END USER LICENCE AGREEMENT (MP US) **cutover**

INTRODUCTION

EULA | THIS END USER LICENCE AGREEMENT, COMPRISED OF THE COMPONENTS BELOW, THE "**AGREEMENT**", IS A BINDING LEGAL AGREEMENT MADE ON THE SUBSCRIPTION DATE BETWEEN CUTOVER INC. ("**CUTOVER**") AND THE ENTITY PROCURING THE SUBSCRIPTION ("**CUSTOMER**"). CUTOVER AND CUSTOMER ARE EACH REFERRED TO AS A "**PARTY**", AND COLLECTIVELY, THE "**PARTIES**".

BY DOWNLOADING, INSTALLING, ACCESSING, EVALUATING OR OTHERWISE USING CUTOVER SERVICES, CUSTOMER ACKNOWLEDGES AND AGREES THAT IT IS BOUND BY THE TERMS OF THIS AGREEMENT. IF CUSTOMER DOES NOT ACCEPT ALL THE TERMS OF THIS AGREEMENT, IT MUST IMMEDIATELY CEASE USING OR ACCESSING THE SUBSCRIPTION SERVICE AND ANY OTHER CUTOVER SERVICES. THIS AGREEMENT GOVERNS CUSTOMER AND ITS USERS' USE OF ALL CUTOVER SERVICES, HOWEVER THEY WERE ACQUIRED, INCLUDING THROUGH AN ONLINE APP STORE OR MARKETPLACE.

AGREEMENT STRUCTURE | THE AGREEMENT IS DEEMED TO INCLUDE THE SERVICE TERMS, EACH SCHEDULE HERETO (INCLUDING THE **SERVICE LEVELS AND SUPPORT** AT **SCHEDULE 1** AND **DATA PROCESSING ADDENDUM** AT **SCHEDULE 2**), TOGETHER WITH THE PARTICULARS OF CUSTOMER'S SUBSCRIPTION AND SELECTIONS FROM AND THE TERMS OF THE MARKETPLACE LISTING. EACH SUBSCRIPTION IS A SEPARATE AGREEMENT BETWEEN THE PARTIES.

FREE TRIALS | IF CUSTOMER'S SUBSCRIPTION IS FOR PROOF OF CONCEPT/VALUE, BETA TESTING, TRIAL, EVALUATION OR ANY OTHER SIMILAR EVALUATIVE PURPOSE WHERE NO CHARGES ARE PAYABLE TO CUTOVER (COLLECTIVELY, "**FREE TRIALS**"), CUSTOMER'S FREE TRIAL IS FOR **THIRTY (30) DAYS** UNLESS CUTOVER ISSUES AN EXTENSION BY WAY OF WRITTEN NOTICE TO CUSTOMER (THE RELEVANT PERIOD, THE "**SUBSCRIPTION TERM**" FOR THE FREE TRIAL). CUTOVER RESERVES THE RIGHT TO TERMINATE FREE TRIALS AT ANY TIME AND FOR ANY REASON (NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT). UPON EXPIRATION OR TERMINATION OF A FREE TRIAL, CUSTOMER SHALL CEASE USING THE SUBSCRIPTION SERVICE AND ANY DOCUMENTATION PROVIDED BY OR ON BEHALF OF CUTOVER (INCLUDING VIA THE MARKETPLACE). ONLY CLAUSES 1, 2, 4, 7, 8, 10, 12, 13, 15 TO 18 (INCLUSIVE) OF THIS AGREEMENT APPLY TO FREE TRIALS BECAUSE FREE TRIALS ARE PROVIDED "AS IS". IN RELATION TO CUSTOMER'S AND ITS USERS' USE OF THE SUBSCRIPTION SERVICE AND DOCUMENTATION FOR A FREE TRIAL, TO THE EXTENT PERMITTED BY APPLICABLE LAW, CUTOVER DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY AGAINST INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

LOCATIONS

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London | Godesic Limited
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London EC2A 4DP

www.cutover.com

SERVICE TERMS

1. PROVISION OF CUTOVER SERVICES

1.1 **Access to Cutover Services** | For the duration of the Subscription Term, Cutover will provide Customer (and its Affiliates subject to Clause 2.6 (*Customer Affiliates*)) with access to the relevant Cutover Services set out in this Clause 1, subject to Customer's chosen Subscription and the terms of this Agreement. Cutover Services will be provided by Cutover and/or its Affiliates in accordance with Clause 1.3.

1.2 **Cutover Services** | During the Subscription Term, Cutover shall:

(a) make the Subscription Service and any other applicable Cutover Services available to Customer and its Users on the basis of Customer's chosen Subscription up to Customer's then current Limits, solely for the Scope of Use and otherwise in accordance with the terms of this Agreement and the Documentation;

(b) provide Customer with self-serve access to a full range of Cutover in-platform enablement material and reference guides via the Subscription Service, including: (i) self-serve learning guide and quick-start guide; (ii) 'Cutover Knowledge Base' articles; and (iii) quick reference 'getting started' videos;

(c) provide Customer with the service levels and support as set out in the SLA (subject to its terms);

(d) if applicable to Customer's Subscription, make the Developer API available to Customer in accordance with the terms set forth in **Schedule 5** (*Developer API Terms*);

(e) provide Maintenance Releases of the Subscription Service in accordance with the upgrade and release particulars set out in the Documentation; and

(f) grant Customer a limited, non-exclusive, personal, non-sublicensable, non-transferable (subject to Clause 17.5) licence on a worldwide basis to use any purchased Ancillary Software solely for the purpose of facilitating Customer's use of the Subscription Service, including in connection with a Self-Serve Integration or Cutover's Developer API.

1.3 **Cutover Affiliates** | Customer agrees that Cutover or its Affiliates may provide the Cutover Services pursuant to this Agreement. The terms of this Agreement shall apply *mutatis mutandis* to any part of the Cutover Services provided by Cutover's Affiliates and, in such circumstances, references to Cutover shall be read to mean the relevant Cutover Affiliate. Notwithstanding the foregoing, Cutover remains solely responsible for the performance of its and its Affiliates' obligations under this Agreement. All acts, omissions or breaches of this Agreement, of or by Cutover's Affiliates or the Personnel, shall be deemed to be the acts, omissions or breaches of Cutover, and any loss, damage, cost or liability incurred by Customer resulting from any such act, omission or breach shall be recoverable solely by Customer from Cutover subject to the terms of this Agreement.

1.4   **Non-Exclusivity** | This Agreement, including the provision of Cutover Services to Customer, shall not prevent Cutover from entering into the same or similar agreements for the provision of Cutover Services to third parties, or from independently developing, using, selling or licensing Documentation, products and/or services which are the same as or similar to those provided under this Agreement.

2.   SUBSCRIPTION SERVICE & LIMITS

2.1   **Subscription Limits** | The Subscription Limits that apply to Customer's use of the Subscription Service and other Cutover Services (as applicable) are as per its Subscription (as chosen from the Marketplace Listing) and any applicable Overage increases.

2.2   **Users** | In relation to its Users' use of the Subscription Service, Customer acknowledges and agrees that:

   (a)   the maximum number of Users that it authorizes to access and use the Subscription Service shall not exceed Customer's purchased User Limit from time to time and, should it do so, that the terms of either Clause 2.3 (*Additional Limit Fees*) or Clause 2.7 (*Use Verification*) shall apply;

   (b)   all User login credentials (usernames and passwords) are Cutover's Confidential Information;

   (c)   it will not allow any individual User's login credentials and passwords to be used by anyone other than that User and will notify Cutover promptly if it suspects or becomes aware that any User's login details have or are being shared between individuals or may otherwise have been compromised or subject to unauthorized disclosure;

   (d)   its use of the Subscription Service will remain within its purchased Subscription Limits and that, should it exceed such Subscription Limits, the terms of either Clause 2.3 (*Additional Limit Fees*) or Clause 2.7 (*Use Verification*) shall apply.

2.3   **Additional Limit Fees** | Customer shall be liable for any Additional Limit Fees incurred as a result of the following:

   (a)   **Limit Overage** – if Customer's usage of the Cutover Services exceeds its then current Subscription Limits in any given month of the Subscription Term ("**Overage**"), Cutover shall have the right to account for and either charge or invoice Customer for the Additional Limit Fees for the required number of additional Subscription Limits in accordance with the rates set forth in the Marketplace Listing. The applicable Additional Limit Fees will be charged or invoiced from the beginning of the month in which the Overage first occurred on a monthly basis for the duration of the Subscription Term; and

   (b)   **Sharing of User Credentials** – if, in connection with Clause 2.2(c), it is established that Customer's Users have shared their User login credentials to the Subscription Service with other individuals then, without prejudice to Cutover's other rights under this Agreement, Cutover shall be entitled to retrospectively invoice Customer an amount equal to the Additional Limit Fees that would have been payable for the additional Users for each applicable month,

CUSTOMER'S SUBSCRIPTION LIMITS SHALL THEN BE INCREASED FOR THE REMAINDER OF THE SUBSCRIPTION TERM AND CUTOVER SHALL BE ENTITLED TO CHARGE OR INVOICE CUSTOMER THE APPLICABLE MONTHLY ADDITIONAL LIMIT FEES ON THE INCREASED LIMIT BASIS SUBJECT TO THE OTHER TERMS OF THIS AGREEMENT.

2.4   **Usage Restrictions** | In relation to its use of the Cutover Services, Customer agrees (and shall procure that its Affiliates, Users and, as applicable, any Customer Providers agree):

   (a)   that the Subscription Service may only be used to the extent permitted by the Scope of Use;

   (b)   to abide by the restrictions applicable to its Subscription and as set out in this Agreement; and

   (c)   that it will not (i) licence, sub-licence, sell, re-sell, rent, lease, transfer, distribute, time share, or otherwise make any of the Cutover Services available for access by third-parties, except as may be otherwise expressly stated herein, (ii) access the Cutover Services for the purpose of developing or operating products or services for third-parties in competition with any of the Cutover Services, (iii) disassemble, reverse engineer, or decompile it, or copy, create derivative works based on, or otherwise modify any part of the Cutover Services, except as is expressly stated in this Agreement or as permitted by applicable law, (iv) remove or modify any copyright or other proprietary rights notices in the Cutover Services, (v) use the Cutover Services in violation of applicable law, (vi) use the Cutover Services to reproduce, distribute, display, transmit, or use material protected by copyright or other intellectual property rights (including the rights of publicity) without first obtaining the owner's permission, (vii) use the Cutover Services to create, use, send, store, or run viruses or other harmful computer code, files, scripts, agents, or other programs, or otherwise engage in a malicious act or disrupt the security, integrity, or operation of any of the Cutover Services, or (viii) use the Cutover Services to access or disable any third-party data, software, or network (other than Customer's instance of the Subscription Service).

2.5   **Conference Calls & SMS – Fair Use Policy** | Cutover operates a 'reasonable fair use' policy in relation to the conference call features of the Subscription Service. Users are entitled to a monthly usage limit of one hundred (100) SMS and one hundred (100) minutes, which is calculated per-conference call attendee (for example, ten (10) attendees for a ten (10) minute conference call equals one hundred (100) minutes in total). Usage of SMS and conference call minutes will be calculated based on adding up the number of SMS messages and conference call minutes used by Customer's Users per month and dividing the totals by the number of Users included in Customer's then current User Limit. Cutover will monitor the level of usage. If a User exceeds the monthly usage limit, Cutover shall charge or invoice Customer an amount equal to the over usage at the rate set forth in the Marketplace Listing. CUTOVER DOES NOT GUARANTEE THAT THE CONFERENCE CALL AND SMS FEATURES OF THE SUBSCRIPTION SERVICE ARE AVAILABLE, OPERABLE OR RELIABLE IN EVERY REGION OR COUNTRY. CUTOVER MAY WITHDRAW THE CONFERENCE CALL AND/OR SMS FEATURES AT ITS DISCRETION EITHER ENTIRELY OR IN RELATION TO USERS IN CERTAIN COUNTRIES OR REGIONS WITHOUT NOTICE TO CUSTOMER. CUSTOMER SHALL NOT BE ENTITLED TO ANY REFUND, COMPENSATION OR OTHER REMEDY SHOULD CUTOVER REMOVE EITHER FEATURE IN WHOLE OR IN PART.

2.6   **Customer Affiliates** | Customer shall be permitted to allow its Affiliates to use the Subscription Service provided that:

(a)   Cutover shall not be required to provide any additional services, dedicate additional resource or provide additional instances of the Subscription Service, unless purchased by Customer;

(b)   Customer shall be liable to pay all Charges incurred by its Affiliates and their Users;

(c)   Customer shall procure that each of its Affiliates granted use of the Subscription Service observes and complies with Customer's obligations in this Agreement;

(d)   all acts, omissions and/or breaches of this Agreement, of or by a Customer Affiliate or a Customer Affiliate's Users, shall be deemed to be the acts, omissions or breaches of Customer, and any loss, damage, cost or liability incurred by Cutover resulting from any such act, omission or breach shall be recoverable by Cutover from Customer; and

(e)   no Customer Affiliate has the right to commence legal action against Cutover or its Affiliates under this Agreement or otherwise in connection with Customer's Subscription.

