the licensing of subscriptions to the Software and Services offered by the Vendor;
“Subscribed Services”	means the provision of IAM Cloud’s Software services specified in the Order Form;
“Term”	has the meaning given in clause 2.1;

“Territory”	means the geographical area(s) specified in the Reseller Agreement Form;
“Update”	means a Software maintenance update, patch or bug-fix which does not constitute an Upgrade;
“Upgrade”	means a version or release of the Software intended to have new or improved functionality or any other new version or release of the Software designated by the Vendor as an Upgrade;
“Value-added Products”	means the Partner Products as distributed or combined with the Software in accordance with Schedule 4;
“VAT”	means United Kingdom value added tax, any other tax imposed in substitution for it and any equivalent or similar tax imposed outside the United Kingdom;
“Vendor”	IAM Technology Group Ltd
“Vendor IPR”	has the meaning given in clause 16.2;
“Vendor Policies”	means the following Vendor Policies: such as those found at: https://www.iamcloud.com/security https://www.iamcloud.com/privacy as updated from time to time by the Vendor and notified to the Partner;
“Vendor-Customer Support”	includes but is not limited to: full business hours technical support via email and web ticket, troubleshooting and issue resolution by web ticket and accompanied screenshare, product and service SLAs, notifying Customers of new releases of the Subscribed Services when they become commercially available and providing training, 24/7 Critical Support and is provided directly to the Customer by the Vendor. If applicable these will be set out in the Reseller Agreement Form;
“Vendor-Partner Support”	means Standard Vendor Partner Support includes but is not limited to: full business hours technical support via email and web ticket, troubleshooting and issue resolution by web ticket and accompanied screenshare, product and service SLAs, basic level training to the Partner’s designated personnel, including: written documentation and guides, Deployment advice via phone, email and online call, Troubleshooting tips and error logging to enable self-diagnosis of issues, 24/7 critical support;
“Vendor Support Runoff Period”	means a period starting on the end of the Term and ending on the earlier of: (a) the termination or expiry of the last of the Partner Support obligations entered into by the Partner pursuant to an EULA; and 13 Months from the date of termination or expiry of this Agreement;
“Vendor’s Marks”	means the Vendor’s trade marks and trade names, service marks and service names and domain names specified at https://www.iamcloud.com/trademarks ;

1.2 Interpretation

1.2.1 a reference to this Agreement includes its schedules, appendices, annexes, Reseller Agreement Form (if any);

1.2.2 the table of contents, background section and any clause, schedule or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement;

1.2.3 unless the context otherwise requires, reference to a ‘clause’ shall be to a clause of the main body of this Agreement and reference to a ‘paragraph’ shall be a reference to the relevant paragraph of a schedule;

1.2.4 a reference to a party includes that party’s personal representatives, successors and permitted assigns;

1.2.5 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;

1.2.6 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;

1.2.7 a reference to a gender includes each other gender;

1.2.8 words in the singular include the plural and vice versa;

1.2.9 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.10 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form, including email;

1.2.11 each of the obligations of the Partner (and each of the rights and remedies of the Vendor) are cumulative and each such obligation (and right and remedy) shall be without prejudice to any other to the maximum extent permitted by applicable mandatory law;

1.2.12 a reference to any law or legislation is a reference to that law or legislation as amended, recast, replaced, extended, re-enacted or consolidated from time to time;

1.2.13 a reference to legislation includes all subordinate legislation made from time to time under that legislation;

1.2.14 Any obligation of the Partner under our Agreement to comply or ensure compliance by any person or the Subscribed Services with any law shall be limited to compliance only with laws within the Territory, as set out in the Order Form, Reseller Agreement Form and Jurisdiction Specific Terms, as generally applicable to businesses and to providers of software as a service solutions. Such obligations shall not be construed to create any obligation on the Vendor (or anyone acting on its behalf) or any part of the Subscribed Services to comply with any laws or regulations which apply solely to specific commercial or other activities (such as insurance, legal advice or banking or other professional services) or which apply solely to a specific commercial or non-commercial sector (or part thereof) (such as the public, legal, accountancy, actuarial, insurance, banking or financial service sectors).

1.2.15 in the case of any inconsistency between any provision of the schedules to this Agreement and any clause of this Agreement the latter shall prevail and in the case of any inconsistency between any provision of the annexes or appendices and any provision of the schedules, the latter shall prevail; and

1.2.16 subject to the order of priority between documents in clause 1.2.15, later versions of documents shall prevail over earlier ones if there is any conflict or inconsistency between them.

2. Duration

2.1 This Agreement shall continue from the Commencement Date for an initial term of 12 months and shall renew on a 12-month basis unless or until terminated:

2.1.1 by either party for convenience on not less than 30 days' prior written notice to the other, provided that such notice may not be issued until after the end of the initial term of 12 months; or

2.1.2 in accordance with its terms. (the **Term**).

3. Partner's Appointment and Rights

3.1 The Vendor as Licensor grants the right of the Partner as Licensee to onward license/sell Subscribed Services to the Customer (also known as the Sub-Licensee) of Software .

3.2 The Vendor appoints the Partner to resell subscriptions to the Software and Subscribed Services to Customers in accordance with the terms of this Agreement, the EULA and MSA. Such appointment is on a non- exclusive, non- transferrable basis, within the Territory for the Term, and the Partner accepts this appointment, subject to the terms of this Agreement.

3.3 The Vendor reserves the unrestricted right to sell, license, market, reference and distribute or to grant to others the right to sell, license, market, reference and distribute the Subscribed Services worldwide.

3.4 The Vendor grants the Partner the following rights for the Term in relation to the Subscribed Services and the Documentation on the following terms and subject to the terms of this Agreement:

3.4.1 Rights: The Vendor grants the Partner rights to market, promote, license, reference, distribute and provide Partner Support in connection with the Subscribed Services and the Documentation to Customer in the Territory (the **Partner's Rights**).

3.4.2 Rights reserved: All rights not specifically and expressly granted in writing to the Partner under this Agreement are hereby expressly reserved to the Vendor. Nothing in this Agreement shall prevent the Vendor from marketing, promoting, distributing and supporting the Software or Documentation to any persons within the Territory and/or Worldwide either directly or via other distributors, Partners, partners or agents.

3.5 The Partner undertakes during the Term that it shall not assist any third party in the sale of any of the Software.

4. Delivery of Software and Documentation

4.1 The Vendor shall use its reasonable endeavours to notify the Partner when the Software and the Documentation is ready to be downloaded and/or accessed, and shall provide all reasonable instructions, including any necessary access rights, activation codes or licence keys.

4.2 The Vendor shall use its reasonable endeavours to ensure the latest version of the Documentation is available at <https://support.iamcloud.com> for the Partner for use in accordance with this Agreement.

4.3 The Vendor shall use its reasonable endeavours to communicate any product, Software or meaningful documentation updates to the Partner.

