

## PINEWOOD AUTOMOTIVE INTELLIGENCE™ PLATFORM - STANDARD TERMS & CONDITIONS

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 In this Agreement, unless otherwise stated:

- 1.1.1 defined terms shall have the meaning set out in Schedule 1;
- 1.1.2 a reference to any agreement, contract or document shall be to that agreement, contract or document as amended from time to time; a reference to a clause or Schedule is to a clause or schedule of this Agreement; a reference to any gender shall include every gender; a reference to a “**person**” includes a reference to a company or other body corporate, association, partnership or individual; a reference to the singular shall include the plural and vice versa; a reference to any statute or other legislation shall include all secondary legislation, and any amendments to or replacements for that legislation or secondary legislation from time to time; a reference to "writing" includes any recorded form (including physical and digital form, facsimile and electronic mail); "materials" includes any information, property, data or materials of any kind and in whatever form; and any words following the words “**include**”, “**includes**”, “**including**” or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them; and
- 1.1.3 in the event of any conflict between the Terms and Conditions and the Order Form, the Terms and Conditions shall prevail except any conditions which are expressly set out as “Special Conditions” in the Order Form (in which case such terms shall prevail and override any conflicting provisions in the Terms and Conditions).

### 2. DURATION

- 2.1 This Agreement shall commence from the date the last party signs this Agreement (“**Commencement Date**”) and continue for the Initial Term, and shall continue thereafter without limit of time unless and until terminated by either party by six months prior written notice to expire at, or at any time after, the end of the Initial Term (“**Term**”).
- 2.2 Subject to clause 4.2, all Services under this Agreement (other than any Implementation Services which shall commence in accordance with clause 3) shall commence on and be deemed to have commenced on the Services Start Date.

### 3. IMPLEMENTATION SERVICES

- 3.1 Where any Implementation Services are set out in the Order Form (or otherwise agreed under clause 8), in consideration of the Customer paying the Charges, Pinewood shall supply the Implementation Services to the Customer in accordance with the Specification.
- 3.2 The Implementation Services shall be provided by Pinewood to the Customer in accordance with the timescales specified in the Order Form (or if no timescales have been so specified or agreed, the Customer shall permit Pinewood to provide such Implementation Services in such timescales as Pinewood shall reasonably specify).
- 3.3 Where the Implementation Services include the provision of training, the Customer shall be responsible for ensuring that all Services are used by suitably trained personnel and shall procure such training exclusively from Pinewood. The Customer shall pay for all training booked, whether or not its delegates attend or cancel. If Pinewood reasonably considers that the Customer has failed to ensure that its personnel have been suitably trained or that it has failed to assign appropriate or sufficient personnel to the Implementation Services, Pinewood shall be entitled to suspend performance of the Implementation Services until the deficiencies are remedied to Pinewood’s satisfaction. During any period of suspension pursuant to this clause 3.3, Pinewood shall not be liable for any delay or failure in performance caused by such suspension.

#### 4. SERVICES ROLL-OUT

- 4.1 Where the Customer requires a phased roll-out of the Services, the Customer shall promptly (and in any event no later than thirty (30) days following the date of signature of this Agreement): (i) notify Pinewood of the Customer's requirement for a phased roll-out of the Services, and (ii) provide a draft roll-out schedule which shall, as a minimum, include: (i) the Services being purchased by the Customer and provided by Pinewood, (ii) the Specified Locations, and (iii) the dates and milestones for the implementation of the those Services as known at the date of preparation of the draft implementation plan (the "**Roll-Out Schedule**").
- 4.2 The parties shall, acting reasonably and in good faith, use all reasonable endeavours to agree the Roll-Out Schedule as soon as reasonably possible following receipt by Pinewood of the Roll-Out Schedule. The parties recognise that the Roll-Out Schedule may change to reflect changes in: (i) the Services being purchased by the Customer and provided by Pinewood, (ii) the Specified Locations, and (iii) the dates and milestones for the implementation of those Services, and any changes shall be agreed in writing between the parties in accordance with the change control procedure set out in clause 8. Each party shall use reasonable endeavours to comply with the Roll-Out Schedule.
- 4.3 Where a Roll-Out Schedule is agreed between the parties in accordance with this clause 4, for each Specified Location, the Platform Services Charges shall apply prior to the Services Start Date as soon as the Implementation Services have been completed for that relevant Specified Location.

#### 5. PLATFORM SERVICES

##### Provision of Platform Services

- 5.1 In consideration of payment by the Customer of the Charges, Pinewood shall provide the Platform Services.
- 5.2 Subject to the payment of the Charges by the Customer and clause 5.3, Pinewood hereby grants the Customer and its Affiliates a non-exclusive, non-transferable, non-sublicensable right during the Term to allow Users to access and use the Pinewood Platform and any Documentation in the Specified Locations for the purposes specified in clause 11.1.
- 5.3 The following shall apply in respect of the Customer's use of the Pinewood Platform:
- 5.3.1 the Customer's and its Affiliates' right to allow Users to access and use the Pinewood Platform under clause 5.2 is limited to access and use of the Bundles included within the Tier set out in the Order Form;
- 5.3.2 where a Bundle is an Enterprise Licence, there shall be no restriction on the Specified Locations or number of Users in relation to the Customer's use of the features of the Pinewood Platform relevant to the Bundle except that the features of the Pinewood Platform relevant to the Bundle can only be used by the Customer, its Affiliates, and Users; and
- 5.3.3 where a Bundle is a Rooftop Licence or User Licence, the Customer shall not be entitled to exceed the applicable number of units set out in the Order Form (as may be amended by the parties from time to time in accordance with clause 8) ("**Limits**"). For these purposes, each unit for a Rooftop Licence means a licence provided to the Customer on a single franchise point basis. By way of illustrative example only, if a Customer represents four OEMs in one location, this would equate to four Rooftop Licence units instead of one such unit. Notwithstanding the foregoing, multiple brands from the same OEM in one location equates to one Rooftop Licence (examples include, but are not limited to Ford/Lincoln; Chrysler/Jeep/Dodge/Ram/Fiat; BMW/Mini; Mercedes-Benz/SMART; Honda/Acura; Toyota/Lexus; Nissan/Infiniti; Hyundai/Genesis). Further, multiple exotic brands (including but not limited to, Rolls Royce, Pagani, McLaren etc.) from different OEMs in one location equates to one Rooftop Licence.

##### Access to the Pinewood Platform

- 5.4 The Customer acknowledges and agrees that:
- 5.4.1 access to the Pinewood Platform must either be through web browsers from the Specified Locations or from Mobile Devices;
  - 5.4.2 access to certain features of the Pinewood Platform may require downloads to Customer Mobile Devices to allow Users use of the relevant Bundle, and Pinewood shall notify the Customer as soon as reasonably possible where such requirements apply; and
  - 5.4.3 a User Account of itself grants no rights to actually log-in to, access and use the Pinewood Platform but is a pre-requisite to use and access the Pinewood Platform.

5.5 If the Customer wishes for Pinewood to provide application programming interfaces (APIs) for the Customer's benefit, such provision shall be subject to any additional: (i) terms and conditions; and (ii) fees, as Pinewood may so specify in each case.