2.7   **Use Verification** | Cutover may remotely review Customer's use of the Subscription Service and, on Cutover's written request, Customer will provide reasonable assistance to verify Customer's and its Users' compliance with the terms of this Agreement. If Cutover determines that Customer has exceeded its purchased Subscription Limits or other access and use rights, Cutover will notify Customer and within ten (10) days of a notice to do so, Customer shall either: (i) disable any unpermitted use, or (ii) purchase additional Subscription Limits or other add-ons to the Cutover Services commensurate with Customer's actual use. If Customer fails to comply within the stated timeframe, Cutover shall be entitled to immediately disable the unpermitted use over and above the purchased Subscription Limits or other access and use rights, and shall have no liability to Customer under this Agreement or otherwise for such actions. Disablement will occur on the basis of "last in, first out" in terms of the removal of User logins, runbooks, workspaces and other Subscription Limits, access and use rights.

2.8   **Future Functionality** | Customer acknowledges and agrees that (i) its Subscription is not contingent, and/or (ii) the payment of Charges by Customer is not conditional, on the delivery of future features or functionality within the Subscription Service. Customer acknowledges and agrees that it has made its selection of the Subscription Service based on the features and functionality of the Subscription Service as are live at the Subscription Date and that it is solely responsible for the assessment of whether such features and functionality meet its individual business requirements.

3.   CUTOVER RESPONSIBILITIES

3.1   **Minimum Standard Warranty** | Other than as expressly stated in this Agreement, Cutover warrants that it will provide the Subscription Service substantially in accordance with the applicable Documentation, and with reasonable skill and care in accordance with Good Industry Practice and never less than the standards prescribed in the Security Policy.

3.2   **Non-Conformance** | The warranties in Clause 3.1 (*Minimum Standard Warranty*) shall not apply to the extent of any non-conformance which is caused by the use of the Subscription Service contrary to Cutover's instructions, other than in accordance with the terms of this Agreement, or modification or alteration of the Subscription Service by any person other than Cutover or the Personnel (including a Customer Provider) that has not been authorized in writing by Cutover. Subject to Clause 13 (*Disclaimers & Restrictions*), if the Subscription Service does not conform to the warranties at Clause 3.1, Cutover will, at its expense, attempt to correct any such non-conformance promptly, or provide Customer with an alternative means of accomplishing the desired performance.

3.3   **Cutover Warranties** | Cutover warrants and undertakes that:

(a)   it has the legal power to, and hereby does, enter into this Agreement validly and with all due authority;

(b)   it and its Affiliates have and will maintain all necessary licenses, consents, and permissions necessary for the performance of Cutover's obligations under this Agreement;

(c)   it will comply with all applicable laws and regulations with respect to its obligations under this Agreement;

(d)   it will provide the Cutover Services using Good Industry Practice, utilising properly skilled and experienced Personnel; and

(e)   the purchased Cutover Services (relevant to Customer's Subscription) will conform materially to all descriptions and specifications provided in this Agreement and the Documentation.

4.   CUSTOMER RESPONSIBILITIES

4.1   **Customer Obligations** | Customer shall:

(a)   promptly provide Cutover with all necessary co-operation in relation to this Agreement, and all necessary access to such information as may be required by Cutover to provide the Cutover Services, including but not limited to Customer Data, security access information and configuration services;

(b)   without affecting its other obligations under this Agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement, including its and its Users' use and receipt of the Cutover Services;

(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 Customer's provision of such assistance as agreed by the Parties, Cutover may adjust any agreed timetable or delivery schedule as reasonably necessary;

(d)   ensure that the Users use the Cutover Services and the Documentation in accordance with the terms and conditions of this Agreement and Customer and shall be directly responsible for any User's breach of this Agreement;

(e)   obtain and shall maintain all necessary licences, consents, and permissions necessary for Cutover, any appointed subcontractors and the Approved Sub-Processors, to perform their obligations under this Agreement, including to provide the Subscription Service; and

(f) to the extent permitted by law and except as otherwise expressly provided in this Agreement, be solely responsible for (i) procuring, maintaining and securing its network connections and telecommunications links to enable it to access the Subscription Service, and (ii) all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Customer's network connections or telecommunications links, or as otherwise caused by the internet.

4.2 **Authority** | Customer warrants that it has the legal power to, and hereby does, enter into this Agreement (including in terms of purchasing its Subscription) validly and with all due authority. The person who purchases the Subscription via Marketplace has the express authority to do so and to bind Customer.

4.3 **PROCUREMENT SELECTION** | CUSTOMER ACCEPTS RESPONSIBILITY FOR THE SELECTION OF THE APPLICABLE CUTOVER SERVICES (INCLUDING, WITHOUT LIMITATION, THE SUBSCRIPTION SERVICE) TO ACHIEVE ITS INTENDED RESULTS, AND ACKNOWLEDGES THAT THE SUBSCRIPTION SERVICE (AS A STANDARD, NON-EXCLUSIVE, SOFTWARE-AS-A-SERVICE SOLUTION) AND ALL OTHER CUTOVER SERVICES ARE SOLD TO NUMEROUS ORGANISATIONS (INCLUDING COMPETITORS OF CUSTOMER) AND HAVE NOT BEEN DESIGNED OR DEVELOPED TO MEET CUSTOMER'S INDIVIDUAL REQUIREMENTS. THE PROVISION OF ALL CUTOVER SERVICES ARE SUBJECT TO THE DISCLAIMERS AND RESTRICTIONS SET OUT IN CLAUSE 13.

5. CHARGES & PAYMENT

5.1 **Charges** | The Charges for the Cutover Services applicable to Customer's Subscription are as stated in the Marketplace Listing. Cutover shall be entitled to increase or otherwise update the Charges published in the Marketplace Listing at its discretion from month to month. If Customer selects automatic renewal, the Charges for each month (or other applicable period) will be as published in Marketplace at the commencement of the next renewal period. Unless Customer has selected monthly billing via Marketplace for its Subscription (in which case it will be billed via Marketplace), all Charges under this Agreement are due and payable to Cutover within thirty (30) days of the date of Cutover's invoices that will be sent to the Customer's nominated billing email (as nominated upon purchase of its Subscription). All Charges that remain unpaid after the due date for payment will accrue interest at the highest rate permitted by applicable law. Cutover reserves the right to assign its right to receive payments under this Agreement to a third party with notice to Customer but without its consent. For purpose of such assignment, such third party shall be considered a third party beneficiary of the payment obligation under this Agreement.

5.2 **Additional Limit Fees** | Additional Limit Fees, including in respect of Overages, will be charged via the Marketplace or invoiced to Customer in accordance with the terms of Clause 2.3.

5.3 **Taxes** | All Charges quoted in the Marketplace Listing or otherwise invoiced are exclusive of all sales, use, value-added, goods and services, withholding and other taxes or duties (collectively, "**Taxes**"). Customer shall pay or self-assess all Taxes assessed in connection with this Agreement and its performance, except for Taxes payable on Cutover's or its Affiliates' net income. To the extent that any amounts payable by Customer are subject to withholding taxes, the amount payable shall be grossed up such that the amount paid to Cutover net of withholding taxes equals the amount invoiced by Cutover. If Customer pays any withholding taxes based on payments made by Customer to Cutover hereunder, Customer will furnish Cutover with written documentation of all such tax payments, including receipts and other customary documentation, to demonstrate to the relevant tax authorities that it has paid such taxes. If applicable, Customer shall also provide Cutover with appropriate VAT/GST registration numbers and other documentation satisfactory to the applicable taxing authorities to substantiate any claim of exemption from any Taxes. Customer agrees to indemnify Cutover from liabilities, damage, costs, fees and expenses, arising out of or resulting from any third-party claims based on or otherwise attributable to Customer's breach of this Clause 5.3.

5.4 **Refunds** | Customer is responsible for payment in full of all Charges for the Subscription Term. Payment obligations are non-cancellable, and Charges are non-refundable and will not be prorated upon termination unless expressly provided for in this Agreement.

5.5 **Marketplace Listing** | Cutover may change the terms of the applicable Marketplace Listing by publishing updated terms on Marketplace (including increases in Charges and changes to the terms of this Agreement).

6. TERM & TERMINATION

6.1 **Subscription Term** | This Agreement commences on the Subscription Date and continues in force until (i) Customer terminates its Subscription via Marketplace, or (ii) either Party gives the other Party thirty (30) days' advance written notice of its intention to terminate, in each case the effective date of termination shall be at the end of the month at the conclusion of the applicable notice period (the Subscription Date until the effective date of termination, the "**Subscription Term**").

6.2 **Termination for Cause** | Without affecting any other right or remedy available to it, the relevant Party (as indicated below) may terminate this Agreement with immediate effect by giving written notice to the other Party:

(a) in the case of Cutover – if Customer fails to pay any validly issued (and undisputed) invoice or any other amount payable to Cutover, in each case, on the due date for payment and remains in default for five (5) days after being notified in writing to make such payment;

(b) in the case of either Party – if the other Party commits a material breach of any term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so; or

(c) in the case of either Party – if the other Party becomes the subject of a petition in bankruptcy, or has a receiver, administrative receiver or an administrator appointed, passes a resolution for winding up or a court of competent jurisdiction making an order to that effect, becomes subject to an administration order, enters into a voluntary arrangement with its creditors or anything substantively equivalent to the foregoing occurs under national or local law, except where for the purposes of a solvent and bona fide amalgamation or reorganisation.

6.3 **Effect of Termination** | On termination of this Agreement for any reason:

(a) all rights of access and licences granted under this Agreement shall immediately terminate (and may be disabled or discontinued by Cutover) and Customer shall immediately cease all use of (as applicable) the Cutover Services and the Documentation that are subject to a non-exclusive licence;

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

(c) Cutover will destroy, delete or otherwise securely dispose of any of the Customer Data in its possession (to the extent technically possible and in accordance with the deletion of Confidential Information particulars set out in Clause 7.6 (*Return of Confidential Information*));

(d) Customer shall immediately pay Cutover any Charges, taxes or other amounts due or outstanding, or Charges in respect of Overage up to the effective date of termination which Cutover shall promptly invoice to Customer; and

(e) 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.

6.4 **Survival** | In addition to any provisions that expressly survive, the following provisions shall survive the expiration or termination of this Agreement: Clauses 5 (*Charges & Payment*), 6 (*Term & Termination*), 7 (*Confidentiality*), 8 (*Data Protection & Security*), 10 (*Proprietary Rights*), 12 (*Limitation of Liability*), 15 (*Governing Law & Jurisdiction*), 16 (*Notices*) and 17 (*General*).

7. CONFIDENTIALITY

7.1 **Confidentiality Undertaking** | Each Party (as the context requires, "**Receiving Party**") may directly or indirectly receive or have access to the Confidential Information of the other Party ("**Disclosing Party**") in connection with its provision or receipt of Cutover Services, or otherwise through the performance or exercise of its obligations and rights under this Agreement. Subject to the terms of this Clause 7 (*Confidentiality*), Receiving Party undertakes to keep all such Confidential Information of Disclosing Party confidential and agrees not to use it other than in the exercise and performance of its rights and obligations under this Agreement ("**Purpose**").

7.2 **Permitted Disclosure** | Subject to the other provisions of this Clause 7 (*Confidentiality*), Receiving Party shall not disclose any Confidential Information of Disclosing Party to any person or third-party, other than:

(a) its and its Affiliates' employees, officers, Users, individual contractors and other representatives (collectively, "**Personnel**") who need to know it strictly for the Purpose, provided all such Personnel are subject to a written obligation of confidentiality to Receiving Party (or its Affiliates, as the context requires) and are informed of the confidential nature of all such Confidential Information disclosed to them. Receiving Party shall ensure that its Personnel are aware of and shall procure their compliance with this Clause 7;

(b) its and its Affiliates' legal, financial and other professional advisers (collectively, "**Advisers**"), provided all such Advisers are subject to a written obligation of confidentiality to Receiving Party (or its Affiliates, as the context requires);

(c) in relation to Cutover as Receiving Party – to any subcontractor authorized by Customer or Sub-Processor who needs to know it strictly for the Purpose, provided any such third-party has first entered into a written obligation of confidentiality to Cutover or its Affiliates in terms substantially similar to Clause 7.1 that Cutover will ensure is complied with.

7.3 **Standard of Care** | Receiving Party shall protect Disclosing Party's Confidential Information with the same degree of care that Receiving Party uses to protect its own Confidential Information of a similar nature, which shall never be less than a reasonable standard. Receiving Party shall promptly notify Disclosing Party if it becomes aware of any unauthorized use or disclosure of the Disclosing Party's Confidential Information, and reasonably cooperate with Disclosing Party in attempts to limit further onward unauthorized disclosure.

