

CLOBBA 

End User License Agreement

End User License Agreement

END USER LICENSE AGREEMENT (Version May 2021)

IMPORTANT: DO NOT DOWNLOAD, INSTALL OR USE ANY CLOBBA SOFTWARE PRODUCTS UNTIL YOU HAVE READ AND AGREED TO THE TERMS OF THIS EULA.

BY CHECKING THE ACCEPTANCE BOX, DOWNLOADING, INSTALLING OR OTHERWISE USING CLOBBA SOFTWARE PRODUCTS, YOU ACCEPT AND AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS. IF YOU ACCEPT THESE TERMS ON BEHALF OF ANY EMPLOYER OR BUSINESS ENTITY, SUCH ENTITY IS THE CUSTOMER AND YOU REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO LEGALLY BIND SUCH ENTITY TO THIS EULA.

Code may make changes to these Terms from time to time. When we do, we will revise the “last updated” date given above. It is Customer’s responsibility to review these Terms frequently and to remain informed of any changes to them. The then-current version of these Terms will supersede all earlier versions. Customer agree that Customer’s continued use of the Clobba Software Products after such changes have been published to the Clobba Software Products will constitute Customer’s acceptance of such revised Terms.

Language. Any translation we may do is for convenience and in the event of a conflict between the English and non-English versions, the English version shall prevail and govern.

License to Use Clobba Software Products. Subject to these Terms, we grant to Customer a non-sublicensable, non-transferable, non-exclusive, revocable, limited license to use the Clobba Software Products for: (i) Customer’s personal, non-commercial purposes, if Customer are an individual, or (ii) Customer’s internal business purposes, if Customer are a company or other legal entity, and not for resale or further distribution. Customer’s right to use the Clobba Software Products is limited by all terms and conditions set forth in these Terms.

Code Software UK Ltd and its licensors retain all right, title and interest in and to the Clobba Software products and all associated Documentations, including all related intellectual property rights. Applicable intellectual property laws protect the Clobba Software Products, including United States copyright law and international treaties.

1. Customer Rights and Responsibilities

1.1 Ownership and License. Clobba Software products are owned or licensed by Code Software UK Ltd (“Code”) with its principal office at 4 The Apple Store, Far Peaks, Northleach, Gloucestershire, UK GL54 3JL. These license terms governs the use of all Clobba Software Products and Services accessed or used by Customer. Clobba Software is licensed for distribution through Authorized Resellers on a limited, non-exclusive basis, but all use of the Clobba Software is subject to the terms of this EULA.

1.2 Use of Clobba Software Products. Subject to the terms of this EULA, Code grants to Customer a world-wide, non-exclusive, non-transferable and non-sublicensable right for its Authorized Users to use Clobba Software Products for Customer’s internal business operations and shall be permitted solely for the term and the number of licensed Users purchased and specified in an Order Form. Customer shall be directly responsible for any violations of this EULA by any party that it allows to access Clobba Software Products.

1.3 Services. Support services provided by Code will be made available to Customer in accordance with Code or Reseller’s Support Policy and SLA for the Customer’s Support Term.

End User License Agreement

1.4 Use Restrictions. Except as expressly permitted by this EULA, Customer will not, nor permit or authorize anyone to:

- (i) distribute, convey, lend, lease, share, sell, transfer, sublicense, rent, or time share any of the Clobba Software Products, or any of its components or product keys, or permit third parties to download or install any Clobba Software;
- (ii) copy, decompile, disassemble or reverse engineer or otherwise attempt to extract or derive the source code or any methods, algorithms or procedures from the Clobba Software, except as otherwise expressly permitted by applicable law, or modify, adapt, translate or create derivative works based upon the Clobba Software Products;
- (iii) alter or circumvent any product, key or license restrictions, or transfer or reassign a named user license or entitlement, in such a manner that enables Customer to exceed purchased quantities, defeat any use restrictions, or allows multiple users to share such entitlement to exceed purchased quantities;
- (iv) use, offer, embed, or otherwise exploit the Clobba Software Products, whether or not for a fee, in any managed service provider (MSP) offering; platform as a service (PaaS) offering; service bureau; or other similar product or offering, including offering standalone Clobba Software Products as a hosted service;
- (v) use the Clobba Software Products if Customer is a competitor, or use the Clobba Software Products in any manner that competes with Clobba, including but not limited to, benchmarking, collecting and publishing data or analysis relating to the performance of the Clobba Software Products, or developing or marketing a product that is competitive with any Clobba Software Products or service;
- (vi) use the Clobba Software Products in any manner or for any purpose that infringes, misappropriates or otherwise violates any intellectual property right or other right of any third party or that violates any applicable law.

