

ANNOTATE HOSTED TERMS AND CONDITIONS

These Terms and Conditions and the Hosted Enterprise License Order (collectively, the “**Agreement**”) together, contain the sole and entire terms and conditions applicable to the provision of the Enterprise Licence (and related professional services) by Annotate Software Limited (“**Annotate**”) to the Customer named in such Order (“**Customer**”). In the event of any conflict between these Terms and Conditions and the Order, the terms of the Order shall take precedence.

1. DEFINITIONS

1.1. The defined terms used in this Agreement shall have the following meanings:

“**Additional Fees**” means the additional support fee, managed services, optional extras or other additional fees, if any, payable by Customer to Annotate and set forth in the applicable Order or otherwise mutually agreed upon by the parties in writing;

“**Admin User**” means an individual who, pursuant to the terms of the Order, is authorized to access the application and administer the Annotate Software for the Customer;

“**Annotate Fees**” means the Annual Licence Fees and/or Additional Fees, as applicable paid or payable by Customer for access to the Annotate Software (and any applicable services) as stated in the Order or otherwise agreed upon by the parties in writing;

“**Annotate Service**” means the provision by Annotate of any services related to the use of the Annotate Software by Customer;

“**Annotate Software**” means the document collaboration software application provided to Customer by Annotate;

“**Annual Licence Fees**” means the annual licence fees, if any, payable by Customer to Annotate and set forth in the applicable Order or otherwise mutually agreed upon by the parties in writing in advance of the applicable quarter;

“**Business Day**” means Monday through Friday, except for UK bank holidays on which banks in the UK are closed;

“**Commencement Date**” means the commencement date set forth in the Order;

“**Content**” means any documents or other kind of information uploaded by Customer, or on behalf of and at the request of the Customer by Annotate, including but not limited to Personal Data;

“**Data Protection Legislation**” means (i) unless and until the General Data Protection Regulation ((EU) 2016/679) (“**GDPR**”) is directly effective in the UK, the Data Protection Act 1998 and then (ii) from the date the GDPR is directly effective in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

“**Data Subject**” means an individual who is the subject of Personal Data;

“**External End User**” means an End User who is not a direct employee of or partner at the Customer;

"**End User**" means an individual who, pursuant to the terms of the Order, is authorized to access the application and use the Annotate Software;

"**End User Data**" means information, including but not limited to Personal Data, relating to End Users;

"**End User Licence Agreement**" means the terms of use for the Annotate Software that individual End Users are required to accept through the application before accessing the Annotate Software as determined by Annotate in its reasonable discretion consistent with this Agreement, including but not limited to clause 2.7 below;

"**Intellectual Property Rights**" means all intellectual property rights, including know-how, trade secrets, patents, supplementary protection certificates, petty patents, utility models, trademarks, database rights, rights in designs, copyrights (including rights in computer software) and topography rights (whether or not any of these rights are registered, and including applications and the right to apply for registration of any such rights) and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world, in each case for their full term, and together with any renewals or extensions;

"**Personal Data**" has the meaning set out in the Data Protection Legislation and relates only to personal data in respect of which the Customer is the Data Controller and in relation to which Annotate is providing services under this Agreement;

"**Processing**" or "**Process**" have the meaning set out in the Data Protection Legislation;

"**Order**" means the Annotate order referenced above and to which this Appendix 1 is attached, setting out the commercial aspects of Annotate Services to be provided to Customer by Annotate;

"**Virus**" means a program code, programming instruction or set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations, or other code typically designated as a virus; and

2. ANNOTATE SERVICE

Licence and Intellectual Property Rights

- 2.1. Annotate grants to Customer, for the number of End Users and for the other usage rights specified in the Order (including External End Users), a term-limited, non-sub-licensable, non-exclusive, non-transferable licence to access and use the Annotate Software solely for use on document collaboration in accordance with the terms of this Agreement.
- 2.2. As between Annotate and Customer, all Intellectual Property Rights in and to each of the Annotate Service and the Annotate Software belong to Annotate or its licensors and, other than the limited licence set forth in clause 2.1, Customer shall not acquire any right or interest in or title to any part of the Annotate Service and Annotate Software.
- 2.3. As between Annotate and Customer, all Intellectual Property Rights in the Content belong to Customer and Annotate shall not acquire any right or interest in or title to any part of the Content. Customer shall grant Annotate remote access to the Content, in order to enable Annotate to perform its obligations under this Agreement, including but not limited to the Covered Support Services.