7.4 **Compelled Disclosure** | Receiving Party may disclose Confidential Information of Disclosing Party if and to the extent compelled by law, governmental or regulatory authority or by a court or other authority of competent jurisdiction to do so, provided that the minimum amount of Confidential Information compelled to be disclosed is disclosed and the Receiving Party gives Disclosing Party reasonable prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if Disclosing Party wishes to contest the disclosure, request protective orders, confidential treatment or other appropriate remedy regarding such disclosure. Disclosure of any Confidential Information pursuant to any legal requirement will not be deemed to render it non-confidential, and Receiving Party's obligations with respect to Confidential Information of Disclosing Party will not be varied or lessened by virtue of any such disclosure.

7.5 **Securities Regulation Disclosure** | Cutover shall have the right to disclose the existence and terms of this Agreement: (i) in any prospectus, offering memorandum, or other document required by law or securities regulations, (ii) to any current or prospective investors, acquirers or collaborators (provided that a recipient of any such disclosure shall be subject to appropriate obligations of confidentiality and non-use), or (iii) as otherwise required by applicable law or regulation.

7.6 **Return of Confidential Information** | Subject to encrypted data retention in accordance with Clause 8.9, promptly (and, in any event, within thirty (30) days) following the earlier of (i) the expiration or termination of this Agreement, or (ii) the written request of Disclosing Party, Receiving Party will return to Disclosing Party, or, at Disclosing Party's option, destroy all Confidential Information of Disclosing Party that is in written, electronic or other tangible form, including, without limitation, all copies, extracts and derivatives of such Confidential Information. In addition, upon the request of Disclosing Party, Receiving Party will certify to Disclosing Party in writing, Receiving Party's and its Personnel's compliance with its obligations pursuant to this Clause 7.6. Although Receiving Party shall return and/or destroy Confidential Information as described above, the Parties acknowledge and agree that, due to the nature of computer information storage systems and email communications, even if a file is "deleted", a shadow or backup copy may remain within Receiving Party's computer systems or its backup systems.

7.7 **Service Feedback** | Any suggestions, ideas, feedback, proposals, content or other material provided by Customer, its Affiliates and the Users via or in connection with the Subscription Service and any other Cutover Services, whether solicited or unsolicited (collectively, "**Feedback**"), shall be deemed to be not confidential and non-proprietary. Cutover shall not be liable for the disclosure, use, transmission or exploitation of any Feedback. Customer hereby grants to Cutover, and will procure that its Affiliates, Users and other representatives grant, a worldwide, non-exclusive, perpetual, irrevocable, royalty-free and transferable right and licence to incorporate, use, publish and exploit the Feedback for any purpose whatsoever, commercial or otherwise, without compensation or accounting to Customer, Customer Affiliates, Users or other relevant individuals.

7.8 **Customer Confirmation** | Customer permits Cutover and/or its Affiliates to disclose (verbally or in writing) that Customer is a customer of Cutover (by legal entity name only) to Cutover's and each of its Affiliates' board of directors, clients, partners and investors, and potential clients, partners and investors.

7.9 **Customer Properties** | For Subscription Term, Customer grants to Cutover a royalty-free, limited, non-exclusive, non-sublicensable licence to use Customer's company name, logo and/or relevant trademarks ("**Customer Properties**") to market and promote the Cutover Services purchased by Customer, including the right to refer to Customer as a user of Cutover Services, to add the Customer Properties to Cutover's customer list and website at **www.cutover.com**. Cutover will comply with Customer's reasonable marketing and brand guidelines, and will use Customer's preferred form of logo providing the same are sent by email to Cutover's Legal Notice Email. Customer can communicate updates to its logos and marketing and brand guidelines in the same manner during the Subscription Term.

8. DATA PROTECTION & SECURITY

8.1 **Data Protection Law** | The Parties acknowledge and agree that with respect to the processing of Customer's Personal Data for the provision of Cutover Services, Customer is a Controller and Cutover is a Processor. With respect to each Party, in relation to the processing of Personal Data of business contact information of the other Party's representatives in the ordinary course of business (including in relation to purchase of the Subscription and any related discussions) (the "**Excluded Processing Activities**"), Cutover and Customer are independent Controllers and each Party will comply with its own Controller obligations. Excluded Processing Activities will be undertaken by Cutover in accordance with its Privacy Policy.

8.2 **Customer Obligations** | Customer will ensure: (a) that it has all necessary appropriate safeguards, consents and notices in place to enable the lawful transfer of Personal Data to Cutover for the duration and purposes of this Agreement; and (b) its instructions to Cutover for processing of Personal Data comply with applicable Data Protection Law. Customer shall not submit any sensitive Personal Data into the Subscription Service or any: (i) consumer reports as defined in the US Fair Credit Reporting Act, as amended ("**FCRA**"), (ii) protected health information as defined under the US Health Insurance Portability and Accountability Act, as amended ("**HIPAA**") that has not been de-identified in compliance with HIPAA, (iii) non-public personal information as defined under the US Gramm-Leach-Bliley Act, as amended ("**GLBA**"), or (iv) special categories of personal data (sensitive personal data) as defined in the GDPR and/or the UK GDPR.

8.3 **Cutover Obligations** | In the provision of Cutover Services, Cutover shall:

(a) process Personal Data in accordance with Customer's documented instructions unless such instructions are contrary to applicable law and only for the performance of this Agreement, the subject matter and scope of which is set forth in **Schedule 2** (*Data Processing Addendum*);

(b) not transfer any Personal Data from the United Kingdom, the EEA or Switzerland to a third country which the UK Data Protection Authority, EU Commission or Swiss Data Protection Authority (as applicable) has not provided an adequacy decision as having an adequate level of protection unless Cutover has provided appropriate safeguards under Data Protection Law in relation to the transfer including, but not limited to, the entry into an Approved Transfer Mechanism;

(c) to the extent required by Data Protection Law, assist Customer in ensuring compliance with Customer's Controller obligations under Data Protection Law taking into account the nature of the processing and information available to Cutover;

(d) make available to Customer all information necessary to demonstrate compliance with Cutover's obligations under the Data Protection Law and allow for and contribute to audits, including inspections, conducted by Customer or a third party auditor mandated by Customer;

(e) ensure that its Personnel authorized to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

(f) at the written direction of Customer, delete or return Personal Data and copies thereof to Customer on expiry or termination of the Agreement unless required by applicable law to store the Personal Data and subject to encrypted backup retention in accordance with Clause 8.9;

(g) maintain complete and accurate records and information to demonstrate its compliance with this Clause 8 and immediately inform Customer if, in the opinion of Cutover, an instruction infringes the Data Protection Law;

(h) confirm receipt of any data subject rights request, promptly forward the request to Customer and, to the extent possible taking into account the nature of processing, assist the Customer in its obligations to respond to requests for the exercise of the rights of data subjects; and

(i) provide reasonable cooperation and assistance to Customer with respect to its obligations as a Controller in the carrying out of any data protection impact assessments and consultations with its supervisory authority.

8.4 **Approved Sub-Processors** | Customer consents to Cutover (or its Affiliates, as the context requires) appointing each of the Sub-Processors set out in **Schedule 3** (*Approved Sub-Processors*) as third-party processors of Personal Data under this Agreement on a **general authorisation basis**. Cutover confirms that either it or its Affiliates has entered into or (as the case may be) will

enter into a written agreement with the third-party processor which Cutover confirms will or does reflect and will continue to reflect the requirements of the Data Protection Law. As between Customer and Cutover, Cutover shall remain fully liable for all acts or omissions of all Sub-Processors appointed by it or its Affiliates pursuant to this Clause 8.

8.5 **New Sub-Processors** | In accordance with the grant of the general authorisation, Customer agrees that Cutover may appoint additional Sub-Processors provided that Cutover will give Customer **thirty (30) days** advance written notice of any proposed additional or replacement Sub-Processors ("**Notification Period**") via (i) the Marketplace, or (ii) to Customer's Legal Notice Email. Customer may object to any such additional or replacement Sub-Processor within the Notification Period by terminating the Agreement pursuant to Clause 6.1. In the event of termination by the Customer, Cutover will not use the applicable Sub-Processor(s) in the provision of Cutover Services to Customer for the remainder of the Subscription Term. If Customer has not terminated this Agreement during the Notification Period, Customer agrees that it shall be deemed to have authorized each of the new or replacement Sub-Processors and **Schedule 3** (*Approved Sub-Processors*) shall be deemed to have been updated accordingly.

8.6 **Security Measures** | In providing the Cutover Services, Cutover shall:

(a) comply with the measures and standards set out in its then current Security Policy and test the effectiveness of such security measures (at least once annually); and

(b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorized or unlawful processing of Customer Data and against accidental loss or destruction of, or damage to, Customer Data, appropriate to the harm that might result from the unauthorized or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Customer Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

8.7 **Testing & Security Assessments** | During the Subscription Term, Cutover will conduct annual penetration testing or other regular security testing and assessments of the Subscription Service in accordance with Good Industry Practice and its security certifications.

8.8 **Security Incident Notification** | Cutover will notify Customer without undue delay (and, in any event, within any time period required by applicable law) upon becoming aware of any Security Incident. Cutover will keep records of its investigation of the Security Incident including identifying the impact of the Security Incident and the steps Cutover takes to mitigate the effects of any such Security Incident.

8.9 **Backup Data Retention** | Unless Customer requests otherwise in writing and subject to any requirements to the contrary under applicable law:

(a) Customer Data will be deleted from Cutover's live production database within thirty (30) days of the termination of this Agreement; and

(b) Cutover's encrypted database backups may be retained for a thirty (30) day preservation window and shall then be deleted (to the extent technically possible and in accordance with Good Industry Practice) by Cutover on an automated rolling basis.

8.10 **Third Country Transfers** | If Customer's use of the Cutover Services involves a transfer of Personal Data from the United Kingdom, EEA or Switzerland to a Cutover entity in a third country which the UK Data Protection Authority, EU Commission or Swiss Data Protection Authority (as applicable) has not provided an adequacy decision as having an adequate level of protection, the Parties agree that the terms set forth at **Schedule 4 (***Approved Transfer Mechanism***)** shall apply.

8.11 **California Consumer Privacy Act (CCPA) |** To the extent applicable, Cutover represents and warrants to Customer that (i) it is acting as a service provider in connection with this Agreement with respect to any California User Data, and (ii) it receives such California User Data from Customer pursuant to and solely for the provision of Cutover Services and its legitimate business purposes. To the extent applicable, Customer represents and warrants to Cutover that it is (i) acting as a business in connection with this Agreement with respect to any California User Data, and (ii) sharing and making available to Cutover the California User Data pursuant to and solely for a legitimate business purpose and in accordance with the CCPA. Cutover shall not sell, retain, use or disclose California User Data (x) for any purpose (commercial or otherwise) other than for the specific purpose of providing the Cutover Services and performing its obligations under this Agreement, or (y) outside of the direct business relationship between Cutover and Customer. Cutover certifies that it understands and will comply with the restrictions in the foregoing sentence. Additionally, Cutover confirms that its Sub-Processors are acting as service providers and have entered into written contracts with Cutover containing terms with substantially similar effect to those in this clause restricting Sub-Processor's use of California User Data. As used in this clause, "**California User Data**" means the personal information of consumers (whether the Users or other representatives) of Customer or its Affiliates provided or made available by Customer to Cutover in connection with this Agreement and the provision of Cutover Services. "**CCPA**" means the California Consumer Privacy Act 2018, Cal. Civ. Code § 1798.100 et seq as amended by the California Privacy Rights Act of 2020, and any regulations promulgated thereunder, in each case, as amended from time to time. The terms "**business**", "**business purpose**", "**consumer**", "**personal information**", "**sell**" and "**service provider**" have the meaning given to each term in the CCPA.

9. CUTOVER PERSONNEL

9.1 **Background Screening** | Unless prohibited by applicable law in the location of employment, Cutover shall conduct appropriate pre-employment screening and/or background checks on its Personnel who need to have Production-Level Access to Customer Data to provide the Subscription Service to Customer. Such background screening checks shall be conducted by a reputable third party screening provider and shall be carried out before access is given to the relevant individual. In no event shall Cutover knowingly allow any person to be assigned to have access to Customer Data who has a conviction for any violent crime or

crime involving theft, dishonesty, moral turpitude, breach of trust, or money laundering. For the purposes of this clause, "**Production-Level Access**" means direct, logical and real-time daily access.

10. PROPRIETARY RIGHTS

10.1 **Customer Data** | Customer shall own all right, title and licence in and to all of its 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. In using the Subscription Service, Customer shall retain all right, title and licence in and to the Customer Data.

10.2 **Licence to Customer Data** | For the Subscription Term and then for the backup data retention period in Clause 8.9, Customer hereby grants to Cutover a non-exclusive, sub-licensable, royalty-free, worldwide right and license to collect, process, store, host, copy, transmit, display, distribute, disseminate, modify, and create derivative works of the Customer Data strictly for the purposes of: (a) providing the Cutover Services to Customer, and (b) performing analytics on Customer Data and Customer's Users' use of the Subscription Service (i) in accordance with the Subscription Service functionality, to display and report the results of such analysis to Customer (including through the Subscription Service), and (ii) to develop, test, improve and evolve the functionality of the Subscription Service and other Cutover Services.

