

Subscription Agreement

^e
[Customer Name]

DD MONTH YEAR

Fluent Technology | Flexigrant®

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Introduction

These terms and conditions (this **Agreement**) outline the terms upon which Fluent Technology Limited (**Fluent**) supplies the Flexigrant software and services to its customers (**Customers**).

Flexigrant is an innovative grant software solution designed specifically for organisations administering and allocating grants and funds. Nearly all of Fluent's Customers find that Flexigrant as provided meets their organisational needs. However, if a Customer requires an enhanced service, Fluent is always happy to discuss any such requests. For more information on enhanced services, please see the following:

- Additional Licences e.g. additional users (clause 3);
- Enhanced support (clause 4.6);
- Additional implementation or training services (clause 5.1); and
- Any other extra services or customisation of the Software (clause 3.10)

Subscription Fees shall become payable from the Commencement Date and shall thereafter be invoiced quarterly in advance for the duration of the term and shall be payable within thirty (30) days of the invoice date. For more information on payment terms, please see clause 6 – Prices, Taxes and Payments.

1. Definitions

1.1. This Agreement uses a number of terms which have a specific meaning.

The initial letter of each term is capitalised to indicate that there is a specific meaning. This clause 1 sets out an explanation of those terms. In this Agreement the following words shall have the following meanings:

Additional Implementation Services means the services described at clause 5.1.

Additional Licence means any further Flexigrant licences purchased in addition to the licences recorded in the User Subscription section of the Contract Information Sheet at the end of this Agreement.

Agreed Scope means the scope of the Flexigrant Services agreed by the Parties as detailed in the Contract Information Form.

Applicant Data means any and all data, information and material entered into the Software by or on behalf of an Applicant User.

Applicant Users means end users of the Software, who use the Software to apply for grants and funding offered or managed by the Customer (and who have not been registered by the Customer as Administrative Users or Reviewer Users).

Customer Data means all Personal Data that is used or generated in the operation of this Agreement that belongs to the Customer or of which the Customer is the Controller in respect of.

Change means any change, reduction or addition to the Agreed Scope of this Agreement.

Change Control Procedure means the procedure to agree any Change to the Agreed Scope of this Agreement as set out in Schedule 2 of this Agreement.

Code of Practice means the Customer's supplier ethical code of conduct made available to the Supplier from time to time in accordance with clause 16.

Commencement Date means the date stated as such in the Contract Information Form.

Confidential Information shall have the meaning given at clause 9.1.

Configuration Document means the document containing details of how the Flexigrant Services will be configured to meet the Customer's requirements to be prepared on completion of the Discovery Phase (the format and structure of which is to be agreed by the parties).

Contract Information Form means the contract information form agreed by Fluent and each Customer, which incorporates the terms of this Agreement (in the format as detailed in Schedule 1 of this Agreement, which may be changed by Fluent from time to time).

Customer Data means any and all data, information and material entered by or on behalf of the Customer (including by any Administrative User) into the Software in accordance with this Agreement, including, where applicable any Personal Data but excluding Applicant Data.

Customer IPRs means any Intellectual Property Rights belonging or licensed to the Customer, the use of which by Fluent is required in order to enable Fluent to provide the Flexigrant Services. Customer IPRs do not include any Intellectual Property Rights licensed to the Customer by Fluent under the terms of this Agreement.

Data Controller/Controller shall have the meaning given to it in the Data Protection Legislation.

Data Processor/Processor shall have the meaning given to it in the Data Protection Legislation.

Discloser means a Party disclosing Confidential Information, as described at clause 9.1.

Documentation means the document made available to the Customer by Fluent from time to time which sets out a description of the Flexigrant Services and the User instructions for the Flexigrant Services.

Data Protection Legislation means all applicable laws and regulations from time to time in force relating to personal data, privacy and the processing of Personal Data, including the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 as amended, replaced or superseded from time to time.

Data Subject shall have the meaning given to it in the Data Protection Legislation.

Extra Services means the services described at clause 3.10.

Fees means the fees payable by the Customer to Fluent for the Flexigrant Services in accordance with this Agreement, as set out in the Contract Information Form.

Flexigrant Services means the User Subscription, Implementation Services (and Additional Implementation Services where applicable) provided by Fluent to the Customer under this Agreement and summarised in the Contract Information Form. The term Flexigrant Services shall include, and shall be deemed to refer to, the Documentation.

Good Industry Practice means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a software development company operating in Fluent's field.

Initial Term means the period identified in Schedule 1.

Intellectual Property Rights means patents, patent applications, and patent rights, copyrights, copyright applications, and copyright registrations, trademarks, trademark applications, trademark registrations, and trademark rights, trade secrets, and all other intellectual property and proprietary information rights as may exist now or hereafter come into existence, all modifications, continuations, renewals, and extensions of any of the foregoing, and all claims, actions, causes of action, damages, costs, expenses, profits, penalties, recoveries, and remedies relating to any past, present, or future infringement of any of the foregoing, arising under the laws of any country, state, or jurisdiction in the world.

Normal Business Hours means Monday to Friday, 9am – 5pm (UK time), excluding UK public and bank holidays.

Parties means the parties to this Agreement and Party shall mean either of them.

Personal Data shall have the meaning given to it in the Data Protection Legislation.

Recipient means a Party to whom Confidential Information is disclosed in accordance with clause 9.

Regular User means end users of the Software, with access to the private contact and grant management modules of Flexigrant. These are typically Customer staff involved in administering grants. The maximum number of Regular Users permitted to access such modules is specified in the Contract Information Sheet.

Renewal Period means the renewal period agreed by the Parties described in clause 11.1.

Reviewer User means any user who has been granted access to the Flexigrant software for the sole purpose of completing reviews of applications via the reviewer and/or committee dashboard and associated functionality but for no other purpose.

Schedule means a schedule to this Agreement.

Software means the cloud based online software applications provided by Fluent as part of the Flexigrant Services.

Standard Rates means the standard rates charged by Fluent from time to time for work carried out on behalf of the Customer on a time and material basis.

Term means the term of this Agreement, being the Initial Term and any subsequent Renewal Periods, if applicable.

Third Party means any third party licensing or providing directly or indirectly to Fluent any element of the Software (including any component service, software, hardware or facility).

Third Party IP means any intellectual property in any element of the Software (including any component service, software, hardware or facility), belonging to or licenced to Fluent by a Third Party.

Third Party Licence means any agreement between Fluent and a Third Party.

User shall mean any user of the Software (and shall include Regular Users, Reviewer Users and Applicant Users).

User Subscription means the usage restrictions (e.g. permitted number of Users) on the Customer's subscription to the Flexigrant Services specified in the Contract Information Form.

User Subscription Fees means the fees payable by the Customer for the User Subscription specified in the Contract Information Form.

1.2. In this Agreement (except where the context otherwise requires) a reference to a clause means a reference to a clause of this Agreement. The clause headings are included for convenience only and shall not affect the interpretation of this Agreement. Use of the singular includes the plural and vice versa and use of any gender includes the other genders. Any reference to a statute, statutory provision or subordinate legislation (legislation) shall (except where the context otherwise requires) be construed as referring to such legislation as amended and enforced from time to time and to any legislation which (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such legislation and any former legislation which it re-enacts, consolidates or enacts in rewritten form. Any phrase introduced by the term including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms. References to a law of the European Union include a reference to that law as incorporated into the laws of the United Kingdom at any time before or after the United Kingdom ceases to be a Member State of the European Union.

2. Software License and Acceptable Use Terms

2.1. Provided that the Customer complies with the terms of this Agreement, Fluent grants the Customer a personal, non-exclusive, non-transferable, non-sublicensable and non-assignable licence for the Term to allow Users to access the Flexigrant Services.

2.2. The Customer shall be solely responsible for its actions and the actions of all Users while using the Flexigrant Services. The Customer shall (and shall procure that any and all Users shall):

2.2.1. not attempt to duplicate, modify or distribute any portion of the Software or Documentation;

2.2.2. not reverse engineer, decompile, disassemble, or adapt any portion of the Software, except as specifically permitted by applicable law (but then only if and to the extent that the Customer first notifies Fluent of the Customer's requirements regarding the inter-operability or functional compatibility before engaging in any such activity, and gives Fluent the opportunity to provide the Customer with the information necessary to achieve such inter-operability or compatibility);

2.2.3. except when the Customer is running a grant scheme in association with another grant awarder, not use the Software to provide software related services to third parties (including in the operation of a service bureau);

2.2.4. not attempt to obtain, or assist others in obtaining, unauthorised access to the Software;

2.2.5. not remove any proprietary notices from the Software;

- 2.2.6. abide by all local and international laws and regulations applicable to the Customer's use of the Software, including all laws regarding the transmission of technical data exported from the United Kingdom through the Software;
- 2.2.7. not upload or distribute in any way files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Software or another's computer;
- 2.2.8. ensure that the administration functionality of the Software is used in a proper manner by competent trained employees only or by persons under their supervision;
- 2.2.9. not transmit or post any material that encourages conduct that could constitute a criminal offense or give rise to civil liability;
- 2.2.10. not in any circumstances use, nor allow any third party to use, any "webcrawler", "crawler", "spider" or similar technology in relation to the Software; or
- 2.2.11. comply with all regulations, policies and procedures of any networks connected to the Software.

