

General Terms and Conditions

Zerogrey Limited and relating to www.kooomo.com version January 2017

Welcome to www.kooomo.com

These General Terms and Conditions together with the related Privacy Statement (www.kooomo.com/privacy) and Cookies Policy (www.kooomo.com/cookies) govern all uses of the website (Site) www.kooomo.com and the underlying KOOOMO Platform.

By accessing the Site and the KOOOMO Platform accessible through the Site, the Customer confirm that it has read, understood and agrees to be bound by these General Terms and Conditions, the Privacy Statement and the Cookies Notice. If the Customer does not wish to be bound by these General Terms and Conditions, Privacy Statement or Cookies Notice, the Customer should not continue to access or use the Site and the KOOOMO Platform.

These General Terms and Conditions, the Privacy Statement and or the Cookies Notice may change or be updated from time to time. It remains the Customer's responsibility to access and check these *General Terms and Conditions*, the Privacy Statement and the Cookies Notice wherever the Customer accesses the Site. If we change these General Terms and Conditions, the Privacy Statement or the Cookies Policy, we will post the changes on the Site and the KOOOMO Platform, and will indicate the date the respective documents were revised.. Your continued use of the KOOOMO Platform after the date any such changes become effective constitutes your acceptance of the General Terms and Conditions, the Privacy Statement and or the Cookies Policy as the case may be . If you do not wish to accept the new General Terms and Conditions or Privacy Statement or Cookies Policy as the case may be , you should discontinue your use of the Platform.

References in these Conditions of Use to "Supplier", "we", "us" or "Us" or "our" means Zerogrey Limited.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these General Terms and Conditions.

Activation Conditions: means (i) payment by Customer and receipt by Zerogrey of the applicable Fees and Vat (ii) the Customer complying with the Domain Name Condition (iii) the Customer accepting the Zerogrey General Terms and Conditions.

Activation Date: means the date that access to the KOOOMO PLATFORM is enabled by Zerogrey as established pursuant to the MOU and these Zerogrey General Terms and Conditions.

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the KOOOMO PLATFORM and the Documentation, as further described in the Zerogrey General Terms and Conditions.

Business: the internal business operations of the Customer.

Business Day: a day other than a Saturday, Sunday or public holiday in Ireland when banks in Ireland are open for business.

Confidential Information: means information of a party that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information of a party. For the avoidance of doubt and without limitation to the foregoing, all Fees and the basis for calculating any of the Fees constitute Confidential Information of Zerogrey.

Customer: means the person who has subscribed for access to and use of the KOOOMO Platform and its Services.

Customer Data: the data inputted by the Customer, Authorised Users, or Zerogrey on the Customer's behalf for the purpose of using the KOOOMO Platform and or facilitating the Customer's use of the KOOOMO Platform.

Customer Obligations: means the Customer acknowledgements, warranties, undertakings and or indemnities as set out in these Zerogrey General Terms and Conditions.

Documentation: the document made available to the Customer by Zerogrey online via the Site or such other web address notified by Zerogrey to the Customer from time to time which sets out a description of the KOOOMO PLATFORM and the user instructions for the KOOOMO PLATFORM.

Domain Name Condition: means the Customer applying for, registering and maintaining such domains and sub-domains throughout the Subscription Term as necessary to use the Services.

Effective Date: means the date as so defined in the MOU.

Fees: mean the fees determined by Zerogrey and set out in the MOU, but subject to change in accordance with the provisions of the MOU and or these General Terms and Conditions.

Force Majeure: means an act, event, omission or an accident, beyond Zerogrey's reasonable control, including, without limitation, terrorist act, or cyber-attack, a strike, lock-out or other industrial disputes (whether involving the workforce of Zerogrey or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors. provided that the Customer is notified of such an event and its expected duration.

General Terms and Conditions: means the recitals, clauses 1 to 27 inclusive and any document incorporated by reference.

Initial Subscription Term: the initial term as set out in the MOU and being three years.

Insolvency Event: means in respect of a Customer, that the Customer is unable to pay its debts as they fall due or becomes insolvent or an order is made or a resolution is passed for the liquidation, administration, winding-up or dissolution of the Customer (otherwise than for the purposes of a solvent amalgamation or reconstruction) or a liquidator, administrator (whether appointed through the court procedure or outside the court procedure), examiner, trustee or similar officer is appointed over all or any substantial part of the assets of the Customer or the Customer enters into or proposes any composition or arrangement with its creditors generally or anything analogous to the foregoing occurs in any applicable jurisdiction;

Intellectual Property Rights: means for the purposes of these General Terms and Conditions, trademarks, service marks, trade and business names, domain names, rights in designs, patents, copyrights, database rights, moral rights and rights in know how and other intellectual property rights in each case whether registered or unregistered and including applications for the grant of the foregoing and all rights or forms of protection having equivalent effect to any of the foregoing, which may subsist anywhere in the world;

KOOOMO Platform or KOOOMO PLATFORM: means software, systems and hardware, including the Software Modules called the KOOOMO ECOMMERCE Platform or KOOOMO Platform and to which the Customer is given access to under the MOU and the General Terms and Conditions on the Fees Basis.

Memorandum of Understanding or MOU: means the agreement executed by the Customer and by Zerogrey which incorporates these General Terms and Conditions and which amongst other things sets out the Fees payable by the Customer.

Renewal Period: the period described in clause 3.

