

TERMS OF USE

Last amended: 2024, September, 24

These terms of use (the “agreement”, “terms”) are between:

PARTIES

- (1) SILOBREAKER LIMITED incorporated and registered in England and Wales with company number 05425764 whose registered office is at 1 Parkshot, Richmond, Surrey TW9 2RD, United Kingdom (“**Silobreaker**”, “**we, or “us”**”)
- (2) The company named in the relevant Order Confirmation (“**Customer**”)

AGREED TERMS

1. Definitions and interpretation

1.1 In this agreement:

- | | |
|---------------------------------|---|
| Applicable Law | means any laws, statutes, regulations which apply to the parties’ obligations under these terms and to the use of the Subscription Service by Customer |
| Content | means the content, information, visualisations, links to Third Party Content and other data or content provided in or as part of the Subscription Service. Content does not include User Content. |
| Effective Date | means the subscription start date in the Order Confirmation. |
| Order Confirmation | means the agreed details of the Subscription Service and the relevant subscription package between Customer and Silobreaker; or Silobreaker’s confirmation of Customer’s trial/evaluation of the Subscription Service. |
| Silobreaker Requirements | means the following Silobreaker requirements: <ol style="list-style-type: none">(a) Customer shall comply with the Bribery Act 2010 or any other anti-corruption and anti-bribery laws, legislation, regulations or directives (“Anti-Corruption Legislation”) which apply to its business, or which apply in the place where this agreement is performed. Customer will not, and will procure that its employees, subcontractors, agents and representatives will not, engage in any activity, practice or conduct which would constitute an offence under any Anti-Corruption Legislation. |

- (b) Customer shall comply with the Modern Slavery Act 2015 or any other modern slavery laws, legislation, regulations or directives ("**Modern Slavery Legislation**") which apply to its business, or which apply in the place where this agreement is performed. Customer will not and will procure that its employees, subcontractors, agents and representatives will not, engage in any activity, practice or conduct which would constitute an offence under any Modern Slavery Legislation.

Subscription Service	means the hosted subscription products including Content as specified in the Order Confirmation and provided by Silobreaker to Customer under these terms via https://my.silobreaker.com or such other designated URL(s) as Silobreaker may advise Customer of from time to time.
Subscription Fees	means the subscription fees payable by Customer to Silobreaker for the Subscription Service, as set out in the Order Confirmation.
Subscription Period	means the period set out in the Order Confirmation (as may be extended by the parties).
Subscriber Users	the user subscriptions purchased by Customer pursuant to the Order Confirmation which entitle those employees, directors, principals, officers and temporary employees who are authorised by Customer to use the Subscription Service to access and use the Subscription Service in accordance with this agreement.
Support Policy	means Silobreaker's policy for providing support in relation to the Subscription Service as set out in Schedule 1 and amended from time to time.
Third Party	a party which is not a party to these terms or a party whose services are not provided within the Subscription Service
Third Party Content	means any content from a Third Party excluding the text snippet of a Third Party's content provided by Silobreaker to the Customer in the Subscription Service.
User Content	means the data uploaded or added by Customer and Subscriber Users for the purpose of using the Subscription Service.

User Accounts means the user accounts purchased by Customer under these terms which entitle Subscriber Users to access and use the Subscription Service in accordance with these terms.

2. GRANT OF RIGHTS AND DELIVERY OF THE SUBSCRIPTION SERVICE

2.1 Subject to Customer purchasing the Subscription Service in accordance with the Order Confirmation and the other terms and conditions of these terms, Silobreaker hereby grants from the Effective Date to Customer a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Subscriber Users to use the Subscription Service during the Subscription Period and to access and use, modify, edit, supplement, incorporate or compile the Content, in order to create documents, reports, memoranda, newsletters, presentations, alerts, communications and other work product in order to support Customer's business, subject to the amount of such use of the Content being reasonable.

2.2 Delivery of the Subscription Service shall be made by Silobreaker to Customer and shall be deemed as having been delivered when the User Accounts have been set up and login credentials have been emailed to each individual Subscriber User or to such Customer administrator as designated by Customer.

2.3 Silobreaker may change the Subscription Service (including without limitation its format or any feature thereon) and anything described in it without notice to Customer. Any change herein by Silobreaker will not reduce the functionality of the Subscription Service. Customer's continued use of the Subscription Service will be taken as Customer's consent and agreement to any such changes or updates Silobreaker may make.