#### Changes to Limits

5.6 The Customer may increase the Limits by notifying Pinewood and paying the Pinewood Standard Charges. Any such increase to the Limits shall be subject to agreement in accordance with clause 8 and once agreed shall be deemed permanent and continue until this Agreement is terminated, subject to the one-time reduction right in clause 5.7 below.

5.7 Subject to clause 9.4, the Customer may on one occasion only (so that the Customer may only exercise this right once during the Term) by providing ninety (90) days' prior written notice to Pinewood decrease by no more than ten percent (10%) the Limit for each Bundle with a User Licence. The Customer shall not be entitled to exercise this right at different times for different Tiers and/or Bundles. Where the Customer decreases the Limits in accordance with this clause 5.7:

- 5.7.1 the change shall be agreed between the parties in accordance with clause 8;
- 5.7.2 subject to clause 9.4, the relevant component of the Platform Services Charges related to decrease in the Limits will be reduced pro-rata; and
- 5.7.3 any further or additional decreases to the Limits shall be subject to the prior written agreement of Pinewood in accordance with clause 8 and to such adjustment of the Charges as Pinewood shall specify.

5.8 If the Limits are exceeded at any time by the Customer (and not agreed in writing with Pinewood in accordance with clause 8), the Customer shall pay the Pinewood Standard Charges for each additional unit above the Limits for the remainder of the Term.

#### Third Party System or Services

5.9 The parties each acknowledge and agree that in relation to the provision of the Services, Pinewood: (i) may be requested by the Customer to use, integrate, interface or otherwise access any services, computer system, network, equipment or software of a third party engaged directly by the Customer ("**Customer Third Party Systems**"); and/or (ii) may utilise service, computer system, network, equipment or software of a third party engaged directly by Pinewood, access to which or use of which is granted, facilitated or provided to provide the Services (including the Software Product) ("**Pinewood Third Party Systems**").

5.10 Where the Services require access to or are dependent on any Third-Party System or Service then unless otherwise agreed:

- 5.10.1 the Customer shall be responsible for contracting for the Customer Third Party Systems and Pinewood shall be responsible for contracting for the Pinewood Third Party Systems (unless Pinewood specified to the Customer that it is required to obtain appropriate licences or consents to use Pinewood enabled

third party systems, network, computer or software in which case the Customer shall secure such licences or consents and share the credentials with Pinewood);

5.10.2 the Customer shall be responsible for obtaining all necessary consents, rights and licences to allow Pinewood to access the Customer Third Party Systems;

5.10.3 the Customer shall comply with all contract terms, conditions, and requirements imposed by the third-party provider in respect of the Pinewood Third Party Systems (including the provisions of Schedule 3 in the respect of the Software Product), and Pinewood shall comply with all contract terms, conditions, and requirements imposed by the third-party provider in respect of the Pinewood Third Party Systems (which are notified to Pinewood in writing by the Customer);

5.10.4 Pinewood will be responsible for providing the technical arrangements to facilitate and enable access to Pinewood Third Party Systems through Pinewood's own systems; and

5.10.5 whilst Pinewood will use reasonable efforts to monitor and supervise the supply of the Pinewood Third Party Systems, Pinewood shall not otherwise be responsible for liable to the Customer for any failure, non-operation, default, or non-availability of the Third Party System or Service or other malfunction in relation to such Third Party System or Service or any resulting effects on the Services, unless due to Pinewood's negligence or default.

5.11 In relation to any Third-Party System or Service or any Services supplied by a third party:

5.11.1 if the third party providing Customer Third Party Systems changes its specifications for the same after the date of this Agreement, or that third party replaces the same with a new model or version, or ceases to supply the same, or Pinewood is of the view that the Customer Third Party System should be replaced due to poor performance or quality, then Pinewood shall be entitled to make reasonable variations to the Services and make reasonable resulting variations to the Charges upon written notice to the Customer; and

5.11.2 if the third party providing Pinewood Third Party Systems changes its specifications for the same after the date of this Agreement, or that third party replaces the same with a new model or version, or ceases to supply the same, or Pinewood decides to replace a Pinewood Third Party System owing to their poor performance or quality, then Pinewood shall be entitled to substitute an alternative which shall as far as is reasonably possible provide substantially the same functionality, and to make a reasonable resulting variation to the Charges, delivery, warranty and other terms of this Agreement effective at such date as Pinewood may decide.

## **6. ADDITIONAL SERVICES**

6.1 Where any Additional Services are set out in the Order Form (or otherwise agreed under clause 8), in consideration of the Customer paying the applicable Additional Services Charges, Pinewood shall supply the Additional Services to the Customer.

6.2 Where Additional Services include the provision of additional training (above any training included as part of the Implementation Services), the Customer shall be responsible for ensuring that all Services are used by suitably trained personnel and shall procure such training exclusively from Pinewood at the Additional Charges to the Customer. The Customer shall pay for all training booked, whether or not its delegates attend or cancel.

## **7. SUPPORT SERVICES**

7.1 In consideration of payment by the Customer of the Charges, Pinewood shall provide Support Services to the Customer.

7.2 Pinewood does not guarantee that Pinewood Platform , Services, any Third-Party System or Service will be fault or interruption free. Where Pinewood is providing Support Services it will use reasonable efforts to fix any fault and correct the problem through the provision of the Support Services. Where the problem lies with any Third-Party System or Services Pinewood will use reasonable efforts to resolve the fault with the third party, and the Customer acknowledges that Pinewood cannot resolve the problem itself.

7.3 Unless otherwise specified in the Order Form, the Support Services do not include, and Pinewood shall be entitled to charge the Customer for (and the Customer shall pay) all reasonable Pinewood Standard Charges for, the provision of any Support Services: (i) outside the Support Services Hours requested by the Customer; (ii) at the Customer's premises; or (ii) relating to consultancy advice, design, or development work.

7.4 The Customer shall use reasonable efforts to minimise and prevent excessive or unnecessary use of the Support Services. Use shall be considered to be excessive or unnecessary if it relates to something which a trained and reasonably experienced and skilled user would reasonably be expected to be able to do autonomously. If excessive or unnecessary use is occurring, the Customer shall agree with Pinewood what action should be taken to minimise this. Pinewood reserve the right to withdraw Support Services from any individual who has not received suitable training, or who makes persistent excessive or unnecessary use of the Support Services.

## **8. CHANGE REQUESTS**

8.1 If the Customer requests changes to the scope of Services or, where applicable, a Roll-Out Schedule under this Agreement, it shall submit a written request to Pinewood containing as much information as is necessary to enable the Pinewood to prepare a change control quotation. Pinewood shall as soon as reasonably possible provide the Customer with a draft change control quotation outlining the proposed changes, including any impact on the Order Form, Charges or other applicable terms. The changes shall only be effective once each party has signed the change control quotation, and until such time as the parties sign the change control quotation, Pinewood shall continue performing its obligations under the terms of this Agreement.