4.4 The Vendor is entitled to make changes to the Specification that do not have a material adverse impact on the Subscribed Services, at any time, provided that the Vendor notifies the Partner of such changes as soon as reasonably practicable and shall ensure that details of any such changes affecting the Customers' use of the Subscribed Services are included in the next commercially available update of the Documentation and/or found at <https://www.iamcloud.com/changelog>.

4.5 Unless otherwise agreed in writing, the Partner shall be responsible for configuring and deploying the Software in accordance with the instructions provided by the Vendor.

5. Partner's Responsibilities – Customers

5.1 The Partner shall ensure it does not:

5.1.1 make, give or by any act or omission give rise to any licence, promise, warranty, guarantee, indemnity, representation, agreement, arrangement or binding right, remedy or obligation (howsoever arising under any legal theory) concerning the Subscribed Services or Documentation other than strictly in accordance with the EULA and MSA;

5.1.2 supply or licence the Subscribed Services or Documentation to any third party:

5.1.2.1 until the relevant third party has duly entered into an EULA that is legally binding under all applicable laws on each of the Partner and Customer (and shall promptly provide evidence of the same at the Vendor's request); and

5.1.2.1 other than in accordance with the terms of the relevant EULA, MSA and this Agreement;

5.1.3 provide any support, maintenance or other services in connection with the Subscribed Services other than Partner Support on the terms of a duly executed EULA and/or MSA; or

5.1.4 amend, modify or vary any terms of any EULA with any Customer without the Vendor's prior express written consent.

5.2 The Partner shall at all times:

5.2.1 promptly forward to the Vendor any enquiry from a person relating to the supply of the Subscribed Services (or any other support or services analogous to those available under an EULA) outside of the Territory;

5.2.2 comply at all times with its obligations under and in connection with each EULA;

5.2.3 only:

5.2.3.1 provide the latest and most up to date version of the Subscribed Services and the Documentation to the Customers; and

5.2.3.2 make a reasonable attempt to provide new or modified updates of the Subscribed Services and relevant updates to the Documentation available to each Customer, when product or documentation updates or upgrades are released by the Vendor, in accordance with the terms of their respective EULA and MSA.

5.3 The Partner shall at all times:

5.3.1 make the Customer aware of their obligations under the EULA and MSA whether the Customer is signing the EULA or the Partner is signing the EULA on the Customers behalf; and

5.3.2 provide the Vendor with such information and assistance as the Vendor may reasonably require for the purpose of enforcing the terms of any EULA with a Customer.

5.4 If a Customer has breached the terms of the EULA, the Partner shall promptly:

5.4.1 use all reasonable endeavours including court action and obtaining injunction(s) to ensure such breach is promptly ceased and remedied; and

5.4.2 unless otherwise agreed in writing by the Vendor exercise its right(s) to terminate the relevant EULA to the extent they arise as a consequence of such breach.

5.5 The Partner agrees to, when requested to do so by the Vendor and/or Customer, collect the subscription fees from the Customers of Subscribed Services they subscribe to. If the subscription is collected by the Partner they shall also be responsible for ensuring either the Customer signs and returns the EULA and MSA to the Vendor or the Partner signs and returns the EULA and MSA to the Vendor on behalf of the Customer, whichever is applicable.

5.6 The Partner acknowledges and agrees to adhere to any Jurisdiction Specific Terms relating to the Subscribed Services purchased from the Vendor and shall ensure the same of the Customer.

6. Partner's Responsibilities – General

Marketing

6.1 The Partner shall at all times:

6.1.1 market and promote the Subscribed Services to Customers and prospective customers in the Territory in accordance with the terms of this Agreement;

6.1.2 distribute the Subscribed Services and the Documentation to Customers in the Territory in accordance with the terms of this Agreement;

6.1.3 use all reasonable endeavours to promote use of the Subscribed Services throughout the Territory; and

6.1.4 make a reasonable attempt to inform the Vendor of any relevant marketing information received by the Partner which is likely to benefit the marketing or sale of the Subscribed Services or any related products or services in or outside of the Territory.

6.2 The Partner shall ensure it does not:

6.2.1 conduct its business or any dealings with third parties (including Customers) in any manner which is likely to have a negative impact on the goodwill or reputation of the Vendor; or

6.2.2 do, permit or omit to do anything which in the reasonable opinion of the Vendor is prejudicial to marketing or sales of the Subscribed Services or any related products or services.

Partner resources and training

6.3 The Partner shall ensure that at all times:

6.3.1 all personnel engaged in the performance of the Partner's Responsibilities shall have the appropriate training and experience to adequately perform the Partner's Responsibilities.

Other general obligations

6.4 The Partner shall at all times:

6.4.1 comply with its warranties and obligations in clause 14;

6.4.2 without prejudice to any other obligation, comply with the Vendor's reasonable instructions in relation to the use of the Subscribed Services;

6.4.3 provide such information and assistance as the Vendor may reasonably require to perform the Vendor's obligations and exercise the Vendor's rights under this Agreement;

6.4.4 ensure all information provided to the Vendor, as far as is possible, is complete and accurate in all material respects;

6.4.5 give the Vendor reasonable prior written notice of any information the Partner requires in accordance with this Agreement and promptly notify the Vendor if the Partner has reason to suspect that any such information is inadequate, inaccurate or incomplete;

6.4.6 indicate it is acting as Partner and not as author or developer of the Subscribed Services in all correspondence and dealings with third parties;

6.4.7 perform the Partner's Responsibilities in compliance with such Vendor policies as are relevant to the Partner's performance of the Partner's Responsibilities;

6.4.8 perform its other obligations as set out in this Agreement.

6.5 The Partner shall ensure it:

6.5.1 does not incur any liability, debt or obligation whatsoever on behalf of the Vendor;
or

6.5.2 uses all reasonable endeavours to ensure either:

6.5.2.1 it manages the Subscribed Services on behalf of the Customer; or

6.5.2.2 it provides adequate training and documentation to the Customer on how to use the Subscribed Services; or

6.5.2.3 it provides adequate signposting information to the Customer to ensure the Customer understands how they can directly work with the Vendor to acquire all the Documentation and Support Services to successfully operate and use the Software and or Subscribed Services.

6.6 The Partner shall be responsible for:

6.6.1 ensuring Customer(s) agrees with the terms of the MSA and any applicable EULA;
and

6.6.2 ensuring Customer(s) receives up-to-date and factually correct information on the Subscribed Services and is not misled into purchasing Subscribed Services unsuitable for their requirements.

Indemnity

6.7 The Partner shall indemnify, keep indemnified and hold harmless the Vendor from and against all losses, damages, liabilities, fees, costs and expenses incurred by the Vendor arising in connection with any one or more of the following:

6.7.1 any breach of this Agreement by the Partner;

6.7.2 any use or combination of the Subscribed Services and/or Software with the Partner Products; and/or

6.7.3 any claim by any third party that any materials produced by, or conduct of, the Partner in connection with the Partner's Responsibilities and/or this Agreement, is defamatory or otherwise contrary to law.

