Bromcom Computers Plc
Rutland House, 44 Masons Hill Bromley Kent BR2 9JG

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This edition date: 27 November 2025

**STANDARD TERMS AND CONDITIONS**

## 1. DEFINITIONS

1.1. The following definitions and rules of interpretation in this clause apply in the Contract:

"Authorised Users" means those employees, agents, independent contractors and, where applicable, parents and pupils of a school or academy operated by the Customer who are authorised by the Customer to use the relevant Services and Documentation in accordance with the Contract.

"Bromcom" means Bromcom Computers Plc.

"Bromcom Partner" means any approved third party entity providing help desk, customer support or other services in connection with the Services with a current, valid and written arrangement with Bromcom to provide such services.

"Bromcom Software" means the software created by or on behalf of Bromcom from time to time including but not limited to web based software applications, any mobile device software applications (apps) that link with Bromcom's web based software and/or services and any bespoke software that is provided and maintained by Bromcom which supports the integration of the Bromcom Software with the Customer's Systems, together with any accompanying Documentation describing such software.

"Business Day" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Charges" means the subscription charges and other fees or charges specified in the Order Form, together with such other charges as may be agreed between the parties from time to time during the Term.

"Contract" means the contract signed between Bromcom and the Customer relating to the Services commencing on the Contract Start Date including the Bromcom Standard Terms and Conditions. In the event of any conflict or inconsistency between the signed Contract and the Standard Terms and Conditions, the Standard Terms and Conditions shall take precedence.

"Contract Start Date" means the date stated as such in the Order Form or if silent, the date upon which Bromcom confirms the Order Form is accepted.

"Core Training" Bromcom's applicable published training course required to be undertaken by Authorised Users prior to accessing and using the Bromcom Software and permitted to access the Help Desk.

"Customer" means the school, academy or other entity that is identified in the Order Form as being a party to the Contract with Bromcom.

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"Customer Data" means the Customer data, inputted or migrated by the Customer, Authorised Users, or Bromcom on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services and including any personal data and data generated by, or derived from the Customer's use of the Services, whether stored within the Services or elsewhere.

"Customer's Systems" means the Customer's applicable computer systems and internet services (including hardware, software, communications networks, facilities and other equipment) owned or licensed by the Customer and used to access the internet and Services.

"Data Protection Legislation" means the definition as defined in section 3(10) of the Data Protection Act 2018.

"Documentation" the documents made available to the Customer (or Authorised Users) by Bromcom (whether online or by other means notified by Bromcom) from time to time which set out a description of the Services and/or the user instructions for the Services, including without limitation, any implementation plans and methodologies, manuals, guides, training literature and any other documentation specified in the Order Form or these Standard Terms and Conditions.

"Follow Up Term" means the follow up term period set out in the Order Form, or if the Order Form is silent, 5 years.

"Go Live Date" means the date Bromcom notifies the Customer that the Services will be ready for use by the Customer.

"Help Desk" is the Bromcom Help Desk which provides help and guidance by telephone, broadband, email, or other means to the Customer subscribing to the Help Desk service, and is more particularly described in the SLA.

"Initial Term" means the period specified as such in the Order Form, or if silent, 5 years.

"Order Form" means Bromcom's order form document found within the Contract, together with any documents attached to it which contains details of the Services to be provided and the associated Charges.

"Services" means the access to the Bromcom Software or Third Party Software and, where specified in the Order Form, associated support and maintenance services and such other services as are set out in the Order Form.

"SLA" means the Bromcom Service Level Agreement, which can be found at here (as may be updated from time to time).

"Standard Terms and Conditions" means this document, including its schedule(s), which may be updated from time to time in accordance with clause 25.4.

"Term" means the Initial Term and any Follow-up Term(s), subject to any earlier termination of the Contract in accordance with these Standard Terms and Conditions.

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"Third Party Software" means software supplied by Bromcom as part of the Services, as specified on the Order Form (if any), which is not created by Bromcom or on its behalf, together with accompanying documentation describing such software.

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

1.2.    Clause, schedule and paragraph headings shall not affect the interpretation of these Standard Terms and Conditions.

1.3.    A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.

1.4.    A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

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

1.6.    Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7.    A reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Contract. A reference to a statute or statutory provision shall include all subordinate legislation made as at the Contract Start Date under that statute or statutory provision.

1.8.    A reference to writing or written includes email.

1.9.    References to clauses and schedules are to the clauses and schedules of these Standard Terms and Conditions; references to paragraphs are to paragraphs of the relevant schedule to these Standard Terms and Conditions.

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## 2. SERVICES

2.1.    During the Term, Bromcom shall provide the Services and make the Documentation available to the Customer on and subject to the terms of the Contract.

2.2.    Where any Third Party Software is provided as part of the Services, the Customer acknowledges that the use of such Third Party Software (including associated Documentation) shall be exclusively governed by the applicable third party terms relevant to that Third Party Software and not the terms of the Contract and the Customer hereby agrees to be bound by those third party terms. The third party terms shall be provided by Bromcom within 30 calendar days of receiving a request in writing from the Customer.

## 3. CONTRACT DURATION

3.1.    The Contract shall commence on the Contract Start Date and, save where terminated earlier in accordance with these Standard Terms and Conditions, shall continue for the Initial Term.

3.2.    At the end of the Initial Term or any Follow Up Term, the Contract shall be automatically extended by a Follow Up Term, unless written notice is given by the Customer to terminate the Contract in accordance with clause 11.1.

## 4. PRICING AND PAYMENT

4.1.    The Customer shall pay Bromcom the Charges in pounds sterling and in accordance with clause 4.2. All such amounts are exclusive of VAT and equivalent taxes on sales and supplies unless otherwise stated, which shall be added to the invoice at the appropriate rate.

4.2.    Save as otherwise specified in the Order Form:

   4.2.1.    the subscription element of the Charges shall be payable annually in advance;

   4.2.2.    Retail Price Index (RPI) increase will be payable from year 2 of the contract on an annually compounded basis as published in the April immediately prior to the date of the invoice and based on an average of the preceding 12 months rates, as issued by the Office of National Statistics,

   4.2.3.    for other charges specifically referred to in the Contract, as specified in the relevant clause including but not limited to clause 13; and

   4.2.4.    for all other ancillary charges (including Bromcom consultancy time and additional training charges), in accordance with the published payment terms for the relevant service, or if not published, in advance and Bromcom shall invoice for the Charges on that basis.   The Customer shall pay invoices within 30 calendar days of the date of the invoice.

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4.3. All payments to be made by the Customer under the Contract shall be paid into an account designated by Bromcom either by direct debit instruction or BACS transfer and shall arrive on or before the due date in cleared funds (unless otherwise agreed in writing). Prompt payment of all sums due under the Contract is an essential condition of the Contract.