3. CUSTOMER OBLIGATIONS

3.1 In relation to the Subscriber Users, Customer undertakes that:

3.1.1 it will not allow any User Accounts to be used by more than one individual Subscriber User unless it has been assigned in its entirety to another individual Subscriber User, in which case the prior Subscriber User shall no longer have any right to access or use the Subscription Service; and

3.1.2 each Subscriber User shall keep a secure password for his/her use of the Subscription Service and that each Subscriber User shall keep his/her password confidential.

3.1.3 it shall keep secure and confidential any API key for use of the Subscription Service and shall not share API access with or provide it to any other non-Subscriber User;

3.2 Customer shall not store, distribute or transmit any material or User Content during the course of its use of the Subscription Service that:

3.2.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

3.2.2 facilitates illegal activity;

- 3.2.3 depicts sexually explicit images;
- 3.2.4 promotes unlawful violence;
- 3.2.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- 3.2.6 is otherwise illegal or causes damage or injury to any person or property;

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

3.3 Customer shall not 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 these terms:

- 3.3.1 attempt to copy, rebrand, resell, modify, duplicate, create derivative works from, frame, mirror, redistribute, republish, download, display, transmit, or distribute all or any portion of the Subscription Service (as applicable) in any form or media or by any means;
- 3.3.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Subscription Service;
- 3.3.3 access all or any part of the Subscription Service in order to build a product or service which competes with the Subscription Service;
- 3.3.4 use the Subscription Service to provide services to third parties;
- 3.3.5 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Subscription Service available to any third party except the Subscriber Users;
- 3.3.6 attempt to obtain, or assist third parties in obtaining, access to the Subscription Service, other than as provided under this 3; or
- 3.3.7 do anything (including the storage, distribution or transmission of malware or a similar item) that damages, disables, overburdens, or impairs Silobreaker's servers or networks or interferes with Silobreaker's other customers' use and enjoyment of the website.

3.4 Customer shall provide Silobreaker with:

- 3.4.1 all necessary co-operation in relation to these terms; and
- 3.4.2 all necessary access to such information as may be required by Silobreaker;

in order to provide the Subscription Service, including but not limited to User Content, security access information and configuration services.

- 3.5 Customer shall:
- 3.5.1 comply with all Applicable Laws and regulations with respect to its activities under these terms;
 - 3.5.2 carry out all other Customer responsibilities set out in these terms in a timely and efficient manner. In the event of any delays in Customer's provision of such assistance as agreed by the parties, Silobreaker may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - 3.5.3 ensure that the Subscriber Users use the Subscription Service in accordance with the terms and conditions of these terms and shall be responsible for any Subscriber User's breach of these terms;
 - 3.5.4 obtain and shall maintain all necessary licences, consents, and permissions necessary for Silobreaker, its contractors and agents to perform their obligations under these terms, including without limitation the Subscription Service;
 - 3.5.5 ensure that its network, systems and web browsers comply with the relevant specifications provided by Silobreaker from time to time; and
 - 3.5.6 be solely responsible for procuring and maintaining its network and internet connections from its systems and devices to Silobreaker's websites and URLs, and all problems, conditions, delays, delivery failures and all other loss or damage arising from, caused by or relating to Customer's network and internet connections.
- 3.6 Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Subscription Service and, in the event of any such unauthorised access or use, promptly notify Silobreaker.
- 3.7 The rights provided under this 3 are granted to Customer only, and shall not be considered granted to any subsidiary or holding company of Customer.
- 3.8 In performing its obligations under these terms Customer shall comply with the Silobreaker Requirements.
4. **PRIVACY AND COOKIES**
- 4.1 Silobreaker shall, in providing the Subscription Service and monitoring the use of it, comply with its Privacy Policy available at <https://www.silobreaker.com/legal> or such other website address as may be notified to Customer from time to time, as may be amended from time to time by Silobreaker in its sole discretion.
- 4.2 Silobreaker uses "cookies" in the provision of the Subscription Service. Silobreaker's use of cookies is set out in its Privacy Policy at <https://www.silobreaker.com/legal> or such other website address as may be notified to Customer from time to time, as may be amended from time to time by Silobreaker in its sole discretion.