10.3 **Cutover Services** | This is an agreement for access to and use of the Subscription Service and Documentation (and, as applicable, other Cutover Services). Cutover, its Affiliates and/or their licensors remain the sole owner of all intellectual property rights and other right, title, and interest in the Documentation, Cutover trade marks, Cutover Services, including the Subscription Service and related software. Except as expressly stated herein, this Agreement does not grant 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 licenses in respect of the Cutover Services or the Documentation.

10.4 **Usage Analytics** | Cutover shall be entitled to produce aggregated analytics from the Users' use of the Subscription Service which may include usage monitoring to derive User heat map data and the production of aggregated and anonymised data, created, generated and/or derived from the Users' use of the Subscription Service (collectively "**Derived Data**"). Cutover shall own all right, title and interest in and to any Derived Data, and shall retain the unrestricted right to utilise such Derived Data for any purpose, without compensation or accounting to Customer. If Cutover does not automatically own any Derived Data upon its creation, Customer hereby assigns all right, title and interest in and to such Derived Data to Cutover. **Derived Data shall not include any Personal Data, Customer Confidential Information or Customer identifiers.**

10.5 **Third-Party Websites** | Customer acknowledges that the Subscription Service may enable or assist it to access the website content of, correspond with, and purchase products and services from, third-parties via third-party websites and that it does so solely at its own risk. Cutover makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by Customer, with any such third-party. Any contract entered into and any transaction completed via any third-party website is between Customer and the relevant third-party, and not Cutover. Cutover recommends that Customer refers to the third-party's website terms and conditions and privacy policy prior to using the relevant third-party website. Cutover does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Subscription Service.

10.6 **Self-Serve Integrations** | If Customer chooses to use or connect a Third-Party Application with the Subscription Service ("**Self-Serve Integration**") through the use of the Developer API, Customer grants Cutover permission and all necessary rights to allow the Third-Party Application and the relevant Customer Provider to access Customer Data and any applicable information about Customer's use of the Third-Party Application as required for the interoperation of the Third-Party Application with the Subscription Service. Implementation and/or use of each Self-Serve Integration by Customer via the Developer API is subject to the applicable terms of **Schedule 5** (*Developer API Terms*) and otherwise the terms of this Agreement.

11. INDEMNIFICATION

11.1 **Cutover Indemnity** | Subject to Clauses 11.4 and 11.5, and the conditions at Clause 11.3, Cutover shall defend and indemnify Customer, its Affiliates (if applicable) and Users, against any claim that Customer's use of the Subscription Service in accordance with this Agreement infringes any patent effective in the United Kingdom or United States of America as of the Subscription Date, copyright, trade mark or database right, and shall indemnify Customer for any amounts awarded against Customer in final judgment or settlement of such claims. Cutover shall have full control of all claims and the authority to settle or otherwise dispose of all claims. In no event, however, may Cutover agree to settlement of any claim if such settlement would impose any liability or obligation upon Customer, or make any admission of liability on behalf of Customer, without Customer's prior, written consent (such consent not to be unreasonably conditioned, withheld or delayed).

11.2 **Customer Indemnity** | Subject to the conditions at Clause 11.3, Customer shall defend and indemnify Cutover 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 use of the Cutover Services and/or Documentation by Customer, its Affiliates (if applicable) and Users.

11.3 **Conditions** | If any third-party makes a claim, or notifies an intention to make a claim against a Party (the "**Indemnitee**"), the obligations of the other Party (the "**Indemnitor**") under Clauses 11.1 and 11.2 (respectively) are conditional on the Indemnitee:

    (a) as soon as reasonably practicable, giving written notice of the claim to the Indemnitor, specifying the nature of the claim in reasonable detail and allowing the Indemnitor to take full control of the claim;

    (b) not making any admission of liability, agreement or compromise in relation to the claim without the prior written consent of the Indemnitor (such consent not to be unreasonably conditioned, withheld or delayed);

    (c) using reasonable efforts to mitigate any damages, costs, losses, liabilities and expenses resulting from any relevant claim; and

(d)   giving the Indemnitor and its Advisers reasonable assistance and access at reasonable times (on prior notice) to the relevant documents and records within its power of control, so as to enable it and its Advisers to examine the same and to take copies (at the Indemnitor's expense) for the purpose of assessing, defending and/or settling the claim.

11.4   **Replacement or Modification** | In the defence or settlement of any claim, or should the Subscription Service become or in Cutover's opinion be likely to become the subject of an infringement claim, Cutover may (at its option) eliminate such infringement by procuring the right for Customer to continue using the Subscription Service (or relevant part thereof), replace or modify the Subscription Service so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this Agreement on ten (10) days' written notice to Customer and provide a pro-rata refund of all prepaid but unused Charges (but without any additional liability or obligation to pay liquidated damages or other additional costs to Customer).

11.5   **Exclusions** | In no event shall Cutover, its Affiliates or Personnel, any appointed subcontractor or the Sub-Processors be liable to Customer under this Clause 11 or any other term of this Agreement to the extent that the alleged infringement is based on or arose as a result of:

(a)   a modification of the Subscription Service or Documentation by anyone other than Cutover;

(b)   Customer's or Users' use of the Subscription Service or Documentation in a manner contrary to the instructions given by Cutover or contrary to any of the disclaimers or restrictions set forth in this Agreement;

(c)   Customer's or Users' use of the Subscription Service or Documentation after notice of the alleged or actual infringement from Cutover or any appropriate authority;

(d)   any Third Party Application or Customer Data;

(e)   fraud, fraudulent misrepresentation, negligence or the wilful misconduct of Customer or a User; or

(f)   any act or omission of a Customer Provider.

11.6   **EXCLUSIVE REMEDY** | THE FOREGOING AND CLAUSE 12 STATE CUSTOMER'S SOLE AND EXCLUSIVE RIGHTS AND REMEDIES, AND CUTOVER'S (INCLUDING CUTOVER'S AFFILIATES', PERSONNEL, SUBCONTRACTORS AND SUB-PROCESSORS) ENTIRE OBLIGATIONS AND LIABILITY, FOR INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE MARK, DATABASE RIGHT OR OTHER INTELLECTUAL PROPERTY RIGHT.

12.   LIMITATION OF LIABILITY

12.1   **APPLICABILITY** | NOTHING IN THIS CLAUSE 12 (OR OTHERWISE IN THIS AGREEMENT) LIMITS OR EXCLUDES A PARTY'S LIABILITY FOR (I) DEATH, PERSONAL INJURY, DAMAGE OR DESTRUCTION TO PROPERTY CAUSED BY A PARTY'S NEGLIGENCE, (II) MISAPPROPRIATION OF THE OTHER PARTY'S OR ITS AFFILIATES' INTELLECTUAL PROPERTY RIGHTS, (III) ITS FRAUD OR FRAUDULENT MISREPRESENTATION, (IV) ITS PAYMENT OBLIGATIONS, OR (V) ANY OTHER CAUSE OF ACTION FOR WHICH A PARTY'S LIABILITY CANNOT BE LAWFULLY LIMITED OR EXCLUDED.

12.2   **EXCLUSIONS** | TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER CUTOVER NOR CUSTOMER WILL BE LIABLE TO THE OTHER OR ANY THIRD-PARTY FOR LOST PROFITS (DIRECT OR INDIRECT), FOR LOSS OF OR USE OF DATA, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, BUSINESS OPPORTUNITIES, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION, EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE OR IF SUCH DAMAGES WERE FORESEEABLE.

12.3   **LIMITATION OF LIABILITY** | TO THE EXTENT PERMITTED BY APPLICABLE LAW, IF EITHER PARTY IS DETERMINED TO HAVE ANY LIABILITY TO THE OTHER PARTY OR ANY THIRD-PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT (WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL OR EQUITABLE THEORY), THE PARTY'S AGGREGATE LIABILITY, OR THAT OF ITS OFFICERS, DIRECTORS, EMPLOYEES, PERSONNEL AND OTHER REPRESENTATIVES, WILL BE LIMITED TO THE GREATER OF (I) THE AMOUNTS PAID BY CUSTOMER TO CUTOVER FOR USE OF THE CUTOVER SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY AND (II) ONE HUNDRED BRITISH POUNDS (£100). MULTIPLE CLAIMS WILL NOT ENLARGE THE FOREGOING LIMIT.

13.   DISCLAIMERS & RESTRICTIONS

13.1   **GENERAL DISCLAIMER** | EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT (INCLUDING AS STATED IN CLAUSE 3.3), NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND (EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, ORAL OR WRITTEN, INCLUDING WARRANTIES OF MERCHANTABILITY, ACCURACY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING, OR COURSE OF PERFORMANCE), AND EACH PARTY SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

13.2   **SERVICE DISCLAIMER** | CUTOVER DOES NOT WARRANT THAT THE OPERATION OF THE CUTOVER SERVICES WILL BE ERROR-FREE, UNINTERRUPTED OR CONTINUOUS OR THAT THEY ARE COMPATIBLE WITH CUSTOMER'S SYSTEMS (OTHER THAN AS SPECIFIED IN THE DOCUMENTATION), NOR THAT THE CUTOVER SERVICES WILL MEET CUSTOMER'S OR ITS AFFILIATES' BUSINESS REQUIREMENTS. CUSTOMER AGREES THAT THE CUTOVER SERVICES WILL NOT BE CATEGORIZED AS "CRITICAL" TO THE BUSINESS OF CUSTOMER. CUSTOMER ASSUMES SOLE RESPONSIBILITY FOR RESULTS OBTAINED FROM ITS USE OF THE CUTOVER SERVICES AND THE DOCUMENTATION, AND FOR CONCLUSIONS DRAWN FROM ALL SUCH USE. CUTOVER SHALL HAVE NO LIABILITY FOR ANY LOSS, LIABILITY OR DAMAGE CAUSED BY ERRORS OR OMISSIONS IN ANY INFORMATION, INSTRUCTIONS OR TEMPLATES (INCLUDING RUNBOOKS) PROVIDED BY CUTOVER TO CUSTOMER OR DERIVED BY CUSTOMER IN CONNECTION WITH THE CUTOVER SERVICES, OR ANY ACTIONS TAKEN BY CUTOVER AT CUSTOMER'S DIRECTION. CUSTOMER ACKNOWLEDGES THAT COMPLETE ACCURACY CANNOT BE GUARANTEED AND THAT ERRORS AND DELAYS ARE INHERENT IN THE PROVISION OF SOFTWARE, DATA PROCESSING AND TELECOMMUNICATIONS SERVICES. CUTOVER SHALL NOT BE RESPONSIBLE OR LIABLE FOR VERIFICATION OF, OR ANY

ERRORS (FACTUAL OR OTHERWISE) CONTAINED IN, ANY CUSTOMER DATA OR OTHER INFORMATION PROVIDED TO CUTOVER BY CUSTOMER, ITS AFFILIATES, USERS, ANY CUSTOMER PROVIDER OR OTHER THIRD PARTY ACTING ON BEHALF OF CUSTOMER. CUSTOMER ACKNOWLEDGES AND AGREES THAT CUTOVER WILL HAVE NO LIABILITY TO CUSTOMER, ITS AFFILIATES OR ANY THIRD-PARTY IN CONNECTION WITH ANY OF THE FOREGOING PERSON'S REGULATORY COMPLIANCE OBLIGATIONS OR BURDENS, AND THAT THIS AGREEMENT SHALL NOT TRANSFER NOR BE DEEMED TO TRANSFER ANY SUCH RESPONSIBILITY TO CUTOVER, ITS AFFILIATES AND THE SUB-PROCESSORS.

13.3 **FAIL-SAFE PERFORMANCE |** CUTOVER DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE OR OTHER CUTOVER SERVICES ARE DESIGNED FOR ANY PURPOSE REQUIRING FAIL-SAFE PERFORMANCE FOR WHICH FAILURE COULD RESULT IN DEATH, PERSONAL INJURY OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE (INCLUDING, WITHOUT LIMITATION, MEDICAL EQUIPMENT, DEVICES OR PROCEDURES, AVIATION, VEHICULAR OPERATION, HEAVY INDUSTRY OR MANUFACTURING).

13.4 **THIRD PARTY APPLICATIONS |** THE SUBSCRIPTION SERVICE MAY CONTAIN FEATURES DESIGNED TO INTEROPERATE WITH THIRD PARTY APPLICATIONS. CUTOVER DOES NOT WARRANT AND CANNOT GUARANTEE THE CONTINUED AVAILABILITY OF SUCH FEATURES (OR OF THE CONTINUED OPERATION OF ANY SELF-SERVE INTEGRATIONS IN RELATION TO THE SAME) AND MAY CEASE PROVIDING SUCH FEATURES AT ANY TIME FOR ANY REASON. IN SUCH CIRCUMSTANCES, THE AGREEMENT WILL REMAIN IN FORCE (ABSENT THE RELEVANT FEATURE). IN SUCH CIRCUMSTANCES, CUSTOMER SHALL NOT BE ENTITLED TO ANY REFUND, CREDIT OR OTHER COMPENSATION. CUTOVER GIVES NO WARRANTIES OR GUARANTEES IN RELATION TO ANY SELF-SERVE INTEGRATION CUSTOMER SEEKS TO IMPLEMENT OR MAINTAIN.

