evaluagent

Main Service Agreement

This Agreement is a binding contract and governs access to and use of the Services by You and Users whether in conjunction with a paid Subscription Term or a free trial of the Services.

By accepting this Agreement, either by accessing the Services, or by permitting a User to access or use the Services, or by signing an Order Form, You agree to be bound by this Agreement from the date of first access to the Services or from the "Effective Date" as detailed in an Order Form (whichever is the earliest date).

If You are entering into this Agreement on behalf of a company, organization or any other legal entity ("Entity"), You are agreeing to this Agreement for that Entity and representing to EvaluAgent that You have the authority to bind such Entity and any Affiliates to this Agreement, in which case the terms "Customer," "You," or "Your" herein refers to such Entity and its Affiliates. If You do not have such authority, or if You do not agree with this Agreement, You must not use or authorise any use of the Services.

The purpose of this Agreement is to establish the terms and conditions under which You may purchase, access and use EvaluAgent's Services or Consultancy Services as detailed in a signed Order Form.

In the event of any inconsistency or conflict between the terms of this Agreement and the terms of any Order Form or statement of work (SOW), the terms of the Order Form or SOW shall prevail.

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1. Access Rights and User Licences

1.1 Customer is granted a non-exclusive, revocable right to permit Users to access and use the Services during a free trial or a paid Subscription Term.

1.2 Customer may extend its rights, benefits and protections provided herein to its Affiliates and to contractors or service providers acting on Customer's or Customer's Affiliates' behalf, provided that Customer remains responsible for their compliance hereunder. Customer also agrees that it will be responsible for its Affiliates' compliance with this Agreement.

1.3 Customer must purchase an individual licence for each individual User. However, licences may be reassigned to new Users replacing former Users who no longer require use of the Services.

2. Data Protection & Information Security

2.1 Applicable Data Protection Laws pertaining to this Agreement are the UK GDPR (The Data Protection Act 2018) where Customer's country of operation is the UK; The General Data Protection Regulation ((EU) 2016/679) where Customer's country of operation is inside the EU; plus, any other data protection laws applicable in Customer's country of operation if Your country of operation is outside the UK or EU region.

2.2 For the purposes of EvaluAgent's performance of this Agreement, We may process any content, files, documents, information, or Personal Data provided by or on behalf of Customer or any User ("Customer Data").

2.3 Details of Personal Data processed by EvaluAgent under this Agreement are set out in Schedule 1.

2.4 Customer shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of Customer Data.

2.5 By entering into this Agreement, Customer consents to (and shall procure all required consents, from its personnel, representatives, agents, suppliers, contractors, partners and customers in respect of) all actions taken by EvaluAgent in connection with the processing of Customer Data.

2.6 EvaluAgent and Customer shall comply with their respective obligations under Applicable Data Protection Laws and shall not perform their respective obligations under this Agreement so as to cause the other to breach its obligations under Applicable Data Protection Laws.

2.7 In this Agreement, the terms controller, processor, data subject, Personal Data, Personal Data breach, process and processing shall have the meaning given in the Applicable Data Protection Laws and that, in respect of Personal Data, Customer is the data controller, and EvaluAgent is the data processor.

2.8 Without prejudice to the generality of Clauses 2.1 through 2.7, Customer will ensure that it has all necessary consents and notices in place to enable lawful transfer of Customer Data to EvaluAgent (and to enable lawful collection of Customer Data

by EvaluAgent on behalf of Customer) for the duration and purposes of this Agreement.

2.9   Without prejudice to the generality of Clauses 2.1 through 2.7, EvaluAgent shall:

2.9.1   process Customer Data only on the instructions of Customer and to the extent necessary to fulfil its obligations under this Agreement, unless EvaluAgent is required by Applicable Data Protection Laws to otherwise process that Customer Data;

2.9.2   ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Customer Data, having regard to the state of technological development and the cost of implementing any measures;

2.9.3   ensure personnel who process Customer Data are obliged to keep it confidential;

2.9.4   assist Customer insofar as this is possible (taking into account the nature of the processing and the information available to EvaluAgent), at Customer's written request and cost, to the extent necessary to ensure compliance with its obligations under the Applicable Data Protection Laws with respect to data subject requests, security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

2.9.5   notify Customer within 24 (twenty-four) hours on becoming aware of a data breach involving Personal Data;

2.9.6   at the written direction of Customer, return Customer Data to Customer on termination of this Agreement unless required by Applicable Data Protection Laws to continue to process or store that Customer Data; and

2.9.7   maintain complete and accurate records to demonstrate its compliance with this Clause 2. Customer may request access to the records kept under this Clause 2.9.7 by submitting a written request for such access to EvaluAgent. Such access shall be limited to EvaluAgent's provision of such records electronically. EvaluAgent shall respond to each such request as soon as is reasonably practicable.