## **9. CHARGES AND PAYMENT**

9.1 The Customer shall pay all Charges in accordance with the terms of this Agreement. Except to the extent otherwise specified, the following terms shall apply to all amounts payable under this Agreement.

### Pinewood Standard Charges

9.2 Where no Additional Services Charges are specified in the Order Form or otherwise agreed between the parties, Pinewood shall be entitled to charge the Customer (and the Customer shall pay) the Pinewood Standard Charges for any Additional Services provided under this Agreement, and such Pinewood Standard Charges shall be invoiced in accordance with clause 9.6.3.

9.3 Where any Charges are stated to be estimates then Pinewood may invoice for all actual time, cost and expense incurred, whether more or less than the estimate, calculated on the same basis as the Pinewood Standard Charges.

### Platform Services Charges

9.4 Platform Services Charges are per calendar month, calculated in a pro-rata basis where the Platform Services are provided for less than a calendar month. Where any Platform Services Charges cease or reduce pursuant to clause 5.7, without prejudice to any other rights of Pinewood, the full Platform Services Charges will still be payable for the relevant ninety (90) day notice period.

### Invoicing and Payment Terms

9.5 All Charges and other amounts payable by the Customer are exclusive of value added tax, which the Customer shall pay in addition at the rate applicable from time to time.

9.6 Pinewood will invoice the Customer for the Charges in accordance with the terms of this Agreement. Unless otherwise specified:

9.6.1 **Implementation Charges**

Unless otherwise set out in the Roll-Out Schedule (where applicable), Pinewood will invoice for any Implementation Charges on or at any time after the commencement of this Agreement.

9.6.2 **Platform Services Charges**

Unless otherwise set out in the Roll-Out Schedule (where applicable) and subject to clause 4.3, from the Services Start Date, Pinewood will invoice for any Platform Services Charges quarterly in advance up to two calendar months before the relevant quarter commences. The Customer is required to pay the Platform Services Charges for the first three months of the Platform Services Charges (as specified in the Order Form) in advance at the Commencement Date.

9.6.3 **Other Charges (including Additional Services Charges)**

Unless otherwise set out in the Roll-Out Schedule (where applicable), from the Services Start Date, Pinewood will invoice for any Additional Services Charges or Pinewood Standard Charges following completion of the relevant Services to which those charges relate.

9.7 The Customer shall pay all Charges within fourteen (14) days of receipt of invoice.

9.8 The Customer shall pay all Charges in Pounds Sterling (or such other currency as is stated in the Charges sections of the Order Form) by direct debit to such bank account as Pinewood shall nominate from time to time for this purpose. The Customer shall provide Pinewood with the Customer's direct debit mandate, which authorises Pinewood to collect payments directly from the Customer's designated bank in accordance with this Agreement, as soon as possible (and no later than five (5) days) following the Commencement Date.

9.9 The Customer shall pay all Charges in full without any set-off, counterclaim, deduction or withholding.

9.10 The Customer shall pay all costs and expenses (including legal costs) incurred by Pinewood in enforcing payment of any Charges and any terms of this Agreement, and recovering any Services or other materials which the Customer is obliged to return, or Pinewood is entitled to repossess.

9.11 Pinewood shall be entitled:

9.11.1 to increase the Charges with effect from each anniversary of the Commencement Date to reflect:

the percentage increase in the UK Consumer Price Index in the previous 12-month period. Pinewood shall give the Customer not less than thirty (30) days' prior notice of each such increase in the Charges; and

9.11.2 from time to time by six (6) months' notice to take effect on or at any time after the end of the Initial Term, to unilaterally vary all or any of the Charges by such amount as Pinewood shall decide with effect from such date or invoice as Pinewood shall decide.

## 10. **PINEWOOD RIGHTS AND OBLIGATIONS**

10.1 In providing the Services, Pinewood shall

10.1.1 use reasonable skill and care;

10.1.2 provide the Services in accordance with the Specification (and to the extent that no Specification is specified, Pinewood shall in its sole discretion be entitled to determine what it is required to do to perform this Agreement and the method of performing this Agreement);

- 10.1.3 where the Pinewood Platform requires Pinewood Third Party Systems, Pinewood shall supply such Pinewood Third Party Systems in accordance with specifications of that third party; and
  - 10.1.4 not be obliged to do anything which would or is likely to cause it to be in breach of any law, regulation or legal duty applicable to Pinewood.
- 10.2 Pinewood shall have the right to make reasonable variations to the Services (without notice to the Customer):
- 10.2.1 provided that such variations do not materially reduce the functionality of the Services as provided under this Agreement; or
  - 10.2.2 to reflect any change in law, regulation, standard, or code of practice, governing any aspect of the Services, the Pinewood Platform , or any facilities, standards, or processes applicable to the Services, and in such instances, Pinewood shall be entitled to make a reasonable resulting variation to the Charges upon written notice to the Customer.

## **11. CUSTOMER'S OBLIGATIONS**

- 11.1 The Customer expressly acknowledges and agrees that all Services shall be used by the Customer solely for the purposes of the Customer's or its Affiliate's motor vehicles business(es).
- 11.2 The Customer shall:
  - 11.2.1 only use any Services for the benefit of its business and may not use any Services for the benefit of any other person or resell the Services to any person.
  - 11.2.2 not make excessive or unreasonable use of any Services and shall comply with all reasonable instructions of Pinewood with respect to the Services.
  - 11.2.3 not use the Services for any illegal, immoral or improper purposes;
  - 11.2.4 do all those things which are within its power or control to assist and facilitate the performance of this Agreement by Pinewood and shall co-operate fully with Pinewood in the performance of this Agreement;
  - 11.2.5 promptly provide Pinewood on request with all information and other materials in the Customer's possession or control which Pinewood requires to perform this Agreement;
  - 11.2.6 provide Pinewood with such access to its premises, staff and computer systems (at the Customer's costs) as is reasonably required to enable Pinewood to perform its obligations under this Agreement;
  - 11.2.7 be responsible for making all arrangements necessary with the manufacturer or third party to enable Pinewood to provide as part of the Services (where set out in the Order Form, Roll-Out Schedule or otherwise agreed by Pinewood in writing) any facilitation of access to any manufacturer or other third-party computer systems or data, including procuring any necessary licences;
  - 11.2.8 be responsible for providing all equipment, software, systems and facilities necessary to make use of the Services, to the extent that Pinewood is not required to provide the same under this Agreement.
  - 11.2.9 ensure that all Customer Systems will be compatible with Pinewood Platform and any Third-Party System or Service, as applicable, are configured to meet any requirements of Pinewood from time to time, and conform to Pinewood's recommended environment and specifications;
  - 11.2.10 use all Pinewood and any Third-Party System or Service with reasonable care and skill, not allow any viruses or other malicious programs onto any systems and have in place and maintain adequate security measures to safeguard the Pinewood Platform and any software forming part of any Third Party System or Service from access or use by unauthorised persons. In addition, the Customer shall observe and follow any procedures and instructions notified to it by Pinewood, including Pinewood's security

procedures, implement appropriate restrictions or security measures to prevent unauthorised access and use of the system or service, not use the system or service for any illegal, immoral or offensive purposes or communications; use the system or service in accordance with all applicable laws; and be responsible for all use and misuse of any passwords giving access to the system or service, and notify Pinewood of any misuse or security breaches promptly;

11.2.11 be liable for the acts and omissions of the Users as if they were its own;

11.2.12 only provide Users with access to the Services via the access method provided by Pinewood and shall not provide access to (or permit access by) anyone other than a User; and

11.2.13 comply with (and procure that each User is aware of, and complies with) the obligations and restrictions imposed on the Customer under this Agreement and the Acceptable Use Policy.

