

kleene

SUBSCRIPTION TERMS AND CONDITIONS

Please read these Subscription T&Cs carefully, as they set out the basis upon which we make available the Software Services. Before you use the Software Services, we will ask for your express agreement to these Subscription T&Cs.

Supplemental and ancillary kleene legal documents referenced in these Subscription T&Cs, and which may also apply in relation to your use of the Software Services, are set out in the following table.

Acceptable Use Policy	An acceptable use policy for the kleene's services	https://kleene.ai/legal/
Availability SLA	Service level agreement for application availability	https://kleene.ai/legal/
Support SLA	Service level agreement for customer support	https://kleene.ai/legal/
Compliance Policy	Legal compliance policy	https://kleene.ai/legal/
DPA	Data processing addendum for GDPR compliance	https://kleene.ai/legal/
MSA	Master services agreement	N/A

1. Definitions

1.1 In these Subscription T&Cs:

"Affiliate" means an entity that Controls, is Controlled by, or is under common Control with the relevant entity;

"Aggregated Data" means metadata and other data generated by the Application Services, based on:

- (a) the business logic and instruction sets utilised to collect, organise and analyse the Input Data;
- (b) the use of the Application Services by the Customer; and
- (c) other data unrelated to the Customer in the control of kleene;

"Application Services" means the collection and organisation of the Input Data by the Application Software, the creation and analysis of the Output Data by the Application Software, along with all other services provided by kleene to the Customer by means of the Application Software;

"Application Software" means kleene's proprietary software system for the collection, organisation and analysis of data, as it may be updated from time to time by kleene, including the connectors that interact with the software for the Data Sources, but excluding the software for the Data Sources and excluding the software for the Data Warehouse;

"Charges" means:

- (a) the fees and charges specified in an Order Form that are payable by the Customer to kleene with respect to the Software Services (including fees and charges for Credits); and
- (b) any other amounts payable by the Customer to kleene under the Contract Documents with respect to a Subscription;

"Confidential Information" means kleene Confidential Information and the Customer Confidential Information;

"Contract Documents" means, with respect to a Subscription:

- (a) these Subscription T&Cs;
- (b) the applicable Order Form;
- (c) the Availability SLA and the Support SLA;
- (d) the Acceptable Use Policy and the Compliance Policy;
- (e) the DPA;
- (f) any MSA executed by the parties; and
- (g) any other kleene legal documents that any of the foregoing documents expressly state shall apply to the Subscription;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and **"Controlled"** should be construed accordingly);

"Credits" means credits purchased by the Customer from kleene, whether as part of a subscription or bolt-on package, or on an additional usage basis, for the purpose of enabling the use of the Data Warehouse Services;

"Customer" means the company or other legal person specified in the applicable Order Form that is granted a right to use the Software Services by kleene under these Subscription T&Cs;

"Customer Confidential Information" means:

- (a) any information disclosed by or on behalf of the Customer to kleene during a Subscription Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by kleene (acting reasonably) to be confidential;

- (b) the Customer Data; and
- (c) the Customer Personal Data;

"**Customer Data**" means the Input Data and the Output Data, excluding any Aggregated Data;

"**Customer Group**" means the Customer and all Affiliates of the Customer;

"**Customer Indemnity Event**" has the meaning given to it in Clause 14.3;

"**Customer Personal Data**" has the meaning given to it in the DPA;

"**Data Source**" means a software application, or a module or subsystem of a software application, that is linked to the Application Services using a connector by or upon the instructions of the Customer and that provides or is intended to provide Input Data to the Application Services or make available Input Data for collection by the Application Services;

"**Data Warehouse**" means the platform used to store the Input Data and Output Data and by means of which the Customer can access and query the Output Data, as specified in the applicable Order Form;

"**Data Warehouse Rules**" means those rules relating to the use of the Data Warehouse Services set out in:

- (a) these Subscription T&Cs;
- (b) the Acceptable Use Policy; and
- (c) the legal documentation published by Snowflake on the Snowflake website from time to time (<https://www.snowflake.com/legal/>);

"**Data Warehouse Services**" means data storage and access services for the Customer Data provided by kleene to the Customer using the Data Warehouse, if any; the Customer acknowledges that:

- (a) kleene shall have no obligation to provide the Data Warehouse Services unless the parties have expressly agreed to the provision of Data Warehouse Services in an Order Form; and
- (b) although kleene uses Snowflake as the provider of the underlying technology and services for the Data Warehouse Services, kleene shall be contractually responsible to the Customer for the provision of the Data Warehouse Services;

"**Early Access**" means access to any software program, feature, functionality, module and/or service made available by kleene to the Customer on an early access basis, including all access that is specified by kleene as early access, alpha or beta access;

"**Effective Date**" means the date upon which the applicable Order Form is agreed by the parties (which may, for example, be by means of a signed document, a written acceptance or an online consent process);

"Expert" means a person appointed under Clause 21 to resolve a Technical Dispute between the parties;

"Free Access" means use of Software Services where the Customer has not paid or undertaken to pay any Charges in consideration for such use, including:

- (a) use of the Software Services during a proof-of-concept period or a time-limited trial; and
- (b) access to a feature-limited free tier of Software Services;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars);