13.5 **SELF-SERVE INTEGRATIONS |** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CUTOVER SHALL NOT BE RESPONSIBLE OR LIABLE TO CUSTOMER, ITS AFFILIATES OR ANY THIRD PARTY IF ANY SELF-SERVE INTEGRATION IMPLEMENTED BY CUSTOMER CAUSES: (A) ANY CUTOVER SERVICE TO FAIL TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS AGREEMENT, INCLUDING A FAILURE OF THE SUBSCRIPTION SERVICE TO MEET THE SLA, (B) ERRORS OR DEFECTS IN ANY CUTOVER SERVICE, (C) ANY CORRUPTION OR LOSS OF CUSTOMER DATA, OR (D) ANY UNAUTHORIZED DISCLOSURE OF CUSTOMER DATA OR CUSTOMER CONFIDENTIAL INFORMATION.

14. INSURANCE

14.1 **Required Cover |** For the Subscription Term, Cutover (or its Affiliates) shall maintain insurance (providing cover in respect of Cutover and its Affiliates) with responsible insurers against such risks and in such amounts that could reasonably be expected to be carried by persons acting prudently and in a similar business to that of Cutover.

15. GOVERNING LAW & JURISDICTION

15.1 **Governing Law & Jurisdiction |** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles. The Parties to this Agreement irrevocably consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction in New York City, New York to adjudicate any dispute arising out of or relating to this Agreement (including any non-contractual disputes or claims). The Parties expressly waive any objection to the jurisdiction or convenience of such courts.

15.2 **Exclusions |** To the extent permitted by applicable law, the United Nations Convention on Contracts for the International Sale of Goods shall not apply. Notwithstanding the foregoing, either Party to this Agreement may, at any time, and without waiving any other rights under this Agreement, seek appropriate legal or equitable relief, including but not limited to, emergency interim and/or injunctive relief, in any court of competent jurisdiction to protect its intellectual property rights.

16. NOTICES

16.1 **Notices |** Subject to Clause 16.3, any notice required to be given under this Agreement, shall be in writing and shall be sent, **in the case of notices to Customer:** either (i) through the relevant Marketplace, or (ii) by email to Customer's contact email provided upon purchase of the Subscription, and **in the case of notices to Cutover:** to **contract.notices@cutover.com**, (in respect of each Party, the relevant email address(es), their "**Legal Notice Email**").

16.2 **Delivery |** Any notice shall be deemed to have been duly received on the day that the sender can evidence the email was successfully sent to the other Party's Legal Notice Email.

16.3 **Service of Proceedings |** Clause 16.1 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, which the Parties agree shall be sent by registered post or courier to the other Party's postal address as stated below, with a copy of all documentation being sent by email to that Party's Legal Notice Email.

Cutover Postal Address:	Cutover Inc.
	43 West 23rd Street, New York, NY 10010, USA
	Attn: VP Legal
	Copy by email to Cutover's Legal Notice Email (contract.notices@cutover.com).
Customer Postal Address:	As given upon purchase of Subscription. Attn: Legal Department.
	Copy by email to Customer's Legal Notice Email.

17. GENERAL

17.1   **Variation** | No variation of this Agreement shall be effective unless it is in writing and signed by authorized representatives of the Parties.

17.2   **Waiver** | No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. A waiver is not valid or binding on the other Party granting that waiver unless made in writing.

17.3   **Severance** | If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

17.4   **Force Majeure** | Neither Party shall in any circumstances 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 results from events, circumstances or causes beyond its reasonable control, and in such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the obligation has been delayed by more than ninety (90) days, the Party not suffering the event will have the right to terminate the Agreement.

17.5   **Transfer of Rights and Obligations** | With exception for an assignment to a third party payment beneficiary pursuant to Clause 5.1, neither Party may assign or novate its rights or obligations under this Agreement, by operation of law or otherwise, without the other's prior written consent. Notwithstanding the foregoing, on notice and without consent, Cutover may assign, novate or otherwise transfer (by operation of law or otherwise) this Agreement, including the Subscription (and all of its respective rights and obligations thereunder) to a successor-in-interest in connection with a merger, acquisition, reorganization, a sale of all or substantially all of its assets or equity, or other change of control, or to any of its Affiliates. Any purported assignment or other transfer in violation of this Clause 17.5 is void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties and their respective permitted successors, assigns and transferees.

17.6   **Relationship of the Parties** | Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any Party the agent of another Party, or authorize any Party to make or enter into any commitments for or on behalf of any other Party.

17.7   **Third Party Rights** | Other than expressly set out herein, nothing in this Agreement, express or implied, is intended to or shall confer upon any third-party, person or entity, any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement or through the operation of law.

17.8   **Contract for Services** | This Agreement is a contract for the provision of services and not a contract for the sale of goods. The provisions of the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), or any substantially similar applicable legislation existing at the Effective Date or as may be enacted, shall not apply to this Agreement.

17.9   **Construction** | This Agreement has been negotiated by the Parties and their respective counsel and/or Advisers and will be interpreted fairly in accordance with its terms and without any strict construction in favour of or against either Party.

17.10   **Actions Permitted** | To the extent permitted by applicable law, except for actions for non-payment or breach of a Party's proprietary rights, no action, regardless of form, arising out of or relating to this Agreement may be brought by either Party more than one (1) year after the cause of action has accrued.

17.11   **Entire Agreement** | This Agreement (i) is the entire contract between the Parties regarding its subject matter and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings, negotiations and proposals, with respect to that subject, and (ii) excludes any other terms Customer seeks to impose or incorporate or that may be implied by trade, custom, practice, or course of dealing (including as may be stated on Customer's purchase orders). Customer has not relied on any statement, promise, or representation not expressly included in this Agreement, including related to any possible future functionality that Cutover may provide or offer in respect of the Cutover Services.

17.12   **Counterparts** | This Agreement may be executed in counterparts and by electronic means (including by email or via an electronic signature platform), and each Party agrees not to contest its validity solely because of such execution.

18. DEFINITIONS & INTERPRETATION

18.1   **Definitions** | Unless otherwise defined, capitalised terms used in this Agreement have the following meanings:

Additional Limit Fees mean the monthly fees, pro-rated, as applicable, that apply if Customer exceeds any of its then current Subscription Limits at the rates set out in the Marketplace Listing or otherwise at Cutover's then current standard rates, as may be invoiced to Customer in accordance with Clause 2.3 (*Additional Limit Fees*).

Advisers has the meaning given in Clause 7.2(b).

Affiliate means an organisation that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person. As used in this definition, "**control**" means the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of the subject entity (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise) (and "**controlled**" has the corresponding meaning). In relation to Cutover, its Affiliates include Godesic Limited, a private limited company incorporated in the United Kingdom with its registered address at 3rd Floor, 1 Ashley Road, Altrincham, Cheshire WA14 2DT, United Kingdom (UK Company No. 08220852).

Ancillary Software means any additional software purchased from or provided by Cutover (if any) to enable access to and use of the Subscription Service, including Cutover Connect™.

Approved Transfer Mechanism means either (as applicable):

(a)   the European Commission's Standard Contractual Clauses under Commission Implementing Decision (EU) 2021/914 ("**EU SCCs**"); or

(b)   the UK Information Commissioner's Office's International Data Transfer Addendum to the EU Commission Standard Contractual Clauses Version B1.0, in force 21 March 2022 ("**IDTA Addendum**").

Business Day means a day, other than a Saturday, Sunday or public holiday, on which banks are ordinarily open in New York City, USA.

Charges mean the fees payable by Customer to Cutover for Cutover Services including as charged for the Subscription, or otherwise in accordance with the terms of this Agreement. Charges include any applicable Additional Limit Fees.

Confidential Information means, without limitation, any know-how, trade or business secrets, together with any commercial, financial, business, data, technical or other confidential information of whatever nature relating to the business of a Party or its Affiliates (whether disclosed in written, oral or in electronic or other form) which is clearly designated by a Party as being confidential (whether or not it is marked as confidential) or which can reasonably be expected to be recognised as confidential, including any design, process, procedure, data-processing technique, intellectual property right, software or computer program owned or licensed by Cutover or its Affiliates, any information about a Party's and its Affiliates' finances, sales, marketing plans or business prospects, any information relating to the clients and suppliers of a Party or its Affiliates and all other non-public information that the other Party obtains, receives or has access to as a result of this Agreement, including the Customer Data, the Documentation and the terms and conditions of this Agreement. Confidential Information shall not include information that:

(a)   is or becomes publicly known other than through any act or omission of the Receiving Party;

(b)   was in the Receiving Party's lawful possession before the disclosure;

(c)   is lawfully disclosed to the Receiving Party by a third-party without restriction on disclosure; and

(d)   was or is independently developed by the Receiving Party without reference to the Confidential Information of the other party, the independent development of which the receiving party can support through written evidence.

Controller has the meaning given in the Data Protection Law.

Customer Data means the data inputted by Customer or the Users for the purpose of using the Subscription Service or facilitating Customer's use of the Subscription Service, including the Users' Personal Data and all other text, information, content, notes and other materials.

Customer Properties has the meaning given in Clause 7.9.

Customer Provider means a contracted supplier of products or services to Customer that Customer elects to use in connection with its use, receipt or purchase of the Cutover Services (including, as applicable, any integration partner engaged by Customer).

Cutover Services means, collectively (as applicable), the Subscription Service, Documentation, Developer API, provision of Ancillary Software, and the associated services to be provided by Cutover in accordance with the terms of this Agreement (including as set out in Clause 1.2). **Cutover Service** has the corresponding meaning.

Data Protection Law means all applicable data protection and privacy laws, including the UK Data Protection Act 2018 (as amended), the GDPR, the UK GDPR, and any other applicable data protection or privacy legislation or regulation relating to the provision of the Cutover Services to Customer.

Developer API has the meaning given in Schedule 5 (*Developer API Terms*).

Disclosing Party has the meaning given in Clause 7.1.

Documentation means the documentation provided to Customer and its Users in connection with the purchased Cutover Services, including any specification, feature and functionality documentation or release notes for the Subscription Service and the set-up, implementation and training documentation provided via or in relation to a purchased Cutover Service.

EEA means the European Economic Area.

Excluded Processing Activities has the meaning given in Clause 8.1.

Feedback has the meaning given in Clause 7.7**.**

Free Trial has the meaning given at the start of this Agreement.

GDPR means the EU General Data Protection Regulation (2016/679), as amended.

Good Industry Practice means the reasonable skill, care and diligence that would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances.

Legal Notice Email has the meaning given in Clause 16.1.

Maintenance Release means a release of the Subscription Service that Cutover provides to all of its customers that corrects faults, adds functionality or otherwise amends or upgrades the Subscription Service.

Marketplace means the software marketplace through which the Marketplace Listing is published, including (as applicable): (i) AWS Marketplace operated by Amazon Web Services, Inc. located at **https://aws.amazon.com/marketplace/** as may be updated from time to time.

Marketplace Listing means an offer by Cutover, as set forth in the detail page of the relevant Marketplace, to provide access to the Subscription Service and, as applicable other Cutover Services, including the applicable Limits and Charges.

Overage has the meaning given in Clause 2.3(a).

Personal Data means any information relating to an identified or identifiable natural person (the data subject).

Personnel has the meaning given in Clause 7.2(a).

Privacy Policy means Cutover's privacy policy (available at **www.cutover.com/privacy-policy**) as may be updated from time to time.

Processor has the meaning given in the Data Protection Law.

Purpose has the meaning given in Clause 7.1.

Receiving Party has the meaning given in Clause 7.1.

Schedule means each of the schedules to this Agreement.

Scope of Use means Customer's use for its internal business purposes in accordance with its Subscription.

Security Incident any unauthorized or accidental access, disclosure, processing, loss or use of any of Customer's Confidential Information held by Cutover or Personal Data processed by Cutover on behalf of Customer.

Security Policy means Cutover's Security Policy as attached at **Schedule 6** (*Security Policy*) as at the Subscription Date, as may be updated or replaced on notice to Customer from time to time during the Subscription Term.

Self-Serve Integration has the meaning given in Clause 10.6.

Service Limits has the meaning given in Schedule 5 (*Developer API Terms*).

Service Terms mean the operative terms and conditions of this Agreement that commence on page 1.

SLA means Cutover's standard Service Level Agreement as set out in **Schedule 1** (*Service Levels & Support*).

Sub-Processor means a third-party processor, including the organisations set out in **Schedule 3** (*Approved Sub-Processors*) as such list is updated pursuant to Clause 8.5 (*New Sub-Processors*).