5. USER CONTENT, CUSTOMER USE OF THE SUBSCRIPTION SERVICE AND PERSONAL DATA

- 5.1 Customer shall own all right, title and interest in and to all of the User Content and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the User Content. Silobreaker does not endorse any of the User Content published in the Subscription Service.
- 5.2 Customer shall ensure that no personal data (except for the personal data of Subscriber Users) is uploaded by Subscriber Users and Silobreaker reserves the right to delete such data.
- 5.3 Except as provided under these terms, Silobreaker shall not be responsible for any loss, destruction, alteration or disclosure of User Content howsoever caused.
- 5.4 Any User Content will only be visible/accessible to the creator of the User Content and to other Subscriber Users. By posting or uploading User Content, Customer is granting Silobreaker a revocable, royalty-free, non-exclusive, limited licence to reproduce, modify, translate, make available, distribute and allow Customer and Subscriber Users to view and use the User Content in whole or in part or in any form during any Subscription Period.
- 5.5 Silobreaker has put industry standard security measures in place to protect User Content from being visible/accessible to non-authorised users, and Silobreaker shall not be liable to Customer for the actions of third parties in breaching any such security measures.
- 5.6 Customer grants Silobreaker an irrevocable, royalty-free, unlimited licence in perpetuity to utilise in any way, in an anonymised form, the use by Customer of the Subscription Service.
- 5.7 Notwithstanding 5.2, if Silobreaker processes any personal data on Customer's behalf when performing its obligations under these terms, the parties record their intention that Customer shall be the data controller and Silobreaker shall be a data processor and in any such case:
- 5.7.1 Customer acknowledges and agrees that the personal data may be transferred or stored outside the EEA, or recognised GDPR adequacy countries, or the country where Customer and the Subscriber Users are located in order to carry out the Subscription Service and Silobreaker's other obligations under these terms. Where Silobreaker transfers personal data outside the EEA, adequacy countries, or country where Customer and the Subscriber Users are located, Silobreaker shall include Standard Contractual Clauses to ensure GDPR equivalence in all relevant third-party contracts;
- 5.7.2 Customer shall permit Silobreaker to transfer any personal data to a Silobreaker group company, a third party data centre, or a cloud data service, to use, store, host, access or process any personal data to enable Silobreaker to provide the Subscription Service and to carry out Silobreaker's other obligations under these terms;
- 5.7.3 Customer shall ensure that Customer is entitled to transfer the relevant personal data to Silobreaker so that Silobreaker may lawfully use, process and transfer the personal data in accordance with these terms on Customer's behalf;

- 5.7.4 Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer of personal data as required by all applicable data protection legislation;
- 5.7.5 Silobreaker shall process personal data only in accordance with the terms of any Applicable Laws and these terms and any lawful instructions reasonably given by Customer from time to time; and
- 5.7.6 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. **THIRD PARTY PROVIDERS AND THIRD PARTY CONTENT**

- 6.1 Customer acknowledges that the Subscription Service may redirect, enable or assist it to access the website of, content of, correspond with, and purchase products and services from Third parties via Third-Party websites and that it does so solely at its own risk.
- 6.2 Except for the text snippet of a Third Party's content provided by Silobreaker to the Customer in the Subscription Service Silobreaker makes no representation, warranty 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 completed, or any contract entered into by Customer, with any such Third Party.
- 6.3 Any contract entered into and any transaction completed via any Third-Party website is between Customer and the relevant Third Party, and not Silobreaker.
- 6.4 Silobreaker recommends that Customer refers to the Third Party's website terms and conditions and privacy policy prior to using the relevant Third-Party website.
- 6.5 Silobreaker does not endorse or approve any Third-Party website nor the content of any of the Third-Party websites made available via the Subscription Service.
- 6.6 Customer shall have the sole responsibility of ensuring that it can lawfully use any Third Party Content.
- 6.7 Customer should take precautions when downloading files from all Third Party websites to protect Customer's computer from any malware or other components with harmful or contaminating effects on Customer's computer or any equipment connected to it. If Customer decides to access Third Party websites, then Customer does so at Customer's own risk.

7. **SILOBREAKER'S OBLIGATIONS AND WARRANTIES**

- 7.1 Silobreaker undertakes that the Subscription Service will be performed substantially in accordance with the Order Confirmation and these terms and with reasonable skill and care and Silobreaker warrants that the Content provided by it as part of any Subscription Service will be an accurate relay of information.