Site: means www.kooomo.com

Services: the services enabled by the KOOOMO PLATFORM.

Software Modules: the online software applications provided by Zerogrey and which form part of the KOOOMO PLATFORM and to which access is enabled by the MOU and these General Terms and Conditions.

Subscription Term: means the Initial Subscription Term together with any subsequent Renewal Periods as established in the MOU and the Zerogrey General Terms and Conditions.

Supplier Conditions: means any Zerogrey imposed conditions on the Customer if any specified in these Zerogrey General Terms and Conditions.

User ID: is the email address provided by an Authorised User and which must be the email address allocated to an Authorised User by the Customer and not a Hotmail or Gmail account or any other such account

User Subscription: means a fee payable by the Customer for each additional Authorised User, purchased pursuant to clause 5 hereof.

Virus: anything 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 services, equipment or network or any other services 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.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these General Terms and Conditions.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of these General Terms and Conditions.
- 1.6 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of these General Terms and Conditions or thereafter under that statute or statutory provision.
- 1.7 References to clauses are to the clauses of these General Terms and Conditions; references to paragraphs are to paragraphs of the relevant schedule to these General Terms and Conditions.
- 1.8 The words data subject, process, personal data and sensitive personal data where used in these General Terms and Conditions shall have the meaning set out in the Data Protection Acts.

2. ACCESSSS TO THE KOOOMO PLATFORM, SUPPORT SERVICES POLICY

- 2.1 Zerogrey shall, from the Activation Date and subject to the terms of the MOU (including the Activation Conditions) and these Zerogrey General Terms and Conditions during the Initial Subscription Term and any Renewal Period, provide a non-exclusive, non-transferable access right to the Authorised Users of the Customer, to the KOOOMO PLATFORM and the relevant Documentation.
- 2.2 The Customer acknowledges and agrees that access to the KOOOMO PLATFORM and its activation for the Customer is conditional on the Customer complying with the Activation Conditions.
- 2.3 The Customer acknowledges that Zerogrey shall be entitled during the Subscription Term to (i) change the features and functionality of the KOOOMO Platform including without limitation the Software Modules and the resulting Services as part of its ongoing development of the KOOOMO Platform and (ii) to improve or update the KOOOMO PLATFORM in the case of (a) improvements or updates necessary to fix defects, bugs, malfunctioning or errors in

the KOOOMO PLATFORM and/ or (b) to cure security vulnerabilities of the KOOOMO PLATFORM and or (c) the application of any new laws, regulations acts or order, request or determination of a regulatory authority including without limitation the Central Bank. Zerogrey.

- 2.4 Zerogrey does not warrant or represent access to and use of the KOOOMO Platform including any of the Software Modules and the Services will be free from errors and interruptions.

3. INITIAL SUBSCRIPTION TERM, RENEWALS TERMINATION AND SUSPENSION

- 3.1 The Customer acknowledges and agrees that the MOU and the Zerogrey General Terms and Conditions shall (i) have effect from the Effective Date and (ii) that access to the KOOOMO PLATFORM shall have effect subject to clause 2 above, from the Activation Date and (iii) continue for the Initial Subscription Term and, thereafter, shall be automatically renewed for successive periods of 12 months (each a Renewal Period), unless:

(a) either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Subscription Term or any Renewal Period, in which case this MOU and the Zerogrey General Terms and Conditions shall terminate upon the expiry of the applicable initial subscription term or renewal period; or

(b) otherwise terminated in accordance with the provisions of these General Terms and Conditions.

- 3.2 Without affecting any other right or remedy available to it, Zerogrey may terminate this MOU and the Zerogrey General Terms and Conditions with immediate effect by giving written notice to the Customer if the Customer suffers an Insolvency Event.

- 3.3 Additionally Zerogrey may terminate this MOU and the Zerogrey General Terms and Conditions by notice in writing to the Customer where so provided in the MOU and or the Zerogrey General Terms and Conditions.

- 3.4 On termination of the MOU and the Zerogrey General Terms and Conditions for any reason or their expiry: (a) all licences or authorisations granted to the Customer shall immediately terminate; (b) the Customer shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to Zerogrey ; (c) the Customer shall return or destroy, at Zerogrey's option any Confidential Information it has been given access to or that is disclosed to it; and (d) Zerogrey may destroy or otherwise dispose of any of the Customer Data in its possession unless Zerogrey receives, no later than 30 days after the effective date of the termination or expiry of the MOU whichever is the case, confirmation that that the Customer has downloaded its Customer Data during that period.

- 3.5 Without prejudice to Zerogrey's rights set out above, Zerogrey may suspend or disable access to the KOOOMO Platform or any part of it where Zerogrey has a right to terminate these General Terms and Conditions or where Zerogrey is entitled to suspend or disable access as set out in the MOU and or under the Zerogrey General Terms and Conditions.

- 3.6 Zerogrey may interrupt access to the KOOOMO Platform for:

a) maintenance; or

c) emergency maintenance; or

d) downtime caused in whole or part by Force Majeure.

- 3.7 The Customer acknowledges and agrees that:

(a) it has had an opportunity to carry out a thorough due diligence exercise in relation to the KOOOMO Platform including each of the Software Modules and has asked Zerogrey all the questions it considers to be relevant for the purpose of establishing the suitability of the KOOOMO Platform for its business;

(b) it has received all information requested by it from Zerogrey to enable it to determine whether the KOOOMO Platform is suitable to its requirements;

(c) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of Zerogrey;

(d) the KOOOMO Platform and or the Services and or the Documentation have not been designed to meet the Customer's individual requirements and cannot be tested in every operating environment; and;

(e) it is the Customer's responsibility to ensure the Platform and the facilities and functions of the Software Modules, and the Services meet the Customer's requirements and will not cause any error or interruption in the Customer's own software or systems.