"Input Data" means all data that are supplied by or on behalf of the Customer, or by means established by the Customer, for storage on and/or processing by the Application Services, or that are collected by the Application Services for these purposes;

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models and rights in designs);

"kleene" means Minoro Ltd (trading as kleene and kleene.ai), a company incorporated in England and Wales (registration number 10657177) having its registered office at 11 Bracken Place, Bedford, United Kingdom, MK41 0TG;

"kleene Confidential Information" means:

- (a) any information disclosed by or on behalf of kleene to the Customer during a Subscription Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by the Customer (acting reasonably) to be confidential;
- (b) the financial terms of each Order Form;
- (c) any information relating to other customers of kleene that is disclosed by kleene to the Customer; and
- (d) any information relating to the business plans or technical plans of kleene that is disclosed by kleene to the Customer;

"kleene Indemnity Event" has the meaning given to it in Clause 14.1;

"kleene Website" means the website published by kleene at <https://kleene.ai> and any successor website published by kleene from time to time;

"New Connector" has the meaning given to it in Clause 3.10;

"Order Form" means an order form for the Software Services (with or without professional services) agreed in writing by kleene and the Customer;

"Output Data" means data generated by the Application Services from the Input Data and stored in the Data Warehouse;

"Renewal Date" means, with respect to a Subscription, the date upon the next following Subscription Period to which the Customer is contractually committed begins, where that commitment arises as a result of:

- (a) the Customer expressly agreeing to the continuation of the Subscription into that Subscription Period; or
- (b) the Customer ceasing to have any rights to terminate the Subscription for convenience before the end of that Subscription Period;

"Reseller" has the meaning given to it in Clause 8.9;

"Reseller-Customer Contract" has the meaning given to it in Clause 8.9;

"Snowflake" means Snowflake Inc and its Affiliates;

"Software Services" means the Application Services and, if they are provided or to be provided by kleene in accordance with an Order Form, the Data Warehouse Services;

"Source Code" means the Application Software code in human-readable form or any part of the Application Software code in human-readable form, including code compiled to create the Application Software or decompiled from the Application Software, but excluding interpreted code comprised in the Application Software;

"Start Date" means the date specified as such in an Order Form;

"Subscription" means a contract, made under an Order Form incorporating these Subscription T&Cs, for the provision of the Software Services;

"Subscription Period" means a period of the length specified in the applicable Order Form (or if this is not specified in the applicable Order Form, a period of 12 months) beginning on:

- (a) the Start Date; or
- (b) at the end of a previous Subscription Period;

"Subscription T&Cs" means these subscription terms and conditions, including any amendments to them from time to time;

"Subscription Term" means the term of a Subscription, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"Technical Dispute" means any contractual or other legal dispute between the parties relating wholly or predominantly to the specification, quality or performance of the Software Services;

"Third Party Software and Services" means software owned and licensed by a third party, and services provided by a third party, that may interoperate with or be used in conjunction with the Software Services, excluding the Data Warehouse Services but including:

- (a) the software and services providing and/or constituting the Data Sources; and
- (b) unless kleene is providing the Data Warehouse Services, the Data Warehouse software and related services;

"User Documentation" means the user manual and/or other documentation for the Application Services published and maintained by kleene at <https://docs.kleene.ai/>.

2. Subscription Term

- 2.1 Each Subscription shall come into force upon its Effective Date.
- 2.2 Subscriptions shall continue in force indefinitely, subject to termination in accordance with Clause 16 or any other provision of the Contract Documents.

3. Software Services

- 3.1 With respect to a Subscription, kleene hereby grants to the Customer a non-exclusive, non-transferable and worldwide licence during each Subscription Period to:
 - (a) use the Application Services in accordance with the User Documentation for the business purposes of the Customer and/or any member of the Customer Group;
 - (b) use the User Documentation for the purpose of supporting such use of the Application Services; and
 - (c) if applicable, use the Data Warehouse Services for the business purposes of the Customer and/or any member of the Customer Group,subject to the limitations and prohibitions set out and referred to in this Clause 3 and in the applicable Order Form.
- 3.2 The Customer agrees that kleene may (but shall have no obligation to) use technical measures to limit:
 - (a) the number of Data Sources that may be connected to the Application Services to any agreed number; and/or
 - (b) the consumption of Application Services resources to any agreed levels.