- 7.2 The undertaking in Clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Subscription Service contrary to Silobreaker's instructions, or modification or alteration of the Subscription Service by any party other than Silobreaker or Silobreaker's duly authorised contractors or agents. If the Subscription Service does not conform with the foregoing undertaking, Silobreaker will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes Customer's sole and exclusive remedy for any breach of the undertaking set out in Clause 7.1.
- 7.3 Silobreaker:
- 7.3.1 does not warrant that Customer's use of the Subscription Service will be uninterrupted or error-free, fit for a particular purpose or able to achieve a particular result, or that the Subscription Service and/or the information obtained by Customer through the Subscription Service will meet Customer's requirements; and
- 7.3.2 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 Customer acknowledges that the Subscription Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 7.4 Silobreaker warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these terms.
- 7.5 Silobreaker shall use commercially reasonable endeavours to make the Subscription Service available 24 hours a day, seven days a week, except for planned maintenance or necessary unplanned maintenance.
- 7.6 Silobreaker will, as part of the Subscription Service and at no additional cost to Customer provide Customer with Silobreaker's standard customer support services in accordance with Silobreaker's Support Policy as set out in Schedule 1. Silobreaker may amend the Support Policy in its sole and absolute discretion from time to time.
- 7.7 Customer acknowledges and Customer agrees that while Silobreaker may not currently have set a fixed upper limit on use of the Subscription Service or the amount of storage space available as part of a Subscription Service, such fixed upper limits may be set by Silobreaker at any time at Silobreaker's absolute discretion.
- 7.8 Silobreaker reserves the right to monitor the use of the Subscription Service by Customer for the purposes of providing a better service to Customer and to ensure adherence to these terms.

8. **SECURITY OF THE SUBSCRIPTION SERVICE**

- 8.1 Silobreaker will use its reasonable endeavours to ensure at all times that:
- 8.1.1 the Subscription Service is hosted in a high-security data centre that uses appropriate technology and other measures designed to assure high service availability and prevent interference or access from outside intruders;

- 8.1.2 identity and authentication controls are implemented to prevent access to the Subscription Service unless a valid username and password are used;
 - 8.1.3 data in transit between the Subscription Service and a Subscriber User's device is protected by industry standard Secure Locket Layer (SSL) technology with TLS 1.2, or higher, encryption technology;
 - 8.1.4 operational security measures are implemented, including then-current industry standard methods, software and techniques are used for vulnerability management, patch management and protective monitoring.
- 8.2 Subject to the obligations set out in 8.1, Silobreaker does not warrant that the Subscription Service will be free from any malware or other programme designed to gain authorised access to data files or to disrupt, damage, or adversely affect the operation of computer software, hardware or network.
- 8.3 Silobreaker shall not be responsible for any breach of the Subscription Service security or Silobreaker server or network security by any third parties and Silobreaker shall not be liable for any loss or damage resulting from any such breach.
- 9. CHARGES AND PAYMENT**
- 9.1 Customer shall pay the Subscription Fees to Silobreaker for the Subscription Service in accordance with the Order Confirmation.
- 9.2 The Subscription Fees may vary from time to time, but shall not change during the Subscription Period, and shall be payable on an annual basis in advance, unless otherwise agreed between Customer and Silobreaker.
- 9.3 Customer shall pay all invoices within 30 days from the invoice date (or as set out in the Order Confirmation).
- 9.4 In addition to the Subscription Fee, the Subscription Service may also be subject to valued added tax ("VAT"), which shall be added to the Subscription Fee.
- 9.5 If Silobreaker has not received payment within 14 days after the due date, and without prejudice to any other rights and remedies of Silobreaker:
- 9.5.1 Silobreaker may, without liability to Customer, disable Customer's account and access to all or part of the Subscription Service and Silobreaker shall be under no obligation to provide any or all of the Subscription Service while the invoice(s) concerned remain unpaid; and
 - 9.5.2 charge interest on any amount unpaid, such interest shall accrue on a daily basis on such due amounts at an annual rate equal to 5% above the Bank of England's base rate at the relevant time for the applicable currency, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 9.6 All amounts and fees stated or referred to in these terms:

9.6.1 shall be payable in such currency as provided on the Order Confirmation; and

9.6.2 except where Silobreaker is unable to provide the Subscription Service for 7 consecutive days or more without being caused by force majeure, are non-cancellable and then only refundable for the unused term of the Subscription Service.

