SUBSCRIPTION TERMS AND CONDITIONS

Last updated: May 2026

These subscription terms and conditions are to be read with your order form ('**Order Form**').

This agreement is between the Client listed in the Order Form ('**you**', '**your**' or '**Client**') and the VALD entity listed in the Order Form ('**VALD**'). VALD is a member of '**VALD Group**', which in addition to VALD includes VALD's subsidiaries, parent entities and any subsidiaries of those parent entities.

Please read this agreement carefully. This agreement governs your use of VALD's technology solutions (your '**Subscription**'). Your Subscription includes the equipment set out in the Order Form ('**Equipment**') and/or the software either associated with the Equipment or as specified in the Order Form ('**Software**'). The Equipment and Software are licenced and not sold to you. This agreement also sets out the terms for your purchase of accessories (if any) for the Equipment as set out in the Order Form ('**Accessories**').

This agreement consists of this document, the Order Form and the following documents that are each incorporated by reference:

(a) VALD's Privacy Policy (https://www.vald.com/privacy-policy) ('**Privacy Policy**');

(b) if applicable, VALD's Data Processing Agreement (https://www.vald.com/legal/data-processing-agreement) ('**DPA**'); and

(c) if applicable, VALD's Business Associate Agreement (https://www.vald.com/legal/business-associate-agreement) ('**BAA**').

VALD rejects any terms contained in any other document that is not explicitly incorporated by reference into this agreement.

You agree to be bound by the terms of this agreement from the earlier of:

(a) the date that you sign the Order Form; or

(b) the date that you start using the Equipment or Software that is covered by your Subscription.

1. SUBSCRIPTION

(a) Your Subscription:

(i) commences on the Commencement Date set out in the Order Form; and

(ii) ends on the earlier of the Expiry Date or the date that this agreement is terminated under clause 9,

(that period from commencement until this agreement ends is the '**Subscription Period**').

(b) The '**Expiry Date**' will initially be the date listed in the Order Form, but that date will automatically extend by the initial Subscription Period, and continue to extend by the initial Subscription Period, unless you or VALD cancel your Subscription before the then current Expiry Date. To cancel your Subscription, you or VALD must provide written notice of the cancellation at least three months prior to the then current Expiry Date. A cancellation notice will be effective at the end of the day on the then current Expiry Date.

(c) When the Subscription Period ends, all Fees for the period prior to this agreement ending become immediately payable to VALD, your Subscription ends and your right to use the Equipment and Software immediately ceases, and the Equipment must be returned. You must return at your cost the Equipment within seven days of this agreement ending to a location reasonably directed by VALD.

2. EQUIPMENT

2.1 Delivery

Unless otherwise agreed by VALD, once you pay the Delivery Fees set out in the Order Form, VALD will arrange for the Equipment (and any Accessories) to be delivered to you at the address you notify in writing.

2.2 Licence and ownership

(a) Subject to your compliance with this agreement, VALD grants you a non-exclusive, worldwide, revocable, non-transferable and non-sublicensable limited licence to use the Equipment in accordance with this agreement during the Subscription Period.

(b) Except for the foregoing licence, no right, title or interest in the Equipment is transferred to you. Title in and all other legal and beneficial interests in and to the Equipment remain solely the property of VALD or a member of VALD Group. You do not have a right or option to purchase the Equipment. VALD Group may encumber the Equipment in favour of any person at its discretion without notice.

(c) You must not, and you must take all reasonable steps to ensure that your Personnel do not, sell or otherwise dispose (or attempt to sell or dispose) of any interest in the Equipment or allow a lien, charge, security interest or encumbrance to be created in respect of or over the Equipment. '**Personnel**' means the directors, officers, employees, agents, contractors or subcontractors of a person.

(d) You agree that VALD Group's Personnel can attend the location that the Equipment is stored to inspect or maintain the Equipment, or exercise VALD's right to collect the Equipment at the end of the Subscription Period.

2.3 Maintenance and repairs

(a) During the Subscription Period, VALD will (at its cost) maintain the Equipment and repair or replace (at VALD's election) Equipment to the extent that the Equipment is damaged during your ordinary use in accordance with the Product User Guides and VALD's direction. The '**Product User Guides**' include all information published or provided by VALD Group, including videos, setting out the best use practices for the Equipment. Current digital versions of these Product User Guides are available at these websites, which may be changed or updated by VALD from time to time:

(i) VALD Knowledge Base (https://support.vald.com/hc/en-au);

(ii) VALD Academy (https://academy.vald.com/); and

(iii) VALD Resources (https://resources.vald.com/).

