

TERMS AND CONDITIONS

Please read these terms and conditions carefully – these terms govern your use of the service provided by Edify Software Limited (Edify).

Edify is a company registered in England and Wales under company number 13107360 whose registered office is at 145 Ladbroke Grove, London, W10 6HJ. VAT number GB368818250.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions:

Agreement means the agreement between Customer and Edify that is subject to these terms and conditions and entered into by submission of an order for the Service by Customer and acceptance by email by Edify.

Authorised Users means employees of Customer that are provided with a username and password to access the Service through a designated login.

Business Day: a day other than a Saturday or Sunday, or a bank or public holiday in England.

Confidential Information means (i) any software utilised by Edify in the provision of the Service; (ii) Customer Data; (iii) each party's business or technical information, training materials, any information relating to software plans, designs, costs, prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how that is designated by the disclosing party as "confidential" or "proprietary" or the receiving party knows or should reasonably know is confidential or proprietary; and (iv) the terms, conditions and pricing of this Agreement (but not its existence or parties).

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures have the meaning given in the Data Protection Legislation.

Customer Data means the electronic data or information submitted by Customer to the Service, including any Personal Data.

Customer Input means suggestions, enhancement requests, recommendations or other feedback provided by Customer or Authorised Users relating to the Service.

Data Protection Legislation means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Fees means the monthly sums payable Customer for use of the Service.

Improvements means all improvements, updates, enhancements, error corrections, bug fixes, release notes, upgrades and changes to the Service, as developed by Edify and made generally available for live use without a separate charge to customers.

Intellectual Property Rights means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents, database rights and other proprietary rights issued, honoured or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

Law means any law or regulation applicable to a respective party.

Locations means the locations specified by Customer.

Normal Business Hours: 9.00am to 6.00pm local UK time, each Business Day.

Service means the service made available by Edify from time to time through a mobile application or its website www.edifysystems.io, and/or such other application and/or websites as Edify may notify to Customer from time to time.

Term has the meaning given in clause 12.1.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

Virus means any thing or device (including any software, code, file or programme) which may: (i) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; (ii) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or (iii) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Vulnerability means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

1.2 Interpretation:

In this Agreement: (i) references to clauses and exhibits are to the clauses and exhibits of this Agreement; (ii) clause, exhibit and paragraph headings shall not affect the interpretation of this Agreement; (iii) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular; (iv) a reference to a statute or statutory provision shall be a reference to it as amended, extended or re-enacted from time to time, and shall include all subordinate legislation made from time to time under that legislation or legislative provision; (v) a reference to **writing** or **written** includes email; and any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. EDIFY'S OBLIGATIONS

2.1 During the Term, Edify shall:

- (i) use reasonable endeavours to make the Service available to Customer 24 hours a day, seven days a week, subject to planned maintenance carried out during the maintenance window of 10.00pm to 2.00am UK time, and unscheduled maintenance performed outside Normal Business Hours;
- (ii) provide the Service with reasonable skill and care; and
- (iii) not use Customer Data except: (a) to provide the Service, and to prevent or address service or technical problems; (b) to verify Service Improvements; or (c) in accordance with Customer's instructions.

2.2 Edify will as part of the Service provide Customer with Edify's standard customer support services during Normal Business Hours.

3. CUSTOMER'S OBLIGATIONS AND RESTRICTIONS

3.1 Customer may enable access to the Service for use only by Authorised Users solely for the internal business purposes of Customer and not for the benefit of any third parties. Authorised Users must be employed by Customer at a Location. Customer must keep notify Edify in writing if Customer increases or decreases the number of Locations so that Fees can be charged accordingly. No refunds are due in respect of sums paid for Locations that are removed but Fees shall not be chargeable from the beginning of the next full month after such removal.

3.2 Customer is responsible for ensuring that its Authorised Users use the Service in compliance with this Agreement as if named as a party to it.

3.3 In relation to the Authorised Users, Customer undertakes that:

- (i) it shall maintain a written, up to date list of current Authorised Users and their Location, and provide such list to within 10 Business Days of Edify's written request at any time;
- (ii) it shall permit Edify or Edify's designated auditor to audit the Service and Customer's compliance with this Agreement. Each such audit may be conducted no more than once per quarter, at Edify's expense. Edify shall exercise such right only on reasonable prior

notice and in such a manner as not to substantially interfere with Customer's normal conduct of business;

- (iii) if any audit reveals that the Service is being used by Authorised Users from locations of Customer other than a Location, then without prejudice to Edify's other rights and remedies, Customer shall promptly pay to Edify an amount equal to such sum as should it have paid for an additional Location(s) during the period of unauthorised use.