2.3. The Customer acknowledges and agrees that Fluent neither endorses the contents of any User communications nor assumes any responsibility for any threatening, libellous, obscene, harassing or offensive material uploaded by Users onto the Flexigrant Services, any infringement of third party intellectual property rights arising from, or any crime facilitated by User communications via the Flexigrant Services.

2.4. Fluent and the Customer acknowledge that the following terms shall apply in relation to any User:

2.4.1. the licence granted in clause 2.1 is subject to the Customer complying with any usage restrictions imposed by the User Subscription;

2.4.2. Fluent shall issue to the Customer, or shall authorise a Customer administrator to issue, a password for each User and will keep such passwords confidential and will not disclose them to third parties, provided that:

2.4.2.1. the Customer shall procure that each User shall keep its password confidential, and the Customer shall ensure that each password is used only by the authorised User;

2.4.2.2. the Customer is entirely responsible for the acts and omissions of any User;

2.4.2.3. the Customer agrees immediately to notify Fluent upon becoming aware of any unauthorised use of any password of any User or any other breach of security known to the Customer;

2.4.2.4. the Customer shall permit Fluent to audit the Customer's use of the Flexigrant Services in order to establish the Customer's compliance with clause 2.4.1. If any such audit reveals that the Customer has exceeded the User Subscription, the Customer agrees that it will be required to purchase Additional Licences in accordance with Clause 3.2; and

2.4.2.5. Fluent shall have no liability for any loss or damage arising from the Customer's failure to comply with the requirements detailed in this paragraph 2.4.2.

2.5. The Customer shall not conduct or attempt to conduct any form of security testing, vulnerability scanning, penetration testing, or similar activities on the Flexigrant platform without obtaining prior written consent from Fluent.

2.5.1. This includes but is not limited to:

2.5.1.1. Port Scanning, network scanning, or probing for vulnerabilities.

2.5.1.2. Automated security testing or stress testing.

2.5.1.3. Exploiting or attempting to exploit vulnerabilities.

2.5.1.4. Bypassing security controls or evasion techniques.

2.6. Any unauthorised security testing is considered a material breach of this Agreement and may result in immediate service suspension or termination, legal action, and /or reporting to relevant authorities, including under the Computer Misuse Act 1990.

2.7. If the Customer identifies a potential security issue through normal usage of Flexigrant, they must report it responsibly via the support desk and refrain from further investigation or exploitation.

3. Extra Services and License Modifications

3.1. The Customer may, from time to time during the Term, increase the permitted number of concurrent Users accessing Flexigrant at any time by purchasing an upgrade to its User Subscription (**i.e. Additional Licences**). If the Customer wishes to purchase Additional Licences, the Customer shall notify Fluent in writing and Fluent will confirm the cost of the Additional Licences in writing.

3.2. If the Customer accepts the cost of the Additional Licences, the Customer shall, within thirty (30) calendar days on receipt of Fluent's invoice, pay Fluent the relevant Additional Licence fees. If such a request is purchased by the Customer part way through the Initial Term or any Renewal Periods,

such Additional Licence fees shall be pro-rated for the remainder of the Initial Term or the then current Renewal Period, as applicable.

3.3. Subject to clause 2.4.2.4, if the Customer exceeds the User Subscription without purchasing an upgrade in accordance with clause 3.1, Fluent reserves the right to evaluate the Customer's requirement for an Additional Licence(s). The Customer will then have the option to either:

3.3.1. pay Fluent's Additional Licence fees calculated in accordance with clause 3.2, as if the Customer has requested such an Additional Licence; or

3.3.2. promptly, and in any event within thirty (30) days of notification by Fluent, decrease its User numbers to comply with the original User Subscription.

3.4. The customer may not downgrade its subscription plan, reduce the number of Licensed Users, or remove any subscribed modules or services during the Initial Term or any Renewal Period.

3.5. Any downgrade requests may only be made at least thirty (30) days prior to the end of the then-current Subscription Term, and if accepted by Fluent, will take effect only from the start of the subsequent Subscription Term.

- 3.6. Fluent reserves the right to reject any downgrade request where such change would materially affect the configuration, functionality, or commercial operation of the Flexigrant services.
- 3.7. The Customer remains liable for all Fees applicable to the full Subscription Term, regardless of any attempted downgrade or reduction in usage prior to the expiry of that Term.
- 3.8. At Fluent's sole discretion, it may agree to an in-term downgrade subject to payment of an early adjustment fee equivalent to the remaining balance of the downgraded portion of the Term.
- 3.9. Notwithstanding clause 3.3, if the Customer repeatedly exceeds the User Subscription, Fluent reserves the right to either terminate or suspend the Flexigrant Services until the fees outlined in clause 3.3.1 are paid. Fluent may exercise this right entirely at its own discretion and this right is without prejudice to any other remedies or damages to which Fluent may be entitled.
- 3.10. Fluent encourages the Customer to use the Flexigrant Services as provided. Where the Customer requires any extra services e.g. additional training, bespoke reports etc. which falls outside the Agreed Scope of the Flexigrant Services detailed on the Contract Information Form, the Customer shall issue a written request to Fluent. If Fluent accepts the request, it shall provide the Customer with a cost estimate and timetable for the services required (such services, Extra Services). Extra Services may

also be described in the Contract Information Form. Some Extra Services (e.g. managed services) may result in a corresponding increase in the Customer's annual maintenance charges. Upon notification of the Customer's approval, Fluent shall commence the provision of the Extra Services in accordance with the timetable.

3.11. The Customer shall pay Fluent in accordance with the agreed cost estimate and the terms of this Agreement. The rates for Extra Services shall not be in any case more than Fluent's Standard Rates.

3.12. Fluent may, once in any twelve (12) month period (or more frequently if reasonably required), review the Customer's use of the Flexigrant Services to verify compliance with the permitted User Subscription, data storage limits (as an Enterprise customer, the Customer's storage limit will be uncapped), and other usage parameters. If such review identifies material overuse, Fluent may adjust the applicable Fees in accordance with Clause 3.2 or require the Customer to reduce usage to the agreed levels. The Customer shall provide reasonable cooperation during any review

4. Services

4.1. Fluent shall, from the Commencement Date and for the duration of the Term, provide the Flexigrant Services to the Customer on and subject to the terms of this Agreement.

4.2. Fluent will use commercially reasonable endeavours to ensure that the Flexigrant Service is available to the customer for at least 99.5% of the time during each calendar month consistent with good industry practice (the "Service Level"), excluding:

- 4.2.1. planned maintenance, for which Fluent will provide at least two (2) Business Days' prior notice;
- 4.2.2. emergency maintenance required to protect system integrity or security;
- 4.2.3. downtime or degradation caused by factors outside Fluent's reasonable control, including failures of the Customer's connectivity, infrastructure, or third-party services; and
- 4.2.4. periods of scheduled downtime agreed with the Customer.

4.3. Failure to achieve the Service Level in any given month shall not, in itself, constitute a breach of this Agreement, provided that Fluent takes prompt and reasonable steps to restore the Service and minimise disruption. The Service Level represents an operational target and not a warranty or guarantee of uninterrupted availability.

4.4. From time to time Fluent may need to carry out scheduled maintenance on the Flexigrant Services, which may require their temporary suspension.

Any such suspension shall not constitute non-availability for the purposes of clause 4.2 above, provided that Fluent uses reasonable endeavours to keep disruption to a minimum, provides reasonable notice to the Customer and where feasible seeks to carry out such work during periods of low activity.

4.5. Fluent will, as part of the Flexigrant Services, provide the Customer with Fluent's standard customer support services during Normal Business Hours. Such support comprises of email support to the Customer's system administrators to provide help and assistance with both technical queries and system functional queries. For the avoidance of doubt, Fluent shall not provide support services to Applicant Users, unless specifically agreed in writing by Fluent and paid for in full by the Customer.

4.6. Fluent shall use all reasonable endeavours, consistent with good industry practice to meet the Target Response, Engagement, and Resolution Times set out in the table below. These Service Levels apply to Defects notified by the Customer in accordance with the support procedures.