3.3 If kleene has agreed to provide Data Warehouse Services:

- (a) the Customer must comply with Data Warehouse Rules, including complying with the legal documentation published by Snowflake on the Snowflake website as if the Customer were a direct customer of Snowflake;
- (b) the Customer must not provide, disclose, or otherwise make available the Data Warehouse Services in any form to any third party;
- (c) the Customer must not access any the Data Warehouse Services other than by means of its designated account;
- (d) the Customer may only use the Data Warehouse Services for secure data sharing or in connection with the Application Services;
- (e) the Customer must submit support requests related to the Data Warehouse Services to kleene; Snowflake has no obligation to respond to any support requests submitted by the Customer to Snowflake;
- (f) the Customer acknowledges and agrees that Snowflake may collect, use, and share data relating to the Customer's use of the Data Warehouse Services in order to develop, improve, support, and operate its products and services and may share that data with kleene;
- (g) the Customer must purchase and spend Credits in order to use the Data Warehouse Services;
- (h) Credits shall be spent in accordance with the credit consumption documentation forming part of the Data Warehouse Rules;
- (i) if the Customer's use of the Data Warehouse Services would result in the use of more Credits than are available to the Customer, kleene may automatically allocated additional usage Credits to the Customer, and the Customer must pay the Charges for those Credits specified on the kleene Website from time to time;
- (j) notwithstanding Clause 3.3(i), the Customer acknowledges that kleene may suspend and/or restrict access to the Data Warehouse Services if the Customer does not have sufficient Credits or otherwise in accordance with the Data Warehouse Rules;
- (k) at the end of each Subscription Period, any unused Credits shall be lost, subject to Clause 3.3(l) below;
- (l) if the Customer has unused Credits at the end of a Subscription Period, and purchases at least the same number of Credits for the next following Subscription Period as it purchased for the ending Subscription Period, then those unused Credits will be available in that following Subscription Period, providing that the maximum number of Credits that may roll forward in this way is 25% of the number purchased by the Customer as part of a package for the ending Subscription Period;

- (m) the Customer acknowledges that: (i) nothing in these Subscription T&Cs shall create any right of action for the Customer or any other person against Snowflake; (ii) nothing in these Subscription T&Cs shall create any legal responsibilities or obligations for Snowflake; and (iii) Snowflake shall not be bound by, or responsible for the performance of, kleene's obligations under these Subscription T&Cs;
- (n) the Customer acknowledges that Snowflake may suspend or terminate the Customer's account enabling use of the Data Warehouse Services if the Customer breaches the Data Warehouse Rules, or if Snowflake determines it is necessary to avoid material harm or liability to other Snowflake customers or third parties, or if Snowflake determines that it is necessary to preserve the security, stability, availability or integrity of Snowflake's services – in which case the Data Warehouse Services under these Subscription T&Cs shall be automatically suspended or terminated as applicable; and
- (o) subject to Clause 15.1, kleene shall not be liable to the Customer for any loss or damage arising out of any act or omission of Snowflake in accordance with the Data Warehouse Rules.

3.4 The Customer shall be responsible for authorising individual users of the Software Services; such users must be officers, employees, agents or subcontractors of the Customer or a member of the Customer Group.

3.5 Except to the extent expressly permitted in these Subscription T&Cs or by a written agreement entered into by the parties, or required by law on a non-excludable basis, the licences granted by kleene to the Customer under Clause 3.1 are subject to the following prohibitions:

- (a) the Customer must not license or sub-license its right to access and use the Software Services or User Documentation, or sell, resell, distribute, rent, lease or lend the Software Services or User Documentation;
- (b) without prejudice to the generality of Clause 3.5(a), the Customer must not use the Software Services to provide any services to any third party where those Software Services form a separately priced component of those services;
- (c) the Customer must not permit any unauthorised person to access or use the Software Services or User Documentation;
- (d) the Customer must not republish or redistribute any content or material from the Software Services or User Documentation;
- (e) the Customer must not make any alteration to the Software Services or User Documentation;
- (f) the Customer must not conduct or request that any other person conduct any load testing or penetration testing on the Software Services or any related systems or networks;

- (g) the Customer must not use the Software Services to store or transmit any malicious code, malware, attack, bugs, viruses, Trojans or similar;
- (h) the Customer must not use the Software Services or User Documentation in any way that causes, or may cause, damage to the Software Services or User Documentation or impairment of the availability, integrity, performance or accessibility of the Software Services or User Documentation (including making an unreasonable number of requests to the Software Services or otherwise placing an unreasonable load upon the Software Services);
- (i) the Customer must not attempt to gain unauthorised access to the Software Services or any related systems or networks;
- (j) the Customer must not copy the Software Services or User Documentation or any part, feature, function or user interface thereof;
- (k) the Customer must not reverse engineer, decompile, manipulate or access any source code or object code related to the Software Services;
- (l) the Customer must not use the Software Services or User Documentation in any way that is unlawful, illegal, fraudulent or harmful or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity; and
- (m) the Customer must not use the Software Services or User Documentation to compete with kleene.

3.6 The Customer must comply with the provisions of the Acceptable Use Policy when using the Software Services; and the Customer must ensure that all persons that use the Software Services comply with those provisions.

3.7 The availability of the Software Services shall be governed by the Availability SLA.

3.8 The Customer acknowledges that kleene may update the Software Services from time to time, including adding, removing and/or enhancing functionality. kleene may notify the Customer of such updates, but shall have no obligation under these Subscription T&Cs to do so.

3.9 This Clause 3.9 applies to all Early Access use of the Software Services by the Customer, whether or not Charges apply in relation to such Early Access, and takes precedence over the other provisions of the Agreement:

- (a) the provision of any Early Access to the Customer shall be at kleene's sole discretion;
- (b) Early Access software may not be fully functional and are liable to contain material bugs and errors;
- (c) kleene does not undertake to provide any support or other ancillary services in relation to Early Access;

- (d) kleene gives no warranties and makes no representations in relation to Early Access, and in particular the warranties set out in the Agreement shall not apply in respect of Early Access;
- (e) Early Access use is at the Customer's own risk; and
- (f) kleene may suspend or terminate the Customer's right to Early Access at any time at its sole discretion.