6.8 This clause shall survive termination or expiry of our Agreement.

7. Vendor's Obligations

7.1 The Vendor shall:

7.1.1 provide the Partner with the Vendor Support in accordance with Schedule 1;

7.1.2 provide the Partner with information about the Subscribed Services and the Documentation as the Vendor in its discretion considers necessary in connection with the performance of its obligations under this Agreement, and update the same, on a timely and regular basis;

7.1.3 provide the Partner with such information and assistance as the Partner may reasonably require to perform its obligations under this Agreement;

7.1.4 to the extent reasonably possible, give the Partner advanced written notice of any updates of the Subscribed Services; and

7.1.5 The Vendor shall use all reasonable endeavours to adhere to the terms of the MSA and Service Level Agreement, which can be found at iamcloud.com/service-level-agreement, applicable.

8. Record keeping and reporting

8.1 The Partner shall maintain accurate and complete accounts and records of all matters relevant to the performance of its obligations under this Agreement, including regarding:

8.1.1 enquiries from and correspondence with Customers and potential customers;

8.1.2 transactions and legal or other proceedings with Customers;

8.1.3 all communications regarding the Subscribed Services or Documentation (including any calls or other communications with Customers relating to reported defects or deficiencies in any of them); and

8.1.4 the distribution and sub-licensing of the Subscribed Services to each Customer.

8.2 The parties' respective rights and obligations under this clause 8 shall apply during the Term, survive termination or expiry of this Agreement and continue for two years after the end of the Vendor Support Runoff Period.

9. Fees, taxes and expenses

9.1 The Vendor agrees to pay the Partner the following Fees:

9.1.1 Where Partner collects the subscription fees from Customer, Partner receives a discount/margin of the list price of the subscription, as set out in the Reseller Agreement Form;

9.1.2 Any renewal subscription fees collected by Partner from existing Customers of the Vendor, the Partner receives a discount margin (of the list price of the renewal) subscription as set out in the Reseller Agreement Form; and

9.1.3 Where Partner introduces Customer to Vendor and Vendor collects the subscription from Customer, Partner receives a commission (of the sales value) of the subscription, as set out in the Reseller Agreement Form.

9.2 Where the Vendor collects the subscription fee directly from the Customer, the Vendor agrees to pay the Partner within 30 days of the receipt of the associated Customer payment.

9.3 All amounts payable under this Agreement are exclusive of VAT, sales and other tax or duties applicable which shall be paid in addition by the Vendor to the Partner at the rate and in the manner prescribed by law. Save in respect of taxes payable on the Partner's net income, the Vendor shall:

9.3.1 pay to the Partner all amounts in respect of the VAT, sales and other tax or duties arising under or in connection with this Agreement in or outside the United Kingdom; and

9.3.2 (excluding any amount paid by the Vendor under clause 3.1) promptly reimburse the Partner for any taxes or duties that the Partner may be required to pay in connection with this Agreement or its performance.

9.4 The Partner shall bear all costs and expenses, including travel and accommodation expenses, of its personnel and all other costs and expenses incurred by the Partner in performing the Partner's Responsibilities under this Agreement.

10. Invoicing and payment

10.1 The Vendor shall invoice the Partner electronically to the email address notified by the Partner in writing to the Vendor for all sums due under this Agreement within 30 days, unless otherwise stipulated in the Reseller Agreement Form; and

10.2 The Partner will pay the Vendor within 30 days of the subscription of the Customer commencing.

10.3 The Fees paid shall pay such sums in full and without deduction or set-off.

10.4 Amounts payable under this Agreement shall be paid into the bank account of the relevant party, notified within any invoice issued.

11. Interest

11.1 Where sums due are not paid in full by the due date, the Vendor may, without limiting its other rights, charge interest on such sums at 4% a year above the base rate of the Bank of England (GBP, EUR, AUD invoices) or the Federal Reserve (USD invoices) from time to time in force.

11.2 Interest shall apply from the due date for payment until actual payment in full, whether before or after judgment.

12. Price variation

12.1 The Fees payable under this Agreement shall not change except as agreed in accordance with this Agreement.

12.2 The Vendor may vary the Licence Royalties for the Subscribed Services by an amount not exceeding 20% (from such then current Fees) by giving to the Partner not less than 60 days' prior written notice of such variation where Partner Fees are paid monthly in areas or at the date of annual renewal where Partner Fees are made annually upfront.

13. Costs

Each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of this Agreement (and any documents referred to in it).

14. Warranties

14.1 The Partner warrants and represents to the Vendor that:

14.1.1 the Partner has the right, power and authority to enter into this Agreement and to perform the Partner's Responsibilities;

14.1.2 where applicable, the Partner has the authority to sign the EULA and MSA on behalf of and bind the Customer to the terms of the EULA and the relevant terms of the MSA.

14.1.3 the performance of the Partner's Responsibilities does not and shall not infringe the Intellectual Property Rights of any third party; and

14.1.4 the Partner's Responsibilities shall be performed:

14.1.4.1 with all reasonable skill, care and diligence;

14.1.4.2 in compliance with any applicable service standards and so as to meet or exceed any agreed service standards;

14.1.4.3 in accordance with Good Industry Practice; and

14.1.4.4 so as to conform with all applicable laws.

14.2 The Vendor warrants to the Partner that subject to the terms of this Agreement and the Partner's compliance with this Agreement, the Subscribed Services provided to each Customer under any EULA shall operate materially in accordance with its Description when used in accordance with our Agreement under normal use and normal circumstances during the relevant Subscribed Service Period; and

14.2.1 it will provide each of the Subscribed Services with reasonable care and skill.

14.3 The Subscribed Services may be subject to delays, interruptions, errors or other problems resulting from use of the internet or public electronic communications networks used by the parties or third parties. The Customer acknowledges that such risks are inherent in cloud services and that the Vendor shall have no liability for any such delays, interruptions, errors or other problems.

14.4 If the Subscribed Services delivered to a Customer fails to conform to the warranty in clause 14.2 or any other applicable warranty, the Vendor shall, at its option:

14.4.1 use all reasonable endeavours to correct errors in the Subscribed Services within a reasonable time provided the Partner notifies it in writing within a reasonable period of time following commencement of the Subscribed Services and provides sufficient information to enable the Vendor to reproduce the errors; or

14.4.2 require the Partner to terminate the relevant sub-licence of the Subscribed Services and EULA with the Customer and following compliance by the Partner refund any Fees already paid by the Partner to the Vendor in respect of that Customer less a reasonable deduction to reflect the Customer's use of the Subscribed Services and any applicable Support.