(b) You are responsible for all damage not covered by clause 2.3(a), as well as any loss, theft or seizure of the Equipment.

3. SOFTWARE

3.1 Licence

(a) Subject to your compliance with this agreement, VALD grants you a non-exclusive, worldwide, revocable, non-transferable and non-sublicensable limited licence to access and use the Software in accordance with this agreement during the Subscription Period.

(b) The Software is licenced and not sold, and except for the foregoing licence, the relevant members of VALD Group retain all rights to the Software.

(c) You must not, and must take all reasonable steps to ensure that your Personnel do not, do or attempt to do any of the following:

(i) sell, assign, transfer or otherwise dispose (or attempt to sell or otherwise dispose) of any interest in the Software; or

(ii) allow a lien, charge, security interest or encumbrance to be created in respect of or over the Software.

3.2 Upgrade of Software

From time-to-time during your Subscription, VALD may change, upgrade and replace the Software (or part of the Software). Changes, upgrades or replacements to the Software that are released to you by VALD are included in the Subscription for no additional Fee.

4. ACCESSORIES

(a) Title to, and ownership of, an Accessory passes to you once you have paid the Fee for the Accessory as listed in the Order Form.

(b) Risk of Loss or damage to an Accessory passes to you on delivery.

(c) If you have not paid the Fee for an Accessory, but the Accessory is delivered to you, then title to, and ownership of, the Accessory remains with VALD and you must:

(i) securely store the Accessory in a way that identifies the Accessory as being the property of VALD;

(ii) not sell, lease, licence, sublicence or otherwise dispose of the Accessory;

(iii) not encumber, or grant a right or interest by way of security in, the Accessory; and

(iv) return the Accessory if you do not pay for the Accessory by the time for payment set out in the invoice for the Accessory unless VALD agrees otherwise in writing.

(d) If an Accessory is defective, then VALD may, at VALD's discretion and cost, either replace the Accessory, repair the Accessory or refund the fees for the Accessory. Local laws in your place of residence may require that VALD take additional or alternative steps in correcting a defect in an Accessory, in which case VALD will comply with those laws.

5. OBLIGATIONS DURING YOUR USE OF THE SUBSCRIPTION

5.1 Positive obligations

You must, and must ensure that your Personnel, do the following:

(a) use the Equipment in an informed and skilful manner, and ensure that the Equipment is only operated in accordance with the Product User Guides and VALD's direction;

(b) only access and use the Software via the methods specified by VALD;

(c) comply with, and procure that users of the Subscription accept and comply with, the terms of this agreement relating to the use of the Equipment, Software and Accessories;

(d) provide all devices (e.g. computers or tablets), hardware, software, networks (including internet access) and other equipment and services necessary to access and make use of the Equipment and Software;

(e) keep the Equipment safe and in your possession or control at all times;

(f) use the Software for the purpose for which it is built, and not with the intention of causing events that could damage, disable, overburden, impair or compromise VALD's systems or security, or interfere with other users;

(g) notify VALD within three days of becoming aware that any Equipment has been lost, stolen, damaged or destroyed, or has become inoperable;

(h) only use the Software and Equipment for the purpose of monitoring the performance of your Personnel or your patients or clients in connection with your day-to-day business; and

(i) only provide VALD with data that has been lawfully obtained and that VALD is legally permitted to process.

5.2 Negative obligations

You must not, and must ensure that your Personnel do not, do or attempt to do any of the following:

(a) reverse engineer, reverse compile, decompile, disassemble or otherwise translate the object code of any part of the Software or derive or discover the source code of the Software, or reverse engineer or disassemble the Equipment;

(b) access or use the Software in order to build, support, or assist any other person to build or support any Equipment, programs, or services which compete with or perform the same functions as the Equipment or Software;

(c) use the Software unlawfully, fraudulently or maliciously, including by inserting malicious code, viruses, or harmful data, into the Software;

(d) transmit or process via the Software any material that is defamatory, offensive or otherwise objectionable, obscene or otherwise unlawful;

(e) remove or modify any proprietary registration, notices, trademarks or certification marks on or in the Software or Equipment;

(f) permit any person other than you, your Personnel or your patients or clients to use the Equipment;

(g) make any alteration, modification, repair or similar changes to the Equipment without VALD's prior written consent; and

(h) directly or indirectly, resell, sublicence, distribute, assign, transfer or otherwise commercialise the Software or Equipment, or data collected or presented by the Equipment or Software to any other person, except that you may provide excerpts of this data to your Personnel, your patients or your clients ('**Recipients**') solely in connection with providing services to those Recipients in your day-to-day business.