11.3 The Customer acknowledges that it is relying solely upon its own skill and judgement and not that of Pinewood in determining the suitability of the Services and their fitness for any general or specific purpose.

11.4 Pinewood will not be responsible for any adverse effect on the Services caused by the poor quality, malfunction, incompatibility, or inadequacy of any Customer Systems.

11.5 The Customer shall indemnify Pinewood, on demand, from and against any liability resulting from Pinewood hosting any materials of the Customer, its customers or any third party interacting with the Customer in accordance with this Agreement, and Pinewood may cease doing such things where Pinewood consider that it may incur liability in so doing.

## 12. SERVICE RELIABILITY GUARANTEE SCHEME

### 12.1 Service Credit

Subject to the remaining provisions of this clause 12, Pinewood agrees to apply a Service Credit against the Platform Services Charges in respect of any failure of Pinewood to achieve a Monthly Uptime Percentage in respect of Pinewood Platform of at least 99.9% in any Applicable Monthly Period as follows:

| Monthly Uptime Percentage | Service Credits |
|---------------------------|-----------------|
| < 99.9%                   | 25%             |
| < 99%                     | 50%             |
| < 95%                     | 100%            |

Service Credits are the Customer's sole and exclusive remedy for any performance or availability issues for any Downtime under this Agreement. The Customer may not unilaterally offset Service Credits against Charges. The Service Credits awarded in any Applicable Monthly Period will not, under any circumstance, exceed the Platform Services Charges, as applicable, in that month.

### 12.2 Definitions

“**Applicable Monthly Period**” means, for a calendar month in which a Service Credit is owed, the number of days in the same during which this Agreement remains in force.

“**Downtime**”: means any period of time when Users are unable to login to their instance of Pinewood Platform.

“**Incident**” means (i) any single event, or (ii) any set of events, that result in Downtime. “Scheduled Downtime” means periods of Downtime related to network, hardware, or service maintenance or upgrades. Pinewood will publish notice of or notify the Customer at least three (3) days prior to the commencement of such Downtime.

**“Monthly Uptime Percentage”**: The Monthly Uptime Percentage is calculated using the following formula:

$(\text{User Minutes} - \text{Downtime (excluding Schedule Downtime)}) / (\text{User Minutes}) \times 100$  where Downtime is measured in User Minutes; that is, for each Applicable Monthly Period, Downtime is the sum of the length (in minutes) of each Incident that occurs during that month multiplied by the number of Users impacted by that Incident.

**“Service Credit”** is the percentage of the Platform Services Charges credited to the Customer following Pinewood’s claim approval, calculated in accordance with the provisions of this clause 12.

**“User Minutes”** means the total number of minutes in a month, less all Scheduled Downtime, multiplied by the total number of Users licensed under this Agreement.

### 12.3 **Claims**

12.3.1 In order for Pinewood to consider a claim, the Customer must submit the claim in writing to Pinewood including all information necessary for Pinewood to validate the claim, including but not limited to: (i) a detailed description of the Incident; (ii) information regarding the time and duration of the Downtime; (iii) the number and location(s) of affected Users (if applicable); and (iv) descriptions of the Customer’s attempts to resolve the Incident at the time of occurrence.

12.3.2 Pinewood must receive the claim within one month of the end of the Applicable Monthly Period in which the Incident that is the subject of the claim occurred.

12.3.3 Pinewood will evaluate all information reasonably available to it and make a good faith determination of whether a Service Credit is owed. Pinewood will use commercially reasonable efforts to process claims during the subsequent month and within forty-five (45) days of receipt. The Customer must be in compliance with this Agreement in order to be eligible for a Service Credit. If Pinewood determine that a Service Credit is owed to the Customer, Pinewood will apply the Service Credit to the next invoice for Platform Services Charges that it raises.

12.3.4 Service Credits are not available for periods where the Customer is in breach of any payment terms of this Agreement.

### 12.4 **Limitations**

Service Credits do not apply in respect of Downtime or any failure to achieve the Monthly Uptime Percentage arising from:

12.4.1 force majeure as set out in clause 16;

12.4.2 any issue with a Third-Party System or Service;

12.4.3 the use of services, hardware, or software not provided by Pinewood, including, but not limited to, issues resulting from inadequate bandwidth or related to third-party software or services;

12.4.4 the Customer’s use of any software, services, licences, works and materials which Pinewood provides under this Agreement; after Pinewood has advised the Customer to modify its use of such software, services, licences, works and materials, if the Customer did not modify its use as advised;

12.4.5 the Customer’s unauthorized action or lack of action when required, or from its employees, agents, contractors, or vendors, or anyone gaining access to Pinewood’s network by means of the Customer’s passwords or equipment, or otherwise resulting from the Customer’s failure to follow appropriate security practices; and

12.4.6 the Customer’s failure to adhere to any required configurations, use supported platforms, follow any policies for acceptable use, or the Customer’s use of the Services in a manner inconsistent with the features and functionality of the Services (for example, attempts to perform operations that are not supported) or inconsistent with Pinewood’s published guidance.

13. **DATA PROTECTION AND DATA TRANSMISSION**

13.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13.1 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

13.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Data Controller and Pinewood is the Data Processor. Schedule 2 sets out the scope, nature and purpose of processing by Pinewood, the duration of the processing and the types of Personal Data and categories of Data Subject.

13.3 Without prejudice to the generality of clause 13.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Pinewood for the duration and purposes of this Agreement.

13.4 Without prejudice to the generality of clause 13.1, Pinewood shall, in relation to any Personal Data processed in connection with the performance by Pinewood of its obligations under this Agreement:

13.4.1 process that Personal Data only on the written instructions of the Customer unless Pinewood is required by the laws of any member of the European Union or by the laws of the European Union applicable to Pinewood to process Personal Data ("**DP Applicable Laws**"). Where Pinewood is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Pinewood shall promptly notify the Customer of this before performing the processing required by the DP Applicable Laws unless those DP Applicable Laws prohibit Pinewood from so notifying the Customer;

13.4.2 ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised 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, 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);

13.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

13.4.4 subject to clause 13.5, not transfer any Personal Data outside of the United Kingdom ("**UK**") and/or the European Economic Area ("**EEA**") unless: (i) the Customer is based in a jurisdiction outside of the UK and/or the EEA; or (ii) the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

- (a) the Customer or Pinewood has provided appropriate safeguards in relation to the transfer;
- (b) the Data Subject has enforceable rights and effective legal remedies;
- (c) Pinewood complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (d) Pinewood complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