1.5. Clobba Marks. "UC Analytics", the Code Software logo, and all Clobba marks and any other product or service name or slogan displayed on the Clobba Software Products are trademarks of Code Software and its suppliers or licensors, and may not be copied, imitated or used, in whole or in part, without the prior written permission of Code Software or the applicable trademark holder. Customer may not use any meta- tags or any other "hidden text" utilizing "UC Analytics", Clobba or any other name, trademark or product or service name of Code Software without Code's prior written permission. In addition, the look and feel of the Clobba Software Products, including all page headers, custom graphics, button icons and scripts, is the service mark, trademark and/or trade dress of Code Software and may not be copied, imitated or used, in whole or in part, without Code's prior written permission. All other trademarks, registered trademarks, product names and company names or logos mentioned in the Clobba Software Products are the property of their respective owners. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier, or otherwise does not constitute or imply endorsement, sponsorship, or recommendation thereof by Code. For so long as Customer has the right to access and use Clobba Software Products, Clobba grants to Customer a non- exclusive, non-transferable and limited right to use Clobba Marks for the sole purpose of promoting any permitted use of Clobba Software Products. Customer may not remove any copyright, trademark or other proprietary notice displayed or included in the Clobba Software Products.

1.6 Registration Process. If Customer registers for the Clobba Software Products, Customer must provide

End User License Agreement

certain limited information as required for the registration process. Code has the right to refuse to license the Clobba Software Products to any End User or Third Party. When Customer registers for the Clobba Software Products, Customer must create a user account ("Account"). Customer will promptly update all Account information to keep it true, accurate, and complete. Code reserve the right to require Customer to alter Customer's user name and/or password if Code believes that Customer's Account is no longer secure, but Code has no obligation to do so. Customer will not: (a) provide any false information as part of Customer's Account information; (b) create an Account for anyone other than Customer; (c) create or use more than one Account at any given time; (d) transfer Customer's Account to anyone else; (e) permit others to use Customer's Account; or (f) use or access other persons' Accounts. Either Customer or Code may terminate Customer's Account at any time for any reason, and, if Code terminates Customer's Account, Code shall have no liability whatsoever for any such termination. In addition, any terms hereof that contemplate continuing effectiveness, including, without limitation, terms regarding ownership, disclaimer of warranties, limitations of liability, indemnity, and governing law/venue shall survive any termination of Customer's Account and/or this EULA.

1.7 Customer Compliance. Customer and Authorized Users shall use and access the Clobba Software Products and the Service Content in accordance with this EULA. Customer shall be directly responsible for any violations of any of the forgoing by any party that it allows to access the Clobba Software Products, including Authorized Users and Authorized Third Parties. Authorized User login credentials are confidential and not permitted to be shared with any unauthorized user or third party and may not be assigned to any email alias or group address book. In the event of any unauthorized use by any third party that obtained access through Customer or any of its Authorized Users, Customer will immediately notify Code and take all steps necessary to terminate such unauthorized use. Customer will provide Code with such cooperation and assistance related to any such unauthorized use as Code may reasonably request. Customer acknowledges that in order to protect transmission of Content to the Site and the Clobba Software Products, it is Customer's responsibility to use a secure encrypted connection to access the Clobba Software Products.