3.10 kleene and the Customer may agree in writing that kleene shall design, develop and implement a new connector for the Application Services ("**New Connector**") in accordance with an agreed specification. kleene shall use reasonable endeavours to complete its work on any New Connector by any agreed date or dates, but kleene does not guarantee this. All Intellectual Property Rights in any New Connector shall, as between the parties, be the exclusive property of kleene. From the time and date when a New Connector is first delivered or made available by kleene to the Customer, it shall be provided to the Customer as an element of the Application Services, and accordingly from that time and date the Customer's rights to use the New Connector shall be governed by Clauses 3.1 to 3.6. The Customer acknowledges that kleene may make any New Connector available to any of its other customers or any other third party.

4. Third Party Software and Services

- 4.1 kleene shall use reasonable endeavours promptly to update the Application Services to maintain integrations with the Third Party Software and Services that are used by the Customer from time to time, providing that if Third Party Software and Services are updated in such a way as to impact their integration with the Application Services, kleene may, subject to the express terms of the applicable Order Form, decline to undertake the work required to maintain compatibility if in kleene's reasonable view the work would be disproportionate to the benefit to kleene's business; in these circumstances, kleene may (but is not obliged to) offer to do the work for the Customer on the basis of kleene's standard time-based charging rates.
- 4.2 Subject to Clause 4.1, kleene may remove, suspend, deactivate or limit any Third Party Software and Services integration at any time in its sole discretion.
- 4.3 The supply of Third Party Software and Services shall be under a separate contract or arrangement between the Customer and the relevant third party. kleene does not contract to supply the Third Party Software and Services and is not a party to any contract for, or otherwise responsible in respect of, the provision of any Third Party Software and Services.
- 4.4 The Customer acknowledges and agrees that:
 - (a) the activation of a Third Party Software and Services integration may result in the transfer of Customer Data and/or Customer Personal Data from the Software Services to the relevant Third Party Software and Services and vice versa;

- (b) kleene has no control over, or responsibility for, any disclosure, modification, deletion or other use of Customer Data and/or Customer Personal Data by any provider of Third Party Software and Services;
- (c) the Customer must ensure that it has in place the necessary contractual safeguards to ensure that the transfer of Customer Personal Data to, and use of Customer Personal Data by, a provider of Third Party Software and Services is lawful; and
- (d) the Customer shall ensure that the transfer of Customer Data to a provider of Third Party Software and Services does not infringe any legal rights and will not put kleene in breach of any applicable laws.

4.5 The Customer acknowledges that changes to the Third Party Software and Services are not within the control of kleene, and subject to Clause 4.1 and Clause 15.1, kleene shall not be liable to the Customer with respect to any loss or damage arising out of any incompatibility between the Application Services and the Third Party Software and Services.

5. Customer Data

5.1 Nothing in these Subscription T&Cs will constitute an assignment or transfer of Intellectual Property Rights in the Customer Data from the Customer to kleene.

5.2 The Customer agrees that kleene may, in order to provide the Software Services and perform its other obligations with respect to a Subscription, store, transform, transmit and otherwise use both the Input Data and the Output Data on a non-exclusive basis.

5.3 The Customer further agrees that kleene may:

- (a) create Aggregated Data (providing that kleene must ensure that the Aggregated Data does not include any Customer Personal Data and does not contain any information enabling the identification of the Customer); and
- (b) use Aggregated Data for the purpose of providing information and/or services to the Customer and to third parties, and distribute, adapt, publish and otherwise use, and permit third parties to use, the Aggregated Data as kleene sees fit without restriction.

5.4 The Customer grants to kleene the right to sub-license the rights referred to in Clauses 5.2 and 5.3 as follows:

- (a) if kleene is providing the Data Warehouse Services, to Snowflake; and
- (b) in any case, to kleene's hosting, connectivity, telecommunications and data processing service providers,

in each case strictly for the purposes identified in Clauses 5.2 and 5.3 and subject to any express restrictions elsewhere in these Subscription T&Cs and the DPA.

5.5 If and only if the applicable Order Form specifies that:

- (a) the Application Services (and associated Input Data); and/or
- (b) any Data Warehouse Services (and associated Output Data),

will be hosted in a particular jurisdiction or jurisdictions, kleene shall ensure that the relevant services and/or data will only be hosted in the agreed jurisdiction or jurisdictions.

5.6 The Customer acknowledges that the Input Data is processed by the Application Services on a transient basis, and Kleene shall have no obligation in relation to a Subscription to make or keep back-up copies of Input Data or to restore Input Data to the Application Services from back-up copies. As between the parties the Customer shall be responsible for making and keeping back-up copies of Input Data.

6. Support

6.1 The provision of support by kleene in relation to the Software Services shall be governed by and subject to the Support SLA.

6.2 For the avoidance of doubt, the limitations and exclusions of liability set out in these Subscription T&Cs shall apply with respect to any such support.

7. Customer obligations

7.1 The Customer shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Software Services and shall notify kleene promptly of any such unauthorised access or use.