13.4.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

- 13.4.6 notify the Customer without undue delay on becoming aware of a Personal Data breach;
- 13.4.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of this Agreement unless required by DP Applicable Law to store the Personal Data subject to Pinewood being entitled to: (i) delete Customer data (including Personal Data) after a reasonable period of time following termination or expiry of this Agreement in accordance with clause 18.4.2; and (ii) charge Pinewood Standard Charges in respect of the extraction and return of such Personal Data (including for any access to the Pinewood Platform required by the Customer) where the Customer directs the return of the Personal Data; and
- 13.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 13.4.
- 13.5 The Customer consents to Pinewood appointing those third parties that it uses under or in connection with the provision of the Pinewood Platform and/or the Services as third-party processors of Personal Data under this Agreement and transferring Personal Data to such third party processors. As between the Customer and Pinewood, Pinewood shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 13.5. Pinewood shall promptly provide to the Customer a list of all such third-party processors at the request of the Customer.
- 13.6 Where specified in the Order Form, the Customer may direct that Pinewood transmits, on behalf of the Customer, Customer Data (which may include Personal Data) to third parties for third party data processing. For the avoidance of doubt, Pinewood shall not be required to comply with any request to transmit Customer Data to a third party on behalf of the Customer where it would breach any of Pinewood's obligations under Data Protection Legislation.
- 13.7 Either party may, at any time on not less than thirty (30) days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement).
- 14. CONFIDENTIALITY**
- 14.1 For the purposes of this Agreement "**Confidential Materials**" of Pinewood are the Pinewood Property and "**Confidential Materials**" of the Customer are the Customer Property.
- 14.2 Subject to clauses 14.3, 14.4 and 14.5, each party undertakes to hold and maintain in strict confidence the Confidential Materials of the other party, and to only use those Confidential Materials for the purpose of performing this Agreement or in the case of the Customer to the extent reasonably required to use the Services in its business.
- 14.3 Each party agrees not to disclose Confidential Materials of the other party to any person, except that a party may disclose Confidential Materials of the other party in confidence to any Representative of a party who reasonably needs to use those Confidential Materials in connection with the purposes permitted by clause 14.2.
- 14.4 Pinewood may disclose Customer Property, including any password and encryption keys, and any information it may have gathered concerning the Customer in the performance of this Agreement and the provision of the Services, to comply with all applicable laws and lawful governmental requests, which may be without notice to the Customer.
- 14.5 The obligations in this clause shall not cover any Confidential Materials which are or fall into the public domain except as a result of a breach of this Agreement or are shown to have been known to that party prior to those materials being made available or disclosed to it and not to the best of its knowledge previously acquired in confidence.

## 15. LIMITATION OF PINEWOOD'S LIABILITY

- 15.1 Pinewood does not limit or exclude its liability for: (i) personal injury or death due to its negligence; or (ii) for fraud or fraudulent misrepresentation; or (iii) liability for breach of its obligations in relation to confidentiality or data protection; or (iv) liability whose exclusion or limitation is strictly prohibited by law.
- 15.2 The liability which Pinewood is limiting and/or excluding in this Agreement (the “**Default Liability**”) is Pinewood's liability to the Customer (in each case whether such liability is in contract or tort, or under statute, or arises under any other basis whatsoever) for or arising out of any of the following events (each a “**Default Event**”): (i) any breach of this Agreement; (ii) negligence (including breach of any duty of care in contract or tort) or breach of statutory s, or (iii) accidental or negligent misrepresentation; or (iv) any other act, omission, event, circumstance connected with this Agreement or the Services, and any loss, damage or liability suffered by the Customer in connection with this Agreement or the Services.
- 15.3 Subject to clause 15.1, the total Default Liability of Pinewood to the Customer in respect of all Default Events occurring within any twelve (12) month period in aggregate shall not exceed 100% of the Charges due hereunder in respect of that twelve (12) month period.
- 15.4 Subject to clause 15.1, in any event Pinewood excludes and shall not have any Default Liability for: (i) any special, indirect or consequential loss; (ii) any loss of profit, use, anticipated savings or benefits, production, business, revenue, contract or goodwill (whether direct, indirect or consequential); (iii) loss of or damage to or corruption of data (whether direct, indirect or consequential), or (iv) losses suffered by third parties or any liability of the Customer to any third party (whether direct, indirect or consequential); in each case even if Pinewood has been made aware of the likelihood of the same.
- 15.5 To the fullest extent permitted by law, all warranties, conditions, or terms implied by statute, common law, custom, trade or otherwise with respect to the condition, quality, performance, operation, fitness for purpose or suitability of the Services or any Third-Party System or Service are hereby excluded.

## 16. FORCE MAJEURE

- 16.1 Pinewood shall not be considered to be in breach of this Agreement or be liable to the Customer by reason of any inability or failure to perform or delay in performance of any its obligations under this Agreement due to a Force Majeure Event.
- 16.2 Pinewood will use reasonable endeavours to mitigate the effects of a Force Majeure Event.
- 16.3 In this Agreement, "**Force Majeure Event**" means any event or circumstance beyond the reasonable control of Pinewood including (1) the act of any government agency, governmental restraint, act of legislature, or any directive or requirement of a competent authority governing either party, (2) shortage of or prevention from or hindrance in obtaining in any way labour, parts, materials, fuel, energy or other supplies, either at all or at an economic cost; (3) any interruption, termination or failure of any Third Party System or Service or (4) any reasonably unforeseeable excessive demand for any goods or services from Pinewood.

## 17. SUSPENSION

- 17.1 Pinewood shall be entitled to suspend and take out of use the Services and any Pinewood Platform and/or any Third-Party System or Service at any time and from time to time without notice to the Customer in the following circumstances: -
- 17.1.1 for the purposes of enabling the maintenance, repair and upgrade of any Pinewood Platform and/or any Third-Party System or Service;
- 17.1.2 rectifying any unplanned malfunction, fault or damage;

- 17.1.3 dealing with any actual or suspected security breach, virus, or attack or any misuse by the Customer or any other person;
  - 17.1.4 taking any other action that Pinewood reasonably considers necessary in the performance of its obligations under this Agreement for the efficient operation and maintenance of the Services or any Pinewood Platform and/or any Third-Party System or Service;
  - 17.1.5 if at any time any Charges become overdue, and the Customer fails to pay those overdue charges within two (2) days of demand from Pinewood (and email shall be sufficient for these purposes), until the Customer pays all overdue Charges; or
  - 17.1.6 if the Customer commits a breach of this Agreement which is not remedied within two (2) days from the date of notification of the breach from Pinewood.
- 17.2 The Customer acknowledges and agrees that any Third-Party System or Service may be withdrawn, suspended or interrupted on similar grounds or any grounds imposed by that third party.
- 17.3 During any period of suspension pursuant to this clause 3.3, Pinewood shall not be liable for any delay or failure in performance caused by such suspension.