4.4. The Customer shall not be permitted to setoff or withhold any Charges payable to Bromcom under the Contract, save as may be required by law.

4.5. Without prejudice to any other remedies that may be available, Bromcom shall have the right to charge interest in respect of any sum outstanding to Bromcom on a daily basis from the date the payment became due until actual payment, whether before and after any judgement, at the rate of 3% per annum above the base rate from time to time of the Bank of England.

4.6. Should the Contract be terminated before the end of the current Term (by either party and for any reason except if terminated under clause 11.1.2) any unpaid Charges (including, for the avoidance of doubt, all unpaid annual subscription Charges payable during the current Term) shall become payable immediately.

4.7. If, at any time whilst using the Services, the Customer exceeds:

4.7.1. the number of pupil numbers specified in the Order Form; and/or

4.7.2. the amount of DMS storage space described in clause 13.1,

Bromcom shall notify the Customer and may increase the Charges on a pro rata basis in respect of such underpayment or excess data usage, as calculated in accordance with the prices set out in the Order Form, or in the absence of such pricing, Bromcom's standard list price from time to time. Bromcom shall either invoice the underpayment at that time or, at its discretion, recover such underpayment by way of adjustment to future Charges payable.

4.8. Bromcom shall be entitled to increase the Charges for all of the Services at anytime by notice to the Customer provided that:

4.8.1. Bromcom shall not be entitled to increase the Charges on less than 4 weeks prior notice and not more than once in any 12 month period; and

4.8.2. such increase shall not exceed the Retail Price Index (RPI) increase as published in the April immediately prior to the date of the notice and based on an average of the preceding 12 months rates, as issued by the Office of National Statistics.

5. **RIGHTS OF USE**

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5.1.     From the Go Live Date and subject to the terms of the Contract (and such third party terms as may apply in accordance with clause 2.2 and/or any specific product terms as may apply in accordance with clause 13 and/or the Order Form) Bromcom hereby grants to the Customer a non-exclusive, non-transferable right during the Term and solely for the Customer's business purposes, to:

5.1.1.     access and use, and permit Authorised Users to access and use, the Services during its service hours specified in the SLA and

5.1.2.     copy and use the relevant Documentation as strictly necessary to allow the Customer and Authorised Users to use the Services,

provided that the Customer shall be liable for the acts and omissions of Authorised Users as if they were its own.

5.2.     The rights provided under this clause 5 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

5.3.     The Customer acknowledges that the Services do not include:

5.3.1.     any services, systems or equipment required to access the internet (and that the Customer is solely responsible for procuring access to the internet and for all costs and expenses in connection with internet access, communications, data transmission and wireless or mobile charges incurred by it in connection with use of the Services); or

5.3.2.     legal, accounting or other professional or regulated services and that, except as expressly stated in the Contract, no assurance is given that the Services will comply with or satisfy any legal or regulatory obligation of any person.

5.4.     The Customer shall not, and shall ensure its Authorised Users shall not:

5.4.1.     do, or allow to be done, any act or thing which may reasonably be considered by Bromcom to jeopardise any right of Bromcom or other third party owners of the Services and/or Documentation or any part thereof;

5.4.2.     license, sell, lease, hire, distribute or otherwise commercially exploit or make available the Services and/or Documentation to any third party other than the Authorised Users contemplated under the terms of the Contract;

5.4.3.     use the Services and/or Documentation to provide services to third parties other than as expressly provided for under the Contract;

5.4.4.     access, store, distribute or transmit:

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a) any Virus;

b) any material during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, discriminatory, harassing or racially or ethnically offensive, or which facilitates illegal activity or is otherwise illegal or causes damage or injury to any person or property;

5.4.5. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Contract:

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

b) decompile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services and/or Documentation, or attempt to (or allow any third parties to) do the same;

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

5.4.7. sell, lease, hire or otherwise make available in any way, any software developed by the Customer or person(s) acting on behalf of the Customer, which is dependent on or integrates with Bromcom Software or Third Party Software unless written agreement has been obtained from Bromcom (and, where applicable, any third party licensor of terms entered into pursuant to clause 2.2).

5.5. In relation to the Authorised Users, the Customer undertakes that:

5.5.1. the number of Authorised Users not exceed a reasonable number;

5.5.2. it will manage the creation and maintenance of user accounts and access rights for all Authorised Users, including deletion of user accounts where access is no longer required;

5.5.3. it will ensure that only appropriate user accounts are created and those accounts are only accessed by users to fulfil their roles in so far as is necessary for the purpose of managing the Customer's establishment;

5.5.4. all Authorised Users, if required by reference to the Order Form, shall undertake Core Training in accordance with clause 6.2 below.

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5.5.5.    it will not allow or suffer any user account to be used by more than one individual Authorised User;

5.5.6.    that each Authorised User shall keep a secure password for their use of the Services and Documentation, that such password shall be changed periodically in accordance with good practice, and each Authorised User shall keep their password confidential;

5.5.7.    it shall, no more frequently than once per year, permit Bromcom or its designated auditor to audit the Services to verify that the Customer's use of the Services and Documentation does not exceed the number of purchased student numbers. The Customer shall promptly provide Bromcom with any information reasonably requested in connection with such audit;

5.5.8.    if any of the audits referred to in clause 5.5.7 reveal that the Customer has underpaid Bromcom for its use of the Services, then without prejudice to Bromcom's other rights, Bromcom may adjust the Charges in accordance with clause 4;

5.5.9.    if a person ceases to be an employee, agent or independent contractor of the Customer, ensure that person returns any copies of Documentation and ceases access to or use of the Services on or before the termination or expiry of their contract with the Customer;

5.5.10.   it will take all reasonable measures to safeguard the Services and Documentation from access or use by any unauthorised persons and, in the event of any such unauthorised access or use shall promptly notify Bromcom.

## 6.    ONBOARDING, TRAINING & CONSULTANCY

### 6.1.    Onboarding process

6.1.1.    Bromcom shall perform all implementation activities and services as described in the Order Form and relevant Documentation (or otherwise agreed in writing by the parties).

6.1.2.    Bromcom will use reasonable endeavours to meet any requested Go Live Date, but time shall not be of the essence. Bromcom will inform the Customer of any delay in planned dates as soon as reasonably practicable, but the Customer acknowledges that any dates provided by Bromcom are subject to change by Bromcom.

### 6.2.    Training

6.2.1.    Core Training, where required, is as set out in the Order Form, which will show the training scope, number of sessions offered and the method of training delivery together with any instructions or requirements which Authorised Users attending Core Training must comply with.

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6.2.2.    Where Core Training is required for Authorised Users:

a)    the Core Training must be provided by Bromcom or be authorised by Bromcom in accordance with clause 6.2.7; and

b)    where the Services include access to the Help Desk, Core Training must be taken before the Customer and relevant Authorised Users are provided with access to the Bromcom Help Desk.