4. CUSTOMER ACKNOWLEDGMENTS AND UNDERTAKINGS

4.1 The Customer acknowledges that the Services and the Fees do not include the development and supply of web site design services including without limitation the supply of graphic or textural content of the KOOOMO Platform which, services may be provided to the Customer by Zerogrey in each case where agreed by Zerogrey in writing.

4.2 In relation to the Authorised Users, the Customer acknowledges and undertakes to Zerogrey that

(a) the maximum number of Authorised Users that the Customer authorises to access and use the **KOOOMO Platform** and Services and the Documentation shall not exceed the number of Authorised **Users** that Zerogrey has agreed in writing from time to time being ten (10) in number, unless otherwise agreed by Zerogrey pursuant to clause 5 below;

(b) it will not allow or suffer any User ID to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the KOOOMO Platform and/or Documentation. Furthermore the Customer undertakes that no Authorised User may use the KOOOMO Platform unless each Authorised User has been agreed on the Effective Date or for whom an additional User Subscription has been purchased by the Customer pursuant to clause 5 hereof;

(c) each Authorised User shall keep a secure password for his use of the KOOOMO PLATFORM and Documentation, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep his password confidential;

(d) it shall maintain a written, up to date list of current Authorised Users, their User IDs and their passwords and ensure that that such data is immediately uploaded to the KOOOMO Platform and ensure that such data on the KOOOMO Platform is at all times complete accurate and up to date. Furthermore, the Customer undertake to provide Zerogrey with a copy of its list of Authorised Users within five (5) calendar days of Zerogrey's written request at any time or times.

4.3 The Customer shall not access, store, distribute, or introduce onto the KOOOMO Platform, any material during the course of its use of the KOOOMO PLATFORM that:

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

and Zerogrey reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access or any of its Authorised Users access to any material that breaches the provisions of this clause.

4.4 The Customer shall not:

(i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the KOOOMO Platform including without limitation any of the Software Modules and/or Documentation (as applicable) in any form or media or by any means; or

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

a) access all or any part of the KOOOMO Platform, Services and Documentation in order to build a product or services which competes with the KOOOMO PLATFORM, Services and/or the Documentation; or to copy any feature, functions or graphics of the KOOOMO PLATFORM, or

b) use the **KOOOMO Platform**, Services and/or Documentation to provide services to third parties; or

c) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the **KOOOMO Platform**, Services and/or Documentation available to any third party except the Authorised Users, or

d) attempt to obtain, or assist third parties in obtaining, access to the **KOOOMO Platform**, Services and/or Documentation, other than as provided under in clause 2.

4.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the KOOOMO Platform, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Zerogrey. Any unauthorised access and or use of the **KOOOMO Platform** including any of the Software Modules will constitute grounds for Zerogrey to immediately terminate these General Terms and Conditions and the MOU. Any such termination shall be without prejudice to Zerogrey's remedies for such breach.

4.6 The rights provided under clause 2 are granted to the Customer only, and shall not be granted to any subsidiary or holding company of the Customer.

4.7 The Customer undertakes to be responsible to apply for, register and maintain such domains and sub-domains throughout the Subscription Term as necessary to use the KOOOMO PLATFORM.

5. ADDITIONAL AUTHORISED USER SUBSCRIPTIONS

5.1 If the Customer wishes to purchase additional User Subscriptions the Customer shall notify Zerogrey in writing. Zerogrey shall evaluate such request for additional User Subscriptions and respond to the Customer with approval or disapproval of the request.

5.2 If Zerogrey approves the Customer's request to purchase additional User Subscriptions, the Customer shall within 30 days of the date of Zerogrey's invoice, pay to Zerogrey the relevant fees for such additional User Subscriptions and if such additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period as applicable, such fees shall be pro rated for the remainder of the Initial Subscription Term or the then current Renewal Period (as applicable).