6. DATA COLLECTION AND PRIVACY

6.1 Data collection and use

(a) You acknowledge and agree that any data that is entered by you, your Personnel, or otherwise collected using the Equipment and Software will, upon entry or collection, become the property of VALD. You agree that you will obtain any necessary consents or approvals directly from the data subject or their guardian for the lawful collection of the data by you and VALD's lawful processing of that data.

(b) Subject to clause 6.1(c), VALD may use the data for any purpose, provided that the data has been converted into a de-identified or anonymised format. For example, VALD may use de-identified or anonymised data to generate normative reports on the data (such as reports on the correlation of certain measurements with age, gender or case type). Further information about how VALD processes data that is collected using the Equipment and Software is set out in VALD's Privacy Policy.

(c) VALD may use the data in identifiable form solely to:

(i) provide the services, Equipment and Software under this agreement;

(ii) improve VALD's products and services;

(iii) develop VALD's future products and services;

(iv) convert that data into a de-identified or anonymised format.

This may include using identifiable data for diagnostic purposes that support product improvement. For example, if you report a bug, VALD may use your user identification number to identify the Equipment or Software causing the issue, resolve the problem, and contact other affected users. VALD will only disclose your data in identifiable form to our Personnel.

6.2 Application of the DPA and the BAA

(a) If you are not a resident of the European Union or the United Kingdom, then the DPA will apply only to extent that your data is de-identified or anonymised for the purpose of preparing normative reports, and execution of this agreement constitutes execution of the DPA.

(b) The BAA will only apply to you to the extent that you are a "covered entity" and VALD is a "business associate", as those terms are defined under 45 CFR §160.103 of HIPAA.

6.3 Intellectual property

(a) VALD Group will retain its Intellectual Property Rights that pre-exist this agreement. Nothing in this agreement assigns, transfers or (except as expressly provided in clauses 2.2 or 3.1) licenses VALD's pre-existing Intellectual Property Rights to you. '**Intellectual Property Rights'** means all industrial and intellectual property rights of any kind, including copyright, patents, trademarks, designs, moral rights, trade secrets and other proprietary rights.

(b) Intellectual Property Rights developed by VALD or by you during the term of this agreement, to the extent they relate to the Equipment, Software or Accessories, are the property of VALD. For example, any suggestions or requests for features that you provide to VALD will become VALD's property and may be used or commercialised by VALD without your consent or attribution to you.

6.4 Privacy

(a) Each party must:

(i) collect, store, use and otherwise process personal data in accordance with applicable privacy laws;

(ii) comply with their own privacy policy;

(iii) maintain and enforce appropriate technical and organisational measures to protect their own information technology systems from unauthorised use and access; and

(iv) inform the other party of any request from a data subject regarding their personal data and the action being taken to comply with such request.

(b) You acknowledge and agree that you have obtained, or will obtain, all consents and approvals, in accordance with all applicable privacy laws, from all data subjects whose personal data is collected, stored, used or otherwise processed through the Equipment or Software. Such consents and approvals must permit VALD to lawfully collect, store, use and otherwise process that data.

7. PAYMENT

7.1 Payment obligation

(a) You must pay VALD the fees for the Equipment, Software and Accessories (and delivery of those items) set out in the Order Form, including Delivery Fees ('**Fees**') on the date for payment and in accordance with the payment instructions set out in an invoice issued by VALD.

(b) The Fees for the Subscription Period are set out in the Order Form. For any extension of the initial Subscription Period under clause 1(b) (each such extension being a '**Renewal Period'**), the Fees will automatically increase by 3% on each anniversary of the commencement date of the applicable Renewal Period. The Fees for the first year of the applicable Renewal Period will be 3% greater than:

(i) if you have been paying an annual Fee, the last annual Fee (excluding Delivery Fees) paid or payable by you during the prior Subscription Period or prior Renewal Period; or

(ii) if you have not been paying an annual Fee, the pro-rata annual Fee (excluding Delivery Fees) based on the payments paid or payable by you during the prior Subscription Period or prior Renewal Period. For example, if you pay monthly, it will be the amount paid or payable by you multiplied by 12, or if you pay upfront for three years, then the amount paid or payable by you upfront will be divided by three. For clarity, the pro-rate annual Fee will be calculated based on the actual monthly Fee owed, rather than any monthly fee you pay or are scheduled to pay under any payment plan.