Access to Annotate Software

- 2.4. Annotate will provide Customer with the code and/or install files along with necessary documentation to install and access the Annotate Software locally, within the Customer's environment. Customer is responsible for providing the hardware and software requirements as recommended by Annotate, and will be responsible for the installation of all the components necessary to run the Annotate Software in its local

- environment.
- 2.5. Each End User will be issued with a link to register their username and password to enable them to access and use the Annotate Software.
 - 2.6. On first login End Users may be required to read and accept the terms of the End User Licence Agreement before being able to fully access and use the Annotate Software. Annotate may amend (without materially changing Customer's rights under this Agreement) the terms of the End User Licence Agreement from time to time and will notify End Users of any change on the next login to the Annotate Service. End Users will be required to accept the amended terms of the End User Licence Agreement before being able to fully access and continue to use the Annotate Software.
 - 2.7. Customer shall be responsible for ensuring End Users maintain the confidentiality of their username and password and shall be responsible for all activities that are carried out under them. Annotate is not responsible for losses suffered by Customer and/or any of its End Users or any third party if there is any unauthorized use of a username or password. Customer shall ensure that it or its End Users promptly reports any suspected unauthorized use of any username and/or password to Annotate by email to support@annotate.com

Restrictions and Customer Obligations

- 2.8. Customer agrees that it will not and shall ensure that its End Users will not:
 - 2.8.1. attempt to disassemble, decompile or reverse engineer (save to the extent such right may not be excluded under applicable law), translate, modify, lease, rent, loan, redistribute, sub-lease, sublicense, resell or create derivative works from any aspect of the Annotate Service and Annotate Software;
 - 2.8.2. access or use the Annotate Software to perform any unlawful activity or to store or transmit or otherwise use any illegal Content;
 - 2.8.3. introduce any Virus into the Annotate Software or Annotate's systems;
 - 2.8.4. provide or otherwise make available the Annotate Software to any person other than authorized End Users;
 - 2.8.5. access or use the Annotate Software for any unlawful purpose in an unlawful manner, or in violation of any applicable laws, licence or third party rights; or
 - 2.8.6. access or use the Annotate Software in any way that interrupts, damages, impairs the functionality of, or that renders the Annotate Software less efficient.
- 2.9. Customer warrants that it has obtained and shall maintain all necessary licences, consents and permissions necessary to perform its obligations under this Agreement, where applicable (including without limitation all necessary licences, consents and permissions necessary for the Content to be stored, accessed, shared, amended and annotated using the Annotate Software).
- 2.10. Customer undertakes that it shall supervise and control access and use of the Annotate Software by End Users in accordance with the terms of this Agreement.
- 2.11. Customer shall be responsible for all Content and for how Customer and its End Users use any such Content.

Service Availability

- 2.12. Annotate will use commercially reasonable efforts to make the Annotate Service available at least 98% of the time in the aggregate, in any full calendar month during the term of this Agreement, net of Permitted Downtime and net of other circumstances not reasonably in the control of Annotate (the "SLA"). "Permitted Downtime" means scheduled, emergency or other reasonable maintenance which results in periodic Service downtime. Annotate cannot and does not guarantee that access to the Annotate Software will be continuous or error free. Annotate shall not be liable for any loss suffered as a result of Annotate Software being unavailable (including, without limitation, as a result of Permitted Downtime).
- 2.13. If Annotate fails to meet the SLA, Customer shall be entitled to request a credit against future services fees ("Service Credits"), in accordance with the following table:

% Availability	Service Credits (as applicable)
Above 98%	None
95% to 98%	1.2% of the Annual Licence Fee
90% to 94.99%	2.4% of Annual Licence Fee
Below 90%	3.6% of Annual Licence Fee

This clause 2.13 states Annotate's sole liability and Customer's sole and exclusive rights and remedies with respect to any failure by Annotate to meet the SLA. Service Credits have no cash value; Service Credits may be credited against the next invoice for Annotate Fees. All Service Credits must be claimed through written notice to Annotate delivered within the calendar month after the month in which the SLA is not met or forfeited.

Support

- 2.14. Annotate provides its standard customer support to Admin Users for the Annotate Software via its helpdesk between the hours of 09:00 AM and 05:30 PM GMT on Business Days. During these hours, a customer support representative is available to answer any technical questions related to the SLA.
- 2.15. Contact Information
Annotate Customer Technical Support can be reached at:
support@annotate.com
- 2.16. Annotate reserves the right to update, upgrade or modify the Annotate Software periodically. Any such updates, upgrades or modifications: (i) will be made available during the Initial Term or any Renewal Term at no charge to Customer to the extent generally made available to licensees without an additional charge; and (ii) will not materially reduce the functionality of the Annotate Software. Annotate will not charge Customer for any upgrade unless Customer agrees in writing to pay for such upgrade and such upgrade is not generally made available to other customers of Annotate without additional charge.

