

seeo Limited Terms and Conditions (Terms)

seeo Limited (**seeo, we or us**) agrees to supply certain **Services** to **you**, the **Customer**, in accordance with and subject to these terms and conditions (**Terms**). Receipt of any Services will (notwithstanding any statement to the contrary by you or your employees or agents) constitute acceptance of these Terms. If there is more than one of you, your liability is joint and several.

1. Interpretation

1.1 In these Terms:

- (a) **Agreement** means the terms set out in any written agreement between us and you for the supply of Services, including any Schedule, and these Terms.
- (b) **Authorised Users** means your employees, agents and contractors.
- (c) **Business Day** means a day other than a Saturday, Sunday, or public holiday in New Zealand
Confidential Information means all information (however recorded or preserved) disclosed by a party or its employees, consultants, officers, representatives, advisers, agents or sub-contractors involved in the provision or receipt of the Services to the other party or that party's representatives in connection with this Agreement which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure, but excludes any information licensed to us under clause 11.2.
- (d) **Customer Data** means any data that is provided by, or on behalf of, you as part of providing the Services.
- (e) **Deployment Fee** means the fee as set out in the Schedule to be paid by you to us for the initial set-up of the Services.
- (f) **Effective Date** means the date set out in the relevant Schedule for the commencement of the Services to be provided by us to you.
- (g) **Force Majeure Event** means any event which is beyond the reasonable control of a party and includes acts of God, natural disaster, war, hostilities, piracy, terrorism or the threat thereof, epidemic, pandemic (including COVID-19), cyber-security attack, any law or any action taken by a government or public authority, riot or fire.
- (h) **Generated Data** means any data that is derived or generated from the Customer Data as part of the Services or otherwise.
- (i) **Initial Subscription Term** means the initial subscription term set out in the relevant Schedule.
- (j) **PPSA** means the Personal Property Securities Act 1999.
- (k) **PPSR** means the Personal Property Securities Register.
- (l) **Premises** means your premises as further detailed in the Schedule.
- (m) **Related Company** has the meaning given to that term in the Companies Act 1993.

- (n) **Schedule** means a schedule, proposal, estimate, or quote that has been accepted in writing by you.
- (o) **seeo Dashboard** means our software-as-a service interface provided to you by us as part of the Service.
- (p) **seeo Equipment** means the equipment to be provided by us to you as part of the Services as further detailed in the Schedule.
- (q) **seeo Software** means the software-as-a-service advanced monitoring and analysis system, which analyses incoming video feeds taken from your Premises, using generic and customised computer algorithms and software methods, including, without limitation, the seeo Dashboard.
- (r) **Services** means the provision of the seeo Software (software), seeo Dashboard (interface) and the seeo Equipment by us to you as specified in the Agreement.
- (s) **Subscription Fee** means the annual fee for the Services as specified in the relevant Schedule.
- (t) **User Subscriptions** means the number of individual Authorised User access details and accounts granted to you which entitle Authorised Users to access and use the Services in accordance with this Agreement.

1.2 Interpretation:

- (a) **Headings:** clause and other headings are for ease of reference only and will not affect this Agreement's interpretation;
- (b) **Parties:** references to any party include that party's executors, administrators, successors and permitted assigns;
- (c) **Persons:** references to a person include an individual, company, corporation, partnership, firm, joint venture, association, trust, unincorporated body of persons, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal identity;
- (d) **Plural and Singular:** references to the singular include the plural and vice versa;
- (e) **Statutory Provisions:** references to any statutory provision are to statutory provisions in force in New Zealand and include any statutory provision which amends or replaces it, and any by law, regulation, order, statutory instrument, determination or subordinate legislation made under it;
- (f) **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (g) **Inclusive Expressions:** the term includes or including (or any similar expression) is deemed to be followed by the words without limitation; and
- (h) **Documents:** references to any document (however described) are references to that document as modified, novated, supplemented, varied or replaced from time to time and in any form, whether on paper or in an electronic form.

2. Services

- 2.1 We will supply the Services to you in accordance with these Terms and the relevant Schedule.