2.10   In order to fulfil its obligations under this Agreement, EvaluAgent may use the sub-processors listed at https://evaluagent.trust.page/#subprocessors to process Personal Data, provided that EvaluAgent shall:

2.10.1   ensure that the terms on which it appoints such processors are consistent with the obligations imposed on EvaluAgent in Clauses 2 and 3;

2.10.2   remain responsible for the acts and omissions of any such processor as if they were the acts and omissions of EvaluAgent; and

2.10.3   inform Customer of any intended material changes concerning the addition or replacement of the processors;

2.11   EvaluAgent will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data in accordance with Our information security policies & procedures stated at https://evaluagent.com/security

2.12   Any Customer-provided data-processing agreement (DPA) shall be included in an Order Form and shall be incorporated by reference into this Agreement.

3.   EvaluAgent's Obligations

3.1   In respect of its provision of Services to Customer, EvaluAgent shall:

    3.1.1   use reasonable care and skill to provision the Services and any Consultancy Services

    3.1.2   provide Services that comply with applicable laws and regulations; and

    3.1.3   not infringe any intellectual property right of any third party.

3.2   The obligations in Clause 3.1 shall not apply to the extent of any non-conformance caused by:

    3.2.1   use of the Services (and/or any part thereof) contrary to EvaluAgent's instructions and/or contrary to this Agreement; and/or

    3.2.2   modification or alteration of the Services by any Party other than EvaluAgent; and/or

    3.2.3   Customer's (or any User's) use of the Software (or any part thereof) after You have received notice of alleged or actual infringement of any third party right(s) from EvaluAgent or any authority in connection with the Services.

4.   Customer Obligations

4.1   Customer shall ensure that Users comply with this Agreement and use the Services in accordance with this Agreement. Customer shall be responsible for any User's breach of this Agreement and shall remain fully liable to EvaluAgent for all acts and omissions of any of its Users.

4.2   Customer shall use all reasonable endeavours to prevent any unauthorised access to the Services and, in the event of any such unauthorised access, promptly notify EvaluAgent.

4.3   Customer shall not:

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

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

    4.3.3   access or use all or any part of the Software in order to build a product or service which competes with the Software;

    4.3.4   license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software available to any third party except the Users;

4.3.5 attempt to obtain, or assist third parties in obtaining, access to the Software other than as provided under Clause 1;

4.3.6 introduce or permit the introduction of any virus into EvaluAgent's network and information systems;

4.3.7 use the Software in any way which infringes EvaluAgent's and/or any third party's intellectual property rights, other rights, and/or terms; or

4.4 In the event Customer (or any User) fail to comply with this Agreement (including without limitation any breach of this Agreement) and without prejudice to EvaluAgent's other rights or remedies, EvaluAgent may suspend provision of the Services to Customer (and other obligations under this Agreement) until such default is rectified by Customer to the satisfaction of EvaluAgent ("**Suspension**").

4.5 If the Software is accessed and used in any way which is not authorised by this Agreement, Customer shall, without prejudice to EvaluAgent's other rights or remedies, remain solely responsible for all Charges, costs, and liabilities arising out of or in connection with such access or use.

5. Updates

5.1 To continuously improve Our Services and enhance the user-experience, EvaluAgent may make updates to the Services as We deem necessary so long as the updates shall not disable, delete, or significantly impair the functionality of the Software.

6. Proprietary Rights

6.1 Each Party shall retain all rights, title and interest in any of its respective Intellectual Property Rights. The rights granted to Customer to use the Services under this Agreement do not convey any additional rights in the Services. Subject only to limited rights to access and use the Services as expressly stated herein, all rights, title and interest in and to the Services used to provide the Services and EvaluAgent's machine learning algorithms, including all related Intellectual Property Rights, will remain with and belong exclusively to EvaluAgent.

