KTSL Subscription Services Agreement

1.   Definitions
In this document the following words shall have the following meanings:

1.1   AGREEMENT means the terms and conditions of supply set out in this document and any special terms and conditions agreed in writing by the Supplier

1.2   CONTRACT between the Supplier and the Customer for the supply of Subscription Services in accordance with this Agreement

1.3   CUSTOMER means any individual, partnership, limited company, charity or organisation that purchases Subscription Services from the Supplier

1.4   FEES shall mean all charges and expenses that will be invoiced by the Supplier to the Customer for the Subscription Services provided

1.5   INTELLECTURAL PROPERTY RIGHTS means any patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world

1.6   LICENSEE means any individual, partnership, limited company or organisation specified within the Contract which is granted licence access

1.7   LICENSOR refers to the Supplier

1.8   PARTY refers to the Licensee, Customer or the Supplier individually

1.9   PROPOSAL means a quotation, statement of work or other similar document describing the services to be provided by the Supplier

1.10   SOFTWARE means software products, applications or other software solutions for which the Supplier grants access to

1.11   SUBSCRIPTION SERVICES means the utilisation of Software in accordance with this Agreement

1.12   SUPPLIER means KTSL Limited, 23 Leafield Industrial Estate, Corsham, Wiltshire, SN13 9RS (company number 3926836), also referred to as the Licensor.

2.   General
2.1   These terms within this Agreement shall apply to all contracts for the supply of Subscription Services by the Supplier to the Customer and shall prevail over any other documentation or communication by the Customer.

2.2   Any variation to this Agreement shall not be effective unless agreed in writing by the Supplier.

2.3   Nothing in this Agreement shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Supplier may be entitled in relation to the Services, by virtue of any statue law or regulation.

2.4   Nothing in this Agreement shall affect the Customer's statutory rights.

2.5   Acceptance of these Terms and Conditions constitutes acceptance by the Customer to enter into a Mutual Non-Disclosure Agreement with the Supplier https://www.ktsl.com/ktsl-non-disclosure-agreement/

3. Subscription Definitions

3.1 AUTHORISED USERS means those employees, agents, engineers and independent contractors of the Licensee who are authorised by the Supplier to access the Device(s) and use the Software as further described in this Agreement.

3.2 DEFECTS means an error in the Software that causes it to fail to operate substantially in accordance with the relevant documentation.

3.3 DEVICE means a licence requirement for each individual device, locker, peripheral, accessory or laptop of the Customer as further described in this Agreement.

3.4 DOCUMENTATON means the document made available to the Licensee by the Supplier which sets out a description of the Software and the user instruction for the Software.

3.5 INITIAL SUBSCRIPTION TERM means the initial duration of the Subscription Services as outlined in the Proposal which commence from the Commencement Date of this Agreement.

3.6 PER EMPLOYEE means a licence requirement for each individual employee or contractor or client of the Customer

3.7 PER REQUEST means each distance request, question or incident submitted.

3.8 PER NAMED USER means a licence requirement for a specifically assigned user only

3.9 SITE means the Licensee's distinct premise(s) from which the Licensee carries out its business and has been granted license access for

3.10 SUBSCRIPTION TERM specifies the Term outlined in this Agreement, being the Initial Subscription Term together with any subsequent Renewal Periods.

4. The Subscription Service

4.1 Any Proposal shall remain valid for a period of thirty (30) days unless otherwise stated.

4.2 The Customer shall be deemed to have accepted the Proposal by placing an order with the Supplier within the period specified in clause 4.1 at which point and on such date a Contract shall come into existence (Commencement Date)

4.3 Subject to Clause 4.2, under this Agreement the Supplier will grant the Licensee access to the Software provisions as specified in the Proposal.

4.4 Access to the Software provisions will commence on the Commencement Date and shall continue for the Initial Subscription Term as set out in the Proposal.

4.5 The Supplier grants to the Licensee a limited, non-exclusive and non-transferable licence to utilise the Software during the agreed Subscription Term solely for the Licensee's internal business operations.

4.6 The Supplier grants to the Licensee access to the Software for the specified number of Devices, Authorised Users, Sites and employees as per the Proposal. The Customer is not entitled to a reduction in Fees if the Devices, Authorised Users, Sites or employees are not fully utilised.