3. Licence Terms

- 3.1 **Grant of Licence:** Subject to your performance of your obligations under this Agreement (including full payment of the all amounts payable to us), we grant you a non-transferable, non-exclusive, non-sublicensable licence to permit the Authorised Users to use the Services during the term of this Agreement solely for the monitoring and analysis of your business operations.
- 3.2 In relation to the Authorised Users, you undertake that each Authorised User will keep a secure password for their use of the Services, and that each Authorised User will keep their password confidential.
- 3.3 **Other services:** We are not obliged to provide any additional services under this Agreement, including without limitation installation, testing, training or changes to the seeo Software or seeo Dashboard. If we agree to provide any such services to you, those services will be performed under a separate agreement and may be at additional cost to you.
- 3.4 **Additional restrictions:** Without our prior written consent, you must not:
- (a) use the Services to provide services to third parties;
 - (b) introduce or permit the introduction of, any virus or vulnerability into our network and information systems;
 - (c) remove any proprietary notices or labels on the seeo Software or seeo Dashboard or any copies thereof;
 - (d) copy, distribute, rent, lease, export, grant a security interest in, sub-licence, resell, resupply or otherwise transfer all or any portion of the seeo Software or seeo Dashboard or the rights therein or thereto;
 - (e) reverse engineer, decompile, disable any control feature or otherwise recreate the source code from the object code of the seeo Software or seeo Dashboard;
 - (f) permit individuals not authorised hereunder to use the Services, and you agree to take all reasonable steps to prevent such use; or
 - (g) modify, adapt, alter, translate or create derivative works from seeo Software, seeo Dashboard or the Services.

4. Provision of Services

- 4.1 We are not liable to you in respect of any defective equipment, software or services provided by any third party or contractor (including any Related Company of ours) in respect of the Services. You will contract directly with each such contractor or other third party (including any Related Company of ours) and may be entitled to make a claim against them in respect of defective software or services supplied by them.

5. Parties' Obligations

- 5.1 You must:

- (a) provide us with:
 - (i) all necessary co-operation in relation to this Agreement; and
 - (ii) all necessary access to such information as we may reasonably require,

in order to provide the Services, including your data, security access information, and (subject to providing any confidentiality undertakings reasonably required by you) software interfaces to your other business applications;
- (b) provide such personnel assistance as we may reasonably request from time to time;
- (c) obtain and will maintain all necessary licences, user accounts, consents, and permissions necessary for us, our contractors and agents to perform their obligations under this Agreement, including without limitation the Services;
- (d) without affecting your other obligations under this Agreement, comply with all applicable regulations with respect to your activities under this Agreement; and
- (e) carry out all your other responsibilities and obligations set out in this Agreement in a timely and efficient manner. In the event of any delays as a result of your failure to carry out your responsibilities or obligations, we may adjust any agreed timetable or delivery schedule as reasonably necessary and may invoice you for any additional expenses reasonably incurred by us as a result of such delays.

6. **seeo Equipment**

6.1 At all times, we retain full legal and equitable ownership of the seeo Equipment notwithstanding:

- (a) the delivery of the seeo Equipment to you; and
- (b) the possession and use of the seeo Equipment by you;

subject only to your rights as a mere bailee of the seeo Equipment, in accordance with these Terms.

6.2 Risk in any seeo Equipment supplied will pass to you when that seeo Equipment is delivered to the Premises. You are responsible for any damage to or loss of the seeo Equipment during your possession of the seeo Equipment, other than for normal wear and tear and you will reimburse us on demand for all costs and expenses incurred by us for any such damage to or loss of the seeo Equipment.

6.3 You acknowledge and agree that:

- (a) this Agreement constitutes a security agreement for the purposes of section 36 of the PPSA which is registrable on the PPSR; and
- (b) this clause 6 creates a security interest in all present and after acquired seeo Equipment as security for your obligations to us.

6.4 At our request, you will promptly deliver, execute or do (or cause to be executed, delivered or done) any documents, contracts, agreements, deeds or other action that we may require from time to time to give effect to these Terms, including without limitation doing all such things as we may require to ensure that the security interest created under these Terms constitutes a perfected security interest over the seeo Equipment. This includes, but is not limited to, providing any

information we request to complete a financing statement or a financing change statement for the PPSR.

- 6.5 Where you are in default under this Agreement, you agree to us entering your Premises or any other place where the seeo Equipment are located, or where we reasonably believe that the seeo Equipment are located, and taking possession of and selling the seeo Equipment even if we do not have priority over other persons having a security interest in the seeo Equipment. Sections 108 and 120(1) of the PPSA do not apply to the extent that they are inconsistent with this clause.

- 6.6 You waive any right to receive a verification statement under the PPSA.

- 6.7 Nothing in sections 114(1)(a), 133 and 134 of the PPSA will apply to these Terms. Your rights as a debtor in sections 116, 120(2), 121, 125-127, 129 and 131 of the PPSA will not apply to these Terms.