6. CUSTOMER DATA AND DATA PROTECTION

- 6.1 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, accuracy and quality of the Customer Data.
- 6.2 Zerogrey shall follow its archiving procedures for Customer Data as set out in clause 6.4 below. In the event of any loss or damage to Customer Data resulting from a breach by Zerogrey of the Terms and Conditions, the Customer's sole and exclusive remedy shall be for Zerogrey to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Zerogrey in accordance with clause 6.4 below. Zerogrey shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Zerogrey to perform Services related to Customer Data maintenance and back-up).
- 6.3 The Customer will be entitled at any time to access and transfer the Customer Data in digital form on its computer or digital storage devices by using the Back Office Service being one of the Software Modules and without Zerogrey's prior authorisation. The Customer must download all Customer Data using its own resources, there being no obligation for Zerogrey to duplicate storage, or transfer or effect the download of Customer Data on behalf of the Customer during the term of these General Terms and Conditions or following the termination thereof. However, as an additional service, during the Subscription Term, Zerogrey may, provided the extent, form of, and date range of Customer Data required is defined and agreed by Zerogrey and provided Zerogrey specific fees and vat are agreed and paid by the Customer to Zerogrey, Zerogrey shall provide the Customer with an extract of the agreed Customer Data. The Customer acknowledges and agrees that the Customer is responsible for any misuse of the KOOOMO Platform attributable to the Customer and or its Authorised Users and for accidental deletion of Customer Data by it or its Authorised Users uploaded onto the KOOOMO Platform. Zerogrey will be able to restore the Customer Data provided the extent, form of, and date range of Customer Data required is defined and agreed by Zerogrey and provided Zerogrey specific fees and vat are agreed and paid by the Customer to Zerogrey.
- 6.4 **Backup and Recovery of Customer Data.** As part of the KOOOMO Platform, Zerogrey makes at the end of each Business Day a backup of that Customer Data inputted onto the Platform by the Customer that day and maintains the back up copy as part of the Recovery Plan. Zerogrey will be able to restore any missing data due to KOOOMO Platform failure attributable to a breach by Zerogrey of its obligation as in these General Terms and Conditions, within 2-8 hours (depending on the amount of data involved).
- 6.5 If Zerogrey processes any personal data on the Customer's behalf when performing its obligations under these General Terms and Conditions the parties record their intention that the Customer shall be the data controller and Zerogrey shall be a data processor and in any such case:
- a) the Customer acknowledges and agrees that personal data may subject to the Data Protection Acts as amended be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order for Zerogrey to carry out its obligations under these General Terms and Conditions;
 - b) the Customer shall ensure that the Customer is entitled to transfer the relevant personal data to Zerogrey so that Zerogrey may lawfully use, process and transfer the personal data in accordance with these General Terms and Conditions on the Customer's behalf;
 - c) the Customer shall ensure that all of the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
 - d) Zerogrey shall process the personal data only in accordance with the terms of these General Terms and Conditions and any lawful instructions reasonably given by the Customer from time to time; and
 - e) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

- 6.6 Zerogrey shall where it relates to a Data Protection Acts obligation of Zerogrey, assist the Customer with the Customer's compliance with any request by a data subject related to his or her personal data that may form part of Customer Data and within the scope of the Data Protection Acts.
- 6.7 The Customer acknowledges that Zerogrey is reliant on the Customer alone for direction as to the extent Zerogrey is entitled to use and process the Personal Data. Consequently, Zerogrey shall be entitled to relief from liability in circumstances where a data subject makes a claim or complaint with regards to Zerogrey's actions to the extent that such actions directly result from instructions received from the Customer.
- 6.8 The parties shall, and Zerogrey shall procure that each of the Sub-Contractors shall, comply at all times with the Data Protection Acts and shall not perform their obligations under these General Terms and Conditions in such a way as to cause either party to breach any of its obligations under the Data Protection Acts. Zerogrey shall immediately notify the Customer in the event that it becomes aware of any breach of the Data Protection Acts by Zerogrey or any of the Sub-Contractors in connection with these General Terms and Conditions.
- 6.8 The Customer undertakes not at any time to incorporate in any Customer Data any sensitive personal data as such is defined in the Data Protection Acts.

7. THIRD PARTY PROVIDERS

- 7.1 The Customer acknowledges that the KOOOMO Platform may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that where the Customer does so, it does so solely at its own risk. Zerogrey makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions contemplated, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction contemplated or completed via any third-party website is between the Customer and the relevant third party, and not Zerogrey. Zerogrey recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Zerogrey does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

7.2 Non-Supplier Application and Customer Data

The Customer shall be responsible for entering into contractual arrangements directly with non-supplier application providers to ensure appropriate protection of an access to Customer Data and to address responsibility for any disclosure, modification or deletion of Customer Data by the non-supplier application providers or any breach of data protection laws and regulations resulting from non-supplier application providers access to supplier data. Non-supplier application providers shall not be considered sub-contractors or sub-data processors of either supplier or its affiliates. Supplier shall not be responsible for any disclosure, modification, corruption, loss or deletion of Customer Data or any breach of applicable data protection laws and regulations, resulting from any excess by a non-supplier application provider to Customer Data through a non-supplier application installed by the Customer.

7.3 Integration with non-Supplier Applications

The KOOOMO Platform may contain features designed or interoperated with non-supplier applications. To use such applications the Customer may be required to obtain access to such non-supplier applications from their providers. If the provider of any such non-supplier application ceases to make the non-supplier application available for interoperation with the corresponding KOOOMO Platform features on reasonable terms, Zerogrey may cease providing such KOOOMO PLATFORM feature without entitling the Customer to any refund, credit or other compensation.

7.4 Third Party Platforms

The Customer shall enable the KOOOMO Platform to access the third party social platform and accounts and any website reported operated by or on behalf of the Customer in respect of which the Customer is using KOOOMO

Platform to the extent reasonably necessary for Zerogrey to provide the KOOOMO Platform. Subject to the terms of these General Terms and Conditions the Customer acknowledges and agrees that Zerogrey may access, collect, process and/or store information or content regardless whether such content is Customer Data or indexed content from such third party social platform accounts and the KOOOMO Platform as may be reasonably required to provide access to the KOOOMO Platform. Except for Zerogrey obligations with respect to Customer Data and Customer personal data, Zerogrey shall not be responsible or liable for:

(i) Any content provided by Customer or any third party social platform or other website and any content accessed by Customer its authorised uses or any third party from any third party social platform or other website.

(ii) Any interactions or communications between the Customer and their customers and any third party through any third party social platform or other websites.