Subscription means Customer's purchase of (or subscription to) the Subscription Service and other Cutover Services via the Marketplace subject to the Customer's selected particulars from the Marketplace Listing (including Limits), regardless of whether Charges are applicable.

Subscription Date means the date on which Customer processes its Subscription via the Marketplace.

Subscription Limits mean the limits stated in the Marketplace Listing that apply to Customer's Subscription including in respect of the number of Users, runbooks, workspaces, rehosting of applications and Self-Serve Integrations, together with the Service Limits that apply to use of the Developer API. Unless stated otherwise in the Marketplace Listing, Subscription Limits apply on a monthly basis calculated from the Subscription Date.

Subscription Service means the Cutover web-based SaaS platform to which Customer has subscribed via the Marketplace, that is developed, operated, and maintained by Cutover or its Affiliates.

Subscription Term has the meaning given in Clause 6.1 or, in respect of Free Trials only, the meaning given at the start of this Agreement.

Taxes has the meaning given in Clause 5.3.

Third Party Application means a third-party browser-based, mobile, offline or other software application or functionality that interoperates with the Subscription Service, that is provided by Customer or a third-party.

UK GDPR means the GDPR as transposed into United Kingdom national law by operation of Section 3 of the European Union (Withdrawal) Act 2018 and subsequently amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019.

User means an employee, officer, individual contractor or other representative of Customer (or, if applicable, its Affiliates) given login access to the Subscription Service as part of Customer's Subscription.

User Limit means, subject to Clause 2.3, the number of Users Customer has purchased in relation to its use of and access to the Subscription Service pursuant to the Subscription (and the particulars of the Marketplace Listing).

18.2 **Communications** | Other than for the purposes of Clause 16.3 (*Service of Proceedings*) "writing" includes by email.

18.3 **Organisation** | Clause, Schedule, section, paragraph and item headings shall not affect the interpretation of this Agreement.

18.4 **General Interpretation** | Unless the context otherwise requires: (a) words in the singular shall include the plural and in the plural shall include the singular; (b) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; (c) any words following the terms "**including**", "**include**", "**for example**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms; (d) a "**person**" includes an individual, corporate or unincorporated body (whether or not having separate legal personality); and (e) "**Clause**" means a clause in the Service Terms to the MSA, "**Section**" and "**Paragraph**" mean a section or paragraph of a Schedule.

18.5 **Conflict** | In the case of conflict or ambiguity between:

   (a)   any provision contained in the Data Processing Addendum and the Service Terms, the provision in Data Processing Addendum shall take precedence; and

   (b)   any provision contained in the remaining Schedules and the Service Terms, the provision in Service Terms shall take precedence.

This Agreement has been entered into on the Subscription Date.

SCHEDULE 1   SERVICE LEVELS & SUPPORT

1.   Services Availability

Cutover will use commercially reasonable efforts to ensure that the Subscription Service will be available at least 99.9% of the time subject to Maintenance and other Exclusions (as detailed in the table below). Availability is measured monthly and calculated as follows: **(total - downtime + excluded)/total) * 100**

Term	Definition
Total	means the total number of minutes over the previous month
Downtime	means minutes during which the Subscription Service is not available
Excluded	means any Maintenance and other Exclusions
Maintenance and other Exclusions	The Subscription Service will not be considered unavailable for any outage that results from any maintenance performed by Cutover (i) of which Customer is notified at least 24 hours in advance; (ii) during Cutover's then-current standard maintenance windows (collectively referred to herein as "**Scheduled Maintenance**"); or (iii) as a result of Customer's request outside of the normally scheduled maintenance. In addition, the Subscription Service will not be considered unavailable for any outage due to (i) acts or omissions of Customer; or (ii) of Cutover's cloud provider services.

2.   Support Availability

Support Channel	Initial Response Time	Availability Hours
Email to: **support@cutover.com**	24 Hours	Business Days from 9am UK until 5pm US Eastern Time (ET) on a "follow the sun" basis.

SCHEDULE 2   DATA PROCESSING ADDENDUM

1.   NATURE AND PURPOSE OF PROCESSING

1.1   Cutover is a provider of a web-based work orchestration and observability platform and associated services, primarily the Cutover Subscription Service. Cutover provides a single platform for planning, orchestration, and analysis, updated in real time and visible to all. Cutover integrates machine activity, leverages automation, and replaces multiple spreadsheets, outdated toolsets, fragmented communications, and manual reporting. Cutover will also provide a number of associated services to Customer in connection with the Subscription Service. Personal Data will be processed for the provision of Cutover Services to Customer.

2.   CATEGORIES OF DATA SUBJECTS

2.1   The Personal Data transferred concerns the following data subjects:

(a)   Individuals authorized by Customer or its Affiliates to access, use or receive Cutover Services.

3.   CATEGORIES OF PERSONAL DATA

3.1   The Personal Data processed concerns the following categories of data determined, controlled and submitted by Customer, its Affiliates or the Users to the Subscription Service or otherwise provided to Cutover or its Affiliates in connection with the provision of Cutover Services:

- First and last name
- Contact information (email, phone, business address)
- Professional details (company/employer, job title, position/role)
- Location data
- Personal life data (in the form of a memorable word and other security questions, if applicable)
- IP Addresses

4.   SENSITIVE DATA / SPECIAL CATEGORIES OF PERSONAL DATA (IF APPLICABLE)

4.1   Cutover does not intentionally collect or process any special categories of Personal Data in the provision of Cutover Services.

5.   DURATION OF PROCESSING

5.1   The Personal Data will be processed for the Subscription Term (subject to slightly longer processing in accordance with Clause 8.9 of the Service Terms), or as otherwise required by law or agreed between the Parties.

6.   TECHNICAL & ORGANISATIONAL SECURITY MEASURES

6.1   As set out in Cutover's Security Policy (as set out in **Schedule 6**).

SCHEDULE 3   APPROVED SUB-PROCESSORS

The following table lists Cutover's Sub-Processors as at **15 July 2022** and is subject to amendment (on notice) pursuant to Clause 8.4.

SUB-PROCESSOR	REGISTERED COMPANY LOCATION	TECHNOLOGY TOOL / SUBJECT MATTER / NATURE OF PROCESSING	SUB-PROCESSOR PRIMARY DATA PROCESSING/HOSTING LOCATION (SPECIFICS)	PERSONAL DATA (PD) TRANSFERRED TO AND/OR PROCESSED
CUTOVER – AFFILIATE SUB-PROCESSORS				
Godesic Limited (dba Cutover)	United Kingdom	Affiliate Service Provider / Sub-Processor – Cutover Service provision	United Kingdom (Hosting via AWS below)	**PD Processed:** As per the list of Cutover Users' Personal Data set out in the DPA with Customer.
EXTERNAL THIRD-PARTY SUB-PROCESSORS				
Amazon Web Services, Inc.	United States and European Union	**AWS** – Application hosting and cloud processing	**UK/EEA/ROW* Customers:** Ireland and Frankfurt (EU) **US Customers:** US-East and US-West	**PD Processed:** As per the list of Cutover Users' Personal Data set out in the DPA with Customer.
Google LLC / Google Cloud EMEA Ltd.	United States and European Union	**GCP** – Application hosting and cloud processing	EU & US - United States and European Union	**PD Processed:** As per the list of Cutover Users' Personal Data set out in the DPA with Customer.
Looker Data Sciences, Inc.	United States	**Looker** – Application analytics and usage reporting	EU – Ireland (Dublin)	**PD Processed (Looker):** As per the list of Cutover Users' Personal Data set out in the DPA with Customer.
Twilio, Inc.	United States	**Twilio** – Communication provider	US - Virginia	**PD Processed:** Cutover Users' Phone numbers.
Datadog, Inc.	United States	**DataDog** – Application alerting and monitoring	EU – Germany (Frankfurt)	**PD Processed:** Cutover Users' First and Last Names (or Usernames if different), Email Addresses.
Heap, Inc.	United States	**Heap** – Application use analytics	US - Virginia	**PD Processed:** Cutover Users' First and Last Names (or Usernames if different), IP Addresses, Locations (City/Country).
Intercom, Inc.	United States	**Intercom** – Application Customer Support	US – Virginia EU – Ireland (Dublin)	**PD Processed:** Cutover Users' First and Last Names (or Usernames if different), Email Addresses, Company, Role and Title, Locations (City/Country).
Qualtrics, LLC	United States	**Qualtrics** – User Experience Management	EU – Germany (Frankfurt)	**PD Processed:** Cutover Users' First and Last Names (or Usernames if different), Email Addresses, Company, Role and Title.

*ROW (Non-US) Customers = Rest of World other than the US.

SCHEDULE 4 APPROVED TRANSFER MECHANISM

Cutover and Customer hereby agree that if Customer's use of the Cutover Services involves:

  (a)   a transfer of Personal Data from the EEA or Switzerland to Cutover Inc., then the EU SCCs Module 2 will apply; or

  (b)   a transfer of Personal Data from the UK to Cutover Inc., then the IDTA Addendum will apply.

Accordingly, each Party agrees that it shall be deemed that they have executed the applicable Approved Transfer Mechanism as if the clauses were set out here in full with the following particulars specified (to the extent required for the EU SCCs and IDTA Addendum):

GENERAL		
List Of Parties	**Data Exporter / Exporter:** is Customer (on behalf of itself and its Affiliates located within the UK, EEA and Switzerland) with its contact details being as provided upon purchase of the Subscription. Customer processes Personal Data in the ordinary course of its business, and desires to obtain the processing services of Cutover in connection with its use of the Cutover Services.	
	Data Importer / Importer: is Cutover Inc. (a Delaware Corporation) with its principal place of business at 43 West 23rd Street, New York, NY 10010, USA. Cutover Inc. enables organisations to orchestrate work across teams and technologies in dynamic, automated runbooks with real-time visibility and control, and provides data processing services to the Customer in accordance with the terms of this Agreement.	
	Representative Contact Details: The Data Exporter / Exporter and Data Importer / Importer representative contact details are: - **Data Exporter / Exporter (Customer):** The contact details provided in respect of the Subscription, together with the Customer's Legal Notice Email. - **Data Importer / Importer (Cutover):** Ky Nichol, CEO & President, Cutover Inc. Address: 43 West 23rd Street, New York, NY 10010, USA. Email: privacy@cutover.com with copy to contract.notices@cutover.com.	
Description of Transfer	EU SCCs Module: Module Two – Transfer Controller to Processor	
	Processing Particulars	The nature and purpose of processing, categories of data subject, categories of data, duration of processing and period for which personal data will be retained shall be as set out in the Data Processing Addendum at **Schedule 2**.
	Frequency of Transfer:	Continuous based on Customer's use of the Cutover Services.
	Subject matter, nature and duration of transfer to Sub-Processors:	As set out in **Schedule 3.**
	Optional Clauses:	Clause 7 of the EU SCCs: does not apply. Clause 11 of the EU SCCs: the optional language does not apply.
Competent Supervisory Authority	**EU SCCs**	For Annex I.C, the competent supervisory authority shall be the applicable supervisory authority for the Data Exporter.
TECHNICAL AND ORGANISATIONAL MEASURES		
Security Measures	The technical and organisational security measures implemented by the Data Importer are as set out in the Data Processing Addendum at **Schedule 2** and serves as Annex II of the EU SCCs and Annex II of Table 2 of the IDTA Addendum.	
SUB-PROCESSORS		
Approved Sub-Processors	As per the list of Approved Sub-Processors set out at **Schedule 3.**	
New Sub-Processor Notification	Clause 9(a) of the EU SCCs: Option 2: General Written Authorisation applies with the time period for notice of intended changes as set out at Clause 8.4 of the Service Terms.	
ADDITIONAL PARTICULARS		
Governing Law & Forum	**EU SCCs**	Clause 17: Option 1 the laws of the Republic of Ireland will apply. Clause 18(b): the court of the Republic of Ireland will apply.
Termination	**Table 4 of the IDTA Addendum**	Both the Importer and Exporter may terminate the IDTA Addendum in accordance with the Service Terms.

SCHEDULE 5   DEVELOPER API TERMS

Capitalised terms used in these Developer API Terms have the meaning given in Paragraph 6 or otherwise in Clause 18 of the Service Terms.

1.   SCOPE OF LICENCE

1.1   In consideration of Customer's Subscription (including payment of any applicable Charges) and Customer complying with the terms and conditions of this Schedule and the Agreement, Cutover grants to Customer a non-transferable, non-sublicensable, non-exclusive licence for the Subscription Term to:

    (a)   use and access the Developer API (via its Development Personnel) solely for the purpose of:

        (i)   automating Actions within the Subscription Service from Customer Applications;

        (ii)   displaying the API Data in Customer Applications strictly for its internal business purposes;

        (iii)   building and maintaining Self-Serve Integrations; and

        (iv)   making API Calls in compliance with its current Service Limits (including, as applicable, its API Call Limit and Rate Limit); and

    (b)   use the API Documentation for its internal business purposes in connection with its use of the Subscription Service and Developer API,

(collectively, the "**Purpose**").