7. **Subcontracting**

- 7.1 We may assign, license or sub-contract all or any part of the Services or any of our other rights or obligations under this Agreement without your consent.

8. **Privacy**

- 8.1 You hereby acknowledge and agree that our Privacy Policy will apply to our provision of the Services.

- 8.2 Both parties will comply with all applicable requirements of the Privacy Act 2020. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Privacy Act 2020.

9. **Fees and Payment**

- 9.1 **Fees:** You must pay us:

- (a) the Deployment Fees by the 20th of the month following the Effective Date;
- (b) the Subscription Fees for the Services; and
- (c) any fees for additional User Subscriptions,

each without set off or deduction.

- 9.2 All prices exclude goods and services tax (**GST**) and any other applicable taxes and duties. You agree to pay these items (as applicable) in addition to the price, whether they are imposed before or after your order. We will invoice you and you will make payment in clear funds by the 20th of the month following the date of the invoice directly into our New Zealand bank account, in New Zealand dollars. We will invoice you in advance for the Subscription Fees and the Deployment Fees.

- 9.3 The Subscription Fee is payable annually in advance, starting from the Effective Date, and each twelve (12) months thereafter. No refunds will be made on Subscription Fees.

- 9.4 If there are any fees for additional User Subscriptions, we will invoice you for such fees. If you purchase such additional User Subscriptions part way through an annual Subscription Fee period (e.g. between the Effective Date and an anniversary of the Effective Date or between anniversaries of the Effective Date), such fees will be pro-rated from the date of activation for the remainder of the applicable twelve (12) months period up to an anniversary of the Effective Date.

- 9.5 If we have not received payment within five (5) days after the due date of any payment, and without prejudice to any of our other rights and remedies:
- (a) we may, without liability to you, disable your Authorised Users' password, account and your Authorised Users' access to all or part of the Services and we will be under no obligation to provide any or all of the Services while the due payments remain unpaid; and
 - (b) interest will accrue on a daily basis (and will be capitalised monthly) on such due amounts at a monthly rate equal to 11% over the then current base lending rate of our bankers in New Zealand at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 9.6 You indemnify us for and agree to pay, on demand, all costs we incur (including legal costs on a solicitor-client basis and debt collection costs) in the recovery or attempted recovery of unpaid moneys and/or the enforcement of these Terms or the security interest contained in these Terms.
- 9.7 We will be entitled to increase the Subscription Fees and/or the fees payable in respect of the additional User Subscriptions on or after each anniversary of the Effective Date upon ninety (90) days' prior notice to you.
- 10. Ownership and Intellectual Property**
- 10.1 You acknowledge and agree that we and/or our licensors own all intellectual property rights in the Services (including the seo Software and seo Dashboard). Except as expressly stated herein, this Agreement does not grant you 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 Services.
- 10.2 We confirm that we have all the rights in relation to the Services that are necessary to grant all the rights we purport to grant under, and in accordance with, these Terms.
- 11. Data**
- 11.1 The Customer Data in whatever form and on whatever media remains, at all times, the property of you or your licensors.
- 11.2 You grant to us an unrestricted, royalty free, transferable, sub-licensable, perpetual and irrevocable licence, without the need for your approval, to use (including to train the seo Software), copy, modify, distribute, create derivate works of (including Generated Data), and commercialise, the Customer Data for any purpose (including to provide the Services) provided that, we may not use the Customer Data for any purpose where that use discloses your Confidential Information.
- 11.3 The Generated Data in whatever form and on whatever media remains, at all times, our property.
- 11.4 You warrant and represent to us that:
- (a) You are authorised to grant the licence to us under clause 11.2;
 - (b) you have all rights and licenses necessary or desirable to allow us to use the Customer Data, and to share with, input or transmit the Customer Data to us; and
 - (c) use of the Customer Data by us in accordance with these Terms will not breach any laws or infringe the intellectual property rights of any person.

12. Limitation of Liability

- 12.1 We are not liable to you for any loss or damage arising in connection with the performance or contemplated performance of this Agreement, including for any claim of breach of contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise under any other legal theory.
- 12.2 You will defend, indemnify and hold us harmless 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 your use of the Services, provided that:
- (a) you are given prompt notice of any such claim;
 - (b) we provide reasonable co-operation to you in the defence and settlement of such claim, at your expense; and
 - (c) you are given sole authority to defend or settle the claim.