14.5 The warranty in clause 14.2 is subject to the Partner complying with its obligations under this Agreement and shall not apply to the extent that any error in the Subscribed Services arises as a result of:

14.5.1 any error arising from any act or omission by the Partner;

14.5.2 breach by any Customer of their EULA;

14.5.3 any IP Claim;

14.5.4 incorrect operation or use of the Subscribed Services (including any failure to follow the Documentation);

14.5.5 installation or use of the Subscribed Services other than for the purposes for which it is intended;

14.5.6 modification or alteration of the Subscribed Services without the written consent of the Vendor;

14.5.7 installation or use of the Subscribed Services with other software or on equipment with which it is incompatible (unless the Vendor recommended or required the use of that other software or equipment in this Agreement);

14.5.8 installation or use of the Subscribed Services when in conjunction with any Partner Products purchased by the Customer; or

14.5.9 failure to install any Update or Upgrade recommended and made available by the Vendor.

14.6 The Partner acknowledges that no liability or obligation is accepted by the Vendor (howsoever arising whether under contract, tort, in negligence or otherwise):

14.6.1 in relation to any of the Partner Products, errors with or issues caused, or any part thereof; whether installed and used independently by the Customer or in conjunction with any Subscribed Services;

14.6.2 that the Subscribed Services shall meet any Customer's (or other person's) individual needs, whether or not such needs have been communicated to the Vendor;

14.6.3 that the operation of the Subscribed Services shall not be subject to minor errors or defects; and

14.6.4 that the Subscribed Services shall be compatible with any software or with any particular hardware or equipment and set out in the Order Form.

14.7 Subject to clause 10 and its express warranties and obligations in respect of the Subscribed Services and the Documentation set out in this Agreement, the Vendor does not give any warranties or have any obligations in respect of third-party software, equipment or products.

14.8 Subject to clause 22.10, clauses 14.4 and 17 set out the Partner's sole and exclusive remedies (howsoever arising, whether in contract, tort, negligence or otherwise) for any breach of clause 14.2 or for any other error or defect in, defective performance of or inability of any person to use the Subscribed Services or any part of it.

14.9 Other than as set out in this clause 14, and subject to clause 22.10, all warranties, conditions, terms, undertakings or obligations whether express or implied and including any implied terms relating to quality, fitness for any particular purpose, reasonable care and skill or ability to achieve a particular result are excluded to the fullest extent allowed by applicable law.

15. Promotional materials

15.1 Subject to the terms of this Agreement, the Vendor grants the Partner:

15.1.1 the right to use the title 'Authorised IAM Cloud Partner' of the Vendor on its advertising and promotional materials during the Term; and

15.1.2 a non-exclusive, revocable, personal licence during the Term to use the Vendor's Marks, in accordance with the Vendors brand guidelines and only to infer they are a Partner of the Vendor not an Affiliate, in the Partner's marketing of the Subscribed Services and any Support, provided that all such use is in accordance with then current relevant Trade Mark and other brand use guidelines found at: <https://www.iamcloud.com/brand-guidelines/> or as otherwise notified by the Vendor to the Partner.

15.2 For exceptional requests, the Vendor shall promptly approve or reject any advertising and promotional material submitted to the Vendor for approval by the Partner. Requests should be made to marketing@iamcloud.com.

15.3 Nothing in this Agreement grants the Partner Vendorship or any rights in or to use the Vendor's Marks, except in accordance with the licence in clause 15.1 and the Partner acknowledges and agrees that:

15.3.1 any goodwill or reputation generated through the Partner's use of the Vendor's Marks and the Partner's performance of its obligations with respect to the marketing, promotion and distribution of the Subscribed Services, Support and the Documentation under this Agreement shall accrue to the benefit of the Vendor; and

15.3.2 the Partner shall not at any time be entitled to claim compensation or payment in respect of such enhanced goodwill or reputation.

15.4 The Vendor shall have the exclusive right to own, use, hold, apply for registration for, and register the Vendor's Marks during the term of, and after the expiration or termination of, this Agreement, and the Partner shall neither take nor authorise any activity inconsistent with such exclusive right.

15.5 The Partner shall not (and shall ensure that all persons acting on its behalf do not) make or give any comments, assurances, statements, representations, publications, advertisements (in each case, in any form whether oral, written or otherwise) relating to the Subscribed Services or any related products or services that are in any way inconsistent with any of the marketing materials as provided by the Vendor, the EULA or the Specification.

16. Intellectual Property Rights

Vendorship

16.1 Except as expressly agreed in this Agreement, no Intellectual Property Rights of either party are transferred or licensed as a result of this Agreement.

16.2 The Subscribed Services, the Documentation, the Vendor's Marks and all Intellectual Property Rights in these (**Vendor IPR**) are and shall remain the sole and exclusive property of the Vendor and its licensors, if any, whether the Subscribed Services is separate or combined with any other products. Nothing in this Agreement or any licence or sub-licence granted under it shall convey or transfer any Vendorship or proprietary interest in any Vendor IPR to the Partner or any third party.

Licences of Vendor IPR

16.3 Subject to the terms of this Agreement, the Vendor grants to the Partner a non-exclusive and personal licence to use and sell subscriptions of the Subscribed Services during the Term only to the extent necessary for the Partner to perform its obligations and exercise the Partner's Rights in accordance with this Agreement.

16.4 The Partner's rights in relation to the Subscribed Services and the Documentation under clause 16.3 are subject to restrictions that the Partner shall not (except to the extent such activities are expressly permitted by mandatory law which cannot be varied by agreement of the parties):

16.4.1 modify, adapt, correct errors in or create derivative works from, the Subscribed Services or Documentation or permit the Subscribed Services or any part of it, except as expressly permitted under this Agreement, to be combined or merged with or become incorporated in any other program;

16.4.2 decode, reverse engineer, adapt, decipher, disassemble, decompile or otherwise translate or convert the Subscribed Services except as expressly authorised by the Vendor in writing after the date of this Agreement;

16.4.3 assign, sub-licence, lease, resell, distribute or otherwise deal in or encumber any of the Vendor IPR (other than the granting of sub-licenses of and distribution of the Subscribed Services and the Documentation to Customers in accordance with this Agreement);

16.4.4 use the Subscribed Services in any manner to provide outsourcing or any other services to third parties or (unless separately licensed) for its own use;

16.4.5 attempt to circumvent or interfere with any security features of the Subscribed Services;

16.4.6 remove or alter any copyright or other proprietary notice on or displayed in the Subscribed Services or the Documentation and, as a condition of any reproduction rights granted to the Partner in this Agreement, the Partner shall reproduce and display such notices on each copy it makes of any Subscribed Services and/or Documentation; or

16.4.7 re-brand, re-name, re-package or white-label the Products or Subscribed Services

16.5 The Partner is not granted any rights in relation to the Vendor IPR except for those rights expressly granted in this Agreement. The rights in the Subscribed Services licensed to the Partner shall not include the right for any person (including any affiliate, sub-contractor or contractor of the Partner) that is not a Customer in accordance with this Agreement to use or have access to the Subscribed Services unless expressly agreed in writing by the Vendor.