4.6.1. For the purposes of this Schedule:

4.6.1.1. "Response Time" means the period from receipt of a Defect notification until Fluent acknowledges the Defect and commences initial triage.

4.6.1.2. "Engagement Time" means the period from acknowledgement until an appropriate engineer is assigned and investigation has commenced.

4.6.1.3. "Resolution Time" means the period from receipt of the Defect notification until normal service has been restored or a reasonable workaround implemented that enables continued business operation.

4.7. Failure to meet any Target Time in an individual instance shall not in itself, constitute a breach of this Agreement, provided that Fluent acts promptly and diligently to restore service, communicates progress with the Customer, and implements a permanent fix through its standard release process. These targets represent operational objectives and not warranties or guaranteed performance levels.

Priority Level	Definition	Target Response Time*	Target Engagement Time*	Target Resolution Time (Workaround or Restoration)
Priority A: Critical Defect (serious business impact)	A major system failure of the Software removing service, or a major feature of it, which has a serious impact on the operation of the Software and might prevent it from being used by the Customer which requires urgent resolution via a workaround or patch until a permanent fix is applied.	Within 15 minutes during support hours	Within 30 minutes	Within 6 hours for workaround or service restoration; permanent fix in next maintenance or scheduled release.
Priority B: Major Defect (significant business impact)	Major features of the Software are unavailable or unusable which do not prevent the Software being operable but will have significant impact on the Customer's Day to day operation of the Software which requires resolution via a workaround or patch until a permanent fix can be applied.	Within 1 hour	Within 2 hours	Within 12 hours or temporary workaround within that period; permanent fix in subsequent release.
Priority C: Minor Defect	A minor defect of the Software is unusable. This defect does not prevent the Software being operable but	Within 4 working hours	–	Within 2–3 business days , or inclusion in the next scheduled release.

	will have a minor impact on the Customer's Day to day operation of the Software. A minor defect will be addressed via a workaround or in the next planned release.			
Priority D: Low Priority Defect	A defect that affects an aesthetic feature of the Software and/or an error in the documentation. Such a defect will have no adverse impact on the operation of the Software and will be assessed in line with other development commitments.	Within 1 business day	-	By mutual agreement, typically within a future planned release

***Target Response Time (Acknowledgement & Initial Triage)**

***Target Engagement Time (Engineer Assigned & Investigation Commenced)**

4.8. Fluent shall monitor and record service performance against these targets and provide reports or summaries to the Customer at each quarterly review.

4.9. If the Customer requires support outside of Normal Business Hours or outside the scope of clause 4.4, the Customer may purchase enhanced support services separately at Fluent's Standard Rates.

4.10. Fluent reserves the right to make modifications to enhance and improve the Flexigrant Services (including, without limitation, the functionality or infrastructure settings of the Flexigrant Services) provided that such

modifications have no material adverse long-term effect on the Flexigrant Services.

5. Implementation

- 5.1. As part of the Flexigrant Services, Fluent offer standard implementation and training packages to the Customer (**Standard Implementation Services**) to deliver the Flexigrant® software as defined in the Configuration Document. If the Customer requires any additional implementation or training services outside of the scope of the Standard Implementation Services, Fluent will agree with the Customer, the scope, timing and content of any additional implementation services required by the Customer. Any such non-standard implementation services which are agreed by both Parties in writing shall be referred to as the **Additional Implementation Services** and the scope and cost of these will be defined using the Change Control Procedure. The Standard Implementation Services, together with any agreed Additional Implementation Services (where applicable) shall be referred to as the **Implementation Services**.
- 5.2. The Customer acknowledges and agrees that Fluent's ability to provide the implementation Services is dependent upon:
 - 5.2.1. the reasonably full and timely co-operation of the Customer (which the Customer agrees to provide);

5.2.2. the Customer's fulfilment of any requirements imposed on it as part of the agreement of the scope of the Implementation Services; and

5.2.3. the accuracy and completeness of any information and data the Customer provides too Fluent.

5.3. the Customer acknowledges and agrees as reasonable that:

5.3.1. where the Customer's failure to perform any task required of it by clause 5.2, and/or the Customer's delay or unreasonable withholding of approval, prevents Fluent from fulfilling the Implementation Services, Fluent shall be relieved from its obligation to provide the Implementation Services. Upon the Customer's subsequently remedying any such failure, delay or unreasonable withholding of approval the Parties will act in good faith and use all reasonable endeavours to agree a new timetable for the provision of the Implementation Services. Upon such new timetable being agreed, Fluent and the Customer shall use all reasonable endeavours to comply with it provided that to the extent that Fluent, in meeting the requirements of the new timetable, reasonably determines that it needs to deploy extra resources to meet such timetable, the Customer shall pay Fluent in full for such extra resources on a time and materials basis at Fluent's Standard Rates applicable at the date of delivery; and

- 5.3.2. where the Customer requires Fluent to provide any resources or services as part of the Additional Implementation Services, Fluent shall charge for any such resources or services on a time and materials basis at Fluent's Standard Rates applicable at the date of delivery.
- 5.3.3. following delivery of the Flexigrant implementation project, the Customer shall review and sign the Proof of Delivery ("PoD") document provided by Fluent to confirm that the project has been completed in accordance with the agreed deliverables.
- 5.3.4. the customer shall return the signed PoD within seven (7) calendar days of receipt unless otherwise agreed in writing.
- 5.3.5. failure to return the signed PoD within this period will be deemed acceptance of the Project as delivered.
- 5.3.6. for the avoidance of doubt, the Service levels set out in Section 4 (Services) of this Agreement shall not apply until the signed PoD has been received by Fluent, as Fluent cannot reasonably provide support for a system that has not formally been accepted.

6. Prices, Taxes and Payment

- 6.1. The Customer shall pay the Fees to Fluent in accordance with this clause 6. Fees for any Extra Services will be paid in amounts and frequency as agreed in accordance with clause 3.10.
- 6.2. Fluent reserves the right to adjust the Fees on an annual basis by providing the Customer with at least thirty (30) days' advance written notice. Such increases shall take effect on each anniversary of the Commencement Date of this agreement and shall be set at CPI + 5% per annum. The adjusted Fees will become effective automatically on each anniversary, unless otherwise agreed in writing.
- 6.3. The Customer shall pay all undisputed invoices for Fees and expenses within thirty (30) calendar days from the invoice issue date. Timely payment of all undisputed amounts is a material obligation under this Agreement. Failure to remit payment by the due date shall constitute a material breach, entitling Fluent to take appropriate action:
- 6.3.1. Fluent may with prior written notice suspend its obligations under this Agreement (and any such suspension will not constitute a termination of the Agreement). Fluent shall require the Customer to pay a reconnection fee to recommence the provision of the Flexigrant Services and Documentation, together with all relevant Fees; and/or

- 6.3.2. Fluent may by written notice immediately terminate the licence granted at clause 2.1 of this Agreement, whereupon the Customer will promptly cease use of the Flexigrant Services and return any Fluent property to Fluent. Fluent shall have no liability for any such termination; and/or
- 6.3.3. Fluent may charge the Customer interest on sums due in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, compounded monthly, from the due date for payment until payment has been made, together with any additional costs and expenses (including any reasonable legal costs) incurred by Fluent in recovering the sums due from the Customer.
- 6.4. Except where the customer terminates this agreement under clause 11.5 (termination for breach), if the customer cancels its subscription or terminates the agreement before the end of the current subscription term, or if Fluent terminates the agreement due to the customer's breach under clause 11.5, the customer shall immediately pay all unpaid fees and subscription charges for the remainder of the subscription term.
- 6.5. Except where termination arises from Fluent's material breach under Clause 11.5 all Fees for the full Subscription Term are non-cancellable and non-refundable.

- 6.6. Where the Customer terminates this Agreement or cancels its Subscription prior to the end of the Subscription Term, the Customer shall remain liable to pay all Fees due for the remainder of that Term, including any outstanding User Subscription or Service Fees.
- 6.7. No refunds, credits, or reimbursements will be provided for any unused portion of the Services, except where required by applicable law or expressly agreed in writing by Fluent.
- 6.8. Notwithstanding clause 6.3, Fluent reserves the right to seek immediate payment of the Fees (or any part thereof) if the Customer requests expedited implementation of the Flexigrant Services and/or expedited Additional Implementation Services.
- 6.9. All Fees and any additional charges shall be exclusive of value added tax (VAT) or any other tax, duty, levy, fee or charge which shall be added to invoices at the rate applicable at the date of invoice and which shall be payable by the Customer.

7. Intellectual Property Rights

- 7.1. Except as expressly stated otherwise in this Agreement, neither Party shall acquire any right, title or interest in any Intellectual Property Rights belonging to the other Party, or the other Party's licensors.