6.2.3.    In addition to Core Training, Customers are required to take non-core training required for additional modules purchased before they can use the Help Desk support for that non-core module. Where this does not happen, the Help Desk can refuse support for the module that the Customer has not been trained on.

6.2.4.    Following completion of the initial Core Training for the Customer, Customers may either:

a)    subject to clause 6.2.5, train additional Authorised Users itself; or

b)    purchase additional training from Bromcom in accordance with clause 6.2.3.

6.2.5.    Where the Customer is training additional Authorised Users itself, it shall provide written confirmation that training has been completed to Bromcom so that Authorised Users can access the Help Desk in respect of the modules they have been trained for. Notwithstanding the above, Bromcom reserves the right, at its sole discretion, to refuse Help Desk support where Bromcom believes that a new Authorised User has not undertaken appropriate training or requires further training.

6.2.6.    Apart from eLearning training, all training is subject to Bromcom's training schedule and must be booked in advance. No refunds will be issued for purchased training that is not used by the Customer.

6.2.7.    Other than as provided for in this clause 6.2, any third party providing training in relation to the Services must have written authority from Bromcom to provide such services.

6.3.    **Consultancy**

6.3.1.    The Customer may request from Bromcom the provision of additional consultancy services either on-premise or remote.  Where Bromcom agrees to provide such consultancy services these will be chargeable at the Bromcom published rates and subject to the availability of the appropriate Bromcom staff. As specialist staff are allocated to provide consultancy services, consultancy days may be subject to change at short notice.

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6.3.2.    Any third party entity providing consultancy services in relation to the Services must be authorised by Bromcom to provide such services.

## 7.    CUSTOMER RESPONSIBILITIES

7.1.    The Customer shall:

7.1.1.    provide Bromcom with:

a)    all necessary co-operation in relation to the Contract; and

b)    all necessary access to such information as may be required by Bromcom,

in order for Bromcom to provide the Services, including but not limited to access to the Customer's staff, Customer Data, the Customer's Systems and security access information;

7.1.2.    without affecting its other obligations under the Contract, comply with all applicable laws and regulations with respect to its activities under the Contract;

7.1.3.    carry out all other Customer responsibilities set out in the Contract in a timely and efficient manner;

7.1.4.    obtain and maintain all necessary licences, consents, and permissions necessary for Bromcom, its contractors and agents to provide the Services to the Customer and Authorised Users under the Contract;

7.1.5.    ensure that the Customer's Systems comply with the relevant Documentation provided by Bromcom from time to time, including any minimum technical requirements and interface requirements; and

7.1.6.    except as otherwise expressly provided in the Contract, the Customer is solely responsible for Customer's Systems and all problems, conditions, delays, delivery failures, data loss and all other loss or damage arising from or relating to the Customer's Systems.

7.2.    The Customer understands and accepts that:

7.2.1.    Bromcom is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities;

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7.2.2. where it is necessary for the Customer to supply information to Bromcom about and/or to give Bromcom personnel access to the Customer's staff, Customer Data, Customer's Systems etc., in order to enable Bromcom to perform its obligations under the Contract, the Customer will provide such information and access at Bromcom's request. Any failure in this regard may result in delays and/or costs which shall be charged to the Customer;

7.2.3. Bromcom may be required to make changes to the Bromcom Software and/or other Services from time to time to ensure it remains up to date, but will aim to provide the Customer with fully operational and functionally equivalent Services (and where applicable updated Documentation). Such changes may require that these Standard Terms and Conditions are updated in accordance with clause 25.4; and

7.2.4. Bromcom may process the Customer's metadata (excluding Customer Personal Data) held within the Services but such processing shall be limited to that necessary to deliver or improve the Services and such data shall not be passed on to others (other than where it is fully anonymized) without the written consent of the Customer.

7.3. The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity (subject to Bromcom's obligations under clause 8), accuracy and quality of all such Customer Data.

## 8. CLOUD SECURITY AND BACKUPS

8.1. Details of Bromcom's security arrangements for the Bromcom Software and related Services are set out at: https://trust.bromcom.com (the "Security Arrangements"). Updates or changes to the Bromcom's security arrangements shall be made available to the Customer at: https://trust.bromcom.com.

8.2. Without prejudice to Bromcom's obligations under Schedule 1 (Data Protection) of the Contract, the Customer acknowledges that it is responsible for assessing the applicability and suitability of the Security Arrangements and for checking periodically for any updates or changes.

8.3. Bromcom will provide anti-virus software management in accordance with its Security Arrangements, and Bromcom shall take reasonable steps not to introduce any Viruses into the Customer's Systems via the Services or otherwise.

8.4. Bromcom will be responsible for backup management and will perform a daily backup of the Customer Data held by Bromcom in delivering the Services.

## 9. HELP DESK & SOFTWARE MAINTENANCE

9.1. **Help Desk Service**

9.1.1. Help desk services must be provided by either Bromcom or a Bromcom Partner.

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9.1.2.     As part of the Services, Bromcom shall provide (or the Customer shall procure the provision of a Bromcom Partner to provide and manage) customer support and maintenance services, including help desk support services. Where such services are provided by the Bromcom Help Desk, maintenance and support services are provided in accordance with its SLA.  Where such services are procured by a Bromcom Partner (as identified in the Order Form) the application of the SLA will be limited to those Services that Bromcom provides under the Contract, and the Customer may be required to sign a separate agreement with the identified Bromcom Partner for the provision and management of support and maintenance services. Where a Bromcom Partner is procured, the Bromcom Partner may require assistance (known as third line support) from Bromcom to address a customer concern that they are unable to fix.

9.1.3.     In the event that the Customer wishes to use a third party that is not an existing Bromcom Partner, in place of Bromcom, to provide support services, such third party will need to apply to Bromcom to become a Bromcom Partner which will entail undertaking appropriate training and accreditation from Bromcom and entering into a partner agreement.  For the avoidance of doubt, the decision on whether a third party is appointed as a Bromcom Partner is at Bromcom's sole discretion.

9.1.4.     From time to time, Bromcom may carry out customer satisfaction survey with the Customer, and the Customer agrees to actively respond to such survey regardless of whether the support and help desk services are being provided by Bromcom or a Bromcom Partner. Should Bromcom find during the course of such a survey that there is dissatisfaction with any aspect of the service provided directly, or via the Bromcom Partner, then Bromcom reserves the right to:

a)     make further direct contact with the Customer in order to better understand the cause of the dissatisfaction; and

b)     seek to remedy the cause of the dissatisfaction either directly or through the applicable Bromcom Partner or third party licensor.