3.4 Customer shall:

- (i) be solely responsible for the accuracy, quality and legality of all information submitted to Edify, including Customer Data;
- (ii) use all reasonable endeavours to prevent unauthorised access to, or use of, the Service, and notify Edify promptly of any such unauthorised access or use;
- (iii) ensure that all Authorised Users issued with passwords and usernames to access the Service keep such passwords and usernames confidential, and immediately inform Edify
- (iv) ensure that its network and systems comply with the relevant specifications provided by Edify from time to time; and
- (v) be, to the extent permitted by applicable Law and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Service, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Customer's network connections or telecommunications links or caused by the internet.

3.5 Customer shall not:

- (i) use the Service in violation of any Laws;
- (ii) use the Service to send or store infringing, obscene, threatening, or otherwise unlawful material, including material that violates privacy rights;
- (iii) access, send or store any Virus through its use of the Service; or
- (iv) interfere with or disrupt performance of the Service or the data contained in the Service.

3.6 Customer acknowledges that the ability to integrate the Service with Customer's point of sale software is dependant upon Customer's credentials being provided to Edify.

4. FEES

4.1 The Fees are due on a per Location per month and will be collected by Edify in advance from such account or credit card as Customer may notify to Edify (or Edify's payment provider).

4.2 The Fees shall automatically increase on each anniversary of the date of this Agreement by 5%.

4.3 If payment cannot be collected by Edify (or Edify's payment provider) when a payment requested is issued, Edify reserves the right, without prejudice to its other rights and remedies, to charge interest at the rate of 4% per annum above the Bank of England's base rate from time to time, from the date such payment was due until the date the overdue payment is paid, whether before or after judgment. Edify shall be entitled to claim such from the payment method submitted by Customer.

4.4 If payment cannot be collected by Edify (or Edify's payment provider) after three attempts, Edify reserves the right, without prejudice to its other rights and remedies, to suspend the Service immediately upon written notice to Customer or to terminate this Agreement. During any period of suspension Fees and other sums accruing during such period remain payable.

4.5 Fees and other sums due are expressed exclusive of value added tax or any other sales tax, which sums where applicable shall be payable by Customer.

5. PROPRIETARY RIGHTS

- 5.1 Edify and its licensors own all rights, title and interest in and to the Service. Subject to the limited rights expressly granted to Customer under this Agreement, Edify reserves all rights, title and interest in and to the Service, including all related Intellectual Property Rights.
- 5.2 Edify grants to Customer a non-exclusive, non-transferable, right to use the Service, only during the Term and for the internal business purposes of Customer, subject to the terms and conditions of this Agreement.
- 5.3 Customer shall not:
 - (i) except as may be allowed by any applicable Law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement: (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Service in any form or media or by any means; or (b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Service;
 - (ii) access all or any part of the Service in order to build a product or service which competes with the Service;
 - (iii) use the Service to provide services to third parties; or
 - (iv) licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Service available to any third party except the Authorised Users;
 - (v) attempt to obtain, or assist third parties in obtaining, access to the Service, other than as provided under this Agreement; or
 - (vi) introduce, or permit the introduction of, any Virus or Vulnerability into Edify's network and information systems.

5.4 As between Edify and Customer, Customer Data at all times belongs to Customer.

5.5 In relation to Customer Input, Customer hereby grants to Edify a royalty-free, transferable, sub-licensable, irrevocable, perpetual licence, without any obligation to cite Customer (or any other source of such Customer Input), to use, including by incorporation into Edify's services, including the Service, any Customer Input. Edify acknowledges and agrees that Customer has no obligation to provide Customer Input.

6. **CONFIDENTIALITY**

- 6.1 Neither party shall use or disclose any Confidential Information of the other party except:
 - (i) to those of its Affiliates, officers, directors, agents, employees, contractors, subcontractors, consultants and advisors who have a need to know such Confidential Information as reasonably necessary to perform its obligations or exercise its rights pursuant to this Agreement; or
 - (ii) with the other party's prior written permission.
- 6.2 A party's Confidential Information shall not be deemed to include information that:
 - (i) is or becomes publicly known other than through any act or omission of the other party;
 - (ii) was in the other party's lawful possession before the disclosure;
 - (iii) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - (iv) is independently developed by the other party, which independent development can be shown by written evidence.
- 6.3 Each party shall protect the other party's Confidential Information in the same manner that it protects its own Confidential Information, but in no event using less than a reasonable standard of care.