(c) Fees must be paid without any set off, deduction or counterclaim (including for Taxes) unless required by law.

(d) If you do not pay VALD the Fees by their due date, in addition to any other remedies under this agreement or at law, VALD may, at its discretion:

(i) suspend or limit your access to the Equipment, the Software, or both;

(ii) cancel your Subscription; and/or

(iii) seek reimbursement from you for any costs or expenses (including legal fees) we reasonably incur or pay as a result of enforcing our rights under this agreement.

(e) No reduction or refund of any Fees will be given in circumstances where VALD's suspension, cancellation or reimbursement rights are exercised.

7.2 Invoicing

(a) VALD will provide you with an invoice for the Fees and any other amounts payable by you.

(b) Invoices will be issued by VALD on or before the time for payment of the Fees or other amounts, and will be sent to you at your representative's email address set out in the Order Form or such other email address that you request.

(c) Subject to an alternative arrangement agreed with you, VALD will issue monthly invoices for your Subscription under this agreement, and you must pay that invoice by the due date set out in the invoice.

7.3 Taxes

(a) Unless expressly stated otherwise, all amounts set out in this agreement (including the Fees) do not include any value added tax, sales tax, stamp duty, import duty or any other taxes imposed by any government or other authority ('**Tax'**).

(b) You are responsible for paying all Taxes that are or become payable under or as a result of this agreement.

(c) If you are required by law to withhold an amount from the payments that are due to VALD:

(i) to the extent permissible by law, you will gross up the payment due to VALD such that the balance that you pay to VALD (after any withholding) is equal to the amount that was otherwise due to VALD prior to the withholding; or

(ii) to the extent that you are not permitted to gross up the payment due to VALD, you may deduct an amount equal to the amount of the required withholding from the amount that is owed and payable to VALD but only if:

(A) you promptly provide VALD with an official receipt for the withholdings and any other documents reasonably requested to allow VALD to claim a foreign tax credit or refund;

(B) you remit the withheld taxes to the appropriate taxing authority as soon as practicable; and

(C) you ensure that the amount withheld is minimised to the extent permissible under the applicable laws.

(d) If you are or become aware of any laws that would require you to withhold an amount due to VALD, you agree to notify VALD and take all actions reasonably required to avoid or mitigate the impacts of those withholding requirements (including obtaining the benefit of any applicable double taxation treaties). VALD will cooperate with any reasonable requests from you in relation to obtaining the benefit of any applicable double taxation treaties.

8. CONFIDENTIALITY

(a) Subject to clause 8(b), each party must maintain in confidence all Confidential Information and ensure that the Confidential Information is kept confidential. '**Confidential Information**' means the financial position of the parties, the commercial terms of this agreement, personally identifiable information that is not de-identified or anonymised or information about the Equipment, Software or Accessories which would be Intellectual Property Rights of VALD. Confidential Information does not include any information which is or becomes generally known to the public other than through a breach of confidentiality provisions of this agreement, that is in the lawful possession of the receiving party at the time it was disclosed or which was disclosed to the receiving party by another person who was entitled to disclose the information.

(b) A party that receives Confidential Information may disclose that information:

(i) if required by law;

(ii) to its professional advisers to obtain professional advice;

(iii) to its financiers and investors including any bona fide potential financiers or investors; and

(iv) if it is reasonably necessary for the receiving party to disclose Confidential Information to its Personnel (or in the case of VALD, a member of VALD group or its Personnel) to enable those persons to perform their obligations or exercise their rights in connection with this agreement.

(c) If Confidential Information is disclosed to a person in accordance with clause 8(b), then the person receiving the Confidential Information must be aware of the confidential nature of the Confidential Information and (unless otherwise required by law) be bound by confidentiality obligations consistent with this agreement.

(d) Each party must take commercially reasonable steps to prevent unauthorised use or disclosure of the Confidential Information.

