

## Terms of Service

### TERMS AND CONDITIONS OF SUPPLY OF SOFTWARE-AS-A SERVICE

**PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE SUBMITTING YOUR ORDER FOR SOFTWARE-AS-A-SERVICE. THESE TERMS AND CONDITIONS, AND YOUR ONLINE ORDER, FORM A LEGAL AGREEMENT SETTING OUT OUR OBLIGATIONS TOWARDS EACH OTHER. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, PLEASE DO NOT USE OUR SERVICE. PLEASE PRINT OUT AND SAVE THESE TERMS AND CONDITIONS FOR FUTURE REFERENCE.**

**PLEASE DRAW YOUR ATTENTION IN PARTICULAR TO CLAUSE 10 (LIMITATION OF LIABILITY.)**

**THESE TERMS AND CONDITIONS WERE LAST UPDATED ON 21TH SEPTEMBER 2021**

#### **1. About Us**

1.1 Kreo Software Ltd (**Kreo, Us, Our**) (company number 10970263) is a company registered in England and Wales and its registered office is at 71-75 Shelton Street, Covent Garden, London WC2H 9JQ, England. Its VAT number is 283 0097 08. We operate through our website [www.kreo.net](http://www.kreo.net).

1.2 Please get in touch at [info@kreo.net](mailto:info@kreo.net) or telephone us at +44(0)207-205-4655.

#### **2. The Contract**

2.1 These Terms apply to your order and Kreo's supply of the services defined below. They apply to the exclusion of any other terms and conditions that you may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Contract is the entire agreement between you (the name registered when you signed up), the Customer and Kreo in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.

2.3 The Contract is made available only in the English language.

2.4 You can utilise Kreo's services by registering on our website and signing up online. Subscription plans are priced on a per user, per month or per year basis. Please check the Order carefully before confirming.

2.5 The Contract is formed and becomes binding on the earlier of (1) you clicking to subscribe or (2) Kreo sending a confirmation of Order where specific terms are agreed.

2.6 The Contract shall not prevent Kreo from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Contract.

### **3. Interpretation**

3.1 The definitions and rules of interpretation in this Clause apply in the Contract.

*Authorised Users* means those members of the Project Team who are authorised by the Customer to use the Services and the Documentation.

*Business Day* means a day other than a Saturday, Sunday or public holiday in England.

*Confidential Information* means information relating to the disclosing party's software, technology, operations, processes, products, know-how, designs, business affairs, finances, customers, suppliers or commercial plans and any other information that a reasonable business person would regard as confidential or which is identified as such by the disclosing party, excluding:

(a) information that is or becomes publicly known other than through any act or omission of the receiving party;

(b) was in the receiving party's lawful possession before the disclosure;

(c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

(d) is independently developed by the receiving party, which independent development can be shown by written evidence;

(e) in the case of the Customer Data, is anonymised and/or aggregated with data obtained from other customers such that it is not identifiable as belonging to the Customer.

*Contract* means these Terms and the Order accepted in writing by Kreo.

*Customer Data* means the BIM 3D models, costs, price, and other construction project-related data, and the contents of any Authorised Users' communications on the Software chat channel, inputted to the Software by the Customer, Authorised Users, or Kreo on the Customer's behalf, for the purpose of using the Services or facilitating the Customer's use of the Services, and any data derived solely from those data.

*Customer IPR* means any IPR in any Customer Data.

*Documentation* means the documents made available from time to time to the Customer by Kreo online via the Site, which sets out a description of the Software and Services, and the user instructions for the Services.

*Effective Date* means the date when Kreo accepts the Customer's Order.

*Fees* means the fees payable by the Customer to Kreo for the Services, in accordance with the Price Plan.

*Initial Term* means one month starting on the Effective Date.

*IPR* means rights title and interest in:

(a) patents, trademarks, service marks, trade names, goodwill, registered designs, design rights, semiconductor topography rights, database rights, copyrights and other forms of intellectual or industrial property (in each case in any part of the world, whether or not registered or registrable for their full period of registration with all extensions, renewals and revivals, and including all applications for registration or otherwise);

(b) inventions, formulae, confidential information (including know-how or secret processes);

(c) rights in computer software; and

(d) any similar or equivalent rights in assets which may now or in the future subsist anywhere in the world.

*Kreo IPR* means the IPR in and relating to the Software, Documentation, Site, data and any other materials or matters provided by Kreo except the Customer Data.

*Normal Business Hours* means 8.00 am to 6.00 pm local UK time, each Business Day.