10. PROPRIETARY RIGHTS

10.1 Customer acknowledges and agrees that Silobreaker and/or its licensors own all intellectual property rights in the Subscription Service. Except as expressly stated herein, these terms do not grant Customer 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 licences in respect of the Subscription Service.

11. CONFIDENTIALITY

11.1 Each party may be given access to information from the other party that is proprietary or confidential, either clearly labelled as such or any information that would be regarded as confidential by a reasonable businessperson ("Confidential Information"), in order to perform its obligations under these terms. A party's Confidential Information shall not be deemed to include information that:

11.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

11.1.2 was in the other party's lawful possession before the disclosure;

11.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

11.1.4 is independently developed by the receiving party, where that independent development can be shown by written evidence.

11.2 Subject to Clause 11.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these terms.

11.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of these terms.

11.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

- 11.5 Customer acknowledges that details of the Subscription Service, and the results of any performance tests of the Subscription Service, constitute Silobreaker's Confidential Information.
- 11.6 Silobreaker acknowledges that the User Content is the Confidential Information of Customer.
- 11.7 Customer acknowledges that all Silobreaker technical information relating to the Subscription Service including any data relating to any Silobreaker API is the Confidential Information of Silobreaker.
- 11.8 Neither party shall make, or permit any person to make, any public announcement concerning these terms without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 11.9 The above provisions of this Clause 11 shall survive termination of these terms, however arising.

12. **INDEMNITIES**

- 12.1 Customer shall defend, indemnify and hold harmless Silobreaker against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with;

12.1.1 any breach of Silobreaker's intellectual property rights

12.1.2 any claim made against Silobreaker for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Customer's use of the Subscription Service

Provided that that in relation to any Silobreaker third party claim Customer is given prompt notice of any such claim, Silobreaker provides reasonable co-operation to Customer in the defence and settlement of such claim, at Customer's expense and Customer is given sole authority to defend or settle the claim.

- 12.2 Silobreaker shall defend, indemnify and hold harmless Customer against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with;

12.2.1 any breach of Customer's intellectual property rights

12.2.2 subject to clauses 6.2 and 6.6, any claim made against Customer for actual or alleged infringement of a Third Party's intellectual property rights arising out of or in connection with Customer's use of the Subscription Service (an **IPR Claim**)

- 12.3 If Silobreaker is required to indemnify Customer under this Clause 12 in respect of an IPR Claim, Customer shall:

12.3.1 notify Silobreaker in writing of any claim against it in respect of which it wishes to rely on the indemnity at Clause 12.2;

- 12.3.2 allow Silobreaker, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that Silobreaker shall obtain Customer's prior approval of any settlement terms, such approval not to be unreasonably withheld;
 - 12.3.3 provide Silobreaker with such reasonable assistance regarding the IPRs Claim as is required by Silobreaker, subject to reimbursement by Silobreaker of Customer's costs so incurred; and
 - 12.3.4 not, without prior consultation with Silobreaker, make any admission relating to the IPRs Claim or attempt to settle it, provided that Silobreaker considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of Customer into disrepute.
- 12.4 In the defence or settlement of any claim, Silobreaker may procure the right for Customer to continue using the Subscription Service, replace or modify the Subscription Service so that it becomes non-infringing or, if such remedies are not reasonably available, terminate these terms on 2 UK business days' notice to Customer without any additional liability or obligation to pay liquidated damages or other additional costs to Customer.
- 12.5 In no event shall Silobreaker, its employees, agents and sub-contractors be liable to Customer to the extent that the alleged infringement is based on:
- 12.5.1 a modification of the Subscription Service by anyone other than Silobreaker;
 - 12.5.2 Customer's use of the Subscription Service in a manner contrary to the instructions given to Customer by Silobreaker; or
 - 12.5.3 Customer's use of the Subscription Service after notice of the alleged or actual infringement from Silobreaker or any appropriate authority.
- 12.6 This clause 12 sets out Customer's sole and exclusive rights and remedies, and Silobreaker's (including Silobreaker's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any intellectual property rights.
- 12.7 Liability under these indemnities is limited to a maximum of £5,000,000 in total for all claims under these terms by one party against the other.