Limited Warranty; Defence of Third Party Infringement Claims

- 2.17. Annotate warrants to Customer only that:
- 2.17.1. it will perform professional services (if any) under this Agreement with reasonable care and skill; and
 - 2.17.2. the Annotate Software will perform materially in accordance with its then-current published specifications.
 - 2.17.3. **EXCEPT AS EXPRESSLY SET FORTH IN THIS CLAUSE 2.17, ANNOTATE DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES AND REPRESENTATIONS OF EVERY KIND OR DESCRIPTION, WHETHER IMPLIED BY STATUTE, COMMON LAW OR OTHERWISE, TO THE EXTENT PERMITTED BY LAW, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR THAT DATA OR CONTENT WILL NOT BE LOST OR COMPROMISED.**
- 2.18. Annotate shall, subject to clauses 2.20 and 2.21, defend Customer against any claim that the Annotate Software infringes or misappropriates any third party Intellectual Property Right provided that:
- 2.18.1. Annotate is given prompt written notice of any such claim;
 - 2.18.2. Customer provides reasonable co-operation to Annotate in the defence and settlement of such claim, at Annotate's expense; and
 - 2.18.3. Annotate is given sole authority to defend or settle the claim.
- 2.19. In the defence or settlement of any claim, Annotate may procure the right for Customer to continue using the Annotate Software, replace or modify the whole or part of the Annotate Software and/or Service so that

it becomes non-infringing or, if such remedies are not reasonably available (as determined by Annotate in its reasonable discretion), terminate this Agreement on written notice to Customer without any additional liability or obligation to pay damages or other additional costs to Customer, other than a pro-rata refund of the amount of any prepaid fees with respect to the then-current term of services purchased.

- 2.20. In no event shall Annotate be liable to Customer to the extent that the alleged infringement is based on:
- 2.20.1. the Content;
 - 2.20.2. a modification of the Annotate Software by Customer; or
 - 2.20.3. Customer's use of the Annotate Software and/or Service in breach of this Agreement.
- 2.21. The foregoing states Customer's sole and exclusive rights and remedies, and Annotate's entire obligations and liability, for infringement of any third party Intellectual Property Rights related to this Agreement.

Service Suspension and Content Removal

- 2.22. Annotate reserves the right to suspend or restrict End User access or terminate this Agreement at any time if it reasonably believes that the Annotate Service has in any way been compromised or there has been a breach by Customer of clause 2.8 or 2.9.

3. FEES AND PAYMENT

- 3.1. In consideration of Annotate providing the Annotate Software to Customer, Customer shall pay the relevant Annual Licence Fee and Additional Fees to Annotate.
- 3.2. Unless agreed otherwise in the Order, Annotate shall submit invoices to the Customer annually in advance with respect to the Annual Licence Fee, and monthly in arrears with respect to any Additional Fees owed.
- 3.3. All sums payable under this Agreement shall be paid in UK pounds unless otherwise stated in the Order. All sums exclude sales taxes and any other applicable taxes, which (except for any taxes based on the income of Annotate) shall be paid by Customer.
- 3.4. Undisputed invoices shall be payable within 30 days of the Customer's receipt of the invoice. If Customer fails to pay by the due date any undisputed amount payable under the Agreement and such amount remains unpaid when due, Annotate may charge Customer interest on the overdue amount, payable by Customer immediately on demand, from the due date up to the date of actual payment at the rate of the lesser of 1.5% per calendar month or the maximum allowable under applicable law.
- 3.5. Unless explicitly agreed, Annotate reserves the right in its sole discretion, to review and adjust the Annotate Fees on an annual basis by written notice to Customer. Annotate shall give Customer at least 45 days' notice of any adjustment to the Annotate Fees prior to the end of the Initial Term or applicable Renewal Term. Customer will be deemed to have agreed and accepted the new Annotate Fees if Customer continues to use the Annotate Service during the subsequent Renewal Term.
- 3.6. Without prejudice to any other right or remedy available to Annotate, if Customer fails to pay by the due date any amount payable under the Agreement and such amount remains unpaid for more than 30 additional days, Annotate may suspend its provision of the Annotate Services (in whole or in part) to Customer until the overdue amount (including all interest payable in accordance with clause 3.4) has been paid in full.