9.2.   **Scheduled maintenance**

9.2.1.     Bromcom customer care, or the Customer's appointed Bromcom Partner (as applicable), will notify Customers, either by email or notification through the MIS, of scheduled maintenance events which will include events scheduled by Bromcom (including its cloud hosting partner), and/or Third Party Software owners, which may result in the Services being unavailable for the period of the scheduled maintenance.

10.     **WARRANTIES AND UNDERTAKINGS**

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10.1.  Bromcom undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

10.2.  The undertaking in clause 10.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Bromcom's instructions, or any modification or alteration of the Services made without Bromcom's prior written consent. In the event that the Services do not conform with the undertaking in clause 10.1, Bromcom will, at its expense, use reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of clause 10.1.

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

10.4.  The Customer acknowledges and agrees that Bromcom provides any Third Party Software "as is", without warranty of any kind.  Unless otherwise expressly set out in the Contract, Bromcom does not warrant that the Services are fit for the Customer's purposes, error free or uninterrupted, or compatible with any hardware or software not specified in the Order Form or Documentation. For the avoidance of doubt, Bromcom does not warrant that the Services will meet the Customer's requirements.

10.5.  Except as expressly provided in the Contract all warranties, representations, conditions, and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract.

10.6.  The Customer warrants that it has not relied on any oral representation made by Bromcom or upon any descriptions, illustrations or specifications contained in any catalogues and/or publicity material produced by Bromcom which are only intended to convey a general idea of the Services mentioned therein.

**11.    TERMINATION OF THE CONTRACT**

11.1.  **Termination by Either Party**

11.1.1.  Either party may terminate the Contract by giving at least 90 calendar days' notice to the other party, in accordance with clause 21.1, prior to the expiry of the Initial Term or the Follow Up Term (as applicable), and where such notice is given the Contract shall expire at the end of the current Term.

11.1.2.  Either party (the "Non-Breaching Party") may terminate this Agreement by providing written notice to the other party (the "Breaching Party") if the Breaching Party commits a material breach of this Agreement that remains unremedied for a period of 30 days following receipt of a written notice from the Non-Breaching Party specifying the breach and requiring it to be remedied.

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11.1.3.    For the purposes of clause 11.1.2, a breach shall be deemed "material" if it substantially undermines the purpose of this Agreement.

## 11.2.    Termination by Bromcom

11.2.1.    Without affecting any other right or remedy available to it, including any other express rights of termination in these Standard Terms and Conditions, Bromcom may, at its discretion, suspend or terminate the Contract with immediate effect by giving written notice to the Customer if:

a)    the Customer, fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 60 calendar days after being notified in writing to make such payment;

b)    without prejudice to any other right of termination, the Customer commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 30 calendar days after being notified in writing to do so;

c)    the Customer is in breach of any of its obligations under clauses 5.4, 15.1 or 17.2; or

d)    subject to applicable insolvency laws, the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy, or the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business, or takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing (to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.

e)    In accordance with clause 14.4, intellectual property right infringement.

11.2.2.  Where Bromcom has suspended the Services in accordance with clause 11.2.1:

a)    Bromcom shall:
    i.    identify within the notice, the reasons for the suspension; and
    ii.    the actions it requires the Customer to undertake to resolve the cause of the suspension, together with the minimum period Bromcom will allow for such activities to be completed,

    and

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**b)** the Customer shall:
- i. not be entitled to access and use the Services during the period of suspension; and
- ii. shall use all reasonable endeavours to complete the actions identified in the notice to resolve the suspension and no later than the period identified in the notice.

11.2.3 In the event that the Customer has:

a) has completed the actions, to the reasonable satisfaction of Bromcom, on or before the date specified in the notice, then the Suspension shall be automatically lifted; or

b) has failed to complete the actions necessary by the date specified in the notice, Bromcom reserves the right to terminate this Contract.

11.3. **Deletion and return of Customer Data**

11.3.1. Subject to complying with Schedule 1 (Data Protection), on or prior to the date of termination or expiry of the Contract (or as otherwise agreed with the Customer or set-out in the Order Form), Bromcom shall provide to the Customer an electronic copy of the most recent Customer Data stored in the Services and may thereafter destroy or otherwise dispose of any of the Customer Data in its possession.

12. **DISPUTE RESOLUTION**

12.1. If a dispute arises out of or relates to the Contract, or the breach, termination, validity or subject matter thereof, or as to any related claim at law, in equity or pursuant to any statute, the parties to the Contract shall endeavour to settle the dispute by review and discussion of the subject matter, either by correspondence (including email), telephone and/or meeting between the parties.

12.2. If the parties are unable to resolve any dispute under the process set out in clause 12.1 above, the parties agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with the Centre for Effective Dispute Resolution ("CEDR") "Model Mediation Procedure". Unless otherwise agreed between the parties within 14 Business Days of notice of the dispute, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing ("ADR notice") to the other party to the dispute, referring the dispute to mediation. A copy of the referral should be sent to CEDR.

12.3. Unless otherwise agreed, the mediation will start not later than 28 Business Days after the date of the ADR notice. No party may commence any court proceedings arbitration in relation to any dispute arising out of the Contract until it has attempted to settle the dispute by mediation and either

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the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

## 13. SPECIFIC PRODUCT TERMS

### 13.1. Bromcom MIS: Document Management System (DMS)

13.1.1. The DMS ("DMS"), as part of the MIS software (as defined in the Documentation), is allocated a use limit in terms of the total storage capacity per type of Customer (e.g. primary/secondary) as published by Bromcom. The storage capacity limit is set by Bromcom and subject to review and change.

13.1.2. If the storage capacity use limit is exceeded, the Customer may purchase additional storage and may also be subject to review and change.

### 13.2. Customer's network

13.2.1. Any network which is used in conjunction with the Services is the responsibility of the Customer. Bromcom cannot be held responsible for failure of any Services to perform correctly due to the Customer's network.

13.2.2. Bromcom is not responsible for carrying out investigations and diagnostics of a Customer's network.

### 13.3. SMS Texts (General)

13.3.1. This clause applies to Customers provided with SMS messages by Bromcom. The Customer acknowledges that mobile phone text-messaging technology (SMS) is inherently a "best effort" delivery medium with no guarantee of successful delivery. SMS messages will be transferred to the addressed mobile recipients provided that the recipient's phone is switched on and located in the area covered by their subscribed mobile network provider and the provider and mobile phone support SMS delivery. SMS message content is transmitted unencrypted and access by unauthorised third parties is possible. The SMS service provider may reserve the right to carry out technical maintenance of its system.

### 13.4. Unlimited SMS Texts – Fair Usage Policy

13.4.1. Bromcom provides Customers with multiple options to purchase its SMS texts for use with the Bromcom Software. In all cases the SMS texts must be paid for in advance either by purchasing a set quantity of texts as a bundle or by purchasing the "Unlimited Text" bundle option which is subject to a fair use policy outlined in clause 13.4.2 and 13.4.3.