13. **EXCLUSIONS AND LIMITATION OF LIABILITY**

- 13.1 Except as expressly and specifically provided in these terms:
- 13.1.1 Customer assumes sole responsibility for results obtained from the use of the Subscription Service by Customer, and for conclusions drawn from such use. Silobreaker shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Silobreaker by Customer in connection with the Subscription Service, or any actions taken by Silobreaker at Customer's direction;

- 13.1.2 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 these terms; and
- 13.1.3 the Subscription Service is provided to Customer on an “as is” basis.
- 13.2 Except for the provisions of clause 12, the extent of the parties’ liability under or in connection with these terms (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 13.
- 13.3 Except for the provisions of clause 12, a party’s total liability under or in connection with these terms shall not exceed:
 - 13.3.1 an amount equal to the Subscription Fees paid to Silobreaker in the 12–month period immediately preceding the first incident giving rise to the loss; or
 - 13.3.2 for incidents occurring in the first 12 months of these terms, an amount equal to the paid and projected Subscription Fees for the first 12 months of the Subscription Services term.
- 13.4 Except for the provisions of clause 12, a party shall not be liable for any of the following (whether direct or indirect):
 - 13.4.1 loss of profit;
 - 13.4.2 loss of or corruption of data;
 - 13.4.3 loss of business
 - 13.4.4 wasted expenditure,
 - 13.4.5 pure economic loss
 - 13.4.6 loss of opportunity;
 - 13.4.7 loss of savings, discount or rebate (whether actual or anticipated); or
 - 13.4.8 harm to reputation or loss of goodwill
 - 13.4.9 any other special, indirect or consequential loss, costs, damages, charges or expenses

Except that nothing in this clause 13.4 shall prevent Silobreaker from claiming any unpaid Fees from Customer.
- 13.5 Notwithstanding any other provision of these terms, the liability of the parties shall not be limited in any way in respect of the following:
 - 13.5.1 death or personal injury caused by negligence;

- 13.5.2 fraud or fraudulent misrepresentation; or
- 13.5.3 any other losses which cannot be excluded or limited by Applicable Law.
- 13.6 References to liability in this clause 13 include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 13.7 If the services under an Order Confirmation or the Subscription Service is terminated for cause by Silobreaker, the following will apply:
 - 13.7.1 Customer shall no longer have any right to receive access to the Subscription Service, but despite that termination, Customer will continue to be liable for any unpaid fees for the Subscription Service for the remaining part of a Subscription Period as set out in the Order Confirmation.
 - 13.7.2 the right to use the Subscription Service and Subscriber Users' usernames shall end once these terms is terminated and any data Customer has stored in the Subscription Service may no longer be available to Customer (save for that expressly set out in these terms). It is therefore important Customer maintains its own archive copies of any data that is valuable to Customer.

14. **TERM AND TERMINATION**

- 14.1 This agreement shall, unless otherwise terminated as provided in this Clause 14, commence on the Effective Date and shall continue for the period set out in the Order Confirmation unless otherwise terminated in accordance with the provisions of these terms;
- 14.2 Without affecting any other right or remedy available to it, either party may terminate these terms with immediate effect by giving written notice to other party if:
 - 14.2.1 a party fails to pay any amount due under these terms on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - 14.2.2 a party commits a material breach of any other term of these terms which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
 - 14.2.3 a party repeatedly breaches any of the terms of these terms in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these terms;
 - 14.2.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of a party;
 - 14.2.5 any event occurs, or proceeding is taken, with respect to a party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this clause;

- 14.3 On termination of these terms for any reason:
- 14.3.1 all licences granted under these terms shall immediately terminate and Customer shall immediately cease all use of the Subscription Service;
 - 14.3.2 each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party;
 - 14.3.3 Silobreaker may destroy or otherwise dispose of any of the User Content in its possession unless Silobreaker receives, no later than ten days after the effective date of the termination of these terms, a written request for the delivery to Customer of the User Content provided that Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). Customer shall pay all reasonable expenses incurred by Silobreaker in returning or disposing of the User Content; and
 - 14.3.4 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.
- 14.4 Silobreaker shall use its reasonable endeavours to return User Content to Customer in the same form as the User Content is held by Silobreaker in the Subscription Service.

15. **FORCE MAJEURE**

- 15.1 Neither party shall be in breach of these terms if it is prevented from or delayed in performing its obligations under these terms, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Silobreaker 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 Silobreaker or its sub-contractors, provided that Customer is notified of such an event and its expected duration.