6.2 EvaluAgent shall have a fully paid-up, royalty-free, worldwide, transferable, sub-licensable (through multiple layers), assignable, irrevocable, and perpetual license to implement, use, modify, commercially exploit, incorporate into the Services or otherwise use any suggestions, enhancement requests, recommendations or other feedback regarding the Services that EvaluAgent receives from Customer. EvaluAgent also reserves the right to seek intellectual property protection for any features, functionality or components that may be based on or that were initiated by suggestions, enhancement requests, recommendations, or other feedback regarding the Services that We receive from Customer.

6.3 Customer shall retain ownership rights, including all Intellectual Property Rights, to all Customer Data processed under the terms of this Agreement.

6.4 This Clause 6 shall survive termination of this Agreement, however arising.

7. Confidentiality

7.1 "Confidential Information" means proprietary or confidential information that is labelled or identified as such by the Party to whom it belongs ("Disclosing Party") or that reasonably ought to be regarded as confidential, including, but not limited to, financial, business, or technical information, inventions, or processes, and all other information (written, oral, digital, or other media) that has been disclosed to or obtained by the other Party ("Receiving Party"). Importantly, Confidential Information does not include information that: (a) is publicly known through no act or omission of the Receiving Party; (b) was in the Receiving Party's lawful possession prior to disclosure by the Disclosing Party; (c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure; (d) is independently developed by the Receiving Party without any reference to or use of Disclosing Party's Confidential Information; or (e) is required to be disclosed by law or by a regulatory body or court of competent jurisdiction.

7.2 Subject to Clause 7.1, unless required by law or by a regulatory body or court of competent jurisdiction, the Receiving Party will not disclose the Disclosing Party's Confidential Information to any third party or use such Confidential Information for any purpose other than those explicitly provided in this Agreement.

7.3 This Clause 7 shall survive termination of this Agreement, however arising.

8. Indemnification

8.1 EvaluAgent will indemnify and defend Customer from and against any claim brought by a third party against You alleging that Your use of the Services as permitted hereunder infringes or misappropriates a third party's valid patent, copyright, trademark or trade secret (an "IP Claim").

8.2 EvaluAgent shall, at Our expense, defend such IP Claim and pay damages finally awarded against Customer in connection therewith, including reasonable fees and expenses of lawyers engaged by EvaluAgent for such defence, provided that (a) Customer promptly notifies Us of the threat or notice of such IP Claim; (b) EvaluAgent will have sole, exclusive control and authority to select defence lawyers, defend and/or settle any such IP Claim (however, We shall not settle or compromise any claim that results in liability or admission of any liability by Customer without Your prior written consent); and (c) Customer fully cooperates with EvaluAgent in connection therewith.

8.3 If use of the Services by Customer has become, or, in Our opinion, is likely to become, the subject of any such IP Claim, We may, at Our option and expense (a) procure for Customer the right to continue using the Services as set forth hereunder; (b) replace or modify the Services to make it non-infringing; or (c) if options (a) or (b) are not commercially reasonable or practicable as determined by EvaluAgent terminate this Agreement and repay Customer, on a pro-rata basis, any Charges paid to EvaluAgent for the unused portion of Your Subscription Term.

8.4 EvaluAgent will have no liability or obligation with respect to any IP Claim if such claim is caused in whole or in part by (a) compliance with designs, data,

instructions or specifications provided by Customer; (b) modification of the Services by anyone other than EvaluAgent or EvaluAgent Personnel; or (c) the combination, operation or use of the Services with other hardware or software where Services would not by themselves be infringing. The provisions of this Clause state the sole, exclusive and entire liability of EvaluAgent to Customer and Customer's sole remedy with respect to an IP Claim brought by reason of access to or use of Services by Customer.