7.2 Unless kleene has agreed in an Order Form to provide the Data Warehouse Services, the Customer shall be responsible for providing and maintaining the provision of a Data Warehouse for use with the Application Services.

8. Charges and payments

8.1 The Customer must pay the Charges to kleene by bank transfer (or such other method as kleene may authorise in writing) within 30 days following the issue by the Customer of an invoice for the same. kleene may however require the payment of Charges for Credits in cleared funds before making those Credits available to the Customer.

8.2 If the Customer increases the number of Data Sources connected to the Application Services, the Charges for the Application Services shall automatically increase in accordance with the applicable Order Form. Charges with respect to increased numbers of connected Data Sources during part of a Subscription Period shall be calculated by kleene on a pro rata basis. The Customer warrants and undertakes to kleene that all Customer users shall have the authority to connect additional Data Sources to the Application Services and to commit the Customer to pay additional Charges in accordance with this Clause 8.2.

- 8.3 The Charges may not be varied except as follows (or in accordance with the express terms of the other Contract Documents):
- (a) by kleene sending to the Customer a written notice specifying the variation, in which case the varied Charges shall apply from the first Renewal Date following the date of sending that written notice; and/or
 - (b) by means of a written document signed or otherwise agreed by or on behalf of each party.
- 8.4 All amounts stated in the Contract Documents, or otherwise in relation to a Subscription, are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Customer to kleene.
- 8.5 The Customer must pay the Charges without set-off or deduction.
- 8.6 If the Customer does not pay any amount properly due to kleene with respect to a Subscription, kleene may charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month).
- 8.7 kleene may suspend the provision of any or all of the Software Services to the Customer if:
- (a) any amount or amounts due to be paid by the Customer to kleene under or in relation to these Subscription T&Cs or otherwise with respect to the Software Services is/are overdue; and
 - (b) kleene has given to the Customer, following the amount or amounts becoming overdue, at least 14 days' prior written notice of its intention to suspend the Software Services.
- 8.8 This Clause 8.8 applies if, at any time during a Subscription Term, kleene makes the Software Services available to the Customer on a Free Access basis. Where this Clause 8.8 applies:
- (a) kleene may suspend or limit or withdraw Free Access at any time, with or without notice;
 - (b) during any Free Access period, the Software Services are made available "as is" without any warranties, representations or guarantees; and without prejudice to the foregoing, kleene does not warrant, represent or guarantee that during any Free Access Period the Software Services will function without error, or will always be available, or will be entirely secure;
 - (c) subject to Clause 15.1, kleene shall not be liable to the Customer with respect to any loss of Input Data, Output Data or other loss or damage arising out of the use of the Software Services by the Customer during a Free Access period; and

- (d) kleene shall have no obligation to provide support to the Customer during any Free Access period; but if kleene does provide such support then the limitations and exclusions of liability set out in these Subscription T&Cs shall apply to that support.

8.9 This Clause 8.9 applies if the Customer purchases the Software Services from a kleene-authorized reseller ("**Reseller**") pursuant to a contract between the Customer and that Reseller (a "**Reseller-Customer Contract**"). Where this Clause 8.9 applies:

- (a) kleene shall have no obligation to provide any Software Services to the Customer unless kleene has previously agreed in writing with the Reseller that it will do so;
- (b) notwithstanding the other provisions of this Clause 8, the Customer shall have no obligation to pay Charges to kleene with respect to the provision of the Software Services (but will usually have an obligation to pay charges to the Reseller under the Reseller-Customer Contract);
- (c) the Customer must comply with the terms of the Reseller-Customer Contract, and any breach by the Customer of the Reseller-Customer Contract shall be deemed to constitute a breach of these Subscription T&Cs;
- (d) without prejudice to the generally of the foregoing, if the Customer fails to pay any amount due to the Reseller under the Reseller-Customer Contract by the due date, kleene may exercise its rights under Clause 8.7 and/or Clause 16 as if the Customer had failed to pay an amount due to kleene under these Subscription T&Cs;
- (e) these Subscription T&Cs and the other Contract Documents shall govern the provision and use of the Software Services, notwithstanding anything to the contrary in the Reseller Arrangement; and
- (f) the Customer acknowledges that the Reseller is not authorised to amend the Contract Documents or to give any warranties, representations, undertakings or guarantees in relation to the Software Services, except as set out in the Contract Documents.

9. Confidentiality obligations

9.1 kleene must:

- (a) keep the Customer Confidential Information strictly confidential;
- (b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in the Contract;
- (c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as kleene uses to protect kleene's

own confidential information of a similar nature, being at least a reasonable degree of care; and

- (d) act in good faith at all times in relation to the Customer Confidential Information.

9.2 The Customer must:

- (a) keep kleene Confidential Information strictly confidential;
- (b) not disclose kleene Confidential Information to any person without kleene's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in the Contract;
- (c) use the same degree of care to protect the confidentiality of kleene Confidential Information as the Customer uses to protect the Customer's own confidential information of a similar nature, being at least a reasonable degree of care; and
- (d) act in good faith at all times in relation to kleene Confidential Information.

9.3 Notwithstanding Clauses 9.1 and 9.2, a party's Confidential Information may be disclosed by the other party to that other party's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Confidential Information that is disclosed for the performance of their work with respect to the Contract and who are bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information that is disclosed.