(e) Unless otherwise permitted by this agreement, a party must not make any public statement about this agreement, the subject matter of this agreement or its relationship with the other party without the other party's prior approval. VALD agrees that, during the Subscription Period, you may use VALD's name and logo in your marketing material, in an informative manner that promotes your use of the Equipment, Software and Accessories. You agree that VALD may use your name and logo in VALD's client lists and marketing materials in an informative manner, alongside no less than two other clients of VALD Group, and in a manner no more materially prominent than any other VALD Group client in those lists and materials.

9. TERMINATION

9.1 Termination for breach

Where a party breaches this agreement, the other party may give notice setting out the details of the alleged breach. In order for the notice to be valid, it must be emailed to the address you have provided us in the Order Form, mailto:legal@vald.com, or such other email address provided by VALD or you for this purpose. A party has 30 days from receipt of the notice to remedy the breach or, if the breach cannot be remedied, provide a remediation plan that satisfies the party that gave notice that the breach will be remedied. If the breach is not remedied or a satisfactory plan is not provided, then the party that gave notice of the breach can immediately terminate this agreement by providing a further notice.

9.2 Event of Default

(a) If an Event of Default occurs in respect of a party, then the party not subject to an Event of Default may terminate this agreement by written notice, effective immediately upon delivery. An '**Event of Default**' means the occurrence of any of the following events:

(i) a receiver, administrator, or similar office holder is appointed over a party or any of its property;

(ii) a party makes a general assignment for the benefit of its creditors;

(iii) a party commences, or has commenced against it, proceedings under any bankruptcy, insolvency law or debtor's relief, which proceedings are not dismissed within 60 days; or

(iv) a party is liquidated, bankrupted or dissolved.

9.3 Consequences of termination

(a) When this agreement is terminated:

(i) clause 1(c) applies to the extent that the termination ends the Subscription in accordance with clause 1(a);

(ii) subject to clause 9.3(b), your rights under this agreement end.

(b) Clauses 1(c), 2.3(b), 6, 7, 10.2 and any other clause which by its nature is intended to survive the end of this agreement will continue in full force and effect after the end of this agreement.

(c) The termination of this agreement does not affect any right that has accrued to a party before termination.

10. LIABILITY AND INDEMNITIES

10.1 Indemnity against Third Party IP Claims

(a) VALD agrees to indemnify you and your Personnel ('**Client Indemnified Parties'**) against loss, damages, liability costs and expenses ('**Loss**') incurred by the Client Indemnified Parties to the extent arising from or in relation to any demand, allegation, claim or action ('**Claim'**) that the Equipment, Software or Accessories, or their use, infringe Intellectual Property Rights of any person that is not a party to this agreement ('**Third Party IP Claim'**) provided that:

(i) you promptly notify VALD in writing of the Claim including details of the allegations of infringement;

(ii) VALD has sole control of the defence of any action and negotiation related to the defence or settlement of any Third Party IP Claim;

(iii) you reasonably cooperate in the defence of the Claim at VALD's request and expense; and

(iv) the Third Party IP Claim does not arise out of:

(A) the combination or integration of Equipment, Software or Accessories with a product, process, system or software that was not supplied by VALD or a member of VALD Group or any other person acting on VALD's behalf or under VALD's instructions;

(B) material alteration of the Equipment, Software or Accessories by anyone other than a member of VALD Group, VALD's Personnel, VALD Group's Personnel or any other person acting on VALD's behalf or under VALD's instructions; or

(C) your use of the Equipment, Software or Accessories:

(I) in their original infringing form after modifications have been provided by VALD for avoiding infringement; or

(II) after VALD requires that you cease using or return the Equipment, Software or Accessories under clause 10.1(c)(i).

(b) Unless the circumstances in clause 10.1(a)(iv) apply, if Equipment, Software or Accessories are found to infringe a third party's Intellectual Property Rights, VALD may either:

(i) obtain rights for you to continue using the relevant Equipment, Software or Accessories; or

(ii) modify the Equipment, Software or Accessories to prevent the infringement while maintaining substantially similar functionality.

(c) If neither of the alternatives in clause 10.1(b) can be implemented despite VALD's commercially reasonable efforts, then VALD may terminate this agreement in relation to the infringing Equipment, Software or Accessories in which case:

(i) you must cease your use of the infringing Equipment, Software or Accessories and return the infringing Equipment or Accessories to VALD;

(ii) no additional Fees will be invoiced to you in respect of the terminated Equipment and Software;

(iii) VALD will refund any Fees that have been pre-paid in respect of the terminated Equipment and Software for any period after the date of termination; and

(iv) VALD will refund any Fees paid for the Accessories.