1.2   Unless and only to the extent Cutover has given written consent to the contrary, the Developer API may be used only whilst:

    (a)   Customer remains a customer of Cutover; and

    (b)   the Customer has a valid and current Subscription to the Subscription Service.

1.3   Customer acknowledges and agrees that the Developer API may only be used in connection with Customer Applications for its internal business purposes and always subject to these Developer API Terms and the terms of the Agreement.

1.4   Customer's access to the Developer API is subject always to Customer's then current Service Limits.

2.   CONDITIONS OF USE

2.1   Customer is responsible for integrating the Developer API with its selected Customer Applications and for any integration or regression testing that may be necessary to effect and maintain any Self-Serve Integrations.

2.2   Customer may not directly or indirectly (and will not allow or facilitate any third party to):

    (a)   use the Developer API or API Data other than in legitimate furtherance of the Purpose and for its internal business purposes;

    (b)   make API Calls in excess of its current Service Limits;

    (c)   remove any Cutover product identification, logos, copyright or other proprietary notices from the Developer API, API Data or API Documentation;

    (d)   use the Developer API, API Data or API Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise infringes any Intellectual Property Rights or other right of any third party, or that violates any applicable law;

    (e)   use the Developer API to replicate or attempt to replace the User experience of the Subscription Service;

    (f)   republish, distribute, copy, reproduce code or functionality, reverse engineer, decompile, disassemble or otherwise attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the API;

    (g)   create derivative works from, modify, adapt or otherwise alter the Developer API or any API Data; or

    (h)   use the API or API Data in a manner that adversely impacts the functionality or performance of the Subscription Service and, should Customer or its Development Personnel do so, Cutover shall not be liable or responsible for the resulting loss of functionality and/or performance to the Subscription Service or any other Cutover Services.

2.3   Except to the extent expressly permitted under Paragraph 1 (*Scope of Licence*), Customer shall not (and shall ensure that its Development Personnel do not):

    (a)   other than for the purpose of Self-Serve Integrations, combine or integrate the Developer API or API Data with any software, technology, services, or materials not approved in advance by Cutover;

    (b)   pass or allow access to the Developer API or API Data to any third party;

    (c)   access all or any part of any the Developer API or API Data to build a product and/or service which competes with the Developer API, the Subscription Service or other Cutover Services; or

    (d)   commercially exploit, sell (or resell), license, rent, lease or otherwise distribute or disclose the Developer API or API Data or any Intellectual Property Rights thereto.

2.4   Customer shall not use the Developer API or API Data other than as expressly permitted in these Developer API Terms without the prior written consent of Cutover.

2.5   Customer will comply with these Developer API Terms and all applicable laws and regulations in connection with the use of the Developer API or API Data and shall procure that its Development Personnel comply with the same.

2.6 Without prejudice to its other rights and remedies under these Developer API Terms or the Agreement, should the Customer use the Developer API other than as expressly permitted herein without the prior written consent of Cutover or use the Developer API otherwise in excess of Customer's current Service Limits, Cutover may, in its sole discretion:

    (a) terminate the Subscription, or suspend the Customer's access and use of the Developer API, on written notice to Customer with immediate effect; and/or

    (b) require Customer to pay, for broadening the scope of the licence granted under these Developer API Terms to cover the unauthorized use, an amount equal to the Charges which Cutover would have levied (in accordance with its then current commercial terms) had it licensed any such unauthorized use on the date when such use commenced.

2.7 Cutover shall be entitled to suspend the Customer's access to, and use of, the Developer API and the API Data under Paragraph 2.6(a) until such time as the breach is remedied to Cutover's reasonable satisfaction, which may include (where payment is required under clause 2.6(b) until Cutover has received that payment in cleared funds from Customer.

3. CUTOVER RESPONSIBILTIES

3.1 Cutover undertakes that the Developer API shall perform substantially in accordance with the API Documentation.

3.2 The undertaking at Paragraph 3.1 shall not apply to the extent of any non-conformance which is caused by use of the API contrary to Cutover's instructions, or modification or alteration of the API by any party other than Cutover or its affiliates. If the API does not conform with the foregoing undertaking, Cutover will, at its expense, use reasonable commercial efforts to correct any such non-conformance promptly, or provide Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes Customer's sole and exclusive remedy for any breach of the undertaking set out at Paragraph 3.1.

3.3 Cutover does not warrant that:

    (a) Customer's use of the API will be uninterrupted or error-free; or

    (b) the Developer API and/or the API Data obtained by Customer through the API will meet the Customer's requirements; or

    (c) the Developer API or the API Data will be free from vulnerabilities or viruses.

3.4 Cutover shall not be responsible for:

    (a) 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 Customer acknowledges that the API and API Data may be subject to limitations, delays and other problems inherent in the use of such communications facilities; or

    (b) any loss of functionality or performance in connection with the API, or transmission or publication issues with the API Data, to the extent such issues are caused by a Customer Application.

3.5 Cutover shall make Maintenance Releases available to Customer no later than such releases are generally made available to its other customers. Cutover warrants that no Maintenance Release will adversely affect the then existing facilities or functions of the Developer API.

4. CUSTOMER RESPONSIBILITIES

4.1 Cutover will make Customer's API Keys available from the Subscription Service. API Keys will only be available once in readable format at the point of creation. Customer may not share the API Keys with any third party, must keep the API Keys and all log-in information secure, and must use the API Keys as the Customer's sole means of accessing the API. The API Keys may be replaced at any time by Cutover on notice to Customer.

4.2 For the duration of the Subscription Term, Customer shall:

    (a) keep a complete and accurate record of its use of the Developer API and API Data;

    (b) notify Cutover as soon as it becomes aware of any unauthorized use of the Developer API or API Data by any third party;

4.3 Customer is responsible and liable for all uses of the Developer API resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in breach of these Developer API Terms, including use with any third-party software. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of its Development Personnel in connection with their use of the API and API Data, if any. Any act or omission by its Development Personnel that would constitute a breach of these Developer API Terms if taken by Customer will be deemed a breach of these Developer API Terms by Customer. Customer shall take reasonable efforts to make all of its Development Personnel aware of the provisions of these Developer API Terms as applicable and shall cause its Development Personnel to comply with such provisions.

4.4 Customer shall monitor the use of the Developer API for any activity that breaches applicable laws, rules, and regulations or any terms and conditions of these Developer API Terms or the Agreement, including any fraudulent, inappropriate, or potentially harmful behaviour.

5. INTELLECTUAL PROPERTY RIGHTS

5.1 All Intellectual Property Rights in and to the Developer API, API Documentation and the Cutover Services remain the property of Cutover (or its affiliates or licensors, as the context requires).

5.2 Nothing in these Developer API Terms shall operate to assign or otherwise transfer either Party's Intellectual Property Rights to the other Party.

6. ADDITIONAL DEFINITIONS

6.1   As used in these Developer API Terms, capitalised terms have the following meanings:

Actions mean the HTTP requests and responses documented at **https://developer.cutover.com/reference**.

API Call mean calls from a Customer Application via the Developer API to interact with the Subscription Service.

API Call Limit means Customer's quota of API Calls as applicable to its Subscription.

API Data means all data published or made available through the Developer API, along with any related metadata.

API Documentation means the Cutover API documentation as available via **https://developer.cutover.com/docs**.

API Keys means the "User App Tokens" Cutover makes available for Customer to access the Developer API.

Customer Application means a Customer or third-party browser-based, mobile, offline or other software application or functionality that Customer integrates the Developer API with in connection with the Purpose.

Developer API means Cutover's application programming interface made available by Cutover to Customer via the public internet in accordance with Paragraph 4.1 as may be updated from time to time, including (without limitation) by incorporation of a Maintenance Release.

Development Personnel mean User administrators, employees, contractors, agents and other representatives of the Customer (and/or its affiliates) engaged by it to access or otherwise work with the Developer API, API Data and/or API Documentation in connection with the Purpose.

Intellectual Property Rights means patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

Maintenance Releases means a release of the API that corrects faults, adds functionality or otherwise amends or upgrades the API.

Purpose has the meaning given in Paragraph 1.1.

Rate Limit means the rate limit by time unit that applies to the Customer's use of the Developer API.

Service Limits mean the limits that apply to Customer's Use of the Developer API, including its API Call Limit and Rate Limit (if applicable).

SCHEDULE 6 SECURITY POLICY

[COMMENCES ON NEXT PAGE – REMAINDER OF PAGE INTENTIONALLY BLANK]

Cutover Security & Trust

Introduction

Cutover is the leader in Work Orchestration and Observability, enabling teams to plan, orchestrate, and analyze complex work faster, smarter, and with greater visibility. The Cutover platform, developed with decades of experience in managing operational resilience, technology delivery, and release, transformation, and business change initiatives, enables organizations to move quickly with confidence.

Trusted by leading global firms and institutions, we are on a mission to enable greater business outcomes by orchestrating humans and machine automation in a new model of working.

Our clients expect the highest security level and entrust Cutover to ensure their data's confidentiality, integrity, and availability. Cutover has implemented a dedicated information security team represented at the Board level to ensure accountability and transparency of Cutover's security program.

Cutover's Security Program aligns with industry best practice information security and privacy standards, including the General Data Protection Regulation (GDPR), NIST Cyber Security Framework (CSF), and the Cloud Security Alliance (CSA) Controls Matrix structure.

The Cutover information security management system (ISMS) has achieved the internationally recognized ISO/IEC 27001:2013 certification. This ISO standard covers all aspects of information security, including resiliency, incident management, policies and processes, physical security, third-party security, network, and access control, cryptographic controls, password security, and information classification.

Cutover's Chief Information Security Officer (CISO) and a dedicated information security team focus on delivering an information security strategy aligned with company goals and client expectations. Cutover continually reviews compliance and accreditation with leading organizations, including the Information Commissioner's Office (ICO).

This document is a component of Cutover's overall business management framework, encompassing security, and privacy within the following categories: Culture, Platform Architecture, Product, Operations, and Compliance.

Infrastructure

Cloud Assurance

The Cutover platform is provisioned on Amazon Web Servers (AWS). AWS holds multiple certifications for security and compliance, including ISO 27001 and SOC 2. Full AWS assurance information can be found at https://aws.amazon.com/compliance/.

Resilience & Continuity

The Cutover platform is a high availability solution with full redundancy. Our architecture uses at least two availability zones (data centers) in an AWS region. These availability zones are built on an active - active design, meaning we can lose an availability zone without impacting operations. Multi-region failover is offered as an option to safeguard against an AWS region failure. We utilize AWS data centers that are certified and configured to protect against environmental risks.

AWS Availability Zones meet the Tier 4 Standard as defined by the Uptime Institute.

Tier 4: *A completely fault-tolerant data center with redundancy for every component. This tier comes with an expected uptime of 99.995% per year.*

More information can be found at
https://aws.amazon.com/about-aws/global-infrastructure/regions_az/.

These architectural decisions allow Cutover to remain resilient from system failures and natural disasters. Cutover maintains formal business continuity policies and disaster recovery plans. These documents and processes are reviewed on an annual basis.