6.4 A party may disclose the other party's Confidential Information to the extent such Confidential Information is required to be disclosed by applicable Law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 6.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

7. DATA PROTECTION

7.1 In respect of any Personal Data relating to an Authorised User provided to Edify, Customer warrants and undertakes that Customer is entitled to provide that Personal Data to Edify, and Edify can contact the relevant Data Subject without infringing any Data Protection Legislation or rights of such Data Subject.

7.2 Customer acknowledges that Edify is a Controller when it processes Personal Data comprising business contact information and information about use of the Service for its own purposes, being management of this Agreement and the Service, marketing and business development, and improving the Service and its other services. Edify shall comply with Data Protection Legislation when it processes Personal Data as a Controller. More details as to how Edify uses and protects Personal Data in its capacity as a Controller are available in its privacy notice found at <https://www.edifysystems.io/privacy-policy>

7.3 Customer acknowledges that Edify in its capacity as a Controller may:

- (i) use software tools such as cookies to collect data relating to the way Customer and Authorised Users use the Service, including data concerning clickstreams, generic types, messages (including subject headers, senders and recipients), software downloaded, times of sessions and volumes of data accessed (**Usage Data**);
- (ii) retain and process Usage Data for the purposes of detecting and preventing breaches of Edify's network security, applicable Law or this Agreement, support, capacity planning and the operation and improvement of Edify's services, including the Service;
- (iii) use Usage Data to customise, obtain feedback on and market Edify's services, in accordance with Edify's privacy notice referenced above; and
- (iv) transfer any Usage Data to destinations outside the UK which may have lower standards of data protection than those applicable in the UK, subject to complying with applicable Data Protection Legislation in relation to such transfers.

7.4 Except in respect of any Personal Data comprised in the Usage Data (which may only be retained for as long permitted by applicable Law), Edify may retain and use any Usage Data for a reasonable period after it was generated and, where required by applicable Law, for a longer period.

8. RECIPE CALCULATIONS

8.1 As part of the Service, Customer will have the unlimited ability to create recipes and store them to the Service. Customer must keep copies of all recipes that it uploads to the Service. Edify has no liability to Customer for any loss of, or restricted access to, any recipes caused by unavailability of the Service or deletion or amendment by Customer or its Authorised Users.

8.2 Edify has no liability or responsibility for the accuracy of any ingredients or prices entered into the Service by Customer, its Authorised Users or any suppliers.

8.3 Where the Service details and identifies allergens associated with a recipe Edify relies entirely on Customer Data (including details of ingredients and recipes provided by Customer, its Authorised Users or any suppliers). Edify has no obligation to check the correctness or accuracy of Customer Data and accepts no liability in relation to Customer Data (including ingredients and recipes) or for identifying the existence of any allergens within Customer's ingredients and recipes or for the response and reaction to any allergens which are identified.

8.4 Customer is entirely responsible for compliance with all applicable Laws in connection with its use of the Service and preparation of food ordered or provided through the Service.

9. THIRD PARTY PROVIDERS

- 9.1 Customer acknowledges that the Service may enable or assist Customer to access the website content of, correspond with, and purchase products and services from third parties via third-party websites and that Customer does so solely at its own risk. Edify has no liability for any act or omission of any such third party supplier or any delays caused by failure of such supplier to receive or to act on any order or message sent through the Service.
- 9.2 Edify will not share pricing or other material information received from Customer's third party providers with other third party providers.
- 9.3 Edify makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of or correspondence with any third party provider or any transactions or contract entered into by Customer with any such third party using the Service. Edify shall have no liability for any reports and their contents generated by any electronic point of sale system connected to the Service.
- 9.4 Edify is not, and shall not be, a party to any contract entered into by Customer and/or any transaction with any of Customer's third party providers, which shall be between Customer and the relevant third party and Customer's sole responsibility. Edify recommends that Customer refers to the third party provider's terms and conditions and privacy policy prior to using the relevant third party websites and/or services. Edify does not endorse or approve any third party nor the content of any of the third party made available via the Service.