(iii) Any transactions relating to a separate general terms and conditions or arrangement between Customer and its customers and third party social platform or website.

8. SUPPLIER'S OBLIGATIONS

8.1 Zerogrey undertakes that access to the KOOOMO PLATFORM will be provided substantially in accordance with the Documentation and with reasonable skill and care.

8.2 The undertaking at clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Zerogrey's instructions, or modification or alteration of the Services by any party other than Zerogrey or Zerogrey's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all 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 the undertaking set out in clause 8.1. Notwithstanding the foregoing, Zerogrey:

a) does not warrant that the Customer's use of the KOOOMO Platform including any of the Software Modules and or the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

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

8.3 These General Terms and Conditions, shall not prevent Zerogrey from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or Services which are similar to those provided under these General Terms and Conditions.

8.4 Zerogrey warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the MOU and these General Terms and Conditions.

8.5 Where the fees applicable for retrieving and providing a copy of Customer Data have been specified and agreed by Zerogrey pursuant to clause 6.3 above, in writing, Supplier shall within seven business days of Customer request, provide Customer with an extract from KEPData in the format specified by the Customer and agreed to in writing by Zerogrey in an Order Form.

8.6 Loss of Data. In the event of any compromise to the security, confidentiality or integrity of Customer Data , Zerogrey shall as applicable notify the Customer as soon as practicable in accordance with the timescale laid down in the Data Protection Acts or any Data Protection Code of Practice of the Irish Data Protection Commissioner.

9. CUSTOMER ACKNOWLEDGMENTS, WARRANTIES AND OBLIGATIONS

- 9.1 The Customer warrants that it has and will maintain all necessary licences, consents, authorisations and permissions necessary for (i) the performance of the Customer's obligations under the General Terms and Conditions and under the MOU and (ii) the use of the KOOOMO Platform and the Services and (iii) the performance of any obligations it undertakes to any of its customers or required by law or regulatory requirement or to provide the services it provides or undertakes to provide to its customers.
- 9.2 The Customer warrants and represents that any material and/or content and/or trademark and/or more in general distinctive mark, tradename, claim used by the Customer on the KOOOMO Platform (including any of such items forwarded/communicated by the Customer to Supplier for publication on the KOOOMO Platform) complies with the applicable laws, both national and international and does not breach any third party industrial and/or intellectual property rights and/or (rights) of whatever nature;
- 9.3 The Customer warrants and represents that the products offered for sale on the KOOOMO Platform ("Products") their packaging, the distinctive marks thereon and more in general the marketing of the Products on the platform comply with the applicable national and international laws and do not breach any third party industrial and/or intellectual property rights and/or (rights) of whatever nature. The Customer shall remain the only entity liable for any damage or adverse consequence which may occur to Supplier in connection with the marketing of the products on the KOOOMO Platform and for this purposes agrees to indemnify and keep indemnified and hold Zerogrey harmless from any liability and/or claim and/or action brought by any third party in that respect.
- 9.4 The Customer acknowledges that is and will remain the only entity liable for any damages or adverse consequences which may occur to any third party because of the publication on the KOOOMO Platform of any material and/or content and/or brand and/or more in general distinctive marks/trade name used by the Customer on the KOOOMO Platform or forwarded/communicated by the Customer to Zerogrey for publication on the KOOOMO Platform and for this purpose agree to indemnify and hold Zerogrey harmless from any liability and/or claim and/or action brought by any third party in that respect.
- 9.5 Prior to providing Authorised Users with access to the KOOOMO Platform, the Customer shall:
- a) supply Zerogrey with a list of Authorised Users authorised to access the KOOOMO Platform and
 - b) ensure that all Authorised Users are aware of the terms of the General Terms and Conditions, the Privacy Statement and the Cookies Policy, including their obligation to comply with any other user terms applicable to the Platform and or the Services and notified to the Customer. The Customer shall only provide Authorised Users with access to the KOOOMO Platform via the access method provided by Zerogrey and shall not provide access to anyone other than an Authorised User.
- 9.6 The Customer shall comply, and shall procure that its Authorised Users comply, with the following conditions of use:
- a) the KOOOMO Platform may only be used in connection with the Customer's own Business; and
 - b) the KOOOMO Platform may only be used with the following compatible Internet browsers: Chrome, Firefox, Safari. Accessing by mobile may limit the functionality in the Platform including the Software Modules that may be accessed by the Customer.
- 9.7 The Customer warrants and represents that it shall, and ensure that Authorised Users shall, keep confidential and, except as provided for in these General Terms and Conditions, not share with any third party their password or access details provided to facilitate access to the Services. The Customer shall contact Zerogrey if updates to any list of Authorised Users given to Zerogrey are required, including when Users cease to be employed or engaged by the Customer.