*Order* means the Customer's order for Services where you have (I) signed up for our Services on our Site, or (II) agreed a specific order in writing with us.

*OSS Licences* means the licences relating to any open-source software which forms part of the Software.

*Price Plan* means the option identified in the Order from the available price plans set out on the Site, or as otherwise agreed in writing between the Customer and Kreo.

*Project Team* means the staff of the Customer and its co-suppliers engaged on construction projects overseen by the Customer.

*Renewal Period* means the period described in Clause 11.1.

*Site* means Kreo's website at the URL [www.kreo.net](http://www.kreo.net) or such other URL as Kreo may, from time to time, notify the Customer of.

*Software* means the relevant online software application you have signed up for as per your Order.

*Services* means the subscription services to the Software and Documentation provided by Kreo to the Customer under the Contract via the Site, and the support services to enable the Customer to use such a subscription.

*Term* means the Initial Term, together with any Renewal Periods.

*Terms* means these Terms and Conditions of Supply of Software-as-a-Service.

*Third Party IPR* means any IPR owned by a third party which is required for the use of the Services.

*User Subscriptions* means the individual user subscriptions purchased by the Customer pursuant to the Order which entitle Authorised Users to access and use the Services.

*Virus* means any thing or device (including any software, code, file or program) which is intended to prevent, impair or otherwise adversely affect the operation of, or access to, any data, computer software, hardware or network, or telecommunications service, equipment or network.

3.2 Clause, schedule and paragraph headings shall not affect the interpretation of the Contract.

3.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

3.4 A reference to a statute or statutory provision is a reference to it as it is in force as at the Effective Date.

3.5 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision.

3.6 References to Clauses are to the clauses of these Terms.

3.7 In construing these Terms, general words introduced or followed by the word "other" or "including" or "in particular" shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.

#### **4. Use of the Services**

4.1 Subject to the restrictions set out in this Clause 4 and the other terms and conditions of the Contract, Kreo hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit Authorised Users, to the maximum number of User Subscriptions, to use the Services during the Term solely for the Customer's and its co-suppliers' internal business operation of construction projects.

4.2 You may, from time to time during the Term, add additional User Subscriptions in your registered account or by contacting Kreo directly. Once confirmed by Kreo, we shall grant

access to the Services to such additional Authorised Users in accordance with the Contract. The Fees will be the fees applicable to the Price Plan, and such Fees may be revised as displayed on our website / your account, on the date your request additional User Subscriptions.

4.3 You undertake that you shall:

(a) authorise and issue passwords only to members of the Project Team as Authorised Users and not to exceed the number of User Subscriptions;

(b) not permit any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;

(c) ensure that each Authorised User shall keep a secure password for its use of the Services, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep their password confidential; and

4.4 You permit Kreo from time to time, upon reasonable prior notice, to audit your use of Services in order to establish the name and password of each Authorised User, and Kreo shall use reasonable endeavour to not interfere substantially with your normal conduct of business. If any such audits reveal that any password has been provided to any individual who is not an Authorised User, then you shall promptly disable such password and Kreo shall not be obliged to issue any new passwords to any such individual. If any such audit reveals that you have underpaid Fees, then you shall pay to Kreo an amount equal to such underpayment promptly on Kreo's demand.

4.5 You shall not permit or issue access or a password to the Services to any person except an Authorised User, and shall ensure that all and any Authorised Users shall comply with the Contract.

4.6 You shall ensure that all and any Authorised Users shall not, in using the Services, access, store, distribute or transmit any Viruses, or any material that:

(a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (b) facilitates illegal activity; (c) depicts sexually explicit images; (d) promotes unlawful violence; (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or (f) causes damage or injury to any person or property;

and Kreo reserves the right to disable your access to any material that breaches the provisions of this Clause.

4.7 Kreo reserves the right, without liability or prejudice to its other rights, to disable your access to and suspend the Customer's use of the Services and/or Documentation if, in Kreo's opinion, you, or any Authorised User uses the Services and/or Documentation in a disruptive manner.

4.8 You shall not, except as may be allowed by any applicable law or, where relevant, an OSS Licence which is incapable of exclusion by agreement between the parties, and except to the extent expressly permitted under the Contract:

(a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the functionality of the Software and/or Documentation (as applicable) in any form or media or by any means; or

(b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the functionality of the Software; or

(c) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

(d) use the Services and/or Documentation to provide services to third parties; or

(e) subject to Clause 20, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users; or

(f) attempt to obtain, or assist third parties in obtaining access to the Services, other than as provided under this Clause 4.

4.9 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify Kreo.