4. DATA PROTECTION AND SECURITY

- 4.1. Each of the parties shall comply with its respective obligations under the Data Protection Legislation.
- 4.2. Where Annotate, as part of the fulfilment of its obligations under this Licence, Processes Personal Data as a data processor on behalf of the Customer, Annotate shall:
- 4.2.1. act only on instructions from the Customer when Processing Personal Data provided to it under this Agreement, and keep records of all such Processing;
 - 4.2.2. having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures against the unauthorised or unlawful Processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be

- protected;
- 4.2.3. ensure that all personnel who have access to and/or Process Personal Data are obliged to keep the Personal Data confidential;
- 4.2.4. not transfer any Personal Data outside the European Economic Area without the Customer's prior written consent; and
- 4.2.5. notify the Customer without undue delay on becoming aware of a Personal Data breach.
- 4.3. Annotate may, at any time on not less than 30 days' notice, revise this clause 4 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.
- 4.4. Customer hereby grants to Annotate a non-exclusive, royalty-free, non-transferable (except for a transfer in connection with a merger, acquisition, corporate reorganization or similar such transaction involving Annotate) licence to use the End User Data during the Term for the sole purpose of providing the Annotate Service.
- 4.5. All End User Data shall be the property of Customer. Nothing in this Agreement is intended to transfer any aspect of ownership in the End User Data to Annotate.

5. **CONFIDENTIALITY**

- 5.1. Each party undertakes that it will not at any time use or disclose to any person, except to its professional representatives or as may be required by law or any legal or regulatory authority, the contents of any Order or any confidential information concerning the business or affairs of the other party which may have or may in the future come to its knowledge. Neither party shall use any such confidential information except for the performance of this Agreement without the prior written approval of the other party. From the Commencement Date of this Agreement, Customer agrees that Annotate may use the Customer's name and/or logo for marketing and promotional purposes only and Customer agrees, on reasonable request, to provide a written success story and/or testimonial in relation to the Annotate Services.

6. **TERM AND TERMINATION**

- 6.1. This Agreement has an initial term as set out in the Order starting on the Commencement Date (the "Initial Term"), subject always to earlier termination in accordance with this clause 6. It will automatically renew at the end of the Initial Term for subsequent annual renewal terms (each a "Renewal Term") unless either party gives the other party at least 60 days' written notice that it does not wish to renew prior to the expiration of the Initial Term or any Renewal Term.
 - 6.2. Either party may terminate this Agreement at any time (without prejudice to its other rights and remedies) by written notice to the other party if the other:
 - 6.2.1. commits a material breach of its obligations under this Agreement and in the case of a remediable breach, fails to remedy it within 30 days of the date of receipt of written notice from the other; or
 - 6.2.2. becomes insolvent or unable to pay its debts, makes a general assignment for the benefit of creditors, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made, or resolution passed for its winding up (except for the purposes of a bona fide amalgamation or reconstruction), bankruptcy or dissolution; if it ceases to carry on business or if it claims the benefit of any statutory moratorium.
- For the purposes of clause 6.2.1, a breach of clauses 2.8, 2.9, 2.10 and 5 by either party shall not constitute a remediable breach.
- 6.3. Annotate may terminate this Agreement:
 - 6.3.1. immediately on written notice in the event any licence agreement essential to the provision of the Annotate Service expires or terminates or if the Annotate Service is found by any court of competent jurisdiction to be unlawful or Annotate is subject to any claim, threatened claim or court order in connection with or related to the Annotate Service; or
 - 6.3.2. on giving the Customer 2 months' written notice.

In the event of termination under clause 6.3, Annotate shall refund Customer any pre-paid Annual Licence

Fee or Additional Fees actually received by Annotate in respect of the period from and after such termination.

7. CONSEQUENCES OF TERMINATION

- 7.1. Subject to clauses 7.2 and 10.2, the parties shall have no further obligations or rights under this Agreement following termination or expiration, without prejudice to those which have accrued to either party prior to termination or expiration.
- 7.2. Those clauses (if any) the survival of which are necessary for the interpretation or enforcement of this Agreement shall continue to have effect after termination or expiration of this Agreement.
- 7.3. Customer is responsible to ensure that Customer exports a copy of any Content, together with any annotations created within the Annotate Software, that it wishes to export prior to termination or expiration of the Agreement. Upon termination or expiration of this Agreement, Customer will promptly uninstall the Annotate Software and remove all of its components from the customer's environment.
- 7.4. Customer may archive the Content prior to removal of the Annotate Software. If requested by Customer, and at Customer's expense, Annotate will assist with archiving the Content at Annotate's then standard rates.