9.4 No obligations are imposed by this Clause 9 with respect to a party's Confidential Information if that Confidential Information:

- (a) is known to the other party before disclosure under the Contract and is not subject to any other obligation of confidentiality;
- (b) is or becomes publicly known through no act or default of the other party; or
- (c) is obtained by the other party from a third party in circumstances where the other party has no reason to believe that there has been a breach of an obligation of confidentiality.

9.5 The restrictions in this Clause 9 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of either party on any recognised stock exchange.

9.6 The provisions of this Clause 9 shall continue in force indefinitely following the termination of the Contract.

10. Data protection

- 10.1 The processing of Customer Personal Data by kleene on behalf of the Customer in the course of the provision of the Software Services and associated support shall be governed by and subject to the DPA.
- 10.2 For the avoidance of doubt, the limitations and exclusions of liability set out in these Subscription T&Cs shall apply with respect to such processing.

11. Publicity

- 11.1 Neither party may make any public disclosures relating to a Subscription or the relationship of the parties (including disclosures in press releases, public announcements and marketing materials) without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed, and subject to Clause 11.2.
- 11.2 kleene may, on the kleene Website and in other marketing materials created by or on behalf of kleene, publish the name and current principal logo from time to time of the Customer and indicate that the Customer is a customer of kleene.
- 11.3 Nothing in this Clause 11 shall be construed as limiting the obligations of the parties under Clause 9, Clause 10 or the DPA.

12. Warranties

- 12.1 kleene warrants to the Customer that:
- (a) kleene will provide the Software Services with reasonable care and skill;
 - (b) the Application Services will not infringe the Intellectual Property Rights of any person; and
 - (c) in the provision of the Software Services and the performance of its other obligations with respect to a Subscription, kleene shall comply with the Compliance Policy.
- 12.2 The Customer warrants to kleene that:
- (a) the Input Data will not infringe the Intellectual Property Rights of any person; and
 - (b) in the receipt of the Software Services and the performance of its other obligations with respect to a Subscription, the Customer shall comply with the Compliance Policy.
- 12.3 If kleene reasonably determines, or any third party alleges, that the use of the Software Services by the Customer in accordance with these Subscription T&Cs infringes any person's Intellectual Property Rights, kleene may acting reasonably at its own cost and expense:
- (a) modify the Software Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or

- (b) procure for the Customer the right to use the Software Services in accordance with these Subscription T&Cs.

12.4 All of the parties' warranties and representations in respect of a Subscription are expressly set out in the Contract Documents. To the maximum extent permitted by applicable law, no other warranties or representations will be implied into a Subscription.

13. Acknowledgements and warranty limitations

13.1 Nothing in these Subscription T&Cs shall operate to assign or transfer any Intellectual Property Rights from kleene to the Customer, or from the Customer to kleene.

13.2 Nothing in these Subscription T&Cs shall give to the Customer or any other person any right to access or use the Source Code or constitute any licence of the Source Code.

13.3 The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of these Subscription T&Cs, kleene gives no warranty or representation that the Software Services will be wholly free from defects, errors and bugs.

13.4 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of these Subscription T&Cs, kleene gives no warranty or representation that the Software Services will be entirely secure.

13.5 The Customer acknowledges that kleene has no responsibilities for the provision of any Third Party Software and Services under these Subscription T&Cs or otherwise.

14. Indemnities

14.1 Subject to the Customer's compliance with Clause 14.2, kleene shall indemnify and shall keep indemnified the Customer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Customer and arising directly or indirectly as a result of:

- (a) any claim that the Application Software infringes any third party's Intellectual Property Rights; or
 - (b) any breach of the DPA by kleene,
- (each, a "**kleene Indemnity Event**").

14.2 The Customer must:

- (a) upon becoming aware of an actual or potential kleene Indemnity Event, notify kleene;
- (b) provide to kleene all such assistance as may be reasonably requested by kleene in relation to kleene Indemnity Event;

- (c) allow kleene the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to kleene Indemnity Event; and
- (d) not admit liability to any third party in connection with kleene Indemnity Event or settle any disputes or proceedings involving a third party and relating to kleene Indemnity Event without the prior written consent of kleene.

14.3 Subject to the kleene's compliance with Clause 14.4, the Customer shall indemnify and shall keep indemnified kleene against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by kleene and arising directly or indirectly as a result of:

- (a) any claim that the Input Data infringes any third party's Intellectual Property Rights;
- (b) any breach of the DPA by the Customer; and
- (c) if the Customer is entitled to or receives Data Warehouse Services: (i) any act or omission of the Customer when using, or related to the Customer's use of, the Data Warehouse Services; (ii) any breach of the Data Warehouse Rules by the Customer; and (iii) any claim by Snowflake alleging a breach of the Data Warehouse Rules by the Customer,

(each, a "**Customer Indemnity Event**").

14.4 kleene must:

- (a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;
- (b) provide to the Customer all such assistance as may be reasonably requested by the Customer in relation to Customer Indemnity Event;
- (c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to Customer Indemnity Event; and
- (d) not admit liability to any third party in connection with Customer Indemnity Event or settle any disputes or proceedings involving a third party and relating to Customer Indemnity Event without the prior written consent of the Customer.