10.2 Indemnity against Third Party Claims

You agree to indemnify VALD Group and VALD Group's Personnel ('**VALD Indemnified Parties'**) from and against any Loss incurred by the VALD Indemnified Parties to the extent arising from or in relation to any Claim by a person who is not a party to this agreement against a VALD Indemnified Party which arises out of or in relation to your negligent or deliberate action or inaction ('**Third Party Claim'**).

10.3 Indemnity against loss

In addition to any rights against you that VALD may have under this agreement, you agree to indemnify the VALD Indemnified Parties against Loss to the extent incurred by the VALD Indemnified Parties arising from or in relation to:

(a) any Loss in relation to damage to the Equipment that is your responsibility under clause 2.3(b);

(b) a breach of your obligations in clauses 5.1 and 5.2; and

(c) the wrongful, wilful or negligent use of any of the Equipment, Software or Accessories by you, your Personnel, or any other person that you allow access to or allow to use the Equipment, Software or Accessories.

10.4 Liability

(a) To the extent permitted by law and except as otherwise expressly set out in this agreement:

(i) VALD's aggregate liability under or in respect of this agreement is limited to the amount of Fees paid by you in the 12 months before the cause of action arose. This limitation does not apply to VALD's liability under clause 10.1(a);

(ii) neither party will be liable to, and each party waives all claims against, the other party for:

(A) any special, indirect, incidental or consequential Loss or punitive Loss;

(B) Loss arising from data, profits, revenue, business, goodwill, bargain, anticipated savings or management time; or

(C) the cost of procuring substitute products or services arising out of, or in connection with, this agreement or the use or performance of the Equipment, Software or Accessories,

whether or not the first party was, or should have been, aware of the possibility of such Loss.

(b) As a condition precedent to recovery, claims for Loss caused by VALD must be made in writing by you within 30 days after the Loss that is the subject of the Claim.

(c) A liability of a party to indemnify or compensate another party under this agreement will be reduced to the extent that the indemnified party's acts or omissions caused or contributed to the indemnified party's own Loss.

(d) The limitations and exclusions of liability set out in this clause 10.4 apply regardless of the basis on which such liability arises, whether in contract, breach of statutory duty, tort (including negligence), in equity or under statute. However, nothing in this agreement shall exclude or limit either party's liability for any liability that cannot, as a matter of law, be limited or excluded.

(e) If a party is entitled to enforce an indemnity provided under this clause 10, the party must use reasonable endeavours to mitigate the Loss against which the party is indemnified.

10.5 No medical advice

(a) VALD provides the Equipment, Software and Accessories for you to track, manage, and train a person's musculoskeletal performance. The information displayed via the Software, whether provided by VALD or third parties, does not provide medical advice and is not intended to be a substitute for:

(i) advice from a doctor or other healthcare provider, or any diagnosis or treatment; or

(ii) a visit, call or consultation with a doctor or other healthcare provider.

(b) The Equipment, Software and Accessories do not and are not intended to diagnose, treat or prevent any medical condition. All content available from the Equipment or through the Software is for general informational purposes only.

(c) You warrant and agree that athletic activities carry certain inherent and significant risks of bodily injury, death or property damage, and that you will ensure all persons that use the Equipment, Software or Accessories are made aware of and voluntarily assume the risks of all known and unknown risks associated with these activities when using the Equipment, Software and Accessories.

11. GENERAL PROVISIONS

(a) If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

(b) Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this agreement for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

(c) Unless provided otherwise, each party must pay its own costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this agreement.

(d) Each party irrevocably waives any right they may have to serve as a representative or as a private attorney general, or to participate as a member of a class of claimants, in any lawsuit, arbitration or other proceedings against any party arising from, related to, or connected with this agreement.

(e) Unless the context requires otherwise, an obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

(f) Each party acknowledges and agrees that they have read and understood the terms of this agreement, or that they have had the opportunity to discuss the terms of this agreement with their legal representative.

(g) Unless provided otherwise, this agreement must not be amended or varied except by a later written document executed by all parties.

(h) A right created by this agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

(i) This agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument. Electronic or photo-copied signatures shall be considered valid signatures.