7.2. Fluent shall grant the Customer a licence to use the Flexigrant Services in accordance with the provisions of clause 2 of this Agreement. The Customer acknowledges that it hereby acquires only the right to access and use the Flexigrant Services in accordance with this Agreement, and that all Intellectual Property Rights in the Flexigrant Services (including the source code of the Software) and (save to the extent expressly agreed by Fluent) all Intellectual Property Rights in the provision of any Extra Services shall remain vested in Fluent or where relevant Fluent's licensors. Nothing in this Agreement shall confer on the Customer or any User any right, title or interest in the Flexigrant Services (except the rights of use as set out in this Agreement), or to any source code within the Software.

7.3. Fluent warrants that the Customer's use of Software, excluding any Third Party IP, will not infringe the Intellectual Property Rights of any third party.

7.4. For the avoidance of doubt, Fluent shall have no liability under this clause in respect of any claim of infringement arising from:

- 7.4.1. Fluent's compliance with designs, specifications, instructions or technical information provided by the Customer or any third party expressly authorised by the Customer to provide such instruction or information to Fluent;
- 7.4.2. modifications made by the Customer or any third party to the Flexi-Grant Services; or

7.4.3. the Customer's non-compliance with this Agreement.

7.5. The Customer warrants that it is able to grant to, and hereby grants to, Fluent for the Term a non-exclusive, world-wide, royalty-free licence to use the Customer's IPRs and the Customer Data to the extent necessary for Fluent to perform its obligations under the Agreement. Customer warrants that Fluent's use of the Customer's IPRs and the Customer Data shall not infringe the IPR of any third party.

8. Warranties and Liability

8.1. Fluent shall not be liable for any breach of this Agreement (including any breach of the warranties in this clause 8) for any breach or loss suffered by the Customer or other third party if and to the extent that such breach and/or loss arises from the following:

8.1.1. the incorrect use, abuse or corruption of the Software by the Customer or any User;

8.1.2. any use of or access to the Flexigrant Services by the Customer or any User which is not expressly permitted by this Agreement;

8.1.3. any failure of the internet and/or any software or equipment of the Customer or any third party which enables access to the Software; and/or

8.1.4. for any loss, expense, cost, liability or sum incurred (whether directly or indirectly) by the Customer and/or any third party as a result of:

8.1.4.1. any act or omission, or operation failure, of any website (including any software used in such website) which is co-hosted with the Software and/or with any website through which the Customer accesses the Software; and/or

8.1.4.2. any unauthorised access to and/or use of any of Fluent's websites and/or the Software by third party (whether by automated means or not), provided that Fluent has taken all commercially reasonable security precautions to prevent unauthorised access to the Flexigrant Services.

8.2. Fluent warrants to the Customer that:

8.2.1. Fluent will perform the Flexigrant Services with reasonable care and skill and in accordance with Good Industry Practice;

8.2.2. the Flexigrant Services will conform in all material respects with the Configuration Document as agreed between the Customer and Fluent; and

8.2.3. the Flexigrant Services will be provided in accordance with all applicable legislation from time to time in force.

8.3. If any part of the Flexigrant Services is not performed in accordance with this Agreement, and such non-conformance is attributable to Fluent, then Fluent shall, at its own cost and within a reasonable timeframe, take all actions necessary to restore the Services to their original or otherwise agreed operational state, either by correcting the non-conformance or re-performing the affected Services in accordance with the agreed specifications.

8.4. Fluent makes no warranty or representation not expressly set forth in this Agreement. To the maximum extent permitted by law, and except for the warranties expressly set forth herein, Fluent disclaims any and all other warranties and conditions, whether express, implied, or statutory, including but not limited to implied warranties (if any) of merchantability, fitness for a particular purpose and satisfactory quality.

8.5. Fluent's liability will be limited as follows:

8.5.1. nothing in this Agreement shall limit Fluent's liability for death or personal injury caused by the negligence of Fluent or its employees, or for any liability which may not be limited under governing law;

8.5.2. subject to clause 8.5.1 above:

8.5.2.1. Fluent shall not be liable in contract, tort, or otherwise for any special, incidental, indirect or consequential losses, damages, costs or expenses (whether or not of the type specified in 8.5.2.2 below); and

8.5.2.2. Notwithstanding clause 8.5.2.1, Fluent expressly excludes all liability for the following (whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort or otherwise):

8.5.2.2.1. loss of revenues, profits, contracts, goodwill, reputation, business, use of money and/or anticipated savings;

8.5.2.2.2. loss of use or downtime;

8.5.2.2.3. loss, corruption, or damage to Customer Data, except to the extent that such loss, corruption, or damage is directly and solely caused by Fluent's breach of this Agreement or its negligence; and

8.5.2.2.4. losses incurred in the procurement by the Customer of any substitute products or services.

8.5.3. For the avoidance of doubt, Fluent shall have no liability for any loss or corruption of Customer Data arising from the Customer's acts or omissions, user error, the use of any third-party systems, integrations, or networks not supplied or controlled by Fluent.

8.5.4. subject to clause 8.5.1 above and clause 8.6, the entire liability of Fluent and its affiliates and subsidiaries under any provision of this Agreement, for any and all claims or causes of action under any theory of liability, whether in contract, in tort (including negligence or strict liability), or otherwise, shall be limited to an amount equal to the fees paid by the Customer under this agreement during the 12-month period immediately preceding the event giving rise to the Customer's claim (and for the avoidance of doubt the Customer will use reasonable endeavours to mitigate any such loss or damage). The existence of more than one claim will not increase this limit.

8.6. Fluent shall indemnify the Customer against any direct losses and reasonable third-party claims awarded against the Customer arising directly from:

- 8.6.1. Fluent's proven wrongful Processing of Customer Data in breach of Clause 10, except to the extent such losses arise from the Customer's instructions, acts, or omissions; and
 - 8.6.2. any proven infringement (whether or not under English law) of any third party's Intellectual Property Rights or other proprietary rights arising out of the authorised use or supply of the Flexigrant Services (including any Deliverables), save to the extent that such losses were contributed to or caused by any act or omission of the Customer or its Users.
- 8.7. Unauthorised security testing:
- 8.7.1. The Customer shall not conduct, commission, or permit any security testing, penetration testing, vulnerability scanning, or other intrusive activity on the Flexigrant Services or underlying infrastructure without Fluent's prior written consent.
 - 8.7.2. The Customer shall be responsible for, and shall reimburse Fluent for, any direct losses, liabilities, damages, costs, or expenses (including reasonable legal fees) suffered or incurred by Fluent as a result of any unauthorised security testing or failure to follow Fluent's Responsible-Disclosure Policy (Schedule 5), except for any unauthorised security testing carried out in error. This clause shall be capped to the value of the contract.

8.7.3. The Customer shall remain responsible for its own acts and omissions in connection with the use of the Flexigrant Services. Such responsibility includes, without limitation, any costs, losses, or third-party claims arising from or relating to service disruption, data compromise, regulatory notification, or other impacts caused by the Customer's systems, integrations, or users.

8.7.4. Fluent shall not be liable for any consequential, incidental, or indirect damages resulting from any such unauthorised security testing or attempted exploitation of vulnerabilities.

8.8. The Customer agrees and acknowledges:

8.8.1. that it is in a better position than Fluent to foresee and evaluate any potential damage or loss which the Customer may suffer in connection with the Software and/or the Flexigrant Services;

8.8.2. that the Fees payable by the Customer have been calculated on the basis that Fluent shall exclude liability in accordance with the provisions of this clause 8;

8.8.3. the Customer assumes sole responsibility for results obtained by the use of the Flexigrant Services by the Customer and any User, and for the conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any

information, instructions or scripts provided to Fluent by the Customer in connection with the Flexigrant Services, or any actions taken by Fluent at the Customer's direction; and

- 8.8.4. the Flexigrant Services are provided to the Customer on an "as is" and "as available" basis.

8.9. In relation to Third Parties, the Customer acknowledges and accepts as reasonable that:

- 8.9.1. Fluent excludes all liability to the maximum extent permitted by applicable law for any loss whatsoever incurred by the Customer as a result of any act or omission of any Third Party, or of the failure, suspension and/or termination of any facility or service provided by any Third Party, or the breach by any Third Party of any relevant Third Party Licence (each such act, omission, failure, suspension or termination a Third Party Breach); and

- 8.9.2. any Third-Party Breach shall not constitute a breach by Fluent of the provisions of this Agreement.

8.10. Each provision of this clause 8 shall be construed separately and shall continue and survive even if for any reason one or other of those provisions is held invalid or unenforceable in any circumstances.