4.10 The rights provided under this Clause 4 are granted to you only, and shall not be considered granted to any subsidiary or holding company or other affiliate of the Customer.

4.11 You shall:

(a) provide Kreo with:

I) all necessary cooperation in relation to the Contract; and

II) all necessary access to such information as may be required by Kreo, in order for Kreo to provide the Services, including Customer Data, security access information and configuration services;

(b) comply with all applicable laws and regulations with respect to its activities under the Contract;

(c) carry out all other Customer responsibilities set out in the Contract in a timely and efficient manner. In the event of any delays in your provision of such assistance as agreed by the parties, Kreo may adjust any agreed timetable or delivery schedule as reasonably necessary;

(d) ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of the Contract and shall be responsible for any Authorised User's breach of the Contract;

(e) comply with, and ensure that any Authorised Users comply with, all the terms and conditions of the OSS Licences and shall be responsible for any Authorised User's breach of the OSS Licences;

(f) obtain and shall maintain all licences, consents, and permissions necessary for Kreo, its contractors and agents to perform the Services and their obligations under the Contract;

(g) ensure that its network and systems comply with the relevant specifications provided by Kreo from time to time; and

(h) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Kreo's data centres, and for all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the Internet.

## **5. The Services**

5.1 Kreo shall, during the Term, provide you with the Services on and subject to the terms of the Contract. The Services will not include making any customer-specific modifications to the Services and any such modifications shall be the subject of a separate written agreement between Kreo and the Customer.

5.2 Kreo shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for: (a) planned maintenance carried out during a maintenance window determined by Kreo to have as little business impact as possible; and (b) emergency maintenance performed at any time, provided that Kreo has used reasonable endeavours to give you at least four (4) Normal Business Hours' notice in advance.

5.3 Kreo undertakes that the Services will be supplied substantially in accordance with any website descriptions and with reasonable skill and care.

5.4 The undertaking at Clause 5.3 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Kreo's instructions, or modification or alteration of the Services by any party other than Kreo or Kreo's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Kreo will, at its expense, use reasonable commercial endeavours to correct any such non-conformance within a reasonable time, or provide you with an alternative means of accomplishing the desired functionality. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in Clause 5.3 Notwithstanding the foregoing, Kreo:

- a) does not warrant that your use of the Services will be uninterrupted or error-free, or that the Services, and/or the information obtained by you through the Services will meet your requirements; and
- b) 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 you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

5.5 Kreo warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Contract.

## 6. Charges and payment

6.1 You shall pay the Fees to Kreo for the Services in accordance with this Clause 6.

6.2 You shall pay the Subscription Fees for the Services as described in the applicable Order form (as selected or agreed as part of your subscription).

6.3 You must provide complete, current and accurate billing information (**Billing Information**) for your Order. You must promptly update all Billing Information to keep your Order current, in the absence of which we may:

- a) disable your account and access to all or part of the Services until the Fees are paid and/or terminate this Agreement under Clause 11;
- b) charge interest which shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Kreo's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

6.4 All amounts and Fees stated or referred to in the Contract:

(a) shall be payable in pounds sterling;

(b) are, subject to Clause 10.4(b), non-cancellable and non-refundable;

(c) are exclusive of Value Added Tax unless stated otherwise, which shall be added to your invoice at the appropriate rate.

(d) are subject to a cooling-off period of 7 days starting from the latest invoice date. This will allow customers to be entitled to a refund that will cover their latest payment fee only if the refund has been requested to the Kreo team within the 7 days cooling-off period.

6.5 If, at any time while using the Services, your account exceeds the amount of disk storage space specified in the Documentation, Kreo shall contact you in order to upgrade your account and agree a new Fee.



6.6 Kreo shall be entitled to increase the Fees at the start of each Renewal Period upon 60 days' prior notice to you by email or through your account on our Site.

## **7. Proprietary rights**

7.1 The Contract does not assign any IPR by either party to the other party.

7.2 You license Kreo use of the Customer IPR and Customer Data:

(a) to provide the Services during the Term; and

(b) during and after the Term, to collect, extract, re-utilise and convert it into de-identified form (that is, so that you and your specific construction projects are not identified in the Customer Data) and to analyse the Customer Data (as well as, subject to compliance with data protection law, the Customer's use of the Services and other technology) to create analyses, derived data, and database(s) of construction project and cost information and of use of the Services which Kreo may at any time, whether during or after the Term, provide to its customers to inform them of market trends, or use to enhance and develop its services.

## **8. Confidentiality**

8.1 Each party may be given access to Confidential Information of the other party in order to perform its obligations or exercise its rights under the Contract.