- 9.8 The Customer shall not, and shall procure that the Authorised Users shall not, introduce any Virus that may infect or cause damage to the KOOOMO Platform, the Services or any of them or Zerogrey's systems or otherwise disrupt the KOOOMO Platform or its constituent elements.
- 9.9 Zerogrey reserves the right to monitor usage by all Authorised Users (by way of audits or otherwise) for the purpose of (among others) ensuring compliance with the terms of the MOU and the General Terms and Conditions. Any audit may be carried out by Zerogrey or a third party authorised by Zerogrey. If any audit reveals that any password has been provided to an individual that is not an Authorised User, the Customer shall, without delay, disable any such passwords and notify Zerogrey immediately.
- 9.10 In the event of unauthorised use of the **KOOOMO Platform** by the Customer or any Authorised User, Zerogrey reserves the right to deny the Customer or Authorised Users access to the Services by blocking, without prior notification, the IP addresses that the Customer or Authorised Users used to access the KOOOMO PLATFORM .
- 9.11 The Customer shall:
- a) provide Zerogrey with all necessary co-operation in relation to the MOU and the General Terms and Conditions; and all necessary information and access to such information as may be required by Zerogrey; in order to provide the Services;
 - b) comply with all applicable laws and regulations with respect to its activities under the General Terms and Conditions;
 - c) carry out all other Customer responsibilities set out in the General Terms and Conditions in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Zerogrey may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - d) ensure that the Authorised Users use the KOOOMO Platform and the Documentation in accordance with the terms and conditions of these General Terms and Conditions and shall be responsible for any Authorised User's breach of these General Terms and Conditions.
 - e) ensure that its network and systems comply with or are compatible with the relevant specifications specified by Zerogrey from time to time to access and use the KOOOMO Platform; and
 - f) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Zerogrey's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.
 - g) shall be solely responsible for maintain at its care and expenses an appropriate and periodical back up of the Customer Data.

10. CHARGES AND PAYMENT

- 10.1 The Customer shall pay the Fees and any other fees payable for Additional Authorised Users and or additional services agreed to be provided by Zerogrey to the Customer in accordance with this clause 10 and or as set out in the MOU or as determined by and agreed by Zerogrey with the Customer. The Customer shall also pay value added tax at the then applicable rate under Irish law on all Fees and other fees which Zerogrey is entitled to charge pursuant to the MOU and these General Terms and Conditions. Fees, fees and all applicable vat shall unless otherwise agreed by Zerogrey pursuant to clause 10.2, be paid by electronic transfer direct to Zerogrey's nominated bank account in Ireland in such currency and within such timescale as required by Zerogrey.
- 10.2 The Customer shall on the Effective Date provide to Zerogrey valid, up-to-date and complete credit card details

or approved purchase order information acceptable to Zerogrey and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:

a) its credit card details to Zerogrey, the Customer hereby authorises Zerogrey to bill such credit card:

(i) on the Effective Date for the Fees payable in respect of the Initial Subscription Term; and

(ii) subject to clause 14.1, on each anniversary of the Effective Date for the Fees payable in respect of the next Renewal Period;

(iii) Zerogrey shall invoice the Customer:

(iv) on the Effective Date for then Fees payable in respect of the Initial Subscription Term; and

(v) subject to clause 3 and clause 14, at least 30 days prior to each anniversary of the Effective Date for the Fees payable in respect of the next Renewal Period, and the Customer shall pay each invoice within 30 days after the date of such invoice.

10.3 If Zerogrey has not received payment within 30 days after the due date for any Fees or fees and vat, and without prejudice to any other rights and remedies of Zerogrey:

a) Zerogrey may, without liability to the Customer, disable all Authorised Users access and the Customer's access and disable all passwords, accounts and access to all or part of the KOOOMO PLATFORM including the Services and Zerogrey shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Zerogrey's bankers in Ireland from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

10.3 If Zerogrey has not received payment within 30 days after the due date for any Fees or fees and vat, and without prejudice to any other rights and remedies of Zerogrey:

a) Zerogrey may, without liability to the Customer, disable all Authorised Users access and the Customer's access and disable all passwords, accounts and access to all or part of the KOOOMO PLATFORM including the Services and Zerogrey shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Zerogrey's bankers in Ireland from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

10.4 All amounts being Fees and fees stated or referred to in these General Terms and Conditions and the MOU:

a) shall be payable in Euro or such currency as specified in an applicable MOU;

b) are non-cancellable and non-refundable;

c) are exclusive of value added tax, which shall be added to Zerogrey's invoice(s) at the appropriate rate.

- 10.5 If, at any time whilst using the KOOOMO PLATFORM, the Customer exceeds the amount of disk storage space specified in the Documentation or the MOU Zerogrey shall charge the Customer, and the Customer shall pay, Zerogrey's then current excess data storage fees. Zerogrey's excess data storage fees current as at the Effective Date are set out in the MOU.
- 10.6 The Customer shall reimburse Zerogrey for all actual, reasonable travel expenses including, but not limited to, airfare, hotel and meals incurred by Zerogrey in performance of the Services.
- 10.7 All amounts and fees stated or referred to in these General Terms and Conditions are exclusive of value added tax, which shall be added to Zerogrey's invoice(s) at the appropriate rate.
- 10.8 Each Supplier invoice is due and payable 30 days after the invoice date. If Zerogrey has not received payment within five days after the due date, and without prejudice to any other rights and remedies of Zerogrey:
- a) Zerogrey shall be under no obligation to provide access to the Platform any or all of the Services while the invoice(s) concerned remain unpaid; and
 - b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of [Zerogrey's bankers in Ireland] from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

11. PROPRIETARY RIGHTS

The Customer acknowledges and agrees that Zerogrey and/or its licensors own all Intellectual Property Rights in the name KOOOMO and in the KOOOMO Platform, including without limitation in each of the Software Modules, the Services and the Documentation. Except as expressly stated herein, these General Terms and Conditions does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the KOOOMO Platform, its Services or the Documentation.