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**13.4.2.** Text purchases are applied to the Customer's Bromcom subscription account and the balance can be reviewed on the Bromcom Software home page. The Unlimited Text bundle gives a Customer access to send text messages for up to one year from the date it is applied to the Customer's account subject to the Customer not exceeding their "Upper Usage Limit" as set out in clause 13.4.3. On reaching the Customer's Upper Usage Limit or one year after the Unlimited Text bundle start date, whichever comes first, the Customer's Unlimited Text account will finish and no further texts can be sent until a new text bundle is purchased.

**13.4.3.** The Upper Usage limit is set by multiplying the number of students on roll by 250. The figure of 250 represents the average number of texts sent per student and does not restrict the number sent of any one student or contact etc. For example, a Customer school with 1200 pupils will have their Upper Usage Limit set to 300,000 texts.

**13.4.4.** Bromcom periodically checks the usage on the Unlimited Text bundle accounts and if during one of these checks, it is found that the number of texts used by a Customer is 90% or more of their Upper Usage Limit, Bromcom will endeavor, but is under no obligation, to inform a Customer at the next available opportunity of the number of texts used and will discuss the options available if the Customer has or expects to reach the upper limit before reaching the Unlimited Text bundle end date. The Unlimited Text bundle costs and Upper Usage Limit is subject to annual review and potential change.

**13.4.5.** Bromcom may suspend without notice any SMS Text account if Bromcom reasonably suspects that the texts exceeds the Upper Usage Limit as set out in clause **Error! Reference source not found.** and 13.4.3 or otherwise are being exploited for commercial benefit.

**13.5.** **MyChildAtSchool (MCAS) Software and App**

**13.5.1.** Customers whose subscription includes the MyChildAtSchool ("MCAS") software and/or MCAS app should be aware that the use of MCAS by both the Customer (including any schools part of the Customer's organisation) and parent/carers are subject to the MCAS User Acceptance Agreement found at Trust Center - Bromcom Computers Plc.

**13.5.2.** The Customer agrees that it will ensure all users of MCAS are aware of, and subject to, the Bromcom terms and conditions as amended from time to time by Bromcom.

**13.5.3.** The Customer is able to impose further terms and conditions on the use by their staff or authorised users of MCAS. The Customer shall be responsible for ensuring those further terms and conditions do not conflict with the Bromcom's Standard Terms and Conditions and Bromcom's MCAS User Acceptance Agreement.

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13.5.4.    Bromcom charges transaction fees to Customers for use of the online payment service within MCAS. These fees are as published by Bromcom and may be subject to change. Online payments made by users using MCAS are paid to the Customer weekly.

13.5.5.    Should an online payment transaction be disputed or should any other kind of error occur, the MCAS user's online payment account may be suspended while an investigation takes place. Bromcom reserves the right to suspend the Customer's use of the online payment module in the case of any dispute or error.

13.5.6.    In the event that a user of the MCAS platform disputes a payment with their banking or payment service provider, and such dispute results in a refund to the user (a "chargeback"), Bromcom shall be entitled to deduct or set off the amount of the chargeback from any sums due or owing to the Customer. The Customer shall indemnify and keep indemnified Bromcom against all losses, liabilities, costs, claims, damages, and expenses (including any administrative or processing fees) incurred by Bromcom as a result of, or in connection with, such chargeback.

13.5.7.    The Customer may enter details of third-party suppliers into their MCAS payment account to facilitate a direct payment by MCAS users and/or the Customer to such suppliers via the MCAS platform (e.g., school dinner caterers). Any such payments shall be conditional upon the relevant third-party supplier entering into a separate agreement with Bromcom governing their use of the platform and related services and the Customer shall not enter the third party supplier's details into MCAS until the agreement between Bromcom and the third-party supplier is in place. The Customer agrees Bromcom's role is strictly limited to facilitating payment transactions from the Customer or MCAS users to the third-party supplier via the MCAS platform and accordingly:

a)    Bromcom shall not be liable for any amounts owed by the third-party supplier to the Customer,

b)    Bromcom shall not be liable for any loss, damage, or consequential loss of any kind to the Customer or the third-party supplier including any loss arising from the addition or removal of the third-party supplier from the Customer's MCAS account.

13.6.    **Bromcom Email Service**

13.6.1.    If the Bromcom email service is made available to a Customer, there is a maximum sending limit of 3000 messages per month, although further messages may be sent at an additional cost to the Customer. The Customer acknowledges that email services is inherently a "best effort" delivery medium with no guarantee of successful delivery.

13.6.2.    Bromcom is not responsible for the delivery of emails that are sent through third parties such as Gmail or Microsoft and cannot guarantee successful delivery.

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## 14. INTELLECTUAL PROPERTY RIGHTS

14.1. The Customer acknowledges and agrees that Bromcom and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, the Contract does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

14.2. Bromcom confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of the Contract.

14.3. Bromcom shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the Services or Documentation in accordance with the Contract infringes any patents effective as of the Contract Start Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

14.3.1. Bromcom is given prompt notice of any such claim;

14.3.2. the Customer does not make any admission, or otherwise attempt to compromise or settle the claim and provides reasonable co-operation to Bromcom in the defence and settlement of such claim, at Bromcom's expense; and

14.3.3. Bromcom is given sole authority to defend or settle the claim.

14.4. In the defence or settlement of any claim, Bromcom may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate the Contract on immediate notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

14.5. In no event shall Bromcom, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

14.5.1. a modification of the Services or Documentation by anyone other than Bromcom; or

14.5.2. the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by Bromcom; or

14.5.3. the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from Bromcom or any appropriate authority.

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**14.6.** The foregoing states the Customer's sole and exclusive rights and remedies, and Bromcom's (including Bromcom's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

    **14.6.1.** The Customer shall indemnify and hold Bromcom harmless from any claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's or its servants, agents or sub-contractors use of the Services and/or Documentation.

**14.7.** The Customer acknowledges that "Bromcom" is a registered trademark of Bromcom and shall not be used by the Customer in any way. The Customer shall notify Bromcom if it becomes aware of any unauthorised use of the whole or any part of the Services, Documentation and/or the "Bromcom" trademark by any person. The Customer will permit Bromcom to audit the use of the Services and Documentation by the Customer from time to time and for that purpose Bromcom and/or its licensors shall be entitled to enter the Customer premises (on reasonable notice) subject to complying with the Customer's reasonable safety and security restrictions.

## 15. CONFIDENTIALITY

**15.1.** The Customer undertakes to treat as confidential and keep secret all information relating to the Contract, including, without limitation, all quotations and any other information provided in relation to the Customer's procurement process in connection with the Contract (whenever and however disclosed) and not to disclose the same in whole or in part to any third party without the prior written consent of Bromcom, save as necessary for legal or auditing purposes.