14.5 The indemnity protection set out in this Clause 14 shall not be subject to the limitations and exclusions of liability set out in these Subscription T&Cs, except that Clause 15.8 shall apply.

15. Limitations and exclusions of liability

15.1 Nothing in the Contract Documents will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

15.2 The limitations and exclusions of liability set out in this Clause 15 and elsewhere in the Contract Documents:

- (a) are subject to Clause 15.1; and
- (b) shall not limit the Customer's obligations to pay the Charges, but otherwise govern all liabilities arising under a Subscription or relating to the subject matter of a Subscription, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in the Contract Documents.

15.3 Neither party will be liable to the other party in respect of:

- (a) any losses arising out of a Force Majeure Event; or
- (b) any special, indirect or consequential loss or damage.

15.4 kleene will not be liable to the Customer in respect of:

- (a) any loss of any Input Data; or
- (b) any loss of, corruption of, or damage to Output Data caused the acts or omissions of Snowflake or any third party acting on behalf of Snowflake, save to the extent that Snowflake is liable to compensate kleene with respect to such loss or damage,

and providing, in any case, that this Clause 15.4 will not affect any liability of kleene under Clause 9, Clause 10 or the DPA.

15.5 kleene will not be liable to the Customer in respect of any loss or damage arising out of:

- (a) any defect in the Data Sources software or in the Input Data, or any failure of either to conform to the requirements of set out in these Subscription T&Cs or the User Documentation;
- (b) any defect in the Data Warehouse software or any act or omission of Snowflake within the scope of the Data Warehouse Rules; or
- (c) any failure of Third Party Software and Services or any act or omission of a provider of Third Party Software and Services.

- 15.6 If the Customer uses the Software Services on an Early Access or a Free Access basis, then kleene will not be liable to the Customer in relation to any loss or damage arising under or relating to those Software Services.
- 15.7 Each party's liability to the other party with respect to a Subscription, and with respect to any event or series of related events, will not exceed the greater of:
- (a) GBP 10,000; and
 - (b) the total amount paid and payable by the Customer to kleene with respect to that Subscription in the 12-month period preceding the commencement of the event or events.
- 15.8 Each party's aggregate liability to the other party with respect to a Subscription will not exceed GBP 250,000.

16. Termination

- 16.1 A Subscription may be terminated at the end of any Subscription Period by either party giving to the other party at least 90 days' prior written notice of such termination.
- 16.2 Either party may terminate a Subscription immediately by giving written notice of termination to the other party if:
- (a) the other party commits any breach of the terms of the Subscription, and the breach is not remediable;
 - (b) the other party commits a breach of the terms of the Subscription, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or
 - (c) the other party persistently breaches the terms of the Subscription (irrespective of whether such breaches collectively constitute a material breach).
- 16.3 Subject to applicable law, either party may terminate a Subscription immediately by giving written notice of termination to the other party if:
- (a) the other party: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
 - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party; or
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up.

16.4 kleene may terminate a Subscription immediately by giving written notice of termination to the Customer if:

- (a) any amount or amounts due to be paid by the Customer to kleene under or in relation to these Subscription T&Cs or otherwise with respect to the Subscription is/are overdue; and
- (b) kleene has given to the Customer, following the amount or amounts becoming overdue, at least 30 days' prior written notice of its intention to terminate the Subscription.

17. Effects of termination

17.1 Upon the termination of a Subscription, all of the provisions of the Contract Documents shall cease to have effect with respect to the Subscription, save that:

- (a) the following provisions of these Subscription T&Cs shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 3.3(m), 3.3(o), 4.5, 5, 8.1, 8.5, 8.6, 8.8(c), 9, 10, 11, 14, 15, 17, 20, 21 and 22; and
- (b) those provisions of the other Contract Documents that are expressed to survive termination shall do so (in each case continuing to have effect in accordance with their express terms or otherwise indefinitely).

17.2 The termination of a Subscription for any reason shall not:

- (a) give rise to any right of the Customer to a refund of Charges; or
- (b) affect the Customer's obligation to pay any outstanding Charges, including Charges with respect to the current Subscription Period and Charges with respect to any other Subscription Period to which the Customer is contractually committed,

providing that this Clause 17.2 shall not affect any right the Customer may otherwise have to claim damages with respect to a breach of the terms of a Subscription by kleene.

17.3 For the avoidance of doubt, upon termination of a Subscription any subsisting Subscription Period shall automatically end, and the Customer will cease to have any rights to use the Software Services.

17.4 Following the date of issue of a notice of termination and for a period of 90 days after the date of effective termination of a Subscription, kleene shall provide to the Customer such information and assistance as the Customer may reasonably request in relation to the transfer of the Software Services to a new provider or to the Customer. kleene may charge for such information and assistance in accordance with kleene's standard time-based charging rates. If so requested by the Customer, the assistance under this Clause 17.4 shall include assistance with the transfer of the Output Data to any compatible data warehouse.

17.5 Except to the extent expressly provided otherwise in the Contract Documents, the termination of a Subscription shall not affect the accrued rights of either party.