13. Exclusion of Warranties

- 13.1 **Consumer Guarantees Act:** You agree that you are acquiring the Services for the purposes of a business and that the guarantees provided under the Consumer Guarantees Act 1993 will not apply.
- 13.2 **Fair Trading Act:** You confirm that you are in trade and acquiring the Services for business purposes and agree that sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 do not apply.
- 13.3 **Supplier Exclusion:** We:
- (a) do not warrant that:
 - (i) your use of the Services will be uninterrupted or error-free; or
 - (ii) that the Services or the information obtained by you through the Services will meet your requirements; or
 - (iii) the seeo Software or seeo Dashboard will be free from vulnerabilities or viruses; and
 - (b) are 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 you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 13.4 **Exclusion of warranties:** We make no other warranties or representations express or implied, including warranties of fitness for a particular purpose, merchantability or otherwise, except to the extent that it is unlawful to exclude such warranties. You assume sole responsibility for results obtained from the use of the Services and for conclusions drawn from such use. We will have no liability for any damage caused by errors or omissions in any information, document or sets of documents, instructions or scripts provided to us by you in connection with the Services, or any actions taken by us at your direction. For the avoidance of doubt, we do not warrant that the Services will detect any or all notifiable incidents or notifiable events (as those terms are defined in the Health and Safety at Work Act 2015) of your business operations and we will not be liable for any damages or losses arising from any use, reliance on, inability to use, interruption, suspension or termination of the Services or any such non-detection.

14. Termination

14.1 **Renewal:** This Agreement will commence on the Effective Date and will continue for the Initial Subscription Term and, thereafter, this Agreement will be automatically renewed for successive periods of forty-eight (48) months (each a **Renewal Term**), unless:

- (a) you notify us of termination, in writing, at least sixty (60) days before the end of the Initial Subscription Term or any Renewal Term, in which case this Agreement will terminate upon the expiry of the applicable Initial Subscription Term or Renewal Term; or
- (b) otherwise terminated in accordance with the provisions of this Agreement;

14.2 **Termination by either party:** Without affecting any other right or remedy available to it, seeo may terminate this Agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than five (5) days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 15 Business Days after being notified in writing to do so;
- (c) the other party goes into liquidation (whether compulsory or voluntary) or has a receiver or statutory manager appointed over any of its assets, becomes insolvent or makes any arrangement with creditors;
- (d) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (e) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy.

14.3 **Consequences of termination:** Upon termination of this Agreement for any reason:

- (a) the licence granted clause 3.1 will immediately terminate and you will immediately cease all use of the Services;
- (b) you will:
 - (i) pay all amounts owed to us under this Agreement as at the date of termination;
 - (ii) destroy or delete any and all copies of the seeo Software and seeo Dashboard that are stored in any computer or other storage facility and confirm in writing to us that all such copies have been so deleted or destroyed; and
 - (iii) return the seeo Equipment to us;
- (c) 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 will not be affected or prejudiced.

14.4 Termination of this Agreement for any reason will not affect the validity and enforceability of any rights of a party against the other party which accrued up to and including termination, or the

provisions of this Agreement which by their nature survive termination, including clauses 11.2, 12, 13 and 16.

15. No Reliance

- 15.1 You warrant that you have not relied on any statement or representation made by us (or by any person on our behalf) which has not been stated expressly in this Agreement, or upon any descriptions, illustrations or specifications contained in any document.

16. Confidentiality

- 16.1 Each of the parties recognises that in the course of negotiating and/or performing this Agreement it may receive Confidential Information belonging or relating to the other party.

- 16.2 The provisions of this clause 16 will not apply to any Confidential Information that:

- (a) is or becomes generally freely available to the public (other than as a result of its disclosure by the receiving party or its representatives in breach of this clause 16);
- (b) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
- (c) was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party;
- (d) was known to the receiving party before the information was disclosed to it by the disclosing party;
- (e) the parties agree in writing is not confidential or may be disclosed; or
- (f) is developed by or for the receiving party independently of the information disclosed by the disclosing party.

- 16.3 Each party must keep the other party's Confidential Information confidential and must not:

- (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement (**Permitted Purpose**); or
- (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 16.

- 16.4 Each party must take all reasonable steps to ensure that the other party's Confidential Information to which it has access is not disclosed or distributed by its representatives in violation of the terms of this Agreement.

- 16.5 A party may disclose the other party's Confidential Information to those of its representatives who need to know such Confidential Information for the Permitted Purpose, provided that:

- (a) it informs such representatives of the confidential nature of the Confidential Information before disclosure; and
- (b) at all times, it is responsible for such representatives' compliance with the confidentiality obligations set out in this clause 16.