10. INDEMNITIES

- 10.1 Customer shall defend and indemnify Edify against claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) arising out of or in connection with Customer's or any Authorised User's use of the Service, provided that:
 - (i) Customer is given prompt notice of any such claim;
 - (ii) Edify provides reasonable co-operation to Customer in the defence and settlement of such claim, at Customer's expense; and
 - (iii) Customer is given sole authority to defend or settle the claim.
- 10.2 Edify shall defend Customer against any claim that Customer's use of the Service in accordance with this Agreement infringes any third party's Intellectual Property Rights, and shall indemnify Customer for any sums awarded against Customer in judgment or settlement of such claims, provided that:
 - (i) Edify is given prompt notice of any such claim;
 - (ii) Customer does not make any admission, or otherwise attempt to compromise or settle the claim and provides reasonable co-operation to Edify in the defence and settlement of such claim, at Edify's expense; and
 - (iii) Edify is given sole authority to defend or settle the claim.
- 10.3 In the defence or settlement of any claim, Edify may procure the right for Customer to continue using the Service or Documentation, replace or modify the Service so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this Agreement on five Business Days' notice to Customer without any additional liability or obligation to Customer, with the exception that Edify shall refund Customer for any pre-paid Fees for any period remaining on the Term after the effective date of termination.
- 10.4 In no event shall Edify be liable to Customer to the extent that the alleged infringement is based on:
 - (i) a modification of the Service by anyone other than Edify; or
 - (ii) Customer's or any Authorised User's use of the Service in a manner contrary to this Agreement; or

- (iii) Customer's or any Authorised User's use of the Service after notice of the alleged or actual infringement from Edify or any appropriate authority.

10.5 Clauses 10.2 to 10.4 are Customer's exclusive rights and remedies, and Edify's entire obligations and liability, for infringement of any third party's Intellectual Property Rights.

11. LIMITATION OF LIABILITY

11.1 In the event of any loss or damage to Customer Data, Customer's exclusive remedy against Edify shall be for Edify to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Edify. Edify shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Edify to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable).

11.2 Edify:

- (i) does not warrant that:
 - (a) use of the Service will be uninterrupted or error-free;
 - (b) the Service and/or the information obtained by Customer through the Service will meet Customer's requirements; or
 - (c) the Service will be free from Vulnerabilities or Viruses.
- (ii) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and Customer acknowledges that the Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

11.3 Except as expressly and specifically provided in this Agreement:

- (i) Customer assumes sole responsibility for results obtained from the use of the Service, and for conclusions drawn from such use. Edify shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Edify by Customer in connection with the Service, or any actions taken by Edify at Customer's (or any Customer Affiliate's) direction; and
- (ii) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement.

11.4 Nothing in this Agreement limits or excludes Edify's liability for:

- (i) death or personal injury caused by its negligence;
- (ii) fraud or fraudulent misrepresentation; or
- (iii) any other liability that cannot lawfully be limited or excluded under English law.

11.5 Subject to clause 11.4:

- (i) Edify shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and
- (ii) Edify's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to £500.

12. TERM AND TERMINATION

12.1 This Agreement shall commence on the date of Edify's acceptance of Customer's order and shall continue for an initial term of 12 months. Thereafter, this Agreement shall automatically renew

for successive 12-month terms unless either party gives the other party no less than 30 days' written notice of termination prior to the end of the then-current term, or is otherwise terminated in accordance with the provisions of this Agreement; such period being the **Term**.

- (i) either party gives the other party no less than 30 days' written notice of termination; or
- (ii) otherwise terminated in accordance with the provisions of this Agreement;

such period being the **Term**.

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

- (i) the other party commits a material breach of any other term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 28 days after being notified in writing to do so;
- (ii) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (iii) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- (iv) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (v) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);
- (vi) the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- (vii) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (viii) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (ix) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.2(ii) to clause 12.2(viii) (inclusive).

12.3 On termination of this Agreement for any reason:

- (i) all licences granted under this Agreement shall immediately terminate and Customer shall immediately cease all use of the Service;
- (ii) each party shall return and make no further use of any equipment, property and other items (and all copies of them) belonging to the other party;
- (iii) Edify may destroy or otherwise dispose of any of the Customer Data in its possession unless Edify receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to Customer of the then most recent back-up of the Customer Data. Edify shall use reasonable commercial endeavours to deliver the back-up to Customer within 30 days of its receipt of such a written request, provided that Customer has, at that time, paid all Fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). Customer

shall pay all reasonable expenses incurred by Edify in returning or disposing of Customer Data; and

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

12.4 Termination of this Agreement will not affect the continuance or coming into force of any provisions of this Agreement that are expressed to continue or come into force on termination, or that do so by implication.