1.8 Responsibility for Content. Customer acknowledges and agrees that (i) Customer has sole responsibility to determine which Authorized Users gain access to the Clobba Software Products and which Content such Authorized Users may access via the Clobba Software Products, (ii) Code has no obligation to monitor any Content, (iii) Code does not control, interpret, verify or endorse the Content that Customers or Authorized Users make available on the Clobba Software Products, (iv) Code is not responsible for the accuracy, completeness, appropriateness, copyright compliance or legality of any Content accessible using the Clobba Software Products, (v) Customer, and not Clobba, is fully responsible for all storage and backup of Content; and (iv) subject to Section 3, Customer is solely responsible for the uploading and/or deletion of any Content placed on the Site or with the Clobba Software Products by any Authorized User. Customer is solely responsible for the development, content, operation, maintenance and use of Content. Customer hereby represents and warrants on behalf of itself and its Authorized Users that (a) it has all of the rights in the Content necessary for the, use, display, publishing, sharing and distribution of the Content in the course of using the Clobba Software Products; and (b) the storage, display, publication, performance, integration, use and transmission of Content through the Clobba Software Products does not violate any law or these Terms.

1.9 Authorized Third Parties. Customer is solely responsible for its Authorized Third Parties' use of the Clobba Software Products. If Customer chooses to have an Authorized Third Party access the Site or the

End User License Agreement

Clobba Software Products on its behalf, Customer acknowledges that Customer, and not Code, is solely responsible and liable for (i) the acts and omissions of such Authorized Third Party in connection with the Clobba Software Products; (ii) any Content that Customer requests or instructs the Authorized Third Party to include in the Clobba Software Products; and (iii) the issuance, removal and/or deactivation of the credentials issued for such Authorized Third Party. Further, if Customer requests or instructs a Authorized Third Party to import or upload Content to the Clobba Software Products, such actions by the Authorized Third Party shall be deemed to be the actions of Customer. For purposes of this Section 2.5, Authorized Third Parties include Code employees accessing the Clobba Software Products.

Indemnification and Warranty

Indemnification by Customer. Customer shall defend, indemnify and hold harmless Code, its affiliates and each of their respective employees, contractors, directors, officers, suppliers and representatives from all liabilities, claims, and expenses, including reasonable attorneys' fees, that arise from or relate to any third party claims alleging: (i) violation of any privacy or other rights of any third party or any Authorized User in connection with the Clobba Software Products (except to the extent arising from an IP Claim) or (ii) any breach of Section 2.2.

1.10 License Grant from Customer. Customer hereby grant a royalty-free license to Code Software and Beneficiaries to use, copy, transmit and modify Customer's customer data for the purposes of providing the service and the limited purpose of aggregating the data and using it in an anonymous fashion. Customer data will not be sold and does not contain any personally identifiable information.

1.11 Restricted Areas of the Clobba Software Products. Certain parts of the Clobba Software Products, including account management features, may be password- restricted to registered users or other authorized persons ("Password-Protected Areas"). If Customer are authorized to gain access to any Password-Protected Areas, Customer agree that Customer is entirely responsible for maintaining the confidentiality of Customer's password, and agree to notify Code or Authorized Reseller if the password is lost, stolen, disclosed to an unauthorized third party, or otherwise may have been compromised. Customer agree that Customer are entirely responsible for any and all activities that occur under Customer's account, whether or not Customer is the individual who undertakes such activities. Customer agrees to immediately notify Code of any unauthorized use of Customer's account or any other breach of security in relation to Customer's password or the Clobba Software Products that is known to Customer.

2. Warranties and Disclaimers

2.1 Code warrants that the Clobba Software will, for a period of ninety (90) days from its Delivery Date ("Warranty Period"), operate substantially in conformity with the applicable Documentation. Customer must assert any claim for breach of this warranty within the Warranty Period. Customer's exclusive remedy and Codes' sole liability with regard to any breach of this warranty will be, at Codes' option and expense, to either: (i) repair or replace the non-conforming Software; or (ii) if the Software was obtained by purchase, refund to Customer the fees paid by Customer for the non-conforming Clobba Software.

2.2 If Code elects to refund the applicable fee paid for the non-conforming Clobba Software pursuant to Section 2.1(ii), then: (i) Customer shall promptly return or demonstrate to Code's reasonable satisfaction that it has destroyed the non- conforming Clobba Software and any other related materials provided by Code or Reseller; and (ii) the right to access or use such non-conforming Clobba Software will automatically terminate.