**15.2.** Each party shall keep confidential all information obtained from the other pursuant to the Contract and shall not divulge such information to any third party without the other's prior written consent save as required by law, except that Bromcom shall be entitled to disclose such information received from the Customer as is reasonably necessary for its performance under the Contract, and save that the obligation of confidentiality shall not apply to information which is:

    **15.2.1.** in or comes into the public domain otherwise than by breach hereof by the receiving party; and/or

    **15.2.2.** already in the possession of the receiving party prior to such disclosure; and/or

    **15.2.3.** the parties agree in writing is not confidential or may be disclosed; and/or

    **15.2.4.** received from a bona fide third party free of restrictions. The foregoing obligations as to confidentiality shall remain in full force and effect notwithstanding any termination of the Contract howsoever arising.

**15.3.** The Customer agrees that where any confidential information disclosed to it under the Contract, it shall:

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15.3.1.    keep the confidential information confidential at all times;

15.3.2.    take and maintain proper and reasonable measures, taking into account the form and nature of the confidential Information, to ensure the confidentiality of the confidential information, including any security measures requested in writing from time to time by Bromcom of the confidential information;

15.3.3.    not use, seek to derive benefit or commercial advantage from the confidential information, unless the Contract confers such a benefit on the Customer;

15.3.4.    not copy or reproduce in any form the confidential information except to the extent strictly necessary for the Customer to receive the benefit of the Contract (and the Customer acknowledges that any such copies or reproductions are the property of Bromcom); and

15.3.5.    immediately notify Bromcom if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of Bromcom's confidential information.

15.4.    This clause 15 shall survive for a period of six years from termination or expiry of the Contract.

**16.    MARKETING**

16.1.    Bromcom may use the Customer's logos and the Customer's endorsement quotes for marketing purposes including but not limited to: social media platforms, the Bromcom website and brochures. If the Customer wishes to opt out, please contact legal@bromcom.com.

**17.    ASSIGNMENT**

17.1.    Subject to paragraph 1.8 of Schedule 1 (Data Protection), the Customer agrees that Bromcom may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract, and references to Bromcom shall be deemed to include its successors and assigns. Where Bromcom assigns its right to payment of the charges due for the Services:

17.1.1.    it notify the Customer of such assignment, and the Customer's payment obligations will then be owed to and enforceable by the assignee and the assignee shall be entitled to give the Customer good discharge for all the sums due and assigned to it under the Contract; and

17.1.2.    following such assignment, where any payment is made by the Customer to Bromcom, Bromcom will refund such payments to the Customer.

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17.2.   Subject to clause 18, the Customer shall not, without the prior written consent of Bromcom, assign, novate, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

## 18.   CHANGE TO ACADEMY STATUS AND THE CHANGE OF SCHOOLS WITHIN TRUSTS/LOCAL AUTHORITIES

18.1.   Bromcom agrees to assign the Contract (including any specific product licence(s)) without additional charge where the Customer changes its legal status from school to academy under the Academies Act 2010 (or any subsequent amendment or re-enactment), provided that the Customer first provides advance written notice of the proposed conversion. Where the Customer is permitted to assign the Contract in accordance with this clause, Bromcom shall co-operate with the Customer and provide reasonable assistance in respect of the assignment of any third party terms entered into in accordance with clause 2.2.

18.2.   Should a Customer fail to give notice in accordance with clause 18.1, or where the Customer otherwise breaches any terms of the Contract in the course of becoming an academy, Bromcom shall be entitled to make a full charge for any costs incurred in respect of any changes required to this agreement and/or for the assignment of the Contract to the newly established academy.

18.3.   The Customer shall remain fully liable for all charges and costs in respect of any school that, at any time during the Initial Term or Follow Up Term, was under the governance or control of the Customer and subsequently departs, regardless of the reason. This includes, but is not limited to, circumstances in which the school:

18.3.1.  transfers to another Multi-Academy Trust;

18.3.2.  leaves the Local Authority;

18.3.3.  converts to an academy status; or

18.3.4.  otherwise ceases to fall within the Customer's governance or control.

18.4.   The liability under Clause 18.3 shall continue until the earliest of the following:

18.4.1.  all charges due or becoming due in respect of the departing school have been paid in full for the remaining duration of the Initial Term or relevant Follow Up Term;

18.4.2.  any successor organisation (such as a Multi-Academy Trust or other contracting authority) enters into an agreement with Bromcom for the school in question, and that organisation irrevocably assumes full liability for all such charges for the remainder of the Initial Term or Follow Up Term. For the avoidance of doubt, no transfer, conversion or reorganisation shall release the Customer from its obligations under this clause 18.4.2 unless Bromcom has provided

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its prior written consent and the successor body has entered into a binding agreement on terms no less favourable to Bromcom.

## 19. LIABILITY

19.1. Subject to clauses 19.2 to 19.5, Bromcom's total aggregate liability during the Term including in tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract, (including in respect of the indemnity at clause 14.3),shall be limited to an amount equal to the Charges paid by the Customer to Bromcom in the 12 month period immediately preceding the first incident giving rise to any claim under the Contract.

19.2. In no circumstances shall Bromcom be responsible or liable to the Customer (or any third party) under the Contract for any consequential, incidental, special or indirect loss or damage howsoever caused (including without limitation loss of anticipated profits or revenues, loss of business, pure economic loss, depletion of goodwill, wasted expenditure, loss of use, loss or corruption of systems, data or information).

19.3. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

19.4. Bromcom's liability to the Customer for any damage to physical property caused by negligence shall be limited to £50,000 for any one act or omission or series of connected acts of omission.

19.5. Nothing in the Contract shall seek to exclude or limit any liability it may have to the Customer for death or personal injury caused by negligence, fraud, fraudulent misrepresentation or any liability which cannot be excluded by law.

19.6. The Customer expressly acknowledges that it is entitled to seek insurance cover for, or otherwise evaluate and manage, those areas in respect of which no liability is accepted by Bromcom under the Contract.

## 20. AI chat function

20.1. As part of Bromcom's services to the Customer, Bromcom uses publicly available large language model platform via a plugin in the Bromcom Software. Bromcom accepts no liability for the Customer's use of the AI chat product in the Bromcom Software. Please refer to the applicable privacy policy https://trust.bromcom.com for details on how the Customer Data may be processed.

## 21. NOTICES

21.1. Subject to clause 21.3 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

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21.1.1.   by pre-paid first-class post or other next working day delivery service at the address for notices indicated in the Order Form, or where such address is not included at its registered office (if a company) or its principal place of business (in any other case); or

21.1.2.   sent by email to the address or addresses stipulated in the Order Form for such purpose (or such address or addresses as are substituted in writing by the party to be served from time to time).

