

Terms of Use

Business to business software as a service subscription agreement

This software as a service subscription agreement (Agreement) is entered into by and between you (Customer, you or your) and BLIO Ltd (incorporated in England and Wales with company number: 13289222) (BackupLABS, Supplier, us or our) and is effective as of the date that you subscribe for the Service (defined below). This Agreement constitutes a legal agreement between You and BackupLABS and governs the use of the Service. By subscribing for the Service, you agree to and accept the terms of this Agreement. If you are the agent or employee of an entity, you represent and warrant that (a) the individual accepting this agreement is duly authorised to accept this Agreement on such entity's behalf and to bind such entity and (b) such entity has full power, corporate or otherwise, to enter into this Agreement and perform its obligations.

1. Definitions and interpretation

In this Agreement the following words have the following meanings: Annual Plan has the meaning given to that term under clause 12.1. Applicable Data Protection Laws means (a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data, and (b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data. Business Day means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business. Confidential Information means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 9.1. Customer Data means the data inputted by the Customer for the purpose of using the Services or facilitating the Customer's use of the Services. Customer Personal Data any personal data which the Supplier processes in connection with this Agreement, in the capacity of a processor on behalf of the Customer. Effective Date means the date that the Customer subscribes for the Services. EU GDPR the General Data Protection Regulation ((EU)

2016/679). Heightened Cybersecurity Requirements means any laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, industry schemes and sanctions, which are applicable to the Customer relating to security of network and information systems and security breach and incident reporting requirements, which may include the cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time. Initial Subscription Term means the term of the Monthly Plan or the Annual Plan (as the case may be). Monthly Plan has the meaning given to that term under clause 12.1. Normal Business Hours means 9.00 am to 5.00 pm local UK time, each Business Day. Platform means the platform(s) that the Customer selects on the Pricing Page on our Website. Renewal Period means the monthly or annual (as the case may be) renewal periods under clause 12.1. Services means the subscription services provided by the Supplier to the Customer under this Agreement as specified under the Subscription Plan and which include the Software. Software means the online software applications provided by the Supplier as part of the Services. Subscription Fees mean the subscription fees payable by the Customer to the Supplier. Subscription Plan means the subscription plan for Services selected by the Customer on our Pricing Page on our Website. Subscription Term means the Monthly Plan or the Annual Plan (as the case may be) plus any successive Renewal Periods. Support Services Policy means the Supplier's policy for providing support in relation to the Services as made available in the Service Level Agreement on our Website. UK GDPR has the meaning given to it in the Data Protection Act 2018. Virus means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices. Vulnerability means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall

be interpreted accordingly. Website means our website located at www.backuplabs.io.

1.1 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns. A reference to writing or written excludes fax but not email.

2. Services

2.1 The Supplier shall, during the Subscription Term, provide the Services on and subject to the terms of this Agreement.

2.2 The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for (a) planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am UK time and (b) unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.

2.3 The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Supplier's standard customer support services during Normal Business Hours in accordance with the Supplier's Support Services Policy in effect at the time that the Services are provided. The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time. The Customer may purchase enhanced support services separately at the Supplier's then current rates.

3. Grant of Licence

3.1 Subject to the terms and conditions of this Agreement and the applicable Subscription Plan selected by Customer, including the timely payment of the Subscription Fees, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right and licence, without the right to grant sublicences, to access and use the Services during the Subscription Term solely for the Customer's internal business operations.

3.2 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive (b) facilitates illegal activity (c)

depicts sexually explicit images (d) promotes unlawful violence (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability or (f) is otherwise illegal or causes damage or injury to any person or property, and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

3.3 The Customer shall not (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means or (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software (b) access all or any part of the Services in order to build a product or service which competes with the Services (c) use the Services to provide services to third parties (d) subject to clause 20, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party (e) attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 3 or (f) introduce or permit the introduction of, any Virus or Vulnerability into the Supplier's network and information systems.

3.4 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify the Supplier.

3.5 The rights provided under this clause 3 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

4. Data protection

4.1 For the purposes of this clause 4, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the UK GDPR.

4.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 4 is in addition to, and does not relieve,

remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

4.3 The parties have determined that, for the purposes of the Applicable Data Protection Laws, the Supplier shall process the Customer Personal Data as a processor on behalf of the Customer in respect of the following particulars of processing: to enable the Supplier to carry out the Services under this Agreement and concerning the personal data of the customers of the Customer and the Customer's employees namely name, address, email and telephone number.