18. Force Majeure Event

18.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under a Subscription (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

18.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under a Subscription, must:

- (a) promptly notify the other; and
- (b) inform the other of the period for which it is estimated that such failure or delay will continue.

18.3 A party whose performance of its obligations under a Subscription is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

19. Notices

19.1 Any notice from one party to the other party under the Contract Documents with respect to a Subscription must be given in writing using the relevant contact details set out in the applicable Order Form.

19.2 The addressee and contact details set out in an Order Form may be updated from time to time by a party giving written notice of the update to the other party.

20. Technical Disputes and expert determination

20.1 Authorised representatives of each of the Customer and kleene shall agree within 14 days of a Technical Dispute arising to discuss and attempt to resolve that Technical Dispute between themselves prior to the appointment of an Expert

20.2 If any Technical Dispute is incapable of resolution between the parties, the Customer and kleene shall on request promptly supply to the Expert all such assistance, documents and information as he may require for the purpose of his determination and both the Customer and kleene shall use all reasonable endeavours to procure the prompt determination of the Technical Dispute.

20.3 The Expert shall be deemed to act as an expert and not as an arbitrator.

20.4 The costs of the Expert appointed under this Clause 20 shall be equally apportioned between the parties or as may otherwise be directed by the Expert.

- 20.5 If the parties are unable to agree the identity of the individual to act as the Expert, then the Expert shall either be chosen from the Registry of Independent Experts maintained by the Law Society of England and Wales or be nominated by a professional association or institute agreed upon between the parties with the intent that by agreement or nomination the Expert be appointed, and the Technical Dispute referred to the Expert, within 7 days.
- 20.6 Nothing in these Subscription T&Cs shall prevent either the Customer or kleene at any time from seeking any interim or interlocutory relief from the court.
- 20.7 Either party may, within 90 days after receipt of the determination of the Expert, refer any matter comprised in the Technical Dispute to the court for determination and the court shall have jurisdiction to determine the rights of the parties in respect of such matters.
- 20.8 Subject to Clause 8.7, until the time that a Technical Dispute between kleene and the Customer is resolved kleene shall continue to perform the Software Services and be paid by the Customer in accordance with terms of the Subscription.

21. General

- 21.1 No breach of any term of a Subscription shall be waived except with the express written consent of the party not in breach. No waiver of any breach of any term of a Subscription shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of the Subscription.
- 21.2 If any term of a Subscription is determined by any court or other competent authority to be unlawful and/or unenforceable, the other terms of the Subscription will continue in effect. If any unlawful and/or unenforceable term would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the term will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant term will be deemed to be deleted).
- 21.3 The terms of a Subscription may not be varied except as follows:
- (a) by kleene updating the version of the relevant Contract Document(s) published on the kleene Website and sending to the Customer a written notice stating that the Contract Document(s) have been updated, in which case the updated Contract Document(s) shall come into force on the first Renewal Date following the date of sending that written notice;
 - (b) to the extent reasonably necessary to ensure that the parties comply with applicable law, or that the Contract Document(s) take reasonable account of changes to the functionality of the Software Services, by kleene updating the version of the relevant Contract Document(s) published on the kleene Website and sending to the Customer written notice of the variation, in which case the updated Contract Document(s)

shall come into force at the end of the period of 14 days following the date of sending of that written notice; and/or

- (c) by means of a written document signed or otherwise agreed by or on behalf of each party.

The Customer may be required to click to accept or otherwise agree to the updated Contract Document(s), and in any event continued use of the Software Services after the sending of notice of the update to the Customer shall constitute Customer's acceptance of the updated Contract Document(s).

- 21.4 The Customer hereby agrees that kleene may assign kleene's contractual rights and obligations under a Subscription to any member of kleene's group of companies or to any successor to all or a substantial part of the business of kleene from time to time. Save to the extent expressly permitted by applicable law, the Customer must not without the prior written consent of kleene assign, transfer or otherwise deal with any of the Customer's contractual rights or obligations under a Subscription.
- 21.5 Each Subscription is made for the benefit of the parties thereto and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to a Subscription are not subject to the consent of any third party.
- 21.6 The Contract Documents shall constitute the entire agreement between the parties in relation to each Subscription, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 21.7 The Contract Documents shall be governed by and construed in accordance with English law.
- 21.8 kleene may bring and pursue proceedings against the Customer to enforce the terms of a Subscription in any jurisdiction in which the Customer is incorporated, resident or situated from time to time. Subject to this and to Clause 20, the courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with a Subscription.

22. Interpretation

- 22.1 In the Contract Documents, a reference to a statute or statutory provision includes a reference to:
 - (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
 - (b) any subordinate legislation made under that statute or statutory provision.
- 22.2 The Clause headings do not affect the interpretation of the Contract Documents.

22.3 In the Contract Documents, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

22.4 In the event of a conflict between the Contract Documents, the following order of precedence shall apply:

- (a) first, the applicable Order Form;
- (b) second, any MSA;
- (c) third, the Compliance Policy and the DPA;
- (d) fourth, these Subscription T&Cs;
- (e) fifth, the Acceptable Use Policy, the Availability SLA and the Support SLA;
- (f) sixth, any other Contract Documents.