21.2.   Any notice shall be deemed to have been received:

21.2.1.   if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

21.2.2.   if sent by email, at the time of transmission to the correct address (provided no error message is received), or, if this time is after 5.00pm on a Business Day, at 9.00 am on the next Business Day after transmission.

21.3.   Any notice sent by the Customer to terminate the Contract must be written on the Customer letter head, signed by the head teacher or duly authorised individual, and, if sent by email, included as a pdf attachment.

21.4.   This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## 22.   FORCE MAEJURE

22.1.   Neither party shall be liable to the other, or deemed in default of its obligations, including for any breach or by sole reason of any delay or failure in its performance, under the Contract resulting from causes beyond its reasonable control (including without limitation employee disputes, failure of contractors and suppliers, transportation difficulties and government action) provided that either party has used all reasonable efforts to mitigate their consequences, or in respect of Bromcom, on the basis that in the case of scarcity of resources Bromcom may allocate its resources between third parties to whom it has obligations in such manner as it may in good faith determine. Any time period for any performance by Bromcom shall be increased by the period of such delay or failure affecting that performance.

## 23.   NON-SOLICITATION

23.1.   The Customer shall not (except with the prior written consent of Bromcom) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the Bromcom any person employed or engaged by Bromcom in the provision of the Services under the Contract at any time during the during the Initial Term (or any Follow Up Term as applicable) or for a further period of 12 months

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after the termination of the Contract other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of Bromcom.

23.2.    If the Customer commits any breach of clause 23.1, it shall, on demand, pay to Bromcom a sum equal to one year's basic salary or the annual fee that was payable by Bromcom to that employee, worker or independent contractor plus the recruitment costs incurred by Bromcom in replacing such person.

## 24.    DATA PROTECTION

24.1.    The Customer acknowledges that Schedule 1 (Data Protection) forms part of the Contract and sets out the respective obligations of each party in relation to the Applicable Data Protection Laws (i.e. data protection legislation as defined in Schedule 1).

24.2.    **Controller to Controller terms**

24.2.1.  Bromcom and the Customer may share data for the following purposes:

a)       To payment services to allow parents/carers to make payments to schools that their child/dependent attends,

b)       For service improvement and internal training,

c)       To provide support services to schools and Bromcom Partners.

24.2.2.  When processing shared personal data, each party shall be solely responsible for compliance with applicable laws and regulations, including applicable Data Protection laws.

24.2.3.  The parties are considered separate controllers with regards to shared personal data with each party being able to determine the purpose and means of processing the personal data held under its control. Where Bromcom shares payer personal data (e.g., when a parent/carer/teacher makes a payment) with the relevant payment service provider, that provider determines the purposes and means of the processing and therefore acts as an independent data controller in respect of such data. The mutual responsibilities of Bromcom and the relevant payment gateway provider arising from their controller-to-controller relationship are governed by standalone contractual provisions between them.

24.2.4.  Bromcom uses the shared personal data to provide services to the Customer (i.e.., provide Customers and parents/carers with a payment gateway) and for legitimate interest (i.e., to improve Bromcom's services by reviewing transcriptions and recordings).

24.2.5.  The kind of data that may be shared by the Customer and Bromcom include:

a)       parent and carer names,

b)       staff and teacher names,

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     c)       student names,

     d)       contact details of those listed in a-c above,

     e)       any personal data that is shared during calls which may be captured by a transcription tool,

     f)       information required to facilitate a payment made via and/or to Bromcom,

     g)       details around support cases e.g., when a Customer or Support Partner needs assistance from Bromcom concerning the Services,

     h)       any other personal data the parties agree to share.

24.2.6.   Data Subject rights: Each party is responsible for data subjects' rights and for maintaining a record of individual requests for information, the decisions made and any information that was exchanged. Bromcom and the Customer each agree to provide such assistance as is reasonably required to enable the other to comply with requests from data subjects to exercise their rights under the Data Protection Legislation within the time limits imposed by the Data Protection Legislation.

24.2.7.   Data quality and storage: each part shall be responsible for data accuracy, data storage and internal processes concerning data quality and storage.

24.2.8.   Keeping the data safe: each party undertakes to have in place throughout the Agreement appropriate technical and organisational security measures. Bromcom will be responsible for the appropriate technical and organisational security measures of its own software, including its apps.

24.2.9.   Transfers: For the purpose of this clause, transfers of personal data shall mean any sharing of personal data by Bromcom with a third party, and shall include, but is not limited to, granting a third-party controller access to the shared personal data. Bromcom may transfer data to a country deemed to have an adequate level of data protection by the UK or to other countries like the US on the basis of adequate safeguards being in place in accordance with the UK General Data Protection Regulation (as defined in section 3(10) of the Data Protection Act 2018).

24.2.10.  Data breaches: The parties will notify each other as soon as possible (and in any event within 48 hours) of any potential or actual loss of shared personal data. The parties will provide each other with reasonable assistance as required to facilitate the handling of any Data Breach.

24.2.11.  Ending the Agreement: Each party will be responsible for complying with its own retention policy when this Agreement has ended.

24.2.12.  Each party will be responsible for informing data subjects of their privacy statements.

## 25.    GENERAL

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25.1. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, then the other provisions shall remain in full force and effect, and the Contract shall be read and construed for such purpose as if such provision had not been included. If any provision is deemed to not be included Bromcom and the Customer shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

25.2. The Contract represents the entire agreement of the parties concerning their respective subject matter and supersedes and extinguishes all prior previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.

25.3. The Customer hereby acknowledges that in entering into the Contract it does not rely and shall have no remedies in respect of any statement, communication, representation, assurance, warranty (whether made innocently or negligently) that is not set out in the Contract.

25.4. **THE CUSTOMER ACCEPTS AND EXPRESSLY ACKNOWLDEGES** that Bromcom may update these Standard Terms and Conditions and/or its SLA from time to time. Where Bromcom updates these terms, it may (but is not obliged to) provide notification to the Customer, however the terms found at www.bromcom.com/terms will be the then current terms, overriding the previous version of the Standard Terms and Conditions agreed between Bromcom and the Customer with immediate effect.

25.5. Save where updated terms are published in accordance with clause 25.4, no person has authority to agree or give any variation or addition on behalf of Bromcom in relation to the Contract unless he is a director of Bromcom, and any representation which constitutes variation from these conditions made by or on behalf of Bromcom shall not have any force or effect whatsoever unless expressly agreed thereto in writing.

25.6. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

25.7. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

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

25.9. Under the Contract (Rights of Third Parties) Act 1999, the Contract is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person not a party to the Contract.

25.10. Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way.