8. LIABILITY

- 8.1. Notwithstanding anything to the contrary in this Agreement, nothing in this clause 8 shall limit either party's liability for death or personal injury resulting from its negligence, wilful misconduct or fraud
- 8.2. The total aggregate liability of Annotate with respect to any loss or damage arising out of or in connection with this Agreement shall not exceed the Annual Licence Fee payable by the Customer in relation to the year in which the liability arose.
- 8.3. Annotate shall not be liable in any way for:
 - 8.3.1. any economic losses (including, without limitation, loss of revenues, profits, contracts, business or anticipated savings); or
 - 8.3.2. any loss of goodwill or reputation; or
 - 8.3.3. any special, indirect or consequential losses suffered or incurred by Customer arising out of or in connection with this Agreement.
- 8.4. Annotate shall have no liability for the cost of purchasing alternate products or services in lieu or in replacement of the Annotate Service.
- 8.5. The parties acknowledge and agree that the limitations contained in this clause 8 are reasonable in all the circumstances and a fundamental economic component of this Agreement and the parties would not have entered into this Agreement without such limitations.

9. CUSTOMER INDEMNITY

- 9.1. Customer shall indemnify on demand and hold harmless Annotate from and against any and all losses, demands, claims, damages, costs, expenses (including without limitation consequential losses, legal costs and expenses) and liabilities suffered or incurred directly or indirectly by Annotate and its employees, officers, agents and subcontractors as a result of:
 - 9.1.1. Annotate's use of the End User Data or Content; and/or
 - 9.1.2. any breach, non-performance or non-observance of clauses 2.8, 2.9, 2.10 or 5 of this Agreement by the Customer; and/or
 - 9.1.3. any breach, non-performance or non-observance of the End User Licence Agreement by an End User.
- 9.2. Customer shall provide Annotate with commercially reasonable assistance should Annotate decide in its sole discretion to conduct any investigation into any complaint or other matter related to the Content and/or Customer's performance or observance of its obligations under this Agreement and/or the actions or omissions of any End User.

10. FORCE MAJEURE

- 10.1. Neither party shall be liable to the other party for any delay in or failure to perform any or all of its

obligations under this Agreement if the delay or failure is due to circumstances beyond its reasonable control including, without limitation, to the extent that these are beyond such control, nuclear accident, war or terrorist activity, acts of God, civil commotion, compliance with any law or governmental order or regulation, failure of technical facilities including without limitation failure of electrical power or air-conditioning or disruption to the internet ("Force Majeure").

- 10.2. A party suffering an event of Force Majeure shall promptly notify the other party of the nature and extent of the Force Majeure and if it prevails for a continuous period of more than one month in total the other party may terminate this Agreement immediately by notice in writing to the party so prevented in which case neither party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to exist and Annotate shall refund Customer any prepaid fees actually received by Annotate in respect of the period from and after such termination.

11. **ASSIGNMENT**

- 11.1. Customer shall not (without the prior written consent of Annotate) transfer or assign (whether directly or by operation of at law), or sublicense this Agreement or any rights under this Agreement, or purport to do any of the same. Any purported assignment in breach of this clause 11 shall be null and void.

12. **GENERAL**

- 12.1. Nothing in this Agreement shall create or be deemed to create a partnership, joint venture or principal-agent relationship between the parties and neither party shall have authority to bind the other in any way.
- 12.2. In no event will any delay, failure or omission (in whole or in part) in enforcing, exercising or pursuing any right, power, privilege, claim or remedy conferred by or arising under this Agreement or by law, be deemed to be or construed as a waiver of that or any other right, power, privilege, claim or remedy with respect to the circumstances in question, or operate so as to bar the enforcement of that, or any other right, power, privilege, claim or remedy, in any other instance at any time or times subsequently.
- 12.3. The terms and provisions of this Agreement shall be binding upon and take effect for the benefit of Annotate and Customer and is made solely and specifically for their benefit. No other person or entity shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.
- 12.4. This Agreement, constitutes the entire agreement and understanding of the parties and supersedes any previous agreement or arrangement between the parties relating to the subject matter of this Agreement. In entering into this Agreement, the parties have not relied on, and shall have no remedy with respect to, any statement, representation, warranty, understanding, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.
- 12.5. If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.
- 12.6. This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law and each party irrevocably submits to the exclusive jurisdiction of the English courts with respect to any dispute or matter arising out of or connected with this Agreement.