9. Confidentiality

9.1. In relation to either Party, **Confidential Information** as used in this Agreement shall mean any and all information relating to that Party (or to any holding company and/or subsidiary of that Party, as those terms are defined by the Companies Act 2006) which is disclosed before or after the Commencement Date by that Party (**Discloser**) to the other Party (**Recipient**), and which is provided, either directly or indirectly, in writing, orally or by inspection, and being any and all information which is specified as confidential or which a reasonably prudent person should know is expected to be treated as confidential (including financial information, grant applications, reports, the proceedings of either party's business, documentation, notes, customer lists, business forecasts, sales and merchandising, and marketing plans and information). For the avoidance of doubt Fluent's Intellectual Property Rights (to the extent disclosed to the Customer) constitute Confidential Information of Fluent.

9.2. Each Party agrees that:

- 9.2.1. it will not use any Confidential Information of the other Party for any purpose other than the fulfilment of obligations imposed by this Agreement, nor disclose any such Confidential Information to any third party without the other Party's prior consent (and in the event that such consent is given, the Recipient will ensure, prior to such disclosure, that each such third party is made aware of the confidential nature of the Confidential Information and agrees in writing to be bound by conditions of secrecy no less strict than those set out in this Agreement);
- 9.2.2. it shall disclose Confidential Information of the other Party only to those of its employees who need to know such information, and that it will procure that such employees agree, either as a condition of employment or in order to obtain the Confidential Information, to be bound by terms and conditions substantially similar to those of this Agreement;
- 9.2.3. without affecting any rights or remedies that the Discloser may have, that damages would not be an adequate remedy for any breach by Recipient of the provisions of this Agreement. Consequently, Discloser shall be entitled to apply for the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of the provisions of this clause 9 by Recipient. No proof of special damages shall be necessary for the enforcement of this Agreement;

9.2.4. the Recipient will give notice to Discloser of any unauthorized use or disclosure of the Confidential Information by it, and/or any employee of it and/or any third party to whom it has disclosed Confidential Information, as soon as reasonably practicable after becoming aware of the same, and that it will provide all reasonable assistance to Discloser in remedying any such unauthorized use or disclosure of the Confidential Information; and

9.2.5. that its obligations hereunder shall survive for a period of six years from the date of last disclosure to it of Confidential Information of the other Party.

9.3. Information shall not be deemed to be Confidential Information to the extent that:

9.3.1. it was in the public domain at or subsequent to the time it was communicated to Recipient by Discloser through no fault of Recipient;

9.3.2. it was rightfully in Recipient's possession free of any obligation of confidence at or subsequent to the time it was communicated to Recipient by Discloser;

9.3.3. it was communicated by the Discloser to an unaffiliated third party free of any obligation of confidence; or

9.3.4. the communication was in response to a valid order by a court or other governmental body or was otherwise required by law.

10. Data Protection

10.1. As part of this Agreement, each of the Customer and Fluent may be required to collect and/or process Personal Data relating to the Customer (including personal data relating to the customer's employees, contractors, representatives and sub-contractors), any such data Customer Data, and relating to Applicant Users, any such data, Applicant Data. In respect of any such Personal Data, each Party shall at all times comply with the Data Protection Legislation and its respective obligations set out in the Schedule 3 (Data Processing Agreement) in the performance of its obligations imposed by this Agreement.

10.2. Notwithstanding any other provision herein, the Customer expressly agrees that Fluent may collect user statistical information (from use of the Software by a User, which may include pseudonymised Applicant Data – provided Fluent does not retain the means to re-identify the data) such as usage or traffic patterns in aggregate form and use it for its own business purposes, provided that such information will not include any Personal Data.

10.3. The Customer acknowledges that it is solely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness and copyright of all Customer Data.

10.4. As part of Fluent's Services and/or a function on Flexigrant, Fluent may provide the Customer with access to a template privacy notice which may be used as a tool to help the Customer to notify Applicant Users of the uses that the Customer may wish to make of the Applicant Data. Alternatively, the Customer may provide its own privacy notice. The Customer acknowledges that as the Data Controller, it is the Customer's sole responsibility to make sure that any privacy notice used by it meets the requirements of the Data Protection Legislation and that it will have to amend and insert certain information into the template privacy notice to ensure that it accurately reflects the Customer's use of the Applicant Data and meets the information disclosure requirements of the Data Protection Legislation. Fluent makes no representations or warranties that its template privacy notice will be suitable for the Customer's purposes or that it is not compliant with the Data Protection Legislation and Fluent accepts no liability for any losses that the Customer may occur if it chooses to use Fluent's template privacy notice.

Customer Data

10.5. With respect to the parties' rights and obligations under this Agreement, if at any time Fluent Processes or receives or otherwise has access to

Customer Data then the parties agree that the Customer is the Controller and that Fluent is the Processor.

Applicant Data

10.6. Fluent is a Processor, and Customer is a Controller, in respect of any Applicant Data collected or held by it pursuant to this Agreement. Fluent will only use the Applicant Data for the sole purpose of providing the Flexigrant Services

Obligations on Fluent

10.7. In respect of both Customer and Applicant Data (together “**Customer Data**”), and in accordance with its obligations as a Data Processor under the Data Protection Legislation, Fluent shall:

- 10.7.1. only process Customer Data for the Purposes and of the Type and Category as set out in Schedule 3 of this Agreement;
- 10.7.2. process the Customer Data only on behalf of the Customer and only in accordance with the written instructions of the Customer (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by the Customer to Fluent in writing during the term of this Agreement);

- 10.7.3. process the Customer Data only to the extent, and in such manner, as is necessary for the provision of the Services and for no other Purposes (as set out in Schedule 3) unless it has first obtained the written authorisation of Customer. Fluent may also Process Customer Data where required by any Applicable Laws provided Fluent gives prior notification to the Customer of such requirement save where prohibited from doing so by Applicable Law on the grounds of public interest;
- 10.7.4. implement and maintain appropriate technical and organisational measures in accordance with the requirements of the UK GDPR to protect Customer Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the severity of harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected. Such technical and organisational measures shall ensure the ongoing confidentiality, integrity, availability and resilience of Fluent's Processing systems and services. Further, Fluent agrees to provide at the request of the Customer, from time to time, a written report describing and specifying its operational, organisational and technical measures pursuant to this clause 10 and the requirements of the UK GDPR having regard to the nature of the processing;

- 10.7.5. at all times maintain a back-up copy of Customer Data ensuring that up-to-date back-ups are held in safe and secure off-site storage, so as to ensure that Fluent is able to restore the availability and access to Customer Data in a timely manner in the event of any unauthorised or unlawful Processing or accidental loss, destruction, damage, alteration or disclosure of Customer Data;
- 10.7.6. regularly test, assess and evaluate the effectiveness of its organisational and technical security measures;
- 10.7.7. take reasonable steps to ensure the reliability of any Staff who have access to the Personal Data, including ensuring they have undergone appropriate vetting and adequate training in data protection, data Processing and in the responsibilities, care and handling of Personal Data;
- 10.7.8. ensure that all Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 10, including the requirement to only process Customer Data on the written instructions of the Customer;
- 10.7.9. ensure that none of the Staff publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer;

10.7.10. assist the Customer in ensuring compliance with Customer's obligations pursuant to Articles 32 to 36 of the UK GDPR taking into account the nature of the processing and the information available to Fluent; assist the Customer insofar as is possible for the fulfilment of Customer's obligations in response to Data Subject Requests and notify the Customer as soon as reasonably practicable and in any event within 2 Business Days, if it directly receives:

10.7.10.1. a request from a Data Subject to have access to their Personal Data;

10.7.10.2. a request from a Data Subject exercising any rights of the data subject under the UK GDPR; or

10.7.10.3. a complaint or request relating to the Customer's obligations under the Data Protection Legislation;

10.7.11. notify the Customer without undue delay if in Fluent's reasonable opinion any instructions given by the Customer infringe any Data Protection Legislation and Fluent shall be entitled to cease provision of the Flexigrant Services until the parties have agreed appropriate amended non-infringing instructions;

10.7.12. notify the Customer without undue delay if in Fluent's reasonable opinion any instructions given by the Customer infringe any Data

Protection Legislation and Fluent shall be entitled to cease provision of the Flexigrant Services until the parties have agreed appropriate amended non-infringing instructions;

10.7.13. insofar as is possible provide the Customer with all reasonable co-operation and assistance sought in relation to any complaint or request made, including by:

10.7.13.1. providing the Customer with all details it holds relating to the complaint or request as soon as reasonably practicable;

10.7.13.2. providing any Customer Data it holds in relation to any Data Subject that makes a complaint, exercises any right under the UK GDPR or makes such other request under the Data Protection Legislation as soon as reasonably practicable;