4.7 The Supplier is the wholly legal and beneficial owner and licensor of the software provisions under this Agreement.

4.8 The Software and related Documentation are copyrighted works of authorship and are also protected under applicable database laws.

4.9 The Licensee acknowledges and agrees that the Supplier owns all Intellectual Property Rights in the Software, all subsequent copies of the Software and all intellectual property rights subsisting therein, regardless of the form in which the copies may exist, and the Licensee shall have no rights in or to the Software other than the right to use it in accordance with the terms of this Agreement.

4.10 This Agreement is not a sale of the Software or any copies thereof. Except as expressly stated herein, this Agreement does not grant the Customer and/or the Licensee any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licenses in respect of the Software or the Documentation.

5. Fees & Payment of Fees

5.1 The Fees for the Subscription Services are as specified in the Proposal.

5.2 The Fees are quoted exclusive of VAT.

5.3 Payment of the Fees shall be made in the manner specified in the Proposal.

5.4 Any setup fees described in the Proposal will be billed immediately upon receipt of an order by the Customer.

5.5 Excess device usage will be retrospectively billed to the Customer, based on the Supplier's current price list.

5.6 Time shall be of the essence in respect of payment obligations.

5.7 Payment terms are strictly 30 days from date of the invoice unless agreed beforehand.

5.8 If the Customer fails to make any payment within 30 days of it becoming due, the Supplier shall be entitled to charge interest at the rate of 5% above the Bank of England's base rate per month on the outstanding amount but at 5% a year for any period when that base rate is below 0%.

6. Customer Obligations

6.1 The Customer must not, and must not permit the Licensee and/or any third party to:

6.1.1 use, copy, modify or transfer the Software in whole or in part (including any related Documentation) or any copy, in whole or in part, including any print-out of all or part of any database, except as expressly provided for in this Agreement.

6.1.2 translate, adapt, reverse engineer, decompile, disassemble, modify or create derivative works based on the Software, except as expressly permitted in this Agreement.

6.1.3 vary, delete or obscure any notices of proprietary rights or any product identification or restrictions on or in the Software.

6.1.4 to use the Software or use any information provided by the Supplier to create any software whose expression is substantially similar to that of the Software.

6.1.5 nor use such information in any manner which would be restricted by any copyright subsisting in it during the Subscription Term or any time after termination or expiry of this Agreement.

6.1.6 sub-licence, assign or novate the benefit or burden of the Software in whole or in part.

6.1.7 allow the Software to become the subject of any change, lien or encumbrance.

6.2 The Customer and/or Licensee shall:

6.2.1 use the Software only within the bounds of the terms of this Agreement.

6.2.2 permit the Supplier and its authorised agents at all reasonable times to enter any of the Licensee's Site(s) for the purpose of ascertaining compliance with the obligations set out in this Agreement.

6.2.3 ensure that Software utilisation does not exceed that which was outlined in the Proposal, and, in the event of any such additional unauthorised utilisation, the Licensee and/or Customer will notify the Supplier of this as soon as either Party becomes aware.

6.2.5 use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and, in the event of any such unauthorised access or use, promptly notify the Supplier as soon as the Customer and/or Licensee becomes aware of any unauthorised use by any person.

6.2.6 keep complete and accurate records of the Licensee's copying and disclosure of the Software along with all users for whom have access to said Software. From time to time, the Supplier may request sight of this record, for which the Licensee must be able to produce.

6.3 Comply with such other requirements as may be set out in the Proposal or otherwise agreed between the parties.

6.4 Accepts that the Supplier retains all rights, title and interest in and to the Software and that neither the Licensee and/or Customer acquire any right, title or interest in the Software except as set forth herein.

6.4.1 any configuration or deployment of the Software shall not affect or diminish the Supplier's rights, title and interest in and to the Software.

6.5 The Customer confirms it is acting on its own behalf and not for the benefit of any other person.

7. Supplier Obligations

7.1 The Supplier reserves all rights not expressly granted to the Licensee and/or Customer in this Agreement.

7.2 Nothing in this Agreement shall limit in any way the Supplier's right to develop, use, license, create derivative works of, or otherwise exploit the Software.