16.6 The Partner is not permitted to modify the code, backwards engineer or create copies of the Subscribed Services. However the Vendor does support and encourage integration and interoperability of the Subscribed Services with other third-party Products. Where this is supported, the Vendor will provide the Partner with product APIs (Application Programming Interfaces) and supporting Documentation to facilitate the integration.

16.7 Without prejudice to any other rights or obligations of either party, if the Partner at any time has or obtains additional units of the Subscribed Services beyond those licensed under this Agreement, the Partner should notify the Vendor.

16.8 The Vendor reserves the sole and exclusive right at its discretion to assert claims against third parties for infringement or misappropriation of the Vendor IPR.

16.9 In marketing and distributing the Subscribed Services, the Partner shall take reasonable steps in accordance with Good Industry Practice to protect the Vendor IPR and shall promptly notify the Vendor of any confirmed or suspected infringement of such rights of which the Partner becomes aware.

Grant by Partner and reuse of Know-how

16.10 Subject to any other terms expressly agreed by the parties, the Partner grants the Vendor a licence of such of its Intellectual Property Rights as are necessary to enable the Vendor to fulfil its obligations and exercise its rights under this Agreement but not otherwise.

16.11 Each party shall be entitled to use in any way it deems fit any skills, techniques or Know-how acquired or developed or used in performance of this Agreement provided always that such skills, techniques or Know-how do not:

16.11.1 infringe the other party's Intellectual Property Rights;

16.11.2 disclose or breach the confidentiality of the other party's Confidential Information; or

16.12 If the Partner provides feedback, feature requests or any other suggestions to the Vendor and these are subsequently used by the Vendor to develop or adapt the Software and/or Products, the Partner provides such on the understanding that they waive any Intellectual Property Rights in any feedback or feature that may form part of the resulting products, features or improvements resulting from the suggestion.

17. Intellectual Property claims

17.1 Subject to clauses 17.2 and 17.5, the Vendor shall:

17.1.1 defend at its own expense any IP Claim; and

17.1.2 pay, subject to clause 17.7, all costs and damages awarded or agreed in settlement or final judgment of an IP Claim.

17.2 The provisions of clause 17.1 shall not apply unless the Partner:

17.2.1 promptly notifies the Vendor upon becoming aware of any actual or threatened IP Claim and provides full written particulars;

17.2.2 makes no comment or admission and takes no action that may adversely affect the Vendor's ability to defend or settle the IP Claim (and ensures that any Customer affected by such IP Claim does likewise);

17.2.3 provides (and ensures any affected Customer provides) all assistance reasonably required by the Vendor subject to the Vendor paying the Partner's reasonable costs; and

17.2.4 gives (and ensures each affected Customer gives) the Vendor sole authority to defend or settle the IP Claim as the Vendor considers appropriate.

17.3 If the Subscribed Services is or is likely to become subject to an IP Claim, the Vendor shall use reasonable endeavours to:

17.3.1 obtain the right for the Partner and each affected Customer to continue to use the Subscribed Services; or

17.3.2 replace or modify the Subscribed Services (or the part of it subject to the IP Claim) and without diminishing any of the material functions or facilities of the Subscribed Services so that it becomes non-infringing.

17.4 If the Vendor is unable to achieve either of the outcomes described in clause 17.3 having used reasonable endeavours (including where the costs of doing so are commercially prohibitive) or otherwise elects to proceed under this clause 17.4 then, the Vendor may elect by written notification to the Partner that:

17.4.1 this Agreement shall immediately terminate;

17.4.2 the Partner shall promptly terminate each EULA in accordance with its terms and the Partner shall (and shall ensure that each Customer shall) uninstall, delete and cease to use the Subscribed Services and/or the Documentation which is the subject of the IP Claim; and

17.4.3 the Vendor shall issue a credit or a refund (at the Vendor's option) to the Partner for the Fees paid by the Partner to the Vendor under this Agreement in respect of any EULA terminated pursuant to this clause 17.4 subject to a reasonable deduction to reflect each affected Customer's use of the Subscribed Services and access to Partner Support under their respective EULA. This clause 17.4.3 is without prejudice to the Partner's rights and remedies under clause 17.1.

17.5 The Vendor shall have no liability or obligations under this clause 17 in respect of (and shall not be obliged to defend) any IP Claim which arises in whole or in part from:

17.5.1 the Partner Products or any installation or use of the Subscribed Services with the Partner Products or any part thereof (whether separately or as part of the Value-added Products);

17.5.2 any software other than the Software (whether or not provided by or on behalf of the Vendor in connection with this Agreement);

17.5.3 any modification of the Subscribed Services without the Vendor's express written approval;

17.5.4 installation or use of the Subscribed Services otherwise than in accordance with this Agreement or the Vendor's instructions; or

17.5.5 installation or use of the Subscribed Services in combination with any software, hardware or data that has not been supplied or expressly authorised by the Vendor.

17.6 Subject to clause 22.10, the provisions of this clause 17 set out the Partner's sole and exclusive remedies (howsoever arising, including in contract, tort, negligence or otherwise) for any IP Claim or any other actual or alleged infringement of any Intellectual Property Rights.

17.7 The provisions of clause 22 shall apply to any payments under or in connection with this clause 17.

18. Confidential information

18.1 Each party shall maintain the confidentiality of the other party's Confidential Information and shall not without the prior written consent of the other use, disclose, copy or modify the other party's Confidential Information (or permit others to do so) other than as necessary for the exercise of its rights and performance of its obligations under this Agreement.

18.2 The parties acknowledge and agree that:

- the terms of this Agreement; and
- all information relating to the Subscribed Services, the Documentation and any other technical or operational specifications or data relating to the Subscribed Services, are all part of the Vendor's Confidential Information.

18.3 Each party undertakes to:

18.3.1 disclose the other party's Confidential Information only to those of its officers, employees, agents, sub-contractors and contractors to whom and to the extent to which such disclosure is necessary for the purposes contemplated under this Agreement; and

18.3.2 procure that such persons are made aware of and agree in writing to observe the obligations in this clause 18 and comply with such obligations.

18.4 Each party shall give notice to the other of any unauthorised misuse, disclosure, theft or loss of the other party's Confidential Information immediately upon becoming aware of the same.

18.5 The provisions of this clause 18 shall not apply to information which:

18.5.1 is or comes into the public domain through no fault of the recipient, its officers, employees, agents, sub-contractors or contractors;

18.5.2 is lawfully received by the recipient from a third party free of any obligation of confidence at the time of its disclosure;

18.5.3 is independently developed by the recipient, without access to or use of the other party's Confidential Information; or

18.5.4 is required by law, by court or governmental or regulatory order to be disclosed provided that the relevant party, where possible, notifies the other party at the earliest opportunity before making any disclosure.