## **18. TERMINATION**

- 18.1 Pinewood shall be entitled to terminate this Agreement by notice to the Customer with immediate effect, if any amount payable by the Customer to Pinewood under this Agreement shall become overdue and shall not have been paid by the Customer within seven (7) days after notice from Pinewood that such amount is overdue.
- 18.2 A party may terminate this Agreement immediately by notice to the other party if the other party is in material breach of this Agreement and either that breach is not capable of remedy, or the other party fails to correct that breach within thirty (30) days of prior written notice of the breach, which notice shall identify the breach and state an intention to terminate this Agreement if the breach is not remedied.
- 18.3 Pinewood may terminate this Agreement at any time immediately by notice to the Customer if the Customer shall (or any partner of the Customer if it is a partnership) shall (1) be unable to pay its debts (within the meaning of Section 123 or Section 268 of the Insolvency Act 1986 as applicable), or (2) be liquidated or wound up or declared bankrupt, or (3) have a petition for winding up or bankruptcy presented against it, or (4) pass a resolution for voluntary winding up, or (5) take or any other person take any steps or actions in connection with the appointment of an administrator in respect of it, have an administration order or an application for an administration order made in respect of it, or have a notice of appointment of an administrator or a notice of intention to appoint an administrator filed in respect of it at any court; or (6) have a receiver or administrative receiver appointed to the whole or any part of its undertaking or assets, or (7) convene any meeting of its creditors or make an arrangement or otherwise compound or compromise with its creditors, or (8) if any equivalent event happens to that party under the laws any relevant jurisdiction, or (9) if that party ceases to carry on its business or substantially the whole of its business, or (10) if Pinewood has a reasonable belief that any of such events may occur.
- 18.4 Subject to clause 18.5, upon expiry or termination of this Agreement for any reason: -
- 18.4.1 Pinewood shall be entitled to cease to provide the Services and block further use of the Services, remove any Pinewood Property from the Customer's premises, and to attend and supervise the un-installation of all software provided by Pinewood from the Customer's computer systems;
  - 18.4.2 Pinewood will afford the Customer a reasonable opportunity to recover any Customer data (including Personal Data) being stored or processed as part of the Services on the Pinewood Platform subject to Pinewood being entitled to: (i) charge the Customer the Pinewood Standard Charges for the extraction and provision of any Customer data being stored or processed on the Pinewood Platform (including for the Customer's access to the Pinewood Platform for extraction purposes); and (ii) delete Customer data

being stored or processed as part of the Services after a reasonable period of time has elapsed following termination or expiry of this Agreement without the requirement to obtain the Customer's prior written consent;

18.4.3 all rights and licences of the Customer under this Agreement shall cease; and

18.4.4 the Customer shall return to Pinewood all Pinewood Property, and Pinewood shall return to the Customer all Customer Property, and shall where requested by the other erase and destroy all copies held by it, except that Pinewood may continue to hold materials of the Customer data for so long as and to the extent reasonably required to maintain a proper record of this Agreement including for liability, tax or other lawful purposes.

18.5 Upon expiry or termination of this Agreement for any reason, the Customer may enter into an agreement with Pinewood to maintain read-only access to the Pinewood Platform at reduced Charges (in accordance with the agreed terms set out in the Order Form) for archive retrieval purposes only.

## **19. INTELLECTUAL PROPERTY RIGHTS**

19.1 All intellectual property rights in and to the Services (including any source code) and any Documentation belong to and shall remain vested in Pinewood or the relevant third-party owner, including where created during the provision of Services to the Customer. To the extent that the Customer or a User acquires any intellectual property rights in any part of the Services, the Customer shall assign or procure the assignment of such intellectual property rights with full title guarantee (including by way of present assignment of future intellectual property rights) to Pinewood or such third party as Pinewood may elect. The Customer shall execute all such documents and do such things as Pinewood may consider necessary to give effect to this clause 19.1.

19.2 Pinewood may use any feedback and suggestions for improvement relating to the Services as provided by the Customer, or any Users without charge or limitation ("**Feedback**"). The Customer hereby assigns (or shall or procure the assignment of) all intellectual property rights in the feedback with full title guarantee (including by way of present assignment of future intellectual property rights) to Pinewood at the time such feedback is first provided to Pinewood.

19.3 Except for the rights expressly granted in this Agreement, the Customer and Users and their direct and indirect sub-contractors, shall not acquire in any way any title, rights of ownership, or intellectual property rights of whatever nature in the Services and no intellectual property rights of either party are transferred or licensed as a result of this Agreement.

19.4 The Customer grants to Pinewood a non-exclusive, royalty free licence:

19.4.1 to access and use the Customer Data during the Term for the purpose of providing the Services to the Customer in accordance with this Agreement;

19.4.2 to use the Customer Data in perpetuity on anonymised and aggregated basis to improve the services provided by Pinewood and produce statistical information and market data or other insights provided always that neither the Customer nor any Personal Data is identifiable in such information, data or insights.

19.5 Provided that the Customer has complied fully with clause 19.6, Pinewood will pay the reasonable costs and damages:

19.5.1 awarded against the Customer; or

19.5.2 agreed to be paid in a settlement agreement, the terms of which have been approved in writing by Pinewood,

in any claim or action against the Customer by any third party that the use by the Customer of the Pinewood Platform in accordance with the terms and conditions of this Agreement infringes the intellectual property rights of that third party in the United Kingdom.

19.6 If the Customer becomes aware of a claim or action within the scope of clause 19.5 or any matter that might give rise to such a claim or action:

19.6.1 it will immediately give written notice to the Pinewood of that fact (stating in reasonable detail the nature of the claim or action or matter and, if practicable, the amount claimed) and consult with Pinewood in respect of that claim or action or matter that may give rise to a claim or action;

19.6.2 the Customer will not settle or compromise or make any admission of liability, agreement or compromise in relation to that claim or action or matter that may give rise to a claim or action without the prior written consent of the Pinewood;

19.6.3 the Customer will at all times disclose in writing to Pinewood all information and documents relating to the claim or action or the matter that might give rise to a claim or action;

19.6.4 the Customer will take all such reasonable actions as Pinewood may request to dispute, resist, defend, appeal, settle, compromise, remedy or mitigate that claim or action or matter that might give rise to a claim or action including using professional advisers nominated by Pinewood; Pinewood being responsible to reimburse the Customer for all reasonable professional costs properly incurred by the Customer as a result of such a request by Pinewood; and

19.6.5 if so requested by Pinewood, the Customer will allow Pinewood exclusive conduct of all proceedings in relation to the claim or action in the name of and on behalf of the Customer, at the cost of Pinewood.

19.7 To the extent that any claim or action is caused or exacerbated by:

19.7.1 any breach of this Agreement by the Customer;

19.7.2 actions taken by Pinewood at the request of the Customer; or

19.7.3 failure of the Customer to use replaced or modified Pinewood Platform (or parts of it) provided by Pinewood,

clause 19.5 will not apply.

19.8 Pinewood's sole and entire liability for any infringement or alleged infringement of a third party's intellectual property rights is set out in this clause 19.

## 20. GENERAL

20.1 **Entire agreement.** This Agreement constitutes the entire agreement between Pinewood and the Customer relating to the subject matter of this Agreement, and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.