8.5   Customer will indemnify, defend and hold EvaluAgent harmless against any claim brought by a third party against EvaluAgent (a) arising from or related to Customer's use of Services in breach of this Agreement (and not arising solely from the Service itself); or (b) alleging that Customer Marks or content selected by Customer in the design and implementation of the Services, including but not limited to the URL, graphics, illustrations, logos, and marks, or Customer Data infringes or misappropriates a third party's valid patent, copyright, trademark or trade secret; provided that (i) EvaluAgent promptly notifies Customer of the threat or notice of such claim; (ii) Customer will have the sole and exclusive control and authority to select defence lawyers, and to defend and/or settle any such claim (however, Customer shall not settle or compromise any claim that results in liability or admission of any liability by EvaluAgent without Our prior written consent); and (iii) EvaluAgent fully cooperates with Customer in connection therewith.

9.   Limitation of Liability

9.1   Except as expressly and specifically provided in this Agreement, all warranties, representations, conditions, and all other terms implied by statute and/or common law are, to the fullest extent permitted by law, excluded from this Agreement.

9.2   Nothing in this Agreement excludes or limits the liability of EvaluAgent for:

9.2.1   death or personal injury caused by EvaluAgent's negligence; or

9.2.2   fraud or fraudulent misrepresentation; or

9.2.3   any other liability which it is unlawful or illegal to exclude under applicable law.

9.3   Subject to Clause 9.1 and Clause 9.2:

9.3.1   Neither Party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any wasted expenditure, loss of profits, loss of business, loss of anticipated savings, depletion of goodwill and/or similar losses or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

9.3.2   The total aggregate liability for any claim or claims, whether arising in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising out of or in connection with the performance or contemplated performance of this Agreement, shall be limited to an amount equal to the total Charges paid by Customer to EvaluAgent (and received by EvaluAgent in cleared funds)

during the 12 months immediately preceding the date on which the claim arose.

9.4   This Clause 9 shall survive termination of this Agreement, however arising.

10. Termination

10.1   The Agreement remains in effect for the Subscription Term of a valid Order Form or unless this Main Services is terminated in accordance with this Agreement.

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

10.2.1   the other Party commits a material breach of this Agreement and fails to remedy such breach within 30 days after being notified in writing to do so; or

10.2.2   a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up or bankruptcy of that other Party other than solely for the solvent amalgamation of that other Party with one or more companies or the solvent reconstruction of that other Party; or

10.2.3   a court order is issued, or documents are filed with a court for the appointment of an administrator over the other Party or notice of intention to appoint an administrator over the other Party is given by such other Party, its directors, or a relevant agent; or

10.2.4   a receiver is appointed over the assets of the other Party, or a court of competent jurisdiction or a creditor becomes entitled to appoint a receiver over the assets of the other Party; or

10.2.5   such other Party is or becomes insolvent (or bankrupt) or suffers similar action.

10.3   On termination of this Agreement for any reason:

10.3.1   Customer (and all Users) shall immediately cease operation, access and use of the Software;

10.3.2   the licenses and rights granted to Customer under (and/or in connection with) this Agreement shall immediately terminate;

10.3.3   Evaluagent will destroy any Customer Data in its possession unless We receive a written request from Customer (no later than 10 days after the effective date of the termination of this Agreement) to allow You to download Your Customer Data. On receipt of such written request, Evaluagent will grant a Customer-nominated User access to the Software to enable such action, provided that You have, at that time, paid all amounts, fees and Charges outstanding at and resulting from termination (whether or not due at the date of termination); and

10.3.4   any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination which existed at or before the date of termination shall not be affected or prejudiced.

10.4   EvaluAgent will refund any prepaid Charges covering the remainder of the Subscription Term as of the effective date of termination if this Agreement is terminated by Customer in accordance with Clause 10.2.1.

10.5   Customer must pay any unpaid Charges covering the remainder of the Subscription Term if Evaluagent terminates this Agreement for Customer's material breach in accordance with Clause 10.2.1. In no event will Evaluagent's termination for cause relieve Customer of its obligation to pay any Charges payable to Us.

10.6   Except for Customer's termination under Clause 10.2.1, if Customer terminates its use of the Services prior to the end of the then-effective Subscription Term, or if EvaluAgent terminates the Agreement pursuant to Clause 10.2.1, in addition to any other amounts Customer may owe Us, Customer must immediately pay any and all unpaid Charges associated with the remainder of such Subscription Term.

10.7   Except for Customer's termination rights under Clause 10.2.1, no refunds or credits for Charges or other fees or payments will be provided if Customer terminates this Agreement.