18.6 The obligations under this clause 18 shall survive the variation and expiry or termination of this Agreement for a period of 5 years following the end of the Vendor Support Runoff Period.

18.7 Each party shall establish and maintain adequate security measures to safeguard Confidential Information and data of the other party in its possession from unauthorised access, use or copying.

18.8 Nothing in this Agreement shall prevent the Vendor from retaining and utilising for any purpose (at all times during and after the Term of this Agreement):

18.8.1 any Confidential Information of the Vendor; and/or

18.8.2 any of the records and accounts referred to in clauses 8.1. The rights and obligations of the parties in this clause 18 and in clause 25 are agreed to be subject to this clause 18.8.

18.9 Each party (the **Indemnifier**) shall indemnify, keep indemnified and hold harmless the other (the **Indemnitee**) from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Indemnitee arising from or in connection with any breach by the Indemnifier of this clause 18.

19. Compliance with the law

19.1 Subject to clause 19.2, each party shall comply with all laws applicable to them and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform their obligations under or in connection with this Agreement.

19.2 The Partner shall:

19.2.1 be responsible for obtaining and maintaining all necessary export and other government approvals, permits, authorisations and authorities to allow the distribution of the Subscribed Services and the Documentation and the exercise of the Partner's Rights and performance of the Partner's Responsibilities in accordance with all applicable laws; and

19.2.2 indemnify, keep indemnified and hold harmless the Vendor from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Vendor as a result of or in connection with any failure by the Partner to comply with clause 19.2.1.

20. Anti-bribery

20.1 For the purposes of this clause 20:

20.1.1 the expressions **adequate procedures** and **associated with** shall be construed in accordance with the Bribery Act 2010 and guidance published under it; and

20.1.2 **Bribery Laws** means the Bribery Act 2010 and all other applicable United Kingdom laws, legislation, statutory instruments and regulations in relation to bribery or corruption and any similar or equivalent laws in any other relevant jurisdiction.

20.2 The Partner shall ensure that it and each person referred to in clauses 20.2.1 to 20.2.3 (inclusive) does not, by any act or omission, place the Vendor in breach of any Bribery Laws. The Partner shall comply with all applicable Bribery Laws in connection with the performance of the Partner's Responsibilities and this Agreement, ensure that it has in place adequate procedures to prevent any breach of this clause 20 and ensure that:

20.2.1 all of the Partner's personnel and all direct and indirect sub-contractors, suppliers, agents and other intermediaries of the Partner;

20.2.2 all others associated with the Partner; and

20.2.3 each person employed by or acting for or on behalf of any of those persons referred to in clauses 20.2.1 and/or 20.2.2, involved in performing the Partner's Responsibilities or with this Agreement so comply.

20.3 Without limitation to clause 20.2, the Partner shall not in connection with the performance of the Partner's Responsibilities and/or this Agreement make or receive any bribe (which terms shall be construed in accordance with the Bribery Act 2010) or other improper payment or advantage, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.

20.4 The Partner shall immediately notify the Vendor as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 20.

20.5 Any breach of this clause 20 by the Partner shall be deemed a material breach of this Agreement that is not remediable and entitle the Vendor to immediately terminate this Agreement by notice under clause 24.1.1.

21. Anti-tax evasion facilitation

21.1 For the purposes of this clause 21:

21.1.1 the expressions **associated with, prevention procedures, UK Tax Evasion Offence** and **Foreign Tax Evasion Offence** shall be construed in accordance with Part 3 of the Criminal Finances Act 2017 (CFA 2017) and guidance published under it;

21.1.2 Corporate Failure to Prevent Offence means an offence under section 45 and/or section 46 of CFA 2017 and any other applicable United Kingdom laws, legislation, statutory instruments and regulations in relation to preventing the facilitation of tax evasion, and any similar or equivalent laws in any other relevant jurisdiction including the USA and the EU); and

21.1.3 Partner Associated Persons means all or any of the following:

21.1.3.1 persons associated with the Partner (**Partner's Associates**); and

21.1.3.2 persons associated with any of the Partner's Associates,

in each case, involved in performing services for or on behalf of the Partner in connection with the Partner's Responsibilities or with this Agreement.

21.2 The Partner shall ensure that it and the Partner Associated Persons shall not by any act or omission commit, or cause, facilitate or contribute to the commission by any person including the Vendor, of a:

21.2.1 Corporate Failure to Prevent Offence;

21.2.2 UK Tax Evasion Offence; or

21.2.3 Foreign Tax Evasion Offence,
in connection with the Partner's Responsibilities or with this Agreement.

21.3 The Partner shall not, solicit or engage with or take steps to solicit or engage with any person associated with the Vendor to facilitate the commission of a UK Tax Evasion Offence or a Foreign Tax Evasion Offence in connection with the Partner's Responsibilities or with this Agreement.

21.4 Without prejudice to clause 21.2, the Partner shall ensure that:

21.4.1 it and all relevant Partner Associated Persons have in place such prevention procedures as it is reasonable in all the circumstances to expect the Partner and such persons to have in place to prevent any breach of this clause 21 and comply with the Vendor's prevention procedures as notified to the Partner from time to time; and

21.4.2 its own policies and other prevention procedures and those of relevant Partner Associated Persons are endorsed by the Partner or relevant Partner Associated Persons' top-level management and include clear written guidance and training to each of the Partner Associated Persons. Such policies and procedures shall include the following:

21.4.2.1 the procedures that each such person should follow if they are requested to facilitate a UK Tax Evasion Offence or a Foreign Tax Evasion Offence;

21.4.2.2 acceptable conduct in relation to engagement with Customers and Partner Associated Persons;

21.4.2.3 risk assessments and due diligence procedures for identifying tax evasion facilitation risks in relation to Customers and Partner Associated Persons; and

21.4.2.4 the Partner's procedures for taking action to inform the relevant enforcement bodies or regulatory authorities about requests to facilitate a UK Tax Evasion Offence or a Foreign Tax Evasion Offence, and the Partner shall provide the Vendor on request with copies of these policies (and prompt notice of any material changes to the same from time to time);

21.5 The Partner shall immediately notify the Vendor as soon as it becomes aware of any allegation, investigation, evidence or report relating to a breach or possible breach of any of the requirements in this clause 21.

22. Limitation of liability

22.1 The extent of the parties' liability under or in connection with this Agreement (regardless of whether such liability arises in tort, contract, under indemnity or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 22.

22.2 The parties agree that the limitations in this clause 22 are reasonable given each party's respective commercial positions and their ability to obtain insurance in respect of the risks arising under or in connection with this Agreement.