8.2 Each receiving party shall:

(a) hold the disclosing party's Confidential Information in confidence, not make it available to any third party, and take all reasonable steps to ensure that it is not disclosed or distributed by its employees or agents in violation of the terms of the Contract;

(b) not use the other's Confidential Information for any purpose other than the implementation of the Contract.

8.3 The obligations in Clause 8.2 shall not apply to the extent the information is required to be disclosed by the receiving party by law, by any court of competent jurisdiction or by any regulatory or administrative body.

8.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

8.5 No party shall make, or permit any person to make any public announcement concerning the Contract without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction, save that Kreo may mention the customer as a use case or user of its services on the Site.

8.6 The above provisions of this Clause 8 shall survive termination of the Contract, however arising.

## 9. Indemnity

9.1 You shall defend, hold harmless, indemnify and keep indemnified Kreo against any claims, actions, proceedings, losses, damages, expenses and costs (including reasonable legal fees) (**Customer Indemnified Claim**) arising out of:

(a) your breach of the Contract or the terms and conditions of the OSS Licences;

(b) your use of the Services (save where such claims, actions, proceedings, losses, damages, expenses and costs are due to Kreo's fault); and

(c) Kreo's use of the Customer IPR and Customer Data as permitted by the Contract.

9.2 Upon Kreo becoming aware of a Customer Indemnified Claim by a third party, we will give you prompt notice of the claim, provide reasonable cooperation to you in the defence and settlement of such claim at your expense, make no admission in relation to the claim, and give you sole authority to defend or settle the claim.

9.3 Kreo shall defend, hold harmless, indemnify and keep indemnified the Customer against any claims, actions, proceedings, losses, damages, expenses and costs (including reasonable legal fees) (**Kreo Indemnified Claim**) that the Software or Documentation infringes any United Kingdom patent effective as of the Effective Date, copyright or right of confidentiality.

9.4 Upon becoming aware of a Kreo Indemnified Claim by a third party, you will give Kreo prompt notice of the claim, provide reasonable co-operation to Kreo in the defence and settlement of such claim at Kreo's expense, make no admission in relation to the claim, and give Kreo sole authority to defend or settle the claim.

9.5 In the defence or settlement of any Kreo Indemnified Claim, Kreo may procure the right for you to continue using the Services, replace or modify the Software or Documentation so that they become non-infringing or, if such remedies are not in Kreo's opinion reasonably commercially available, terminate the Contract on two (2) Business Days' notice to you without any additional liability or obligation to pay damages or other additional costs to you.

9.6 In no event shall Kreo, its employees, agents and subcontractors be liable to you, to the extent that any Kreo Indemnified Claim is based on:

(a) a modification of the Software or Documentation by anyone other than Kreo; or

(b) your use of the Software or Documentation in a manner contrary to the instructions given to you by Kreo; or

(c) your use of the Software or Documentation after notice of the alleged or actual infringement from Kreo or any appropriate authority.

9.7 The foregoing and Clause 10.4(b) state the Customer's sole and exclusive rights and remedies, and Kreo's (including Kreo's employees', agents' and subcontractors') entire obligations and liability for infringement of any patent, copyright, trademark, database right or right of confidentiality.

## **10. Limitation of liability**

10.1 Notwithstanding any other provision of any agreement between Kreo and the Customer, save as set out in this Clause 10, Kreo shall not be liable to you (whether for tort (including negligence), breach of statutory duty, breach of contract, misrepresentation, restitution or otherwise or under any indemnity or otherwise) for:

(a) any liability arising under or in connection with the Contract; and for

(b) any liability arising in connection with any use made by the Customer of the Services or any part of them or in respect of any unavailability of or inability to use the Services.

10.2 Except as expressly and specifically provided in the Contract:

(a) you assume sole responsibility for results obtained from your use of the Services and the Documentation. Kreo shall have no liability for any damage caused by errors or omissions in any Customer Data or other information, instructions or scripts provided to Kreo or by the Customer in connection with the Services, or any actions taken by Kreo at your direction;

(b) you acknowledge that the Services may not be continuously available and that you will make arrangements to manage its exposure to the data intended to be provided by the Services being unavailable for any period of time;

(c) 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 the Contract; and

(d) the Services are provided to you on an "as is" basis.

10.3 Nothing in the Contract excludes the liability of Kreo:

(a) for death or personal injury caused by Kreo's negligence; or

(b) for fraud or fraudulent misrepresentation.