(j) Unless provided otherwise, this agreement is governed by the laws of, and the parties submit to the non-exclusive jurisdiction of the courts of:

(i) North Carolina, United States – if the VALD entity is VALD Group, Inc;

(ii) England and Wales – if the VALD entity is VALD Operations Limited;

(iii) Queensland, Australia – if the VALD entity is VALD Performance (Aust) Pty Ltd or VALD Performance (Intl) Pty Ltd; or

(iv) British Columbia, Canada – if the VALD entity is VALD (Canada), Inc.

(k) Any notice to be given under this agreement must be in writing and sent by pre-paid mail or email, to the party's address set out in the Order Form (or such other address notified by a party to the other party). Notices will take effect from the time they are received, or, if earlier, the time deemed to be received as follows:

(i) if sent by pre-paid mail, seven days after posting; or

(ii) if sent by email, four hours after the time the email is sent and no response is received within that time that the email is not delivered,

unless the notice is received, or taken to be received, after 5.00pm in the place of receipt or on a Saturday, Sunday or public holiday in the place of receipt in which case the notice is deemed to be received at 9.00am on the next business day in the place of receipt and will take effect from that time, unless a later time is specified in the notice.

(l) This agreement forms the entire agreement between VALD and you in relation to the provision of the Subscription and the Accessories, and replaces all previous agreements, arrangements, understandings, representations or other communications between the parties in relation to that subject matter.

(m) Except as set out in clause 11(n), a person who is not a party to this agreement has no rights under this agreement to enforce any term of this agreement, but this does not affect any right or remedy of any person which exists or is available under any applicable laws.

(n) VALD holds the benefit of this agreement on behalf of (and, where permitted by law, on trust for) each VALD Group company, and may enforce this agreement directly against you on behalf of each VALD Group company, even though they are not parties to this agreement. To the extent that a VALD Group company cannot, and VALD cannot on its behalf, recover any damages suffered by them, such damages shall be deemed to have been suffered and recoverable by VALD.

(o) You must not sell, transfer, delegate, assign, license or create any security interest over this agreement or any rights or obligations under this agreement without VALD's prior written consent. You authorise VALD to, and agree that VALD may, at any time and without obtaining any further consent from you:

(i) assign all or any of its rights, subcontract all or any of its obligations, or novate all or any of its other rights or obligations under this agreement and, for the purposes of such novation, you consent to the assumption of the applicable liabilities by the relevant transferors; and

(ii) mortgage, charge or otherwise create a security interest over this agreement.

(p) You and VALD each agree that the parties to this agreement are acting in the capacity of an independent contractor and that this agreement does not create any relationship of employment, agency or partnership between the parties either at common law, or for the purposes of any legislation or any other law.

(q) A party will be relieved of its obligations (other than an obligation to pay money) to the extent those obligations are prevented by an event outside the reasonable control of the party (such as fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, war, terrorism (including cyber terrorism), acts of God, acts or omissions of internet traffic carriers, or acts of omissions of a regulatory authority), and that event:

(i) was not caused or contributed to by that party;

(ii) could not have been prevented by reasonable precautions or remedied by reasonable expenditure by the party which is seeking to rely on the event as the basis for relief,

and such relief will continue for the duration of that event. The party affected by the event must take all commercially reasonable steps to resume the performance of its affected obligations as soon as reasonably possible.

(r) Unless the context requires otherwise, in this agreement:

(i) references to a person include a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;

(ii) references to a party include its successors and permitted assigns;

(iii) the words “including” and “includes” are not words of limitation;

(iv) a word expressed in the singular includes the plural and vice-versa;

(v) a word that is derived from a defined word has a corresponding meaning;

(vi) a word expressed in one gender includes every other gender;

(vii) a reference to a document includes all amendments or supplements to, or replacements of that document;

(viii) references to legislation include any modification or substitution of that legislation, and include any subordinate legislation under that legislation;

(ix) a thing (including a chose in action or other right) includes a part of that thing; and

(x) a reference to a clause in this agreement is interpreted to include any subclauses or subsections thereunder.

(s) A consent required to be given to you by VALD may be given or withheld, or may be given subject to any conditions, at VALD’s discretion.

(t) Neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

(u) If there is any inconsistency between the documents forming part of this agreement, the following order of precedence shall apply, with the first-listed document prevailing over any subsequent document to the extent of the inconsistency: the Order Form, this document, the BAA, the DPA, the Privacy Policy, and any other document attached to this agreement.