20.2 **Representations.** Other than for the express written terms of this Agreement, the Customer acknowledges and agrees that in entering into this Agreement it has not relied on any warranty, statement, or representation of Pinewood. Nothing in this clause shall affect any liability of Pinewood for fraudulent misrepresentation.

20.3 **Assignment.** The Customer shall not be entitled to assign, transfer, sub-license, or sub-contract this Agreement or any licence, right or obligation under this Agreement without the prior written consent of Pinewood. The Customer acknowledges that it is contracting as principal and not as agent, and Pinewood shall not be obliged to accept any undisclosed principal.

- 20.4 **Sub-Contracting.** Pinewood may sub-contract or appoint an agent for any or all of its rights and obligations under this Agreement.
- 20.5 **Third Party Rights.** The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and a person who is not a party to this Agreement shall not have the right (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any term of this Agreement which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties which agreement must refer to this condition.
- 20.6 **No Partnership.** Nothing in this Agreement shall create a partnership between Pinewood and the Customer.
- 20.7 **Variations.** No variation to this Agreement shall be valid unless agreed to in writing by an authorised representative of Pinewood. Nothing in this clause shall prejudice any rights of Pinewood under this Agreement to make unilateral variations (such as changes to Charges) to this Agreement.
- 20.8 **Invalid Terms.** Each of the terms of this Agreement is separate and severable. If any term is held to be void or invalid by any court of competent jurisdiction, it shall be severed from this Agreement, but the remaining terms shall continue in full force and effect.
- 20.9 **Waiver.** No failure, delay or forbearance by Pinewood in enforcing any term of this Agreement or exercising any right or remedy under this Agreement shall operate as a waiver of such term, right or remedy.
- 20.10 **Notices.** Notices under this Agreement shall be in writing (including email) and shall be sent to the other party at either: (i) its address stated in this Agreement; or (ii) if sent by email, to [accounts@pinewood.co.uk](mailto:accounts@pinewood.co.uk) for Pinewood and the email address set out in the Order Form in respect of the Customer. Notices shall be deemed to be received: (i) if sent by hand, or recorded delivery, on delivery; (ii) if sent by first class post, on the 2nd day following the day of posting; and (iii) if sent by e-mail, at the time of transmission as shown on the sender's system, provided the sender does not receive an automatic delivery failure or out-of-office message indicating that the email was not delivered to the recipient's mailbox. Service of legal proceedings and notices as to termination, breach or claims shall not be made or sent by e-mail.
- 20.11 **Disputes.** Where Pinewood and the Customer are in dispute over any matter connected to this Agreement, they shall first seek to resolve the dispute by negotiations in good faith. If the dispute is not resolved by negotiation, the parties shall refer the dispute to mediation in accordance with CEDR (Centre for Dispute Resolution) procedures.
- 20.12 **Law.** This Agreement shall be governed by and construed in accordance with the laws of England and Wales, and subject to the reference to mediation under clause 20.11, the courts of England and Wales shall have exclusive jurisdiction.

## SCHEDULE 1 – DEFINITIONS

**“Acceptable Use Policy”** means Pinewood’s acceptable use policy available on Pinewood’s website (<https://pinewood.ai/>) (as may be updated by Pinewood from time to time);

**“Additional Services”** means any additional services set out in the Order Form or may be agreed between the parties from time to time under clause 8;

**“Additional Services Charge”** means the charges for the Additional Services as set out in the Order Form or as agreed between the parties under clause 8;

**“Affiliate”** means in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party as at the Commencement Date;

**“Agreement”** has the meaning given in the Order Form;

**“Bundle(s)”** means the bundle(s) which are included within the Tier specified in the Order Form (as described in the Specification);

**“Charges”** means all charges and other amounts payable for the Services to be supplied by Pinewood to the Customer under this Agreement, including the Platform Services Charges, Implementation Charges and Additional Charges;

**“Commencement Date”** has the meaning given in clause 2.1;

**“Customer”** means the customer identified in the Order Form;

**“Customer Activation Date”** means the sooner of:

- (a) the date on which Pinewood Platform is first activated and made available for live production use (whether or not the Customer chooses to actually use Pinewood Platform ) by the Customer for at least one Specified Location; or
- (b) 7 days after Pinewood inform the Customer that Pinewood Platform is available to be activated and put into live production use for at least one Specified Location; or
- (c) the soonest date on which Pinewood Platform could have been activated and made available for live production use (whether or not the Customer chooses to actually use Pinewood Platform ) by the Customer for at least one Specified Location, but for any delay, act or omission of the Customer, or failure of the Customer to do anything which is the responsibility of the Customer or under the power or control of the Customer; or
- (d) such other date as Pinewood may specify to the Customer or otherwise agree in writing with the Customer;

**“Customer Data”** means all data, including Personal Data, (in any form) that is provided to Pinewood or uploaded or hosted on any part of the Services by the Customer or by a User;

**“Customer Property”** means any materials provided made available or disclosed by or on behalf of the Customer or its Representatives to Pinewood in connection with this Agreement, whether before, on or after the date of this Agreement, including any third party materials, any materials relating to the Customer's business, products, customers or services, and any materials inputted by the Client and processed, stored or hosted by Pinewood as part of the Services;

**“Customer Systems”** means any computer systems, mobile devices, network, communications links, equipment or software of or to be procured or provided the Customer which any Services or any Pinewood Platform are to be accessed by or interface with;

**“Customer Third Party Systems”** has the meaning set out in clause 5.9;

**“Data Protection Legislation”** means all applicable laws relating to data protection, the processing of personal data and privacy, including:

- (a) the Data Protection Act 2018;
- (b) the UK GDPR; and
- (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications);
- (d) and references to **“Data Subjects”**, **“Personal Data”**, **“process”**, **“processed”**, **“processing”**, **“Data Processor”** and **“Data Controller”** have the meanings set out in, and will be interpreted in accordance with, such applicable laws;

**“Documentation”** means in respect of the Services, any relevant instructions as to how to use the Services or other documentation made available by Pinewood from time to time;

**“Enterprise Licence”** means a licence that permits the Customer to allow access to and use of the relevant Services within the Bundle by an unlimited number of Users, subject to the terms of this Agreement;

**“Implementation Charges”** means the charges for the Implementation Services set out in the Order Form or as agreed between the parties under clause 8;

**“Implementation Services”** means the initial set-up work (including project management, installation, training, implementation, and data conversion) described in the Order Form;

**“Initial Term”** means the initial term set out in the Order Form (or if not so stated in the Order Form, three (3) years from the Services Start Date);

**“Limits”** has the meaning set out in clause 5.3.3;

**“Mobile Device”** means the smartphones, tablets and other mobile computing devices specified by Pinewood from time to time;

**“Order Form”** means the order form to which these terms and conditions are attached to;

**“Pinewood”** means Pinewood Technologies PLC;

**“Pinewood Platform”** means the 'Pinewood Automotive Intelligence™ Platform', a web-based dealer management system as described in the Specification;

**“Pinewood Property”** means any materials provided, made available or disclosed by or on behalf of Pinewood or its Representatives to the Customer or any of its Representatives in connection with this Agreement, whether before, on or after the date of this Agreement, including any third party materials, any materials relating to Pinewood's business, products, customers or services, the Documentation, and the Pinewood Platform .