16. **CONFLICT**

If there is an inconsistency between any of the provisions in the main body of these terms and a Schedule to it, the provisions in the main body of these terms shall prevail.

17. **VARIATION**

Silobreaker may change these terms of use from time to time with immediate effect and shall post any updated terms on <https://www.silobreaker.com/legal>.

Notwithstanding the above, Silobreaker shall not make changes to these terms that materially alter the provisioning or use of the Subscription Service, Silobreaker or Customer's obligations, indemnities, liabilities, confidentiality or governing law without Customer's consent

18. **WAIVER**

No failure or delay by a party to exercise any right or remedy provided under these terms 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. **RIGHTS AND REMEDIES**

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

20. **SEVERANCE**

20.1 If any provision (or part of a provision) of these terms is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

20.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

21. **ENTIRE AGREEMENT**

21.1 These terms together with the Order Confirmation constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2 Each party acknowledges that in entering into these terms it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these terms or the Order Confirmation.

21.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these terms.

22. **ASSIGNMENT**

22.1 Customer shall not, without the prior written consent of Silobreaker, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these terms.

22.2 Silobreaker may assign this agreement to any acquirer of all or of substantially all of such party's equity securities, assets or business relating to the subject matter of this agreement or to any entity controlled by, that controls, or is under common control with Silobreaker.

22.3 Silobreaker shall have the right to assign, transfer or sub-contract its support obligations under this agreement to a subsidiary, affiliated or associated company to Silobreaker or to a third party

that in Silobreaker's reasonable opinion has the qualifications and know-how to provide the support under the Support Policy as set out in this agreement.

23. NO PARTNERSHIP OR AGENCY

Nothing in these terms 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 (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24. THIRD PARTY RIGHTS

Unless it is stated otherwise, this agreement does not confer any rights on any person or party (other than the parties to these terms and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

25. NOTICES

25.1 Any notice required to be given under these terms shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in the Order Confirmation, or such other address as may have been notified by that party for such purposes.

25.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9:00 am on the first UK 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.

26. GOVERNING LAW AND JURISDICTION

26.1 This agreement 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 construed 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 these terms or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1 – SUPPORT POLICY

Silobreaker's ambition is to respond to support requests immediately without delay. At a minimum, we will use our reasonable endeavours to ensure that the following targets are met in respect of product support requests from you:

Report Category	Primary Response	Target Resolution	Permanent Resolution
1. Major Error	4 working hours	12 working hours	2 working weeks
2. Serious Error	8 working hours	2 working days	4 working weeks
3. Minor Issue	5 working days	Future Release	Future Release

Where Report Category is defined as:

Major Error is a material error which prevents the Subscription Service from being run or cripples the service or causes severe performance degradation.

Serious Error is a material error which causes performance degradation, failure or disruption of a major task or feature where no alternative exists or delay in a time critical implementation of the Subscription Service, other than a category 1 issue.

Minor Issue is any non-material defect or failure of the Subscription Service to perform or provide facilities, functions and capacity, other than a category 1 or 2 issue.

Catastrophic events, e.g. data centre outages, are not covered by this policy but managed through disaster recovery measures on a case by case basis.

Where Response/Action is defined as:

Primary Response – a contact from our product support staff reporting the results of an initial investigation into the error, giving details of our analysis of the possible causes of the error and, where possible, proposing a solution for a temporary and/or permanent fix and a timetable for achieving that solution.

Target Resolution - an acceptable temporary work around the issue that allows users to operate the Subscription Service without substantial degradation in performance. A temporary fix will only be applied where applicable. In some instances, a temporary fix may not be available.

Permanent Resolution – a permanent resolution of the issue which restores the Subscription Service to perform substantially in accordance with the product or functionality description.

“Working Hour” for the purpose of service levels is defined as any hour between 8am-5pm (UK time) on non-UK-holiday weekdays (Mon-Fri).

“Working Day” for the purpose of service levels is defined as any non-UK-holiday weekday between a Monday and a Friday.

“Working Week” for the purpose of service levels is defined as five consecutive Working Days.

The allocation of a report category will be at our sole discretion.

Where a problem cannot be fixed within the target response time, we will inform you on how we will proceed in order to resolve the issue in question.

The target response times exclude any time where we are waiting on you to provide information or complete a task.