End User License Agreement

2.3 Code will have no liability for any warranty claim, or any obligation to correct any defect or problem with the Clobba Software, to the extent that it arises out of: (i) any use of the Clobba Software not in accordance with the Documentation; (ii) any unauthorized modification or alteration of the Clobba Software; or (iii) any use of the Clobba Software in combination with any third-party software or hardware not specified in the Documentation.

2.4 Code warrants that any Consulting Services will be performed using reasonable care and skill consistent with generally accepted industry standards. For any claimed breach of this warranty, Customer must notify Code of the warranty claim within thirty (30) days of Customer's receipt of the applicable Consulting Services. Customer's exclusive remedy and Code's sole liability with regard to any breach of this warranty will be at Code's option and expense to either: (i) re-perform the non-conforming Consulting Services; or (ii) refund to Customer the fees paid for the non-conforming Consulting Services. Customer shall provide reasonable assistance to Code in support of its efforts to furnish a remedy for any breach of this warranty.

2.5 EXCEPT AS EXPRESSLY SET FORTH IN THIS EULA, CODE MAKES NO OTHER WARRANTIES AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE (EVEN IF CODE HAS BEEN INFORMED OF SUCH PURPOSE). CODE DOES NOT WARRANT THAT THE CLOBBA SOFTWARE PRODUCTS, CONSULTING SERVICES OR TRAINING WILL BE ENTIRELY FREE FROM DEFECTS OR OPERATE UNINTERRUPTED OR ERROR FREE. DATA INCLUDED IN ANY CLOBBA SOFTWARE PRODUCT IS PROVIDED "AS IS."

3. Payment

3.1 Fees. Customer shall pay any fees due in accordance with the payment terms either to Code or to an Authorized Reseller and as set out in an Order Form. Payments are non-cancelable, non-refundable and non-creditable with no right of offset or suspension, except as otherwise expressly provided in this EULA. Unpaid fees may be subject to a late fee as set out in an Order Form on any outstanding balance, or the maximum rate permitted by law, whichever is lower. Fees for Consulting or Training Services are exclusive of travel costs and expenses. If Customer fails to make any payment when due, Code may, without limiting its other rights and remedies, temporarily suspend access to Clobba Software Products or accelerate Customer's unpaid fee obligations so that all such obligations become immediately due and payable. If Customer uses Clobba Software Products with capacity-based licensing or metered usage enabled, Customer shall pay for any use or consumption of such Clobba Software Products in excess of the authorized quantities.

3.2 Taxes. Fees do not include sales, use, withholding, value-added or other taxes or duties. Customer agrees to pay all applicable taxes, public fees, duties, deductions or withholdings for which Code or Authorized Reseller is required to pay or account, exclusive of any tax on Code's income. Customer shall directly pay any such taxes or duties assessed against it, unless Customer provides Code or Authorized Reseller in a timely manner with a valid certificate of exemption or other evidence that items are not taxable.

4. Limitation of Liability

4.1 Limitation of Liability. Except for (i) Code's indemnification obligations under this EULA, or (ii) death or bodily injury caused by Code's negligence; Code's maximum, cumulative liability for any claims, losses, costs (including attorney's fees) and other damages arising under or related to this EULA

End User License Agreement

and in connection with the license or use of the Clobba Software Products, regardless of the form of action, whether in contract, tort (including negligence or strict liability) or otherwise, will in no event exceed the greater of the amount of fees paid or payable by Customer for the twelve (12) month period preceding the loss or damages giving rise to the claim and attributable to the specific products or services giving rise to such damages, or one thousand US Dollars (US \$1,000).

4.2 Exclusion of Damages. IN NO EVENT WILL CODE, ITS AFFILIATES, AUTHORIZED RESELLERS OR THEIR RESPECTIVE DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, ASSIGNS SUPPLIERS OR LICENSORS, BE LIABLE FOR ANY LOSS OF SAVINGS, PROFITS OR REVENUES, LOSS OR CORRUPTION OF DATA, GOODWILL, OR REPUTATION, INACCURACY OF ANY DATA, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR SOFTWARE, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, HOWSOEVER ARISING AND REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE OR STRICT LIABILITY), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. CLOBBA SOFTWARE PRODUCTS ARE NOT INTENDED FOR HIGH RISK ACTIVITIES AND CODE WILL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE CLOBBA SOFTWARE PRODUCTS.