12. CONFIDENTIALITY AND COMPLIANCE WITH POLICIES

- 12.1 Each party undertakes those confidentiality obligations to each other as set out in the MOU.
- 12.2 In performing its obligations under the MOU and these General Terms and Conditions the Customer shall comply with the Mandatory Policies.

13. LIMITATION AND EXCLUSIONS FROM LIABILITY

- 13.1 Save as provided in the MOU and these General Terms and Conditions, no representations, warranties or conditions are given or assumed by Zerogrey in respect of any information which is provided to the Customer by Zerogrey and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.
- 13.2 This clause 13 and any applicable equivalent provision in the MOU, sets out the entire financial liability of Zerogrey (including for any liability for the acts or omissions of its employees, agents and sub-contractors or for breach of any obligation of Zerogrey to the Customer in the MOU and the General Terms and Conditions) to the Customer:
- (a) arising under or in connection with the MOU and the Zerogrey General Terms and Conditions; and
 - (b) in respect of any use made by the Customer of the KOOOMO Platform, the Services and Documentation or any part of any of them; and
 - (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with the MOU and the Zerogrey General Terms and Conditions.

- 13.3 Except as expressly and specifically provided in the MOU and the Zerogrey General Terms and Conditions:
- (a) the Customer assumes sole responsibility for results obtained from the use of the KOOOMO Platform, the Services and the Documentation by the Customer, and for conclusions drawn from such use. Zerogrey shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Zerogrey by the Customer in connection with the KOOOMO Platform, the Services, or any actions taken by Zerogrey at the Customer's direction;
 - (b) 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 MOU and these General Terms and Conditions; and
 - (c) the KOOOMO Platform and its constituent elements and the Services and the Documentation are provided to the Customer on an "as is" basis.
- 13.4 Nothing in the MOU and the Zerogrey General Terms and Conditions excludes the liability of Zerogrey:
- (a) for death or personal injury caused by Zerogrey's negligence; or
 - (b) for fraud or fraudulent misrepresentation.
- 13.5 Subject to clauses 13.1 to clause 13.4 inclusive:
- (a) Zerogrey shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this MOU and the Zerogrey General Terms and Conditions: and
 - (b) Zerogrey's total aggregate liability in contract tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the MOU and the Zerogrey General Terms and Conditions, and any additional services shall be limited to the Fees before vat received by Zerogrey from the Customer for the lesser of the period up to 12 calendar months immediately preceding the date on which the claim arose or if less, the period from the Effective Date to the date on which the claim arose.
- 13.6 If there is any conflict between the provisions of the MOU and these General Terms and Conditions, the provisions of these General Terms and Conditions shall apply to the extent of any such conflict.

14. TERM AND TERMINATION AND SUSPENSION

- 14.1 In addition to the rights set out in clause 3 above, the parties also agree as set out below.
- 14.2 Additionally Zerogrey may terminate these General Terms and Conditions by notice in writing to the Customer if there occurs in respect of the Customer a Change in Control. The Customer shall notify Zerogrey within 30 days of a Change of Control occurring.
- 14.3 Without prejudice to its other rights pursuant to law and these General Terms and Conditions, if a party is in material breach of one of its obligations under these General Terms and Conditions, the other party will have the right to terminate these General Terms and Conditions by sending the other party, written notification via registered post of any such breach, with the express invitation to remedy such breach within thirty (30) days of the date of receipt of the same notice. If such a party fails to remedy the material breach within such term, these General Terms and Conditions shall be terminated.

- 14.4 Zerogrey may terminate these General Terms and Conditions, where Zerogrey has an entitlement to do so in the MOU and or elsewhere in these General Terms and Conditions.
- 14.5 Without prejudice to Zerogrey's rights set out above, if the Customer breaches any of the terms and conditions of these General Terms and Conditions required to be performed and observed by the Customer, Zerogrey shall have the right to suspend access to the KOOOMO Platform upon two working days prior notice and to ask the Customer to immediately remedy the breach. Zerogrey shall inform the Customer of the Customer's breach as soon as Zerogrey becomes aware of it. If the Customer fails to remedy the breach within the applicable timeframe stated by Zerogrey, Zerogrey shall have the right to (1) remove the Customer Data where it is infringing these General Terms and Conditions or any third party right and/or (2) immediately terminate Customer's access to the KOOOMO Platform.
- 14.6 Zerogrey shall have the right to terminate these General Terms and Conditions or suspend all or any of the Customer's rights granted hereunder, where (i) Zerogrey is required to do so, by any applicable law, regulatory requirement or arising from an order, requirement or request of an appropriate regulatory authority or (ii) Zerogrey suffers a cyber attack or (iii) the Customer violates Zerogrey's Security Policy or (iv) if Zerogrey is subject to a claim of infringement of Intellectual property rights by a third party related to or arising from the Customer's actions.

15. FORCE MAJEURE

Zerogrey shall have no liability to the Customer under these General Terms and Conditions if it is prevented from or delayed in performing its obligations under the MOU and or these General Terms and Conditions, or from carrying on its business, by reason of or the occurrence of a Force Majeure Event. If an Event of Force Majeure shall continue for more than twenty one days, Zerogrey shall be entitled without liability to the Customer to terminate the MOU and these General Terms and Conditions by written notice to the Customer.

16. CONFLICT

If there is an inconsistency between any of the provisions in the main body of these General Terms and Conditions and the Schedules (if any), the provisions in the main body of these General Terms and Conditions shall prevail.