11.   Force Majeure

11.1   Neither Party shall have any liability to each other under this Agreement if either Party is prevented from or delayed in performing its obligations under this Agreement, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs, industrial disputes (whether involving the workforce of EvaluAgent or any other Party), pandemics, epidemics, terrorist activity, failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant and/or machinery, fire, flood, storm or default of suppliers and/or sub-contractors.

12.   Ethical Conduct and Compliance

12.1   Neither Party, nor any of its employees has offered, received or been offered, directly or indirectly, any illegal or improper bribe or kickback (whether in the form of a payment, gift, undue advantage, or thing of value), or will offer or accept the same in connection with this Agreement.

12.2   All parties agree to comply with the US Foreign Corrupt Practices Act of 1977, the UK Bribery Act of 2010, and any equivalent anti-corruption requirements in other jurisdictions that are reasonably applicable to this Agreement.

12.3   Modest and reasonable gifts, meals, entertainment, and other hospitality, provided in the ordinary course of business and without any corrupt intent to obtain or retain business will not violate the above restriction.

12.4   If either Party learns of any violation of the above restrictions by the other Party, said Party will use reasonable efforts to promptly notify the other Party.

13. General

13.1 Each Party represents and warrants to the other that (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms; (b) no authorisation or approval from any third party is required in connection with such Party's execution, delivery or performance of this Agreement; and (c) the execution, delivery and performance of the Agreement does not and will not violate the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

13.2 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

13.3 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Customer acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, warranty, assurance, promise, or representation (whether made innocently or negligently) that is not expressly set out in this Agreement. Customer shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement. Nothing in this Clause 13.3 shall limit or exclude any liability for fraud.

13.4 Except as permitted herein, neither Party may, directly or indirectly, by operation of law or otherwise, assign all or any part of this Agreement or rights under this Agreement, or delegate performance of its duties under this Agreement, without written prior consent of the other Party and such consent will not be unreasonably withheld.

13.5 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

13.6 This Agreement does not confer any rights on any person or party (other than the Parties to this Agreement).

13.7 Any notice given to a Party under or in connection with this Agreement shall be in writing and shall be by email. Notices for the attention of Evaluagent shall be sent to info@evaluagent.com. Notices for the attention of Customer will be sent to the points of contact detailed in the Order Form. Any notice shall be deemed to have been received on the day of successful transmission and delivery of the notice to the relevant email address(es).

13.8 Customer shall not bring any action, proceeding or claim against EvaluAgent after the expiry of one year from the date on which the claim first arose.

13.9 EvaluAgent may amend this Agreement from time to time, in which case the new Agreement will supersede prior versions. We will notify Customer not less than thirty (30) days prior to the effective date of any such amendment and Customer's continued use of the Services following the effective date of any such amendment may be relied upon by EvaluAgent as Customer's consent to any such amendment. EvaluAgent's failure to enforce at any time any provision of this

Agreement does not constitute a waiver of that provision or of any other provision of this Agreement.

14. Support Services

14.1 EvaluAgent operates an extensive suite of automated monitoring tools to monitor system response times constantly and continually. In the event of an atypical response, EvaluAgent is automatically alerted to investigate.

14.2 The Software includes a library of user-guides that can be accessed from within the Software or via EvaluAgent's help site https://support.evaluagent.com. EvaluAgent provides a fully secure and automated password reset workflow from the Software log-in screen.

14.3 Evaluagent will make available an email helpdesk for the purposes of Users raising requests for help and/or reporting issues ("Helpdesk") during 9am to 5pm UK time, any day which is not a Saturday, Sunday, or public holiday in the UK. The Helpdesk can be contacted within the Software using the Help button or the contact form in our Help Centre (https://support.evaluagent.com). You can also email Us via support@evaluagent.com.

14.4 Customer will make all requests for Support Services via the Helpdesk, and all such requests must include contact details of User raising the ticket and a description of the issue (with screenshots).

14.5 In accordance with the following matrix, EvaluAgent will use reasonable endeavours to resolve requests for Support Services via the Helpdesk

Severity	Examples	Resolution time
Urgent	100% service outage	1 hour
High	Issues affecting multiple users (E.g. report not working)	3 hours
Normal	Any issues affecting a single user	7 hours
Low	Any issue that is not classed as Urgent, High, or Normal	16 hours

14.6 EvaluAgent shall use reasonable endeavours to ensure that the Software is available 99.5% of the time.

14.7 EvaluAgent may suspend access to the Software to carry out maintenance and/or updates to the Software between 10pm Fridays to 5am Saturdays UK time.