7.3 The Supplier may at any time sub-licence, assign, novate, charge or deal in any other manger with any or all of its rights and obligations under this Agreement provided it givens written notice to all Parties.

7.4 The Supplier warrants that the copy of the Software provided to the Licensee will conform in all material respects with the documentation that accompanies it.

7.5 The warranty period is 90 days from Commencement Date. If, within the warranty period the Licensee notifies the Supplier in writing of any Defect or fault in the Software in consequence of which it fails to conform materially with such documentation, and such defect does not result from the Licensee having modified the Software or used it outside the terms of this Agreement for a purpose or in context other than the purpose or context for which it was designed or in combination with any software not supplied by the Supplier, the Supplier has, at the Supplier's option, do one of the following, providing the Licensee provides all the information that may be necessary to assist the Supplier in resolving the defect or fault;

7.5.1 repair the Software.

7.5.2 replace the Software.

7.5.3 terminate this Agreement immediately by notice in writing to Licensee and refund any Fees paid by Licensee as at the date of termination (less a reasonable sum in respect of Licensee's use of the Software to the date of terminate) on return of the Software and all copies thereof.

7.6 The Supplier shall not be liable under Clause 7.5 above if the Software fails to conform in all material respects as a result of any modification, variation or addition to the Software not performed by the Supplier or caused by any abuse, corruption or incorrect use of the Software, including use of the Software in conjunction with equipment or other software which is incompatible.

7.7   The Supplier does not warrant that the Software will meet the Licensee's requirements or that its operation will be uninterrupted or error free.

7.8   The warranty made in Clause 7.5 is made in lieu of any other warranties, representations or guarantees of any kind, whether expressed or implied, including, but not limited to, any implied warranties of quality, merchantability, fitness for a particular purpose or ability to achieve a particular result.

7.9   Any information supplied by the Customer and/or Licensee will be treated as confidential. No confidential information will be supplied to a third party without the Customer's express permission, subject to Clause

8.   Confidentiality

8.1   Confidential Information means any and all written, verbal or demonstrated information that is proprietary or confidential and is provided by a Disclosing Party in connection with this Agreement. This includes, without limitation, information relating to inventions, trade secrets, know-how, methods, processes, creations, conceptions, technologies, algorithms, other intellectual property, products, improvements, product formulae, services, finances, business plans, marketing plans, legal affairs, supplier lists, customers, customer lists and related data, potential customers, business prospects, business opportunities and the like, which relate in any manner to a   Party's actual or anticipated business, its affiliates, subsidiaries, or divisions, or to its actual or anticipated areas of research and development.

8.2   All parties acknowledge that Confidential Information is proprietary and valuable to the disclosing party and that any disclosure or unauthorised use thereof will cause irreparable harm and loss to the disclosing party.

8.3   Confidential Information shall not include information that is.
    8.3.1   generally known to the public at the time of disclosure.
    8.3.2   legally received by the receiving party from a third party, which third party is in rightful possession of Confidential Information.
    8.3.3   becomes generally known to the public subsequent to the time of such disclosure, but not as a result of disclosure by the receiving party or
    8.3.4   prior to signing of this Agreement, is already in the possession of the receiving party.

8.4   This Clause 8 shall survive any termination of this Agreement however occasioned.

9.   Renewals, Cancellations & Termination

9.1   Upon expiry of the Initial Subscription Term, the Subscription Services shall automatically renew for successive periods of one (1) year (Renewal Period) forming the Subscription Term unless;
    9.1.1   either party notifies the other of termination, in writing, at least 60 days before the end of the Initial Subscription Term, or at least 60 days before the end of any Renewal Period, in which the Subscription Services and this Agreement shall terminate upon expiry of the applicable Initial Subscription Term period or any Renewal Period.
    9.1.2   otherwise terminated in accordance with Clause 9.2.