10.4 Subject to Clause 10.2 and Clause 10.3:

(a) Kreo shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any:

(I) loss of profits; (II) loss of business; (III) depletion of goodwill; (IV) loss of contract; (V) loss or corruption of data or information;

in such case, whether or not direct;

or (VI) special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Contract even if advised of its possibility; and

(b) Kreo's total aggregate liability in contract (whether for tort (including negligence), breach of statutory duty, breach of contract, misrepresentation, restitution or otherwise or under any indemnity) or tort (including negligence or breach of statutory duty), arising in connection with the performance or contemplated performance of the Contract shall be limited to the higher of:

(I) £10,000 (ten thousand pounds sterling); and

(II) the total subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the claim arose.

10.5 Without prejudice to any rights which the Customer may have in connection with the Contract, the Customer hereby indemnifies Kreo, and shall keep Kreo indemnified, against all and any claims by any affiliate, customer, co-supplier or supplier of the Customer and each employee, agent, officer or representative of the Customer or of any affiliate, customer, co-supplier or supplier of the Customer.

## **11. Term and termination**

11.1 The Contract shall commence on the Effective Date and shall continue for the Initial Term and, thereafter, the Contract shall be automatically each month (each a **Renewal Period**), unless:

(a) you cancel your subscription within your account on our Site or otherwise notify us of your intention to cancel in advance of the renewal; or

(b) otherwise terminated in accordance with the provisions of the Contract.

11.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if: (i) the other party materially breaches any of the terms of the Contract and does not cure such breach within 30 days of being notified of the breach; or (ii) the other party ceases to operate, or becomes insolvent.

11.3 Kreo may also terminate the Contract with immediate effect by giving written notice to the Customer, if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not fewer than seven (7) days after being notified in writing to make such payment.

11.4 On termination of the Contract for any reason:

(a) unless otherwise expressly stated, all licences and rights granted under the Contract shall immediately terminate;

(b) unless otherwise expressly stated, each party shall return or destroy and make no further use of any documentation, materials and other items (and all copies of them) belonging to the other party;

(c) Kreo may destroy or otherwise dispose of any of the Customer Data in its possession unless Kreo receives, no later than ten days after the date of termination of the Contract, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Kreo shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the 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). The Customer shall pay all reasonable expenses incurred by Kreo in returning or disposing of Customer Data; and

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

## **12. Force majeure**

12.1 Kreo shall have no liability to the Customer under the Contract if it is prevented from, or delayed in, performing its obligations under the Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Kreo or any other party), failure of a utility or cloud hosting service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

12.2 Kreo shall notify the Customer of such an event and its expected duration.

12.3 The Customer may terminate the Contract by written notice to Kreo if Kreo is prevented from performing all or substantially all of the Services for more than [sixty (60)] consecutive days.

## **13. Conflict**

If there is any inconsistency between any of the provisions in the main body of the Contract and the Schedules, the provisions in the main body of the Contract shall prevail.

## **14. Variation**

These Terms may be updated by providing at least 30 days' notice through our Site. You are advised to check our terms and conditions periodically although Kreo will endeavour to bring such changes to your attention. Your Order will not be varied without agreement between us.

## **15. Waiver**

No failure or delay by a party to exercise any right or remedy provided under the Contract 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.

## **16. Rights and remedies**

Except as expressly provided in the Contract, the rights and remedies provided under the Contract are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law.

## **17. Severance**

17.1 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

17.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

## **18. Entire agreement**

18.1 The Contract, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

18.2 Each of the parties acknowledges and agrees that in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Contract or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract.

## **19. Assignment**

19.1 You shall not, without the prior written consent of Kreo, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under the Contract.

19.2 Kreo may, without your consent and at any time, assign all or a portion of its right to receive and obtain payment under the Contract, providing such assignment does not contravene

applicable law, regulation or decree binding upon you. Any payment made by you to the payee specified in Kreo's invoice in respect of the Services delivered under the Contract shall be in full discharge of your payment obligations to Kreo under the Contract. Any such assignment will not detract from Kreo's obligations under the Contract, except any obligations relating to confidentiality under Clause 8. Kreo or its assignee shall have the right to set-off any of its receivables against any amount due by Kreo or its assignee to you.

19.3 Kreo may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

## **20. No partnership or agency**

Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## **21. Third party rights**

The Contract does not confer any rights on any person or party (other than the parties to the Contract and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

## **22. Notices**

22.1 We can send notices via your account or by email to the registered email address. Any notices to us must be emailed to a business email address communicated to you for that purpose from time to time, or by registered post.

## **23. Governing law**

The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

## **24. Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).