4.4 Should the determination in clause 4.3 change, then each party shall work together in good faith to make any changes which are necessary to this clause 4.

4.5 Without prejudice to the generality of clause 4.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of Customer Personal Data to the Supplier and / or lawful collection of the same by the Supplier for the duration and purposes of this Agreement.

4.6 Without prejudice to the generality of clause 4.2, the Supplier shall, in relation to Customer Personal Data:

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

4.6.2 implement technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data;

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

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

4.6.5 at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the Agreement unless the Supplier is required by Applicable Data Protection Laws to continue to process that Customer Personal Data. For the purposes of this clause 4.6.5, Customer Personal Data shall be considered deleted where it is put beyond further use by the Supplier; and

4.6.6 maintain records to demonstrate its compliance with this clause 4.

4.7 The Customer hereby provides its prior, general authorisation for the Supplier to:

4.7.1 appoint processors to process the Customer Personal Data, provided that the Supplier:

4.7.1.1 shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause 4;

4.7.1.2 shall remain responsible for the acts and omissions of any such processor as if they were the acts and omissions of the Supplier; and

4.7.1.3 shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Laws, the Customer shall

indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.

4.7.2 transfer Customer Personal Data outside of the UK or EU as required, provided that the Supplier shall ensure that all such transfers are effected in accordance with the Applicable Data Protection Laws.

4.8 For the purposes of this clause 4, the Customer agrees that (a) if the Customer is based in the UK then the data centre of the Customer shall be in the UK, (b) if the Customer is based in the EU then the data centre of the Customer shall be in the EU, (c) if the Customer is based in the USA then the data centre of the Customer shall be in the USA, and (d) if the Customer is based in any jurisdictions other than the UK, EU or USA then the data centre of the Customer shall be in the USA.

5. Supplier's obligations

5.1 The Supplier undertakes that the Services will be performed with reasonable skill and care.

5.2 The undertaking at clause 5.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 5.1.

5.3 The Supplier (a) does not warrant that (i) the Customer's use of the Services will be uninterrupted or error-free or (ii) that the Services and/or the information obtained by the Customer through the Services will meet the Customer's requirements or (iii) the Software or the Services will be free from Vulnerabilities or Viruses or (iv) the Software or Services will comply with any Heightened Cybersecurity Requirements, and (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and

facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

5.4 This Agreement shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

6. Customer's obligations

6.1 The Customer shall (a) provide the Supplier with (i) all necessary co-operation in relation to this Agreement and (ii) all necessary access to such information as may be required by the Supplier, in order to provide the Services, including but not limited to Customer Data, security access information, configuration services and connecting and authenticating the Customer's account with the relevant Platform with the Customer's account with the Supplier (b) without affecting its other obligations under this Agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement (c) carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary (d) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services (e) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time and (f) be, to the extent permitted by law and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

6.2 The Customer shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.

7. Charges and payment

7.1 The Customer shall pay the Subscription Fees to the Supplier for the Subscription Plan in accordance with this clause 7.

7.2 The Customer shall on the Effective Date provide to the Supplier valid, up-to-date and complete credit card details acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and the Customer hereby authorises the Supplier to bill such credit card:

7.2.1 on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and

7.2.2 subject to clause 12.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period.

7.3 If the Supplier has not received payment on the due date, and without prejudice to any other rights and remedies of the Supplier:

7.3.1 the Supplier may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the Subscription Fees concerned remain unpaid; and

7.3.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of the Supplier's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

7.4 All amounts and fees stated or referred to in this Agreement:

7.4.1 shall be payable in United States dollar (USD);

7.4.2 are, subject to clause 11.3, non-cancellable and non-refundable;

7.4.3 are exclusive of value added tax and any other applicable taxes, which shall be added to the Supplier's invoice(s) at the appropriate rate.

7.5 The Supplier shall be entitled to increase the Subscription Fees at the start of each renewal period under clause 12.1 upon 30 days' prior notice to the Customer.

8. Proprietary rights

8.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services.