14.8 Unavailability of the Software arising out of or in connection with maintenance, interruptions to or problems with the internet, and/or any other interruptions to or problems with the Software which are not caused by EvaluAgent, shall not constitute unavailability for the purposes of Clause 14.6

14.9 EvaluAgent's monitoring and logging infrastructure is the source of truth for determining Monthly Uptime Percentage, errors and whether EvaluAgent has met the Uptime Commitment. All calendar months will be measured based on the UK time zone. If there is a failure to meet the uptime level commitment in a particular calendar month and Customer makes a request for service credit within fifteen (15) days after the end of such calendar month, Customer will be entitled to a Service Credit based on the equivalent monthly Charge for the month experiencing such failure.

14.10 To receive a Service Credit, Customer shall submit a ticket at https://support.evaluagent.com and provide any other reasonably requested information.

14.11 Service Credits can only be applied against a future Charge and a Service Credit will be calculated as follows:

Monthly Uptime Percentage	Service Credit (% of equivalent monthly Charge refunded)
98% – 99.5%	5%
95% – 98%	15%
Less than 95%	25%

15.   AI fair usage policy

15.1 The Services may include access to features powered by artificial intelligence ("AI Features"). EvaluAgent provides these AI Features as part of the Subscription and as detailed in an Order Form, subject to fair usage as described in this clause.

15.2 Fair Usage Threshold - While EvaluAgent does not impose fixed usage limits, Customer acknowledges that excessive or abnormal usage of AI Features may lead to disproportionate infrastructure or third-party costs for EvaluAgent. EvaluAgent reserves the right to monitor aggregate usage to ensure compliance with a reasonable and proportionate level of use in line with the intended purpose of the Services.

15.3 Notice and Remediation - In the event that EvaluAgent, in its reasonable discretion, determines that the Customer's usage materially exceeds typical usage levels for similarly situated customers, EvaluAgent will notify Customer and may request Customer to reduce such usage. Customer shall use reasonable efforts to promptly comply with such request.

15.4 Suspension or Restriction - If, after such notice, Customer's usage continues to materially exceed fair usage thresholds and poses a risk to the performance, cost, or integrity of the Services, EvaluAgent reserves the right to temporarily suspend or restrict access to AI Features. Any such action shall be taken in good faith and only to the extent reasonably necessary.

15.5   Optional Commercial Terms - In lieu of restriction, EvaluAgent may propose additional commercial terms to enable continued access to AI Features at higher usage volumes.

15.6   No Liability for Restriction - EvaluAgent shall not be liable for any delay, loss, or damage arising from the suspension or restriction of AI Features in accordance with this clause, provided that such action is taken in accordance with this policy.

16. Definitions

When used in this Agreement with initial letters capitalized, these terms have the following meaning:

"Affiliate(s)" means, with respect to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, whereby "control" (including, with correlative meaning, the terms "controlled by" and "under common control") means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract, or otherwise.

"Agreement" means the Main Services Agreement together with any Order Form and other mutually executed documents. The Main Services Agreement may also be referred to as "MSA."

"AI Features" means any functionality or component of the Services powered by artificial intelligence or machine learning models, whether proprietary to EvaluAgent or provided via third-party APIs.

"API" means the application programming interfaces developed, made available and enabled by EvaluAgent that permit Customers to access certain functionality provided by the Services, including, without limitation, the REST API that enables the interaction with the Services automatically through HTTP requests and the application development API that enables the integration of the Services with other web applications.

"Charges" means all charges associated with Customer's access to and use of the Services. Charges are detailed in the Order Form.

"Confidential Information" means all information disclosed by one Party to the other Party which is in tangible form and designated as confidential or is information, regardless of form, which a reasonable person would understand to be confidential given the nature of the information and circumstances of disclosure, including but not limited to the pricing terms, product plans and designs, business processes, security notifications, and customer advocacy communications. Notwithstanding the foregoing, Confidential Information shall not include information that (a) was already known to the receiving Party at the time of disclosure by the disclosing Party; (b) was or is obtained by the receiving Party from a third party not known by the receiving Party to be under an obligation of confidentiality with respect to such information; (c) is or becomes generally available to the public other than by violation of this Agreement or another valid agreement between the Parties; or (d) was or is independently developed by the receiving Party without the use of the disclosing Party's Confidential Information.