10.7.13.3. providing the Customer with any Personal Data it holds in relation to a Data Subject (as soon as reasonably practicable);
and

10.7.13.4. insofar as is possible taking such steps and providing such information as is reasonably requested as soon as reasonably practicable by the Customer that is necessary for the Customer to comply with its obligations under the Data Protection Legislation and immediately notify Customer in the event of Fluent becoming aware of any breach by Fluent of any Data

Protection Legislation or any unauthorised or unlawful Processing of Customer Data or in the event of any accidental loss, corruption, destruction or damage to Customer Data and provide Customer with an explanation of the cause of the breach and its proposals to remedy the unauthorised event or accidental event (as the case may be). Fluent shall, subject to the Customer's reasonable instructions, promptly implement and maintain all measures and steps that are necessary to remedy the breach and to minimise the likelihood of a future breach. In the event of an unauthorised event or an accidental event (as described in this clause 10), Fluent shall provide the Customer with such information and assistance as it requires to satisfy its requirements to notify any applicable Regulator and/or any affected Data Subjects, and promptly restore such Customer Data using its back up or disaster recovery procedures;

10.8. permit the Customer, to inspect and audit Fluent's data Processing activities and comply with all reasonable requests or directions by the Customer to enable the Customer to verify and/or procure that Fluent is in full compliance with its obligations under this Agreement;

10.9. co-operate and assist the Customer or any Regulator where the Customer is required to deal or comply with any assessment, enquiry, notice or investigation by a relevant Regulator, in particular by the ICO, so as to

enable the Customer to comply with all of its obligations as a Controller which arise as a result of such an assessment, enquiry, notice or investigation;

10.10. provide a written description of the technical and organisational methods employed by Fluent for Processing Personal Data (within the reasonable timescales required by the Customer), and such other information or assistance that the Customer may reasonably require to carry out a data protection impact assessment and any subsequent prior consultation with a Regulator that may be required by Customer; and

10.11. co-operate with any Regulator on request;

10.12. not Process Customer Data outside the European Economic Area without the prior written consent of the Customer and, where the Customer consents to a transfer, to comply with:

10.12.1. the obligations under Chapter V of the UK GDPR by providing an adequate level of protection to any Customer Data that is transferred; and

10.13. any reasonable instructions notified to Fluent by the Customer, including such transfer mechanism as may be permitted by applicable Data Protection Legislation.

10.14. Fluent shall obtain prior written consent from the Customer in order to transfer the Customer Data to any subcontractors, sub-processors or affiliates for the provision of the Flexigrant Services. Where the Customer consents to any such subcontracting or sub-processing, Fluent shall ensure that:

10.14.1. it notifies the Customer of the identity of the proposed sub-processor (or any changes to the proposed sub-processor that the Customer may at its absolute discretion reject) immediately and supply the Customer with all relevant information including the Processing obligations that are proposed to be subcontracted;

10.14.2. it engages any subcontractor or sub-processor by written agreement, the terms of such written agreement must contain equivalent guarantees to those contained in the terms of this clause 10 as if the sub-processor or subcontractor was Fluent. Fluent shall ensure that any sub-processor or subcontractor complies with the Data Protection Legislation and has sufficient organisational and technical measures in place to guarantee the protection of Customer Data against unauthorised or unlawful Processing ; and

10.14.3. Fluent agrees to actively monitor and enforce the provisions and performance of any subcontractor or sub-processor agreement and Fluent shall remain responsible and liable for its obligations hereunder as primary obligor, notwithstanding the sub-contracting

or sub-processing of such obligations and for all acts and omissions of its sub-processors or sub-contractors.

10.15. Fluent shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the Customer to breach any of its applicable obligations under the Data Protection Legislation.

10.16. Upon written request by the Customer or notification by a Regulator, Fluent shall permit the Customer, its authorised representatives, or a competent Regulator to audit and inspect Fluent's relevant systems, and records solely to verify compliance with this Agreement.

10.17. Such audits shall be conducted no more than once in any 12-month period and upon not less than thirty (30) days' written notice, except where a Regulator requires earlier access or where the Customer reasonably suspects a material data-protection breach, in which case not less than ten (10) days' notice shall apply.

10.18. Audits shall take place during normal business hours, subject to Fluent's reasonable security and confidentiality policies, and shall minimise disruption to Fluent's business operations. Fluent shall co-operate in good faith and may satisfy the audit requirement by providing recent ISO 27001 reports where appropriate.

10.19. Upon termination of this Agreement or as may be requested in writing at any time by the Customer, Fluent shall immediately cease to use Customer Data and shall at the discretion of the Customer return or destroy it including all existing copies of it.

10.20. If at any time Fluent Processes Customer payment transactions then Fluent shall at all times comply with PCI-DSS and provide evidence to the reasonable satisfaction of the Customer of its PCI-DSS compliance certification.

11. Term and Termination

11.1. Subject to 11.2, this Agreement shall commence on the Commencement Date and continue for the Initial Term. Following expiry of the Initial Term (regardless of its length), this Agreement shall automatically renew for successive Renewal Periods of such duration as the parties may agree in writing (and in the absence of such agreement, for a default period of thirty-six (36) months), subject in each case to a pricing and terms review prior to renewal, unless terminated by one of the parties giving written notice of at least three (3) months prior to the expiry of the Initial Term or Renewal Period.

11.2. Fluent shall notify the Customer of the applicable renewal fees, proposed Renewal Period, and any changes to terms not less than ninety (90) days before the renewal date. If the parties do not agree the revised fees, terms, or Renewal Period before the renewal date, the Agreement shall expire automatically at the end of the then-current Term.

- 11.3. If the Customer wishes to terminate this Agreement before the end of the Term for reasons other than Fluent's breach, Fluent may, at its discretion, consider such a request. Any agreement to early termination shall be subject to the Customer paying all Fees due and payable for the remainder of the Term, including any outstanding User Subscription or Service Fees, unless otherwise agreed in writing by Fluent.
- 11.4. If the Customer fails to pay any Fees prior to the start of a Renewal Period, Fluent reserves the right to suspend or terminate the Flexigrant Services until all outstanding undisputed Fees (and any applicable interest) are paid in full.
- 11.5. If either Party materially breaches or materially fails to observe (together Breach) any provision of this Agreement, the other Party may (if the Breach is capable of remedy) give notice of the Breach and the Party in breach shall have thirty (30) calendar days from receipt of the notice in which to remedy the Breach. If the Breach is not remedied in this period, or is incapable of remedy, then the Party not in breach may terminate the Agreement with immediate effect.
- 11.6. If either Party becomes insolvent or bankrupt or (being a company) makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up (other than for the purpose of amalgamation or reconstruction) (in any such

circumstance, such Party, the Insolvent Party and such event, Break Event) then the following provisions shall apply:

11.6.1. the Insolvent Party shall notify the other party of the likelihood of a Break Event as soon as reasonably practicable after becoming aware of the same; and

11.6.2. the other Party may without replacing or reducing any other of its rights terminate the Agreement with immediate effect by written notice.

11.7. Upon expiration or the earlier termination of this Agreement the licence granted in accordance with clause 2.1 of this Agreement will terminate, unless expressly otherwise agreed by Fluent in writing.

11.8. The provisions of clauses 7, 8, 9, 11 and 13.8 of this Agreement will survive expiration or termination of this Agreement.

11.9. Upon the expiration or termination of this Agreement and provided that this Agreement has not been terminated by Fluent due to Customer's failure to pay any amount due to Fluent, Fluent will provide to Customer and / or to the supplier selected by Customer (such supplier shall be known as the Successor), upon Customer's written request:

11.9.1. a reverse migration and a full dump of the hosted Applicant Data, including the data model, in either MS SQL format or a secure MS

Excel format, within one month of receiving the request. This migration will be provided at a cost to be agreed by the Parties. If the Customer requires a repeat migration or data migration in any other format, this will also be subject to a cost to be agreed by the Parties. Following written confirmation from the Customer that the Applicant Data has been received in full, Fluent shall delete all copies, including back-ups, and provide written confirmation of deletion;

- 11.9.2. At the Customer's sole cost and expense, Fluent shall provide reasonable assistance requested by the Customer to facilitate an orderly transition of the Services, in whole or in part, to the Customer or a replacement supplier ("Termination Assistance Services").
- 11.9.3. Termination Assistance Services shall be provided for a period of up to ninety (90) calendar days (the "Termination Assistance Period"), commencing not earlier than ninety (90) days prior to, and ending on, the date of expiration or termination of this Agreement.
- 11.9.4. The Parties shall act in good faith and use reasonable endeavours to agree in advance the scope, timing, and fees for such Termination Assistance Services, which shall be based on Fluent's then-current professional-services rates.