9.2   The Supplier may immediately terminate the Subscription Services in the following events by giving written notice to the Customer.
    a. material breach of these Terms and Conditions by the Customer (including non-payment)
    b. breach which, if capable of remedy, has not been remedied within 10 business days.
    c. Insolvency of the Customer

9.3   On Termination, all Subscription Services shall immediately terminate and.
    9.3.1   the Licensee shall immediately cease all use and access of the Software.
    9.3.2   the Licensee must immediately return or remove from its systems all copies of the Software in the Licensee's possession, including but not limited to, all Confidential Information of the licensor; and
    9.3.3   any rights, remedies, obligations or liability of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination shall not be affected or prejudiced.

10.   Liability

10.1   Nothing in these Terms and Conditions shall exclude or restrict either party's liability for:
    10.1.1 bribery or fraud;
    10.1.2 death or personal injury resulting from negligence of a Party or its employees or associates (if applicable)

10.2   Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Proposal of these Terms and Conditions.

10.3   Subject to clause 10.1, the Supplier shall not be liable to the Customer for any:
        10.3.1 indirect, special, or consequential loss
        10.3.2 loss of profits;
        10.3.3 loss of revenue;
        10.3.4 loss of anticipated savings;
        10.3.5 loss of business opportunities; or
        10.3.6 loss of or damage to goodwill (in each case whether directly or indirectly)
        10.3.7 loss or corruption of data

10.4   Each party agrees to use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with the Subscription Services and Contract.

10.5   The Supplier's total aggregate liability shall be limited to the total Fees paid during the 12 months immediately preceding the date on which the claim arose.

11. Force Majeure

11.1   Neither party shall be in breach of the contract nor liable for any delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances, or causes beyond its reasonable control.

12. Waiver.

A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

13. Severance.

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract is deleted under this Clause 13 the parties 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.

14. Third party rights.

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

15. Governing law.

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

16. Jurisdiction.

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

Customer	**Supplier**
Signature :	Signature:
Name:	Name:
Company Name:	Company Name: KTSL Ltd
Position:	Position:
Dated:	Dated:

Appendix – Supplier Support Provision

The Supplier agrees to expend commercially reasonable efforts to ensure that the Software operates substantially in accordance with the technical specifications provided.
If the Licensee logs a Support Issue with the Supplier, the Supplier will use reasonable efforts to correct any errors or issues by providing an appropriate fix or by periodically issuing new corrective releases of the Software which remedy the initial Support Issue.
The Supplier will make every effort to respond to S1 Support Issues within four (4) hours during Support Hours.

When raising a Support Issue, the person raising the incident will be asked to provide the following information

- Customer Name
- Contact Details – telephone and email address
- Product Name – please include product versions
- Operating Systems
- Database Version (if applicable)
- A full description, including all error messages
- Severity of incident

The Supplier will provide Support Services from their offices using remote desktop technology to investigate issues whenever possible and provide suitable resolutions. However, if no resolution can be concluded which is to both Supplier and Customer satisfaction then upon request by the Customer, the Supplier will attend the Site to apply such corrections or resolutions. Such on-site attendance shall be provided free of charge.
Provided that the defect or issue is determined not to be within the Software as defined in the Documentation, then the Customer will reimburse the Supplier for its reasonable time, materials and travel expenses incurred to such alleged correction.

Support Contact Information		
Support Portal	kimi.ktsl.com	
Support Telephone	(+44) 0113 3602 742	
Support Email	support@ktsl.com	

KTSL Basic Support			
Availability	**9AM – 5PM Monday to Friday – all severity levels**		
Severity	**Description**	**Target Response Time**	**Target Fix Time**
1	Software is entirely unusable	4 hours	1 working day
2	A material part of the Software is unusable and there is no workaround	8 hours	2 working days
3	Some of the functionality is deficient but there is a workaround	1 working day	5 working days
4	Minor or cosmetic error	5 working days	20 working days

KTSL Continuous Support			
Availability	**7AM – 7PM Monday to Friday**	**ALL Severity Levels**	
	24 Hours a Day, 7 Days a Week	**S1 Level Only**	
Severity	**Description**	**Target Response Time**	**Target Fix Time**
1	Software is entirely unusable	1 hours	1 working day
2	A material part of the Software is unusable and there is no workaround	4 hours	2 working days
3	Some of the functionality is deficient but there is a workaround	1 working day	5 working days
4	Minor or cosmetic error	2 working days	20 working days