Infrastructure & Data Flow
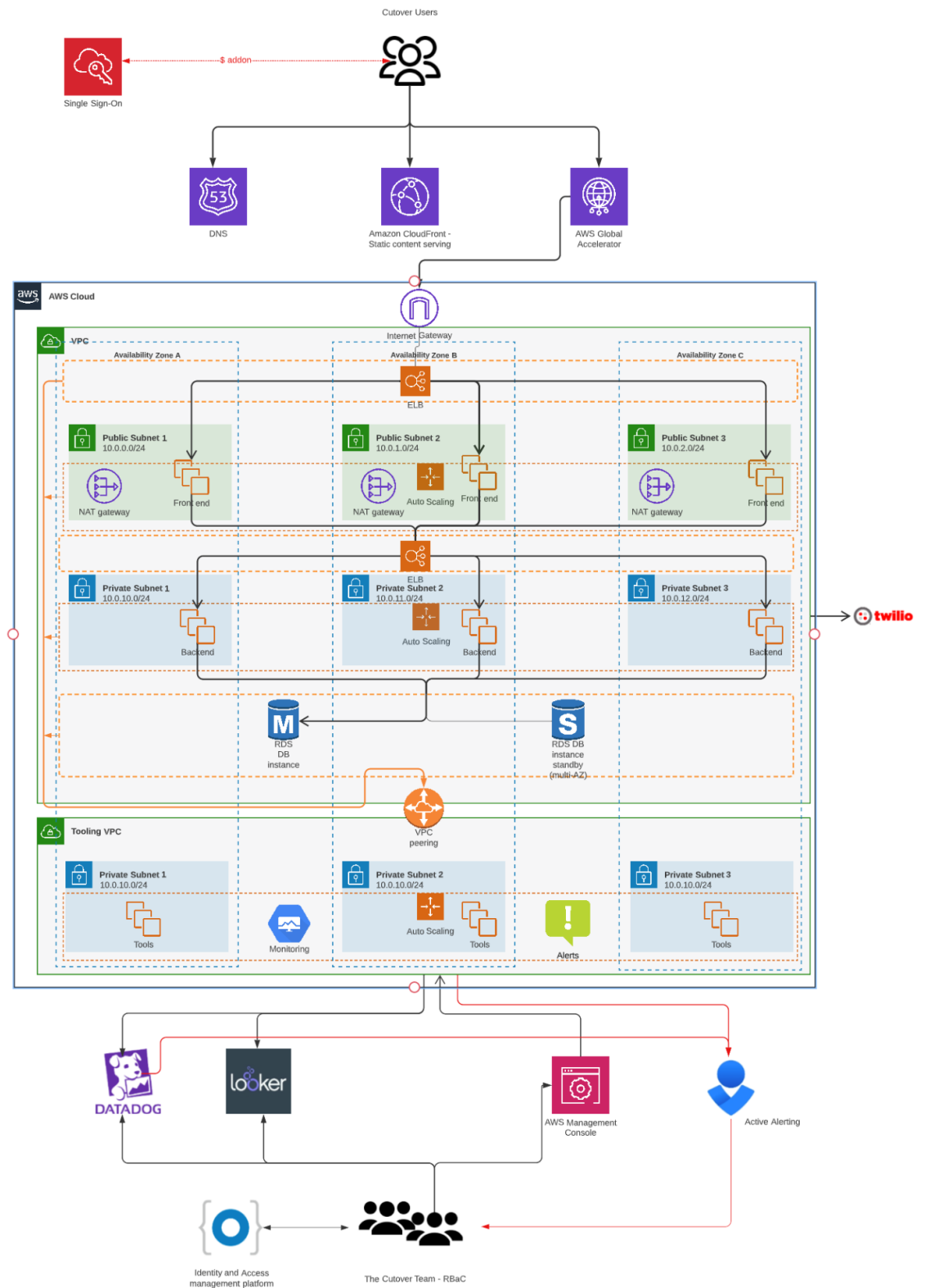
Data Security

Encryption

We designed the Cutover platform to use encryption built on open, validated formats and standard algorithms. Cutover uses industry-standard Transport Layer Security (TLS 1.2) to create a secure connection for data in transit. Data at rest is encrypted using the 256-bit Advanced Encryption Standard (AES).

Key management

We use the AWS Key Management Service (KMS) to create and control the keys used to encrypt and digitally sign data. AWS KMS is SOC 1, SOC 2, and SOC 3 compliant. For more information, see https://aws.amazon.com/kms/.

Information lifecycle

Cutover recognizes that its data and records' efficient management is necessary to support its core business functions, comply with its legal, statutory, and regulatory obligations, ensure personal information protection, and enable its effective management.

Cutover manages records efficiently and systematically, in a manner consistent with the GDPR requirements, ISO 15489, and regulatory Codes of Practice on Records Management. AWS media storage devices are decommissioned using NIST 800-88 protocols for the destruction of data and storage devices.

Product Security

Single Sign-On (SSO)

Cutover's preferred log-in approach is for clients to utilize their authentication mechanisms via SAML/SSO integration. SSO enables tenants to enforce their authentication and authorization requirements via the SAML authentication standard.

The Cutover platform also supports Role-Based-Access-Control (RBAC). RBAC is becoming important as organizations become increasingly concerned with 1) ensuring people lose access to systems when they leave, and 2) providing the correct level of governance vs. autonomy by enabling only the access required to complete a task.

Application security

Cutover platform connectivity is secured over HTTPS and combined with the implementation of strong ciphers. User passwords are hashed and salted with a hash function. Customer data is logically segmented within datastores and isolated using Virtual Private Cloud (VPC) or namespaces.

Operations Security

People

Culture & principles

Cutover's culture of trust and transparency enables strong security awareness and highlights the importance of safeguarding our customer's information assets.

Cutover promotes a culture of need-to-know and secure-by-design principles where security is a responsibility shared by all employees. We are committed to respecting our client's and employees' privacy and protecting data from outside parties. The leadership team ensures a secure environment in which to store and process this information.

Background checks

Cutover employees and third-party individuals outside the scope of an employment contract (i.e., as an external consultant) require a background check to meet company and client requirements for security and identity checks. Identity checks and background screening are based on contractual and regional needs and are necessary before they commence employment.

Background checks include identity, right to work, criminal record, employment, watch-list, and negative media checks. Employee rights are revoked immediately on termination of employment.

Continuous training

We continue to invest in high-quality security awareness programs and initiatives to support our core security principles. All Cutover employees receive security training covering a review of internal policies and security best practices. Training is delivered online and via training sessions using multiple information security and cybersecurity platforms.

Employees must complete and comply with Cutover's information security policies and report security issues to the information security team. Security awareness training is mandatory and started upon commencement of employment and completed within 4 weeks. Ongoing awareness checks are scheduled throughout the year and employees are then reviewed for compliance every 12 months.

Physical security

Data center security

AWS manages cloud physical security access and controls. All AWS employees who need data center access must first apply for access and provide a valid business justification. These requests are granted based on the principle of least privilege, where requests must specify to which layer of the data center the individual needs access, and are time-bound. Requests are reviewed and approved by authorized personnel, and access is revoked after

the requested time expires. Once granted admittance, individuals are restricted to areas specified in their permissions.

More information can be found at http://aws.amazon.com/compliance/.

Cutover office security

Cutover building access controls protect the Company buildings, office sections, and secure rooms. These controls increase building, information, and employee security and safety, and ensure that no unauthorized access is possible. We understand that it is vital to protect the systems and information held and used by us from unauthorized use or access and are fully aware of how such access can affect security, personal information, and individuals.

Risk management

Penetration Tests

Cutover works closely with third-parties to perform penetration tests (authenticated and unauthenticated) on an annual basis. Our test partners are CREST accredited, typically hold UK security clearance, and are qualified to at least Check Team Member level (via TigerScheme QSTM/CTM).

Vulnerability Scans

Multiple vulnerability scans are run against the Cutover platform. Internally this includes statically analyzing application code to find security issues at any stage of development.

Externally we utilize a proactive vulnerability scanner which has over 8,000 security checks for each vulnerability scan, including common web application issues such as SQL injection and cross-site scripting and the common vulnerabilities and exposures (CVE) database.

We have embedded alert and notification mechanisms to help triage incidents. These include subscriptions to the ISACA SmartBrief on Cybersecurity and CVE services.

Software Development Lifecycle (SDLC)

Our development teams continuously review all source code as part of our SDLC. Any new feature follows a process of in-depth security and privacy analysis before deploying it into a production environment. Cutover utilizes industry-standard static code analysis tools.

Cutover has implemented processes to support internal software development, change management, release, and testing. The Software Development Life Cycle (SDLC) supports secure development principles including, peer reviews and alignment to OWASP guidelines.

OWASP foundation

As part of the development lifecycle, Cutover engineers consider the OWASP Top 10. It represents an accepted consensus about security risks to web applications based on criticality. Secure by Design principles enable Cutover to produce more secure code.

OWASP coverage includes but is not limited to protection against injection flaws, broken authentication, sensitive data exposure and poorly configured XML processors, and broken access control. Please visit the OWASP tops 10 for more information.

Incident Management

Cutover has an incident response and notification process to manage security incidents effectively. This is governed by the Cutover support desk who responds to incidents and helps mitigate risks.

Runbooks provide immediate visibility and support teams with observability and real-time communications using templated Runbooks. The incident workflow is based on severity and escalated accordingly. Cyber related incidents follow an identify, protect, detect, respond, and recover lifecycle. High criticality issues result in a post-incident review.

Privacy & Compliance

Security Management Program

The Cutover security team ensures alignment with many industry best practice information security, privacy standards, and best practices, including:
- International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) ISO/IEC 27001:2013: The global standard for information security management systems
- American Institute of Certified Public Accountants (AICPA) Trust Services Principles and Criteria (TSP) Framework: The framework for Service Organization Control (SOC) 2 Common Criteria which includes the following principles: Security, Availability, Confidentiality
- NIST Cybersecurity Framework (CSF): A policy framework of computer security guidance for how organizations can assess and improve their ability to prevent, detect, and respond to cyber-attacks
- Cloud Security Alliance (CSA) Controls Matrix structure: Designed to provide fundamental security principles to guide cloud vendors and to assist prospective cloud customers in assessing the overall security risk of a cloud provider
- Cyber Essentials and Cyber Essentials Plus: A UK Government backed scheme that is designed to help protect organizations against a whole range of the most common cyber attacks.

Service Organization Controls (SOC)

Cutover has achieved SOC 2 Type I certification as of 31st October 2021. The SOC 2 Type I audit is an industry recognized, independent audit, that reports on the design of Cutover's controls relating to security, availability, and confidentiality at a specific point of time.

- **Security or Common Criteria** - demonstrates that our systems are protected against unauthorized access and other risks that could impact our ability to deliver the Cutover services
- **Availability** - demonstrates that our systems are appropriately protected against unplanned downtime
- **Confidentiality** - demonstrates that data classified as confidential is protected

To continue demonstrating the effectiveness of Cutover's security controls, Cutover is planning to undergo the SOC 2 Type 2 audit in late 2022.

ISO/IEC 27001:2013

Cutover has achieved the International Organization for Standardization (ISO) certification for Information Security Management (ISO/IEC 27001:2013). This internationally recognized standard for Information Security Management Systems (ISMS) covers various controls, including:

- Information security policies
- The organization of information security
- People security
- Asset management
- Access control
- Cryptography
- Physical and environmental security
- Operation security
- Communications security
- System acquisition, development, and maintenance
- Supplier relationships
- Information security incident management
- Information security aspects of business continuity
- Compliance

Information Security Management System

Certificate of Approval

This is to certify that the ISMS of

Godesic Ltd (t/a Cutover)

41 Luke Street, London, EC2A 4LB
United Kingdom
43 West 23rd Street, 2nd-6th Floor, New York, NY 10010
United States
Has been assessed and found to meet the requirements of

ISO/IEC 27001:2013

This certificate is valid for the following scope of operations
Statement of Applicability: v2.6 dated 28/01/2022
Provision of a SaaS platform enabling execution of events to reduce commercial risk under ISO 27001:2013

Authorised by:

Stan Wright
Director

Date of Certificate Issue: 04 April 2022
Certificate Valid Until: 08 March 2024
Recertification audit before 08 February 2024. Certified since 09 March 2018.
This certificate is the property of SN Registrars (Holdings) Limited and remains valid
subject to satisfactory annual Surveillance audits.

SN Registrars (Holdings) Limited
Registration House, 22b Church Street,
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NN10 9YT, UK
Tel: +44 (0) 1933 381859
Email: enquiries@dascertification.co.uk
Web: www.dascertification.co.uk
Company Number: 07659067

Certificate Number: DAS 48650657/0/I Rev: 003

IAF — MEMBER OF MULTILATERAL RECOGNITION ARRANGEMENT

ISO/IEC 27001
Trading name of SN Registrars (Holdings) Ltd

UKAS MANAGEMENT SYSTEMS
8327

Cyber Essentials Plus

Cutover has achieved and maintains the Cyber Essentials Plus certification.

The Cyber Essentials scheme is backed by the National Cyber Security Center (NCSC) and addresses the most common internet-based cybersecurity threats. These include hacking, password cracking, and email phishing attempts.

Cyber Essentials comes in two stages; tier 1 certification can be achieved via a self-certification. However, tier 2 required Cutover to participate in a real-time audit procedure to demonstrate our security processes, network, and device strength.

Cutover is committed to applying the best security processes to protect our employee and client information's confidentiality, integrity, and data availability.

GDPR

Cutover's GDPR strategy focuses on the three tiers of data processing:
- Customers
- Suppliers
- Internal Data

Customers

Cutover enters into GDPR and CCPA Data Processing Agreements (DPA) with all customers. This facilitates the legal transfer and processing of customer-related Personal Information. For our European customers, data is hosted exclusively within the EU. Where a third country transfer is required for service provision, Cutover utilizes a controller to process Standard Contractual Clauses for the legal third country transfers.

Suppliers

Cutover enters into GDPR compliant DPAs with all suppliers. Suppliers are subject to a documented legal, security, and privacy due diligence process prior to contracting. This process is owned by business operations and information security and is subject to internal and external audits.

Where a supplier acts as a sub-processor, Cutover follows a GDPR compliant sub-processor addition process. This includes notification and confirmation of security adequacy measures.

Internal Data

Cutover handles internal personal identifiable information in accordance with GDPR best practices.

Privacy by Design

To support a high level of data compliance, Cutover has deployed best in class cloud governance services to provide continuous monitoring of our cloud assets for data leakage

and vulnerability. The service offers Cutover a real-time view of any compute or database resources and a baseline against GDPR requirements.

For more information on our Privacy Controls see https://www.cutover.com/privacy-policy.

If you have more questions or need more detailed answers, please get in touch with our Security Team via security@cutover.com.