- 16.6 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 (including any relevant securities exchange) or by a court, arbitral or administrative tribunal 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 16.6, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 16.7 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this Agreement are granted to the other party or to be implied from this Agreement. You acknowledge and agree that we retain ownership of the Confidential Information made available to you.
- 16.8 Each Party agrees:
- (a) to take reasonable steps to protect the other Party's Confidential Information against unauthorised access, use or disclosure;
 - (b) to promptly notify the other Party upon becoming aware of any unauthorised access to, use or disclosure of Confidential Information, and to co-operate with the other Party in seeking to address the situation and protect Confidential Information against further unauthorised access to, use or disclosure; and
 - (c) if requested by the other Party, to return or destroy the other Party's Confidential Information (and confirm that it has done so), except to the extent:
 - (i) included in automatic electronic back-ups of such Party's IT systems;
 - (ii) included in board minutes or retained to comply with internal governance and document retention policies; or
 - (iii) retention is required by any applicable law or regulation or by any competent judicial, regulatory or governmental body.
- 16.9 Each Party acknowledges that damages may not be an adequate remedy if it breaches any term of the provisions of this Clause and that the other Party is entitled to seek injunctive relief to prevent any breach or continued breach, or specific performance to compel it to perform its obligations under this Clause, as a remedy for any breach, in addition to any other available remedies.
- 16.10 The provisions of this clause 16 will continue to apply after expiry or termination of this Agreement for any reason.
- 17. Force Majeure**
- 17.1 Neither party will have any liability to the other under this Agreement if it is prevented from, or delayed in, performing its obligations (excluding payment obligations) under this Agreement, arising from any Force Majeure Event, provided that:
- (a) the other party is notified of such an event and its expected duration; and
 - (b) it uses all reasonable endeavours to mitigate, overcome or minimise the effects of the Force Majeure Event concerned.

18. General Provisions

- 18.1 These Terms apply to all transactions we have with you. If there is any inconsistency between these Terms and any Schedule, the relevant Schedule prevails.
- 18.2 This Agreement is restricted to you. You may not assign or transfer this Agreement without written approval. We may assign this Agreement without notice.
- 18.3 This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns).
- 18.4 Each Agreement constitutes the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of that Agreement.
- 18.5 Failure or neglect by us to enforce at any time any of the terms, conditions or provisions of this Agreement shall not be construed to be a waiver of our rights, or to in any way affect the validity of the whole or any part of this Agreement, or to otherwise prejudice our right to take subsequent action. Any waiver by a party in respect of any right provided for in this Agreement shall not be construed to be a waiver of any further or future right arising under this Agreement.
- 18.6 If any provision of these Terms is held by any Court to be illegal, void or unenforceable, that will not impair the enforceability of the remaining provisions.
- 18.7 These Terms are governed by, and will be construed in accordance with, the laws of New Zealand. Both parties submit to the non-exclusive jurisdiction of the New Zealand Courts.
- 18.8 We may review and change these Terms at any time and from time to time. Any such change will take effect from the date on which we notify you of the change. You consent to such future changes being made by updates on our website, and agree that such update will constitute agreement by you to the amended terms.

19. Dispute Resolution

- 19.1 The parties agree to use their best endeavours to resolve any dispute or difference that may arise under this Agreement. The following process will apply to disputes:
 - (a) a party must notify the other if it considers a matter is in dispute;
 - (b) the contract managers will attempt to resolve the dispute through direct negotiation ; and
 - (c) if the contract managers have not resolved the dispute within 10 Business Days of notification, they will refer it to the parties' senior managers for resolution.
- 19.2 The parties may, if they agree, refer the dispute to mediation or some other form of alternative dispute resolution. If a dispute is referred to mediation, the mediation will be conducted:
 - (a) by a single mediator agreed by the parties or if they cannot agree, appointed by the Chair of Resolution Institute.
 - (b) on the terms of the Resolution Institute standard mediation agreement, and
 - (c) at a fee to be agreed by the parties or if they cannot agree, at a fee determined by the Chair of Resolution Institute.

- 19.3 Each party will pay its own costs of mediation or alternative dispute resolution under this clause
- 19.4 If there is a dispute, each party will continue to perform its obligations under this Agreement as far as practical given the nature of the dispute.
- 19.5 Each party agrees not to start any court action in relation to a dispute until it has complied with the process described in clause 19.1, unless court action is necessary to preserve a party's rights.
- 20. **Notice**
- 20.1 Any notice or correspondence required to be given or sent by either party to the other must be in writing and be sent to the addresses set out in the relevant Schedule.