"Consultancy Services" means consulting, or professional services (including any training, success and implementation services) provided by EvaluAgent Personnel as indicated on an Order Form or other written document such as an SOW.

"Customer" means the party specified above with the address as set forth on the Order Form and may also be referred to as "You" or "Your."

"Customer Data" means any content, files, documents, information, or Personal Data provided by or on behalf of Customer.

"Documentation" means any written or electronic documentation, images, video, text or sounds specifying the functionalities or limitations of the Services, as applicable, provided or made available by EvaluAgent to Customer in the applicable user guides.

"Effective Date" means the first day of the Subscription Term. The Effective Date is detailed on the Order Form.

"EvaluAgent" is the trading name of SocialRel8 Ltd, Registered Office: DigitalCity, Bridge Street West, The Boho Zone, Middlesbrough, TS2 1AE. Registered in England & Wales. Company Number: 07851629 or any of its successors or assignees and may also be referred to as "We," Us" or "Our."

"EvaluAgent Personnel" means employees and/or non-employee contractors of EvaluAgent.

"Order Form" means EvaluAgent's order form(s) or online ordering document, or process completed, executed or approved by Customer with respect to Customer's subscription to the Services.

"**Party**" means Customer or EvaluAgent collectively referred to as the "Parties".

"Personal Data" means a specific subset of Customer Data as detailed and defined in Schedule 1

"Service(s)" means the products and services that are used by Customer via an Order Form referencing this Agreement, whether on a trial or paid basis, including, individually and collectively, the applicable Software, updates, API, and Documentation that are provisioned under this Agreement.

"Software" means software provided by EvaluAgent accessed through the internet that allows Users to access and use any functionality in connection with the Service(s).

"Subscription Term" means the period during which Customer has agreed to pay of the Services. The Subscription Term is detailed on the Order Form.

"User" means any person who is evaluated via the Software; any person who is provided with a username and password to access the Software; or any other person who is authorised by Customer to use the Software.

Schedule 1: Personal Data processed by EvaluAgent

There are two applicable data subject categories as detailed below.

Data Subject Category 1: User

Applicable to All Customers

A User is any person who is evaluated via the Software; any person who is provided with a username and password to access the Software; or any other person who is authorised by Customer to use the Software.

a) **Personal Data**: User full name, User email address (or unique User ID), and User performance data.

b) **The scope, subject matter, nature, and purpose of processing**: to enable the quality of interactions between Users and persons who communicate with Users via Customer's service and sales contact-channels (E.g. telephone, email, chat, service desk) ("Service-User") to be assessed and to maintain and report a record of interaction-handling performance for each relevant User for the purposes of quality-monitoring, feedback, coaching, training, and performance management and to enable EvaluAgent to perform its obligations under this Agreement.

c) **Duration of the processing by EvaluAgent**: The Subscription Term as defined in the Order Form. Upon Customer's written request, EvaluAgent will make Customer Data available to Customer for export or download for thirty (30) days after the Subscription Term has ended.

Data Subject Category 2: Service-User

ONLY applicable if Customer selects to configure an integration to fetch and store interactions into the Software from Customer's third-party contact-management system.

A Service-User is a person who communicates with a User via Customer's service and sales contact-channels (E.g. telephone, email, chat, service desk)

a) **Personal Data**: Service-User phone number, Service-User email address and any Service-User Personal Data divulged by the Service-User to the User during an interaction.

b) **The scope, subject matter, nature, and purpose of processing the data-subject category**: to enable the quality of interactions between Users and Service-Users to be assessed and to maintain and report a record of conversation-handling performance for each relevant User for the purposes of quality-monitoring, feedback, coaching, training, and performance management and to enable EvaluAgent to perform its obligations under this Agreement.

c) **Duration of the processing by EvaluAgent**: The Subscription Term as defined in the Order Form. Upon Customer's written request, EvaluAgent will make Customer Data available to Customer for export or download for thirty (30) days after the Subscription Term has ended.