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25.11. Failure by either party to enforce at any time any provision of the Contract shall not affect its rights to later require complete performance by the other party nor shall any specific waiver of a breach of a provision be taken or held to affect its rights in the event of any subsequent or additional breach of the same or any other provision.

## 26. LAW AND JURISDICTION

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

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

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**Bromcom**

## SCHEDULE 1: DATA PROTECTION

**DEFINITIONS**

The following definitions apply to this schedule:

**Applicable Laws:** means:

(a)     to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom.

(b)     to the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which Bromcom is subject.

**Applicable Data Protection Laws:** means:

(a)     to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

(b)     to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which Bromcom is subject, which relates to the protection of personal data.

**Customer Personal Data:** any personal data which Bromcom processes in connection with this Contract, in the capacity of a processor on behalf of the Customer.

**EU GDPR:** the General Data Protection Regulation ((EU) 2016/679).

**Purpose:** the purposes for which the Customer Personal Data is processed, as set out in paragraph 1.7.1.

**UK GDPR:** has the meaning given to it in the Data Protection Act 2018.

## 1     DATA PROTECTION

1.1     For the purposes of this paragraph 1, the terms **controller**, **processor**, **data subject**, **personal data**, **personal data breach** and **processing** shall have the meaning given to them in the UK GDPR.

1.2     Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This paragraph 1 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

1.3     The parties have determined that, for the purposes of Applicable Data Protection Laws Bromcom shall process the personal data set out in Annex "A", as a processor on behalf of the Customer in respect of the processing activities set out in Annex A.

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1.4     Should the determination in paragraph 1.3 change, then each party shall work together in good faith to make any changes which are necessary to this paragraph 1 or Annex A.

1.5     Without prejudice to the generality of paragraph 1.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable Bromcom to process the Customer Personal Data to Bromcom for the duration and purposes of this Contract.

1.6     In relation to the Customer Personal Data, Annex A sets out the scope, nature and purpose of processing by Bromcom, the duration of the processing and the types of personal data and categories of data subject.

1.7     Without prejudice to the generality of paragraph 1.2 Bromcom shall, in relation to Customer Personal Data:

1.7.1     process that Customer Personal Data only on the documented instructions of the Customer, which shall be to process the Customer Personal Data for the purposes set out in Annex A, unless Bromcom is required by Applicable Laws to otherwise process that Customer Personal Data. Where Bromcom is relying on Applicable Laws as the basis for processing Customer Processor Data, Bromcom shall notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Provider from so notifying the Customer on important grounds of public interest. Bromcom shall inform the Customer if, in the opinion of Bromcom, the instructions of the Customer infringe Applicable Data Protection Laws;

1.7.2     implement the technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data;

1.7.3     ensure that any personnel engaged and authorised by Bromcom to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

1.7.4     assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to Bromcom), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

1.7.5     notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data;

1.7.6     at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the Contract unless Bromcom is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this paragraph, Customer Personal Data shall be considered deleted where it is put beyond further use by Bromcom; and

1.7.7     maintain records to demonstrate its compliance with this paragraph 1.

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1.8     The Customer hereby provides its prior, general authorisation for Bromcom to:

    1.8.1     appoint the processors listed on Bromcom's website at https://trust.bromcom.com to process the Customer Personal Data, provided that Bromcom:

        (a)     shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on Bromcom in this paragraph 1;

        (b)     shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of Bromcom; and

        (c)     shall notify the Customer of any intended changes concerning the addition or replacement of the processors by updating the list on the website at https://trust.bromcom.com , thereby giving the Customer the opportunity to object to such changes. Any objection by a Customer to the addition or replacement of the processors shall be made in writing by the Customer acting reasonably within [10] Business Days of notification of the intended changes by Bromcom. In the event of receipt of any objection from a Customer, Bromcom may terminate the Contract with immediate effect by giving written notice to the Customer;

    1.8.2     transfer Customer Personal Data outside of the UK as required for the Purpose, provided that Bromcom shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of Bromcom, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).

1.9     Either party may, at any time on not less than 30 days' notice, revise this paragraph 1 by replacing it (in whole or part) with any applicable standard clauses approved by the EU Commission or the UK Information Commissioner's Office or forming part of an applicable certification scheme or code of conduct ("Amended Terms"). Such Amended Terms shall apply when replaced by attachment to this Contract, but only in respect of such matters which are within the scope of the Amended Terms.

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**ANNEX A: PARTICULARS OF THE PROCESSING**

| Description | Details |
|---|---|
| Identity of controller for each category of Customer Personal Data | **The Customer is controller and Bromcom is processor**<br><br>The parties acknowledge that in accordance with this Schedule 1, and for the purposes of the Applicable Data Protection Laws, the Customer is the controller and Bromcom is the processor of the following Customer Personal Data:<br><br>All personal data processed by the processor on behalf of the controller for the purposes of the performance of this Contract, including, but not limited to all personal data provided by the Customer and users to Bromcom and entered into Bromcom's MIS and finance system. |
| Duration of the processing | For the duration of the contractual agreement between the customer and Bromcom for the supply of Bromcom's services and to facilitate the exit of the customer following the termination of such agreement. |
| Nature and purposes of the processing | Bromcom Computers Plc provides Management Information Systems ("MIS") and finance systems to education providers including schools, academies, multi-academy trusts etc.<br><br>The purpose of the processing:<br><br>• It is necessary in order to perform our contract with you. |
| Type of Customer Personal Data | All personal data provided by the customer and users to Bromcom and entered into Bromcom's MIS and finance system including but not limited to:<br><br>• **Student Data:** Name, address, date of birth, attendance records, academic performance, behavioural records, medical information, and SEN data.<br><br>• **Staff Data:** Names, employee ID, contact details, date of birth, National Insurance number, payroll information, job titles, and performance reviews.<br><br>• **Parent/Guardian Data:** Name, contact details, relationship to students (e.g., mother, father, legal guardian). |

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|  |  |
|---|---|
|  | • **Sensitive Personal Data** (where applicable): Biometric data (e.g., for secure access), health data (e.g., allergies, medical conditions), racial or ethnic origin (for equality reporting).<br><br>• MIS Log-In Details (Identity and Access Management (IAM)): Username, email address, first name, last name and password. |
| Categories of data subject | Including but not limited to pupils, teachers, parents and users. |
| Plan for return and destruction of the data once the processing is complete<br><br>UNLESS requirement under union or member state law to preserve that type of data | Bromcom shall return the data to the Customer in the form of a *.bak* file and delete the data within 30 days of the services ending, except to the extent that any applicable law requires Bromcom to store such data. Only 2 copies of the *.bak* file will be made available and any additional copies will be made available at an additional cost. Should a database restoration be requested after contract termination (only possible within the 30-day limit), an additional charge will be made to cover costs. |