17. VARIATION

No variation of these General Terms and Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. WAIVER

No failure or delay by a party to exercise any right or remedy provided under these General Terms and Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19. ASSIGNMENT

- 19.1 The Customer shall not, without the prior written consent of Zerogrey, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the MOU and or the General Terms and Conditions.
- 19.2 Zerogrey may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the MOU and or these General Terms and Conditions.

20. NOTICES

- 20.1 Any notice required to be given under these General Terms and Conditions shall be in writing and shall be delivered by hand or sent by registered post or recorded delivery post to the other party at its address set out in these General Terms and Conditions, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in these General Terms and Conditions.
- 20.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).
- 20.3 Notwithstanding the foregoing, when the Customer through an Authorised User accesses and or uses the KOOOMO PLATFORM and or the Services or send emails to Zerogrey or Zerogrey emails the Customer, the Customer is communicating with Zerogrey electronically. The Customer agrees that for all purposes of the use of the KOOOMO Platform and Documentation pursuant to these General Terms and Conditions, that Zerogrey can communicate with the Customer electronically by email. The Customer agrees to Zerogrey communicating and or serving notices on it to the most recent address the Customer has provided to Zerogrey. The Customer agrees that all notices and communications that Zerogrey provides to the Customer electronically satisfy any legal requirement that such communications to be in writing.

21. GOVERNING LAW

The MOU and these General Terms and Conditions any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Ireland.

22. JURISDICTION

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

23. CHANGES

In addition to the provisions of clause 2.4 and any other provision above, the Customer agrees: that these General Terms and Conditions, the Privacy Statement and or the Cookies Notice may be changed or be updated by the Supplier from time to time. It remains the Customer's responsibility to access and check these General Terms and Conditions, the Privacy Statement and the Cookies Notice wherever the Customer accesses the KOOOMO PLATFORM. If Zerogrey changes these, General Terms and Conditions, Zerogrey will post the changes on the KOOOMO Platform, and will indicate the date the General Terms and Conditions were revised. The Customer's continued use of the KOOOMO PLATFORM after the date any such changes become effective constitutes Customers acceptance of the revised Terms and Conditions , the Privacy Statement and the Cookies Notice as the case may be.

24. ADDITIONAL SUPPLIER SERVICES

24.1 Customisation/Integration Services.

Zerogrey may provide such customisation/integration services as set out in a separate General Terms and Conditions entered into in writing between the parties. The KOOOMO Platform Fees shall not be inclusive for the customisation/integrations services. Additionally as regards any related Maintenance Services on such

customisations and integrations, such services and fees related thereto shall be agreed and specified in a separate terms and conditions entered into between the parties. Maintenance Services for customisation/integrations services are regulated by separate terms and conditions to be agreed where specific and specified in a separate Maintenance terms and conditions.

24.2 **Training Services**

Zerogrey will provide the Training Services, if any, described in an order form and additional subscription order forms. The KOOOMO Platform Fees will not be inclusive of the fees for the Training Services, such fees to be agreed and specified in an order form and in additional subscription order form and or separate Zerogrey terms and conditions.

24.3 **Transition services**

Provided that these General Terms and Conditions in whole or in part has not been terminated by Zerogrey arising from the Customer's failure to pay any amount due to Supplier, Zerogrey will provide the Customer and/or to the provider selected by the Customer (Successor Provider) the assistance reasonably requested by the Customer to effect the orderly transition of the KOOOMO Platform in whole or in part to the Customer or to Successor Provider following the termination of these General Terms and Conditions or Order in whole or in part. The KOOOMO Platform Fees will not be inclusive of the fees for the Transition Services, such fees as to be agreed and specified in the Order form and additional subscription order forms.

25. SURVIVING PROVISIONS

Any provisions of the MOU and these General Terms and Conditions which expressly or by implication are intended to come into force or remain in force on or after termination (however caused) or expiry of the MOU and these General Terms and Conditions, shall remain in full force and effect including without limitation, clauses 3.7,4, 9,10,11,12,13,14,16, 21, 22, 25, 26 and 27.

26. APPLICATION PROGRAMMING INTERFACE (API)

Where pursuant to an MOU, a supplement or otherwise, Zerogrey develops or agrees to develop an API for a Customer and grants access to the API to the Customer in object code format, the Customer acknowledges and agrees that Zerogrey is the owner of the worldwide Intellectual Property Rights in the API and that the Customer shall only be entitled to use the API in conjunction with its use of the Platform, the Services enabled by it and for no other purpose and only so long as these Terms and Conditions have not expired or been terminated for whatever reason.

The Customer agrees to assign and hereby assigns by way of future assignment in the case of copyrights, to Zerogrey as beneficial owner all of his worldwide rights, title and interest (whether present, future, vested or contingent) in and to such Intellectual Property Rights in each of the deliverables comprising the API for the full term thereof.

The Customer undertakes to execute all such documents and undertake any and all such acts as Zerogrey may from time to time require or consider necessary or desirable in order to vest the rights assigned pursuant to this clause 12 above properly in Zerogrey.

27. CONSUMER

The Customer represents and warrants to Zerogrey that it is not a Consumer as defined in the Consumer Rights Directive (Directive 2011/83), and the eCommerce Directive (Directive 2000/31) Directive and that he is acting within his trade, business or profession in accessing the Platform, the Services and using the Platform the Services and the Site.