22.3 Subject to clauses 22.9 and 22.10, in no event shall the aggregate liability of the Partner in respect of all claims, losses and damages arising under or in connection with this Agreement exceed the greater of:

22.3.1 £2,000,000; or

22.3.2 120% of the total Fees paid or payable to the Vendor under this Agreement.

22.4 Subject to clauses 22.9 and 22.10, in no event shall the aggregate liability of the Vendor in respect of any one claim or series of connected claims arising under or in connection with this Agreement exceed the greater of:

22.4.1 £2,000,000; or

22.4.2 120% of the total Fees paid to the Vendor in the 12 Months preceding the event giving rise to the claim.

22.5 Subject to clauses 22.8 to 22.10 (inclusive), neither party shall be liable for any consequential, indirect or special loss.

22.6 Subject to clauses 22.8 to 22.10 (inclusive), neither party shall be liable for any of the following (whether direct or indirect):

22.6.1 loss of profit;

22.6.2 loss of contracts;

22.6.3 loss of operation time;

22.6.4 loss of production;

22.6.5 loss of commercial opportunity;

22.6.6 loss of reputation or goodwill;

22.6.7 loss or corruption of data;

22.6.8 loss of commercial opportunity; or

22.6.9 loss of savings, discount or rebate (whether actual or anticipated);

22.7 Subject to clauses 22.9 and 22.10, the Vendor shall not be liable for any of the following (whether direct or indirect):

22.7.1 any losses, liabilities, claims, costs or expenses arising from the combination of the Subscribed Services with Partner Products or any other software or products.

22.8 Notwithstanding clauses 22.5 to 22.6 (inclusive), and without limiting its entitlement to recover other types of losses, the parties agree that the Vendor may recover the following from the Partner as direct losses:

22.8.1 wasted expenditure or unnecessary charges incurred by the Vendor (including regulatory fines); and

22.8.2 liability to third parties (including Customers).

22.9 The limitations and exclusions of liability set out in this clause 22 shall not apply in respect of:

22.9.1 any indemnities given by either party under this Agreement.

22.10 Notwithstanding any other provision of this Agreement, the liability of the parties shall not be limited or excluded in any way in respect of the following:

22.10.1 death or personal injury caused by negligence;

22.10.2 fraud or fraudulent misrepresentation;

22.10.3 breach of any obligation as to title implied by:

22.10.3.1 section 12 of the Sale of Goods Act 1979; or

22.10.3.2 section 2 of the Supply of Goods and Services Act 1982;

22.10.4 breach of section 2 of the Consumer Protection Act 1987;

22.10.5 any other losses which cannot be excluded or limited by applicable law; and

22.10.6 any obligation to pay the Fees (including any interest and expenses properly incurred).

22.11 In respect of any indemnity given by either party under this Agreement, the party which receives the benefit of the indemnity shall take all reasonable steps so as to reduce or mitigate the loss covered by the indemnity.

23. Insurance

23.1 The Partner shall, for the duration of this Agreement and any Vendor Support Runoff Period, maintain appropriate insurance cover with a reputable insurance company against all relevant liabilities and indemnities that may arise under this Agreement in respect of the Partner.

23.2 The Partner shall provide to the Vendor upon request sufficient evidence of the insurance cover that it is obliged to have and maintain under this Agreement.

24. Termination

24.1 Either party may terminate this Agreement at any time by giving notice in writing to the other party if the other party:

24.1.1 commits a material breach of this Agreement and such breach is not remediable;

24.1.2 commits a material breach of this Agreement which is not remedied within 60 days after receiving written notice requiring it to remedy that breach; or

24.1.3 has failed to pay any amount due under this Agreement on the due date and such amount remains unpaid within 20 Business Days after the other party has received notification that the payment is overdue.

24.2 Any breach by the Partner of:

24.2.1 clause 16;

24.2.2 clause 18;

24.2.3 clause 20;

24.2.4 clause 21; or

24.2.5 clause 30,

shall be deemed a material breach of this Agreement which is not remediable.

24.3 The Vendor may terminate this Agreement at any time by giving notice in writing to the Partner if the Partner:

24.3.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;

24.3.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Vendor reasonably believes that to be the case;

24.3.3 becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;

24.3.4 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;

24.3.5 becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;

24.3.6 becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;

24.3.7 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;

24.3.8 has a resolution passed for its winding up;

24.3.9 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;

24.3.10 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within 5 Business Days of that procedure being commenced;

24.3.11 has a freezing order made against it;

24.3.12 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;

24.3.13 is subject to any events or circumstances analogous to those in clauses 24.3.1 to 24.3.12 (inclusive) in any jurisdiction;

24.3.14 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 24.3.1 to 24.3.13 (inclusive) including for the avoidance of doubt, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.

24.4 The right of the Vendor to terminate the Agreement pursuant to clause 24.3 shall not apply to the extent that the relevant procedure is entered into for the purpose of solvent amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to this Agreement.

24.5 The Vendor may without prejudice to its other rights and remedies by notice in writing to the Partner immediately terminate this Agreement if the Partner undergoes a change of Control that is, in the Vendor's reasonable opinion, likely to have a material adverse effect on the Vendor or the performance of the Partner's Responsibilities, such as if the Partner is acquired by a competitor of the Vendor.

24.6 The Vendor may terminate this Agreement for convenience at any time by giving at least 90 days prior written notice to the Partner.

25. Consequences of expiry or termination

25.1 In the event of expiry or termination of this Agreement for any reason:

25.1.1 the Partner shall immediately;

25.1.1.1 stop promoting, marketing, advertising and soliciting and accepting orders for the Subscribed Services and the Documentation; and

25.1.1.2 cease to use all the Vendor's Marks;

25.1.2 the Partner shall thereafter not (at any time) enter into, extend the term of or amend the terms of any EULA;

25.1.3 the Partner shall immediately remove from all materials in any form which are to be provided or made accessible to any person (including websites, notices, advertisements, catalogues and documents) any reference to it being an 'authorised Partner' of the Vendor;

25.1.4 save to the extent necessary to comply with its obligations under clause 25.1.7, the Partner shall immediately stop reproducing, and distributing the Subscribed Services;

25.1.5 save to the extent necessary to comply with any obligations to Customers pursuant to clause 25.1.7, the Partner shall within 7 days of such termination or expiry (or if later the point in time at which it is no longer necessary to retain the information to comply with clause 25.1.7) return to the Vendor (or, at the Vendor's written notice, destroy) all Confidential Information of the Vendor in its possession or under its control and all copies of such information, including returning or destroying (as appropriate):

25.1.5.1 all copies of the Subscribed Services and the Documentation; and

25.1.5.2 all promotional material relating to the Subscribed Services, then in its possession or under its control;

25.1.6 the sub-licences of the Subscribed Services granted in accordance with this Agreement under each EULA shall continue for the remainder of their respective terms;

25.1.7 subject to the Partner complying at all times with its obligations under this Agreement, the Partner shall continue to:

25.1.7.1 comply with its binding obligations relating to delivery of the Subscribed Services under any EULA entered into by the Partner prior to the termination or expiry of this Agreement; and

25.1.7.2 provide Partner Support to each Customer as required under the terms of their respective EULA during the Vendor Support Runoff Period except to the extent otherwise expressly agreed in this Agreement (including in clauses 25.1.1 to 25.1.6 (inclusive)) each of the parties' rights and obligations under this Agreement shall survive and remain in full force and effect until the end of the Vendor Support Runoff Period.