8.2 The Supplier confirms that it has all the rights in relation to the Services that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

9. Confidentiality

9.1 Confidential Information means all confidential information (however recorded or preserved) disclosed by a party to the other party in connection with Agreement, including but not limited to (a) any information that would be regarded as confidential by a reasonable business person relating to (i) the business, assets, affairs, customers, clients, suppliers, or plans of the disclosing party and (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party (b) any information developed by the parties in the course of carrying out this Agreement and the parties agree that (i) details of the Services, and the results of any performance tests of the Services, shall constitute Supplier Confidential Information and (ii) Customer Data shall constitute Customer Confidential Information.

9.2 The provisions of this clause shall not apply to any Confidential Information that:

9.2.1 is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause);

9.2.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party; or

9.2.3 was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party.

9.3 Each party shall keep the other party's Confidential Information secret and confidential and shall not:

9.3.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement (Permitted Purpose); or

9.3.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 9.

9.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible.

9.5 On termination of this Agreement, each party shall erase all the other party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable).

10. Indemnity

10.1 The Customer shall indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services.

10.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the Services or Documentation in accordance with this agreement infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer

for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- 10.2.1 the Supplier is given prompt notice of any such claim;
- 10.2.2 the Customer does not make any admission, or otherwise attempt to compromise or settle the claim and provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
- 10.2.3 the Supplier is given sole authority to defend or settle the claim.

10.3 In the defence or settlement of any claim, the Supplier may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 5 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

10.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on (a) a modification of the Services by anyone other than the Supplier or (b) the Customer's use of the Services in a manner contrary to the instructions given to the Customer by the Supplier or (c) the Customer's use of the Services after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

10.5 The foregoing and clause 11.3 (b) states the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

11. Limitation of liability

11.1 Except as expressly and specifically provided in this Agreement (a) the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the

Services, or any actions taken by the Supplier at the Customer's direction (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement and (c) the Services and the Documentation are provided to the Customer on an "as is" basis.

11.2 Nothing in this Agreement excludes the liability of the Supplier (a) for death or personal injury caused by the Supplier's negligence or (b) for fraud or fraudulent misrepresentation.

11.3 Subject to clause 11.1 and clause 11.2 (a) the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement and (b) the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total Subscription Fees actually received by the Supplier from the Customer in the 12 months immediately preceding the date on which the claim arose.

11.4 Nothing in this Agreement excludes the liability of the Customer for any breach, infringement or misappropriation of the Supplier's Intellectual Property Rights.

12. Term and termination

12.1 This Agreement commences on the Effective Date and unless otherwise terminated in accordance with the provisions of this Agreement shall run for an initial period of one month (Monthly Plan) or one year (Annual Plan) depending upon which term the Customer selects on our Website. If the Customer has selected a Monthly Plan then it shall automatically renew for successive one month terms unless the Customer has given us one month's written notice to terminate the Agreement. If the Customer has selected an Annual Plan then it will automatically renew for successive annual terms unless the Customer has given at least 7 days

written notice to terminate the Agreement prior to the end of the one year term.

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

12.2.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

12.2.2 the other party commits a material breach of any other term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

12.2.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;

12.2.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

12.2.5 the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;

12.2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

12.2.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);

12.2.8 the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

12.2.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

12.2.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

12.2.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.2.3 to clause 12.2.10 (inclusive);

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

12.2.13 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy.

12.3 On termination of this Agreement for any reason:

12.3.1 all licences granted under this Agreement shall immediately terminate and the Customer shall immediately cease all use of the Services;

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

12.3.3 the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession;

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

13. Force majeure.

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate this Agreement by giving 14 days' written notice to the affected party.

14. Conflict.

If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail.

15. Variation.

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

16. Waiver.

A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

17. Rights and remedies.

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

18. Severance.

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is deemed deleted under clause 18 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

19. Entire agreement.

This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

20. Assignment.

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

21. No partnership or agency.

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

22. Third party rights.

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

23. Notices.

Any notice given to a party under or in connection with Agreement shall be in writing and shall be (a) delivered by hand or by pre-paid first-class post

or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case) or (b) sent by email to the following addresses (or an address substituted in writing by the party to be served): Supplier: support@backuplabs.io; and Customer: to such email address of yours as you may notify us from time to time. Any notice shall be deemed to have been received (a) if delivered by hand, at the time the notice is left at the proper address (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting (c) if sent by pre-paid airmail providing proof of postage at 9.00 am on the fifth Business Day after posting or (d) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24. Governing law.

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 interpreted in accordance with the law of England and Wales.

25. Jurisdiction.

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