**“Pinewood Standard Charges”** means the additional charges payable by the Customer to Pinewood any work, goods, services, parts or materials Pinewood provides (including for all labour and materials, cost, expense, travel, carriage, delivery, installation, accommodation and subsistence incurred in relation to the same) calculated in accordance with Pinewood’s then standard applicable rates (including labour rates and unit prices);

**“Pinewood Third Party Systems”** has the meaning set out in clause 5.9;

**“Platform Services”** means the provision of the Bundles by Pinewood;

**“Platform Services Charges”** means the charges for the Platform Services as set out in the Order Form or as agreed between the parties under clause 8;

**“Representative”** means any officer, employee, agent or contractor (including sub-contractor) of any party;

**“Roll-Out Schedule”** has the meaning set out in clause 4.1;

**“Rooftop Licence”** means a licence which permits Users of the Customer located at a single Specified Location to use the relevant Services for the specified Bundle;

**“Service Credit”** has the meaning set out in clause 12.2;

**“Services”** means the services (including, where applicable, the Platform Services, Implementation Services, and Additional Services) to be provided by Pinewood to the Customer under this Agreement;

**“Services Start Date”** means the date stated in Order Form or if no such date is stated, then (a) with respect to a Customer who has no existing contract or service from Pinewood, the Customer Activation Date, and (b) in any other case the Commencement Date;

**“Software Products”** has the meaning set out in Schedule 3;

**“Specifications”** means Pinewood’s standard specification set out on Pinewood’s website (<https://pinewood.ai/>) (as may be updated by Pinewood from time to time), or where no specification is set out on Pinewood’s website, as described in the Order Form;

**“Specified Locations”** means the dealerships and other premises of the Customer as specified in the Order Form (or, where applicable, the Roll-Out Schedule);

**“Support Services”** means the support services described in the Order Form;

**“Support Services Hours”** means the hours specified in the “Special Conditions” of the Order Form;

**“Tier”** means the tier selected by the Customer as set out in the Order Form;

**“Term”** has the meaning set out in clause 2.1;

**“Third Party System or Service”** means Customer Third Party Systems and Pinewood Third Party Systems;

**“UK Consumer Price Index”** means the consumer price index as calculated and published by the UK National Office for Statistic (or, if such index is discontinued or substantially altered, a comparable successor index or substitute measure that most nearly reflects such index, as reasonably determined by Pinewood);

**“UK GDPR”** has the meaning given in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018;

**“User”** means a named individual officer or employee of the Customer or its Affiliates;

**“User Licence”** means a licence granted to a single User to access and use the relevant Services. Each User Licence is personal to the relevant authorised user and may not be shared or used by more than one individual; and

**“User Account”** means an enabled single log-in account for a specific User created within Pinewood Platform in accordance with the procedure for setting up and enabling the same as set by Pinewood from time to time.

**SCHEDULE 2 – DATA PROCESSING PARTICULARS**

|                                    |                                                                                                                                                                                |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Scope and Purpose</b>           | All processing by Pinewood as necessary to provide the Services to the Customer and its Affiliates.                                                                            |
| <b>Nature</b>                      | Collection and storage of personal data on the Pinewood Platform and transmission to third parties.                                                                            |
| <b>Duration</b>                    | Term of this Agreement.                                                                                                                                                        |
| <b>Types of Personal Data</b>      | Personal data includes name, address, email address, phone numbers, vehicles owned (and such other data as the Customer may require Pinewood to process under this Agreement). |
| <b>Categories of Data Subjects</b> | Employees and customers of the Customer and its Affiliates.                                                                                                                    |

## SCHEDULE 3 - TERMS AND CONDITIONS REGARDING USE OF MICROSOFT SOFTWARE

This document concerns your use of Microsoft software, which includes computer software provided to you by Pinewood Technologies PLC (hereinafter referred to as “Company”) as described below, and may include associated media, printed materials, and “online” or electronic documentation (individually and collectively, “SOFTWARE PRODUCTS”). Company does not own the SOFTWARE PRODUCTS and the use thereof is subject to certain rights and limitations of which Company needs to inform you. Your right to use the SOFTWARE PRODUCTS is subject to your agreement with Company, and to your understanding of, compliance with and consent to the following terms and conditions, which Company does not have authority to vary, alter or amend

### 1. DEFINITIONS

“**Client Software**” means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

“**Device**” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone,” or other electronic device.

“**Server Software**” means software that provides services or functionality on a computer acting as a server.

“**Redistribution Software**” means the software described in Paragraph 4 (“Use of Redistribution Software”) below.

### 2. OWNERSHIP OF SOFTWARE PRODUCTS.

The SOFTWARE PRODUCTS are licensed to **Company** from an affiliate of the Microsoft Corporation (“Microsoft”). All title and intellectual property rights in and to the SOFTWARE PRODUCTS (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the SOFTWARE PRODUCTS) are owned by Microsoft or its suppliers. The SOFTWARE PRODUCTS are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the SOFTWARE PRODUCTS does not transfer any ownership of the SOFTWARE PRODUCTS or any intellectual property rights to you.

### 3. USE OF CLIENT SOFTWARE.

You may use the Client Software installed on your Devices by Company only in accordance with the instructions, and only in connection with the services, provided to you by Company. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement which may be presented in electronic form during your use of the Client Software.

### 4. USE OF REDISTRIBUTION SOFTWARE.

In connection with the services provided to you by Company, you may have access to certain “sample,” “redistributable” and/or software development (“SDK”) software code and tools (individually and collectively “Redistribution Software”). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS (“SPUR”) APPLICABLE TO Company, WHICH TERMS MUST BE PROVIDED TO YOU BY Company.** Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by Company.

### 5. COPIES.

You may not make any copies of the SOFTWARE PRODUCTS; provided, however, that you may (a) make one (1) copy of Client Software on your Device as expressly authorized by Company; and (b) you may make copies

of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Company, upon notice from Company or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the SOFTWARE PRODUCTS.

**6. LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.**

You may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCTS, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

**7. NO RENTAL.**

You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the SOFTWARE PRODUCTS to any third party, and you may not permit any third party to have access to and/or use the functionality of the SOFTWARE PRODUCTS.

**8. TERMINATION.**

Without prejudice to any other rights, Company may terminate your rights to use the SOFTWARE PRODUCTS if you fail to comply with these terms and conditions. In the event of termination or cancellation, you must stop using and/or accessing the SOFTWARE PRODUCTS and destroy all copies of the SOFTWARE PRODUCTS and all of its component parts.

**9. NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.**

ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY COMPANY AND NOT BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES.

**10. PRODUCT SUPPORT.**

Any product support for the SOFTWARE PRODUCTS is provided to you by Company and is not provided by Microsoft or its affiliates or subsidiaries.

**11. NOT FAULT TOLERANT.**

THE SOFTWARE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

**12. EXPORT RESTRICTIONS.**

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