13. NOTICES

13.1 Any notice given to a party under or in connection with this Agreement shall be in writing in English and shall be deemed duly given if signed by or on behalf of a duly authorised officer of the party giving the notice and if left at or sent by first class post or by email to the address of the party receiving such notice as referenced on its public website or as notified between the parties for the purpose of this clause.

13.2 Any notice shall be deemed to be given to and received by the addressee:

- (i) at the time the same is left at the address of or handed to a representative of the party to be served;
- (ii) by post on the date not being a Sunday or public holiday in the place of receipt two days following the date of posting; and
- (iii) if sent by email, at 9am on the next Business Day and provided that if any email produces an automated response reporting a failure to deliver, delayed delivery to the intended recipient or "out of office" reply, such email shall be deemed not to have been received by the addressee.

13.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left or that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission did not produce an automated response of the nature referenced in clause 12.2(iii).

14. FORCE MAJEURE

14.1 Neither party will be liable for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including acts of God, failure of the internet or telecommunication networks, war, terrorism, natural disaster, fire, strikes, and civil disorder (each a **Force Majeure**).

14.2 If the performance by a party of its obligations under this Agreement is affected by Force Majeure, then:

- (i) it (the **Affected Party**) shall give written notice to the other (the **Non-Affected Party**) specifying the nature and extent of the Force Majeure, promptly on becoming aware of the Force Majeure and will use reasonable endeavours to mitigate the severity of the Force Majeure;
- (ii) the date for performance of such obligation shall be deemed suspended only for a period equal to the delay caused by such event; and
- (iii) the Affected Party shall not be entitled to payment from the Non-Affected Party in respect of extra costs and expenses incurred by the Affected Party by virtue of the Force Majeure.

14.3 If the Force Majeure in question prevails for a continuous period in excess of 10 days after the date on which it begins, the Non-Affected Party may give notice in writing to the Affected Party to terminate this Agreement in respect of all or such part of this Agreement as the Affected Party is unable to perform as a result of the Force Majeure in question. The notice to terminate must specify the termination date, which must not be less than five days after the date on which the notice to terminate is given. Once a notice to terminate has been validly given, this Agreement will

terminate on the termination date set out in the notice, unless prior to such date the Affected Party resumes full performance of this Agreement.

15. **GENERAL**

- 15.1 During the Term Edify may use Customer's name and logo in advertising, marketing, or publicity materials created by or on behalf of Edify to advertise, market or promote the Service. Customer further agrees during the Term that Edify may use Customer's name and logo in Edify's customer lists and on Edify's website.
- 15.2 Edify may modify this Agreement at any time by posting a revised version of these terms and conditions on the Website or otherwise by notifying Customer pursuant to clause 13, provided that changes that adversely and materially affect Customer's use of the Service must be notified 60 days in advance to Customer in accordance with clause 13. Subject to the 60 day advance notice requirement in respect of material and adverse changes, the modified terms and conditions will become effective on posting or, if notice is given, as stated in the notice. By continuing to use the Service after the effective date of modifications Customer will agree to be bound by such modified terms. It is Customer's responsibility to check the Website regularly for modifications to these terms and conditions.
- 15.3 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other party, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 15.4 Each provision of this Agreement shall be construed separately and notwithstanding that the whole or any part of any such provision may prove to be illegal or unenforceable the other provisions of this Agreement and the remainder of the provision in question shall continue in full force and effect.
- 15.5 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.6 Except as expressly provided in this Agreement, Customer shall not sub-license, assign, transfer or novate the benefit or burden of this Agreement in whole or in part, or allow the Service or Documentation to become the subject of any charge, lien or encumbrance, or deal in any other manner with any or all of its rights and obligations under this Agreement, without Edify's prior written consent.
- 15.7 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms, but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 15.8 This Agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreement or understanding (whether informal, written or oral) between the parties relating to the subject matter of this Agreement.
- 15.9 Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law. No right, power or remedy herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each such right, power or remedy shall be cumulative.
- 15.10 This Agreement and any non-contractual obligations in connection with it shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.