25.2 Termination or expiry of this Agreement for whatever reason shall be without prejudice to the rights of the parties accrued up to the date of such termination or expiry.

25.3 Those clauses expressed or implied to survive termination or expiry of this Agreement or the end of the Vendor Support Runoff Period shall survive in accordance with their terms, including that the following clauses shall survive: clauses 1, 6.7, 9 to 11 (inclusive), 13, 16 to 18 (inclusive), 19.2, 22, 25 to 39 (inclusive) and 41 to 43 (inclusive).

25.4 The Partner shall have no claim against the Vendor for compensation for loss of any Partner rights, loss of goodwill or similar loss following termination or expiry of this Agreement, in whole or in part, for any reason.

25.5 Within 20 days of any request(s) by the Vendor following the end of the Vendor Support Runoff Period, the Partner shall certify in a written notice to the Vendor that it has complied with the relevant obligations set out in this clause 25 (except to the extent expressly permitted in writing by the Vendor) to the extent not previously subject to such certification.

26. Notices

26.1 Any notice or other communication given by a party under this Agreement shall:

26.1.1 be in writing and in English;

26.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and

26.1.3 be sent to the relevant party at the address set out in clause 3.

26.2 Notices may be given, and are deemed received:

26.2.1 by hand: on receipt of a signature at the time of delivery;

26.2.2 by recorded delivery;

26.2.3 by email, on receipt of a delivery email from the correct address.

26.3 Notices and other communications shall be sent to:

26.3.1 IAM Technology Group Ltd, FAO Leon Mallett, Company Director at:
The Media Centre
Northumberland Street
Huddersfield
HD1 1RL
United Kingdom
contact@iamcloud.com ; and
copied to Leon Mallett at leon.mallett@iamcloud.com

26.3.2 The Partner at the address notified by the Partner in the Reseller Agreement Form, MSA and/or registered office if not stipulated in the above.

26.4 Any change to the contact details of a party as set out in clause 26.3 shall be notified to the other party in accordance with clause 26.1 and shall be effective:

26.4.1 on the date specified in the notice as being the date of such change; or

26.4.2 if no date is so specified, 10 Business Days after the notice is deemed to be received.

26.5 All references to time are to the local time at the place of deemed receipt.

26.6 This clause does not apply to notices given in legal proceedings or arbitration.

27. Announcements

No announcement or other public disclosure concerning this Agreement or any of the matters contained in it shall be made by, or on behalf of, the Partner without the prior written consent of the Vendor (such consent not to be unreasonably withheld or delayed), except as required by law, any court, any governmental, regulatory or supervisory authority (including any recognised investment exchange) or any other authority of competent jurisdiction.

28. Relationship

The parties are independent businesses and are not partners (in a legal sense), principal and agent or employer and employee and this Agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

29. Severability

29.1 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.

29.2 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

30. Assignment and sub-contracting

No party may assign, transfer, sub-contract or encumber any right or obligation under this Agreement, in whole or in part, without the other party's prior written consent (such consent not to be unreasonably withheld or delayed).

31. Succession

This Agreement shall be binding upon, and endure to the benefit of, each of the parties, their respective personal representatives and their respective successors in title.

32. Variation

No variation of this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.

33. Entire agreement

33.1 The parties agree that this Agreement and any documents entered into pursuant to it including the Reseller Agreement Form, EULA and MSA is the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

33.2 Each party acknowledges that it has not entered into this Agreement or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this Agreement.

33.3 Nothing in this Agreement purports to limit or exclude any liability for fraud.

34. Waiver

34.1 No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

34.2 No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.

34.3 A waiver of any term, provision, condition or breach of this Agreement shall only be effective if given in writing and signed by the waiving party, and then only in the instance and for the purpose for which it is given.

35. Set-off

Each party shall pay all sums that it owes to the other party under this Agreement without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

36. Dispute resolution

36.1 Any dispute arising between the parties out of or in connection with this Agreement shall be dealt with in accordance with the provisions of this clause 36.

36.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.

36.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:

36.3.1 Within 7 days of service of the notice, the commercial/sales managers (or equivalent) of the parties shall meet to discuss the dispute and attempt to resolve it.

36.3.2 If the dispute has not been resolved within seven days of the first meeting of the commercial/sales managers (or equivalent), then the matter shall be referred to the chief executives (or persons of equivalent seniority). The chief executives (or equivalent) shall meet within seven days to discuss the dispute and attempt to resolve it.

36.4 The specific format for the resolution of the dispute under clause 36.3.1 and, if necessary, clause 36.3.2 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.

36.5 Until the parties have completed the steps referred to in clause 36.3, and have failed to resolve the dispute, neither party shall commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

37. Equitable relief

Each party recognises that any breach or threatened breach of this Agreement may cause the other party irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the other party, each party acknowledges and agrees that the other party is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

38. Force majeure

38.1 A party will not be liable if delayed in or prevented from performing its obligations under this Agreement due to a Force Majeure Event, provided that it:

38.1.1 promptly notifies the other of the Force Majeure Event and its expected duration, and

38.1.2 uses reasonable endeavours to minimise the effects of that event.

38.2 If, due to Force Majeure Event, a party:

38.2.1 is unable to perform a material obligation; or

38.2.2 is delayed in or prevented from performing its obligations for a continuous period of more than 90 days, the other party may, within a further Ten Business Days, terminate this Agreement on notice, otherwise this Agreement shall continue in full force and effect.

39. Further assurance

The Partner shall at the request of the Vendor do all acts and execute all documents which are necessary to give full effect to this Agreement.

40. Counterparts

This Agreement may be signed in any number of separate counterparts, each of which when signed and dated shall be an original, and such counterparts taken together shall constitute one and the same agreement. This Agreement shall not be effective until each party has signed one counterpart.

41. Language

41.1 The language of this Agreement is English. All documents, notices, waivers, variations and other written communications relating to this Agreement shall be in English.

41.2 If this Agreement and any document relating to it is translated, the English version shall prevail.

42. Third party rights

Except as expressly provided for in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this Agreement.

43. Governing law and jurisdiction

43.1 This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales unless stated otherwise in our Jurisdiction Specific Terms.

43.2 The parties agree to adhere to any Jurisdiction Specific Terms that form part of our Agreement.

43.3 Subject to clause 36, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).
Agreed by the parties on the date set out on the signed Reseller Agreement Form.