- 11.9.4.1. developing a plan for the orderly transition of the terminated or expired Services from Fluent to Customer or to the Successor;
- 11.9.4.2. providing reasonable training to Customer staff or to the Successor in the performance of the Services then being performed by Fluent;
- 11.9.4.3. using commercially reasonable efforts to assist Customer, at Customer's sole cost and expense, in acquiring any necessary rights to legally and physically access and use any third party technologies and documentation then being used by Fluent in connection with the Flexigrant Services;
- 11.9.4.4. using commercially reasonable efforts to make available to Customer, pursuant to mutually agreeable terms and conditions, any third party services then being used by Fluent in connection with the Flexigrant Services; and
- 11.9.4.5. such other activities upon which the Parties may agree.

11.10. Where the Termination Assistance Period continues beyond the termination date of this Agreement, the provisions of this Agreement shall survive such termination for the purposes of the supply of Termination Assistance Services.

11.11. Fluent shall give Customer reasonable notice of its intention not to keep any or all data stored in connection with the Customer's account on the Software if the outstanding Fees are not paid within an additional thirty (30) calendar days grace period from the date of the notice, and unless legally prohibited, delete all such data in its systems, possession or control when (i) Customer fails to pay Fluent for Termination Assistance Services within ninety (90) calendar days from the due date of payment; or (ii) if this Agreement has been terminated by Fluent due to Customer's failure to pay any Fees due to Fluent.

12. Security Compliance and Legal Obligations

12.1. The Customer acknowledges that the Flexigrant platform is a multi-tenant SaaS solution operating on shared infrastructure. Unauthorised security testing may disrupt system stability, impact other customers, and violate applicable UK laws, including the Computer Misuse Act (CMA) 1990.

12.2. The Customer agrees to comply with all local, national, and international laws and regulations related to the use of the Flexigrant platform, including data protection, cybersecurity, and ethical use standards.

12.3. Any unauthorised security testing that compromises customer data or system functionality will be reported to relevant authorities, including but not limited to Action Fraud and the National Cyber Security Centre (NCSC).

12.4. Any breach of the security testing and vulnerability scanning provisions set out in clause 2.5 shall be considered a material breach of this Agreement.

12.5. Fluent reserves the right to immediately suspend or terminate the Customer's access to the Flexigrant platform without notice if unauthorised security testing is detected.

12.6. Such suspension or termination shall be without prejudice to Fluent's right to pursue legal action, damages, or other remedies.

13. General

13.1. Except for a Party's payment obligations, neither Party shall be liable for delay in performing or failure to perform its obligations if the delay or failure results from any cause beyond its reasonable control (a "Force Majeure Event"), including but not limited to acts of God, fire, explosion, war, terrorism, embargo, or governmental action.. The Party claiming a Force Majeure Event shall take all reasonable steps to mitigate its effects and to resume performance as soon as is reasonably practical, and shall promptly notify the other Party of both the occurrence and cessation of the event. For the avoidance of doubt, the Customer's obligations to pay any Fees accrued or payable up to the date of the Force Majeure Event shall not be affected. If the Force Majeure Event continues for more than ninety (90) days, either party may terminate this Agreement upon written notice.

13.2. A person who is not a party to the Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

13.3. Neither party may transfer, assign or novate the whole or any part of the Agreement or the benefit of it or any right under it without the other party's prior written approval.

13.4. While this Agreement is in effect, either party may include the name and logo of the other party in lists (including on its website) of customers or vendors in accordance with the other party's standard logo and/or trademark usage guidelines. Except as set forth herein, neither party may use the trademarks and trade names of the other party without the prior written consent of the other party.

13.5. This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

13.6. A failure at any time to enforce any provision of the Agreement shall in no way affect the right at a later date to require complete performance of the Agreement, nor shall the waiver of the breach of any provision be taken or

held to be a waiver of any subsequent breach of the provision or be a waiver of the provision itself.

13.7. Nothing in this Agreement shall create or shall be deemed to create a partnership or the relationship of employer and employee between the Parties.

13.8. The terms of this Agreement may only be modified if agreed by both Parties in writing. If any provision of this Agreement or part thereof should be found to be invalid, ineffective or unenforceable under any applicable statute or regulation, the remainder of the provisions shall stand in full force and effect.

13.9. The Agreement is governed by the laws of England and Wales. All disputes, claims or proceedings between the Parties relating to the validity construction or performance of this Agreement shall be subject to the jurisdiction of the courts of England and Wales to which the Parties hereto irrevocably submit.

14. Anti-Bribery

14.1. Fluent shall (and shall procure that any third party it appoints to assist pursuant to this Agreement):

14.1.1. comply with all applicable laws, statutes, regulations, and codes of practice relating to antibribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");

- 14.1.2. have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate; and
- 14.1.3. promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by Fluent in connection with the performance of this Agreement.
- 14.2. Breach of this clause shall be deemed a material breach of this Agreement for the purposes of clause 11.5.

15. Ethical Conduct

- 15.1. Fluent warrants that it:
 - 15.1.1. shall not at any time make any untrue, misleading or disparaging statements in relation to the Customer, any member of the Customer's group or any of its or their employees or officers;
- 15.2. Fluent shall at all times:
 - 15.2.1. comply with all applicable laws, statutes, regulations and codes of practice relating to the detection and prevention of slavery and

human trafficking, including the Modern Slavery Act 2015 (the “Anti-slavery Requirements”);

15.2.2. have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010 and the Modern Slavery Act 2015, to ensure compliance with the Code of Practice, the Anti-bribery Requirements and the Anti-slavery Requirements and will enforce them where appropriate; and

15.2.3. promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by Fluent in connection with the performance of this Agreement and/or any other breach or suspected breach of Anti-bribery Requirements or the Anti-slavery Requirements.

15.3. Any breach of this clause shall be a material breach of this Agreement.

16. Insurance

16.1. Fluent shall, throughout the Term, maintain in full force and effect insurance policies with reputable insurers covering, as appropriate to its business and the Services, professional indemnity, network security and privacy liability, cyber incident response, public liability, product liability, and employer’s liability, each with a limit of indemnity of up to £10,000,000 per claim (or, where applicable, in the aggregate for the relevant policy

year). Upon reasonable written request, Fluent shall provide the Customer with copies of its current insurance certificate(s) evidencing such cover.

17. Signatories

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date hereof.

For and on behalf of:
Print Name:
Signature:
Position:
Company:
Date:
For and on behalf of: Fluent Technology Ltd (21 Botanic Avenue, Office 5 Belfast, Northern Ireland BT7 1JJ).
Print Name:
Signature:
Position: Managing Director
Company: Fluent Technology Ltd
Date:

Purchase Order Details
If a Purchase Order number is required by the Customer to process invoices, the Customer agrees to provide a single Purchase Order at the start of each contract year. This Purchase Order will cover the total estimated value of services for that year and will be itemised to reflect the breakdown of services and associated costs. The same Purchase Order number will be referenced on all invoices submitted during that year.
Purchase Order Number:
Billing contact person:
Billing contact name:
VAT registration No:

Schedule 1: Contract Information Form

Contract Term			
Term (Months):	12 ,24, 36 months		
Commencement Date:	01 January 2026		
End Date:	31 December 202X		
Payment Terms:	Quarterly in Advance		
License Subscriptions			
Annual Licenses	Qty	Unit Cost	Total Cost
Regular License(s)	1	£	£
Occasional License(s)	1	£	£
Read-only License(s)	1	£	£
Applicant License(s)	1	£	£
Reviewer License(s)	1	£	£
Committee Module License	1	£	£
Organisation Approval License	1	£	£
Sub-total			£

Professional Services*			
Service Description	Qty	Unit Cost	Total Cost
Implementation and Configuration	1	£	£
Data Migration	1	£	£
Custom Migration	1	£	£
Sub-total			£0.00
Additional Services			
	Qty	Setup cost	Total Cost
Enhanced Support	1	£	£
Managed Services	1	£	£
Data Replication Service	1	£	£
API Integration(s)	1	£	£
Insights Tool	1	£	£
SSO	1	£	£
AI Bundle	1	£	£
Sub-total			£
Total Annual Costs (Year 1)**			
Annual Licensing Fees, Hosting and Support			£
Professional Services Fees			£

Additional Services Fees	£
TOTAL: £	
VAT@20%: £	
TOTAL INCLUDING VAT: £	
Total Project Costs***	
Annual Licensing Fees, Hosting and Support	£
Additional Services Fees	£
TOTAL: £	
VAT@20%: £	
TOTAL INCLUDING VAT: £	

Other Provisions

* The Professional Services provided as part of the initial implementation (or thereafter during the term of the agreement) will be subject to a separate set of terms and conditions which will be provided to the Customer.

** Licensing Fees, Hosting and Support, including Annual Product Services Fees are subject to an annual increase. Any price increase will not exceed CPI + 5% published at the anniversary date of the agreement. The adjusted Fees will become effective upon renewal or on the anniversary of the Commencement Date of this Agreement, whichever comes first.

*** The costs detailed above are for the set-up of <X> grant schemes. The costs detailed above are for the set-up of <Customer> core grant schemes. Fluent will set up a number of template schemes and work with the <Customer> Grants team to assist with the set-up of all required schemes. **NB:** this is part of Fluent's Standard Implementation Services provided to Customers to ensure sufficient knowledge transfer between Fluent and key <Customer> staff (i.e. so that future grants schemes can be set up with the need for support from Fluent).

All Fees detailed in the contract information form exclude VAT, which will be applied at the relevant rate.

NB: all work will be carried out in accordance with the Fluent proposal submitted to the <Customer>.

Any Change will be agreed in accordance with the Change Control Procedure detailed in Schedule 2 (Change Control Procedures).

Expenses (where applicable)

If travel arrangements are required, the following rates apply (please note these costs are NOT included in the Implementation Fees and will be billed separately):

Description	Expenses Rate
Mileage	£0.45 per mile
Hotel/Taxi fares	At Cost
Train Fare	Standard Class at cost
Car Hire	Standard cost for a compact car
Car parking	At Cost
Air Fare	Standard Class at cost
Subsistence	Up to £25 per day
Courier	At cost

Where possible advanced bookings will be made to ensure expenses are as minimal as possible.

Schedule 2: Change Control Procedures

1. Introduction

The Parties agree that throughout the term of this Agreement the process for making a Change to this Agreement will be through the procedures set out in this Schedule 2.

2. Change Request

If either party wishes to propose a Change, then it will notify the other party of that fact by sending a written notification (Change Request) to the other party's appropriately appointed representative, specifying the nature of the proposed change

3. Change Proposal

As soon as reasonably practicable (but in any event within 15 working days) after sending or receipt of a Change Request, Fluent will provide a written estimate to the Customer of:

- a) a summary of the scope of the change;
- b) brief details of the likely impact, if any, of the Change Request on any existing Flexigrant Services;
- c) a list of deliverables required for implementing the Change;

- d) an estimate of the likely charges for implementation (where applicable) and/or on-going operation of the relevant Change, including any increase of or reduction in the charges or additional charges payable for the proposed Change;
- e) an estimate of the likely time impact of the proposed Change; and
- f) any other impact of the Change on this Agreement.

4. Change Control Note

If, following receipt of the Change Proposal, the Customer wishes to proceed with the proposed Change, it will notify Fluent in writing, who will as soon as reasonably practicable and in any event within 15 working days after receiving the Customer's written notice to proceed with the Change, provide the Customer with a detailed written proposal in the form included in the agreed configuration document (Change Control Note or CCN), including, but not limited to the following matters:

- a) full details of the proposed subject matter of the Change Request;
- b) details of the impact, if any, of the Change Request on any existing Flexigrant Services;
- c) a list of deliverables required for implementing the Change;

- d) a statement of the charges of the implementation (where applicable) and /or ongoing operation of the relevant Change, including any increase or reduction in the charges or additional charges payable for the proposed Change; and
- e) a timetable for the implementation (where applicable), together with any proposals for acceptance, of the Change Request.

5. Acceptance

The Customer will review the proposed CCN and as soon as reasonable possible after its receipt and in any event within 10 working days will either accept or reject the proposed CCN. If the CCN has not been formally accepted in writing within such 10 working day period, it shall be deemed rejected. If the Customer accepts the proposed CCN, and the CCN is executed by the appropriate authorised representatives on behalf of each party, Fluent will make the Change in accordance with that CCN and the provisions of this Agreement.

6. Commencement of Work

Neither party will have any obligation to commence work in connection with any Change until the relevant CCN is signed by the appropriate representatives on behalf of each party.

If Fluent proceeds with a Change without the Customer's prior written authorisation, such Change will be entirely at Fluent's cost and risk.

Schedule 3: Data Processing

Part 1: Purposes

The processing of Customer and Applicant Data by Fluent is required in order to provide a grant management service to the Customer.

Part 2: Type

Customer Personal Data consists of:

- Customer users of the system; Customer employee names and email addresses.

Applicant Personal Data consists of:

- Name, address, telephone and mobile phone numbers, details regarding qualifications, email, gender (optional), date of birth (optional), nationality, curriculum vitae information.

Part 3: Categories

Personal Data, Special Category Data

Sub Processors of Personal Data

1. Processing by the Provider's Third-Party Processors: Hosting of Flexigrant infrastructure.

1.1 The software will provide Platform as a Service (PaaS) facilities to Fluent Technology so that Fluent can provide the Flexigrant systems to the Customer. The application uses and sub processes the data in the UK.

1.2 The provider is UK GDPR compliant.

1.3 Category of Data Subject is Applicant Data.

2. Processing by the Provider's Third-Party Processors: Customer Support System Hosting

2.1 The software will provide Software as a Service (SaaS) facilities to Fluent Technology so that Fluent can provide support to the Customer. The application uses sub processors to process the data in the countries in which it is established, including the United States, the United Kingdom and the European Economic Area ("EAA"), using the EU-US Data Privacy Framework (EU-US DPF), and the UK Extension to the EU-US DPF.

2.2 Category of Data Subject is Customer Data

2.3 Duration of the Processing: The Term of this agreement

3. Processing by the Provider's Third Party Processors: Customer Relationship Management System Hosting

- 3.1 The solution will provide Software as a Service (SaaS) facilities to the Provider so that the Provider can manage its commercial relationship with the Customer. The application uses sub processors that may process the data in the other countries, which comply with the International Data Transfer Agreement (IDTA) and International Data Transfer Addendum..
- 3.2 The provider will be UK GDPR compliant
- 3.3 Category of Data Subject is Customer Data
- 3.4 Duration of the Processing: The term of this agreement and any exit plan period.

Data Protection/Security – Further obligations on Fluent

- 1.1. The Supplier shall maintain an effective information security management system aligned with recognised standards (e.g., ISO/IEC 27001) and shall provide evidence of certification or equivalent controls upon request.
- 1.2. Fluent will make appropriate efforts to employ the right of data minimisation.
- 1.3. The Customer reserves the right to conduct a penetration test of the solution once per year, at a mutually agreed time and with a minimum of 1 week notice to Fluent to enable the activity, except if there is an incident which warrants another penetration test, this is to be mutually agreed between both parties.
- 1.4. The Supplier shall conduct regular vulnerability assessments and shall apply security patches for critical vulnerabilities within fourteen (14) days of release, or sooner if exploitation is known to be active.
- 1.5. Fluent will have an appropriate backup schedule in place and retain data for a minimum of 6 years unless there is another legal obligation requiring data to be deleted(i.e. the system will hold 6 years of data but backups will not be retained for beyond a month).
- 1.6. Fluent will ensure all data retention, change and deletion is within the control and responsibility of Customer.

- 1.7. All data transmission and storage will meet a minimum of AES 256 encryption standard and all data in transit will be appropriately protected with a minimum hash level of 256 bits or appropriate equivalent.
- 1.8. All elements of the service provided will at a minimum meet the Customer's Acceptable Use Policy requirements brought to Fluent's attention subject to any future changes to such policies being notified to and agreed by Fluent.
- 1.9. Business Continuity, Disaster Recovery and Crisis Management of loss of service or data will meet the minimum and required standards of the Customer, which is: a Return Time Objective of 24-48 hours. Any future changes to such standards will require Fluent to be notified in advance and must be agreed by Fluent.
- 1.10. During any major service interruption or potential service interruption that impacts Customer's data, Fluent will make all reasonable and appropriate steps to inform the Customer of the situation.

Security Incident Response

The Supplier shall notify the Customer within twenty-four (24) hours of any actual or suspected security breach affecting Customer data and shall cooperate fully with the Customer's investigation and remediation efforts.

Personnel Screening

The Supplier shall ensure that all personnel with access to Customer data or systems have undergone appropriate background checks and security awareness training.

Device Protection

The Supplier shall ensure that all devices used to access or handle Customer data are secured with appropriate technical and physical controls, including encryption, access restrictions, and timely patching. Any loss or compromise of such devices must be reported to the Customer immediately.

Secure Development Practices

Where the Supplier develops software or systems for the Customer, it shall follow secure development lifecycle practices aligned with OWASP, including threat modelling, secure coding standards, and regular code reviews.

Schedule 4: Fluent's Responsible-Disclosure Policy



FTL - 000- Responsible Disclosure Policy v1.0 25-02-2025.pdf