4.3 THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS CONTAINED IN THIS EULA ARE INDEPENDENT OF ANY AGREED REMEDY SPECIFIED IN THIS EULA AND WILL APPLY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY AGREED REMEDY IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. TO THE EXTENT THAT CODE MAY NOT, AS A MATTER OF LAW, DISCLAIM ANY WARRANTY OR LIMIT ITS LIABILITIES, THE SCOPE OR DURATION OF SUCH WARRANTY AND THE EXTENT OF CODE'S LIABILITY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. IF A WAIVER, RIGHT, OR REMEDY IS EXERCISED PURSUANT TO MANDATORY LAW, IT SHALL BE EXERCISED SOLELY FOR THE PURPOSE PROVIDED AND IN CONFORMANCE WITH THE PROCEDURES AND LIMITATIONS EXPRESSLY PROVIDED FOR BY SUCH LAW.

4.4 No Third-Party Beneficiaries. The warranties and other obligations of Code under this EULA run only to, and for the sole benefit of Customer, notwithstanding any rights of Authorized Third Parties to access or use the Clobba Software Products. Except as otherwise mandated by applicable law, no person or entity will be considered a third-party beneficiary of this EULA or otherwise entitled to receive or enforce any rights or remedies in relation to this EULA.

4.5 Customer will indemnify and hold Code, its affiliates and any Authorized Reseller harmless from any costs, damages, expenses, and liability caused by Customer's use of the Clobba Software Products and Service Content, Customer's violation of this EULA, or Customer's violation of any rights of a third party through use of the Clobba Software Products or Service Content.

5. Intellectual Property Rights and Infringement Indemnification

5.1 Ownership. Customer retains all right, title and interest in and to its proprietary data used by Customer in connection with the Clobba Software Products ("Customer Data"). Code retains all right, title and interest in and to the Clobba Software Products and if applicable, all deliverables resulting from performance of Consulting Services, including all know how, methodologies, designs and improvements to the Clobba Software Products, but excluding any Customer Data incorporated into any such deliverable. Code hereby grants Customer a non-exclusive license to use any deliverables or work product that are the result of any Consulting Services in connection with Customer's authorized use of the Clobba Software Products.

5.2 Retention of Rights. No title or ownership of any proprietary or other rights related to Clobba

End User License Agreement

Software Products is transferred or sold to Customer or any Authorized User pursuant to this EULA. All intellectual property rights not explicitly granted to Customer are reserved and Code, its affiliates, and their respective suppliers or licensors, where applicable retain all right, title and interest in and to the Clobba Software Products, including all intellectual property rights embodied therein, as well as to all Clobba Marks.

5.3 Feedback. Code may provide Customer with a mechanism to provide feedback, suggestions, and ideas, if Customer choose, about the Clobba Software Products (“Feedback”). Customer agrees that Code may, in its sole discretion, use the Feedback Customer provide to Code in any way, including in future enhancements and modifications to the Clobba Software Products. Customer hereby grant to Code and its assigns a perpetual, worldwide, fully transferable, sublicensable, irrevocable, royalty free license to use, reproduce, modify, create derivative works from, distribute, and display the Feedback in any manner any for any purpose, without in any media, software, or technology of any kind now existing or developed in the future, without any obligation to provide attribution or compensation to Customer or any third party. Code will treat any Feedback Customer provide to us as non-confidential and non-proprietary.

5.3 Indemnification. Code shall defend, indemnify and hold Customer harmless from any damages and costs awarded against Customer as a result of a third party claim that the Clobba Software Products, as delivered by Code and used as authorized under this EULA, infringes upon any third party copyright, trademark or a patent (“IP Claim”). Customer shall defend, indemnify and hold Code harmless from any damages and costs awarded against Code as a result of a third party claim alleging Customer’s External Use of the Clobba Software Products or use of Customer Data with Clobba Software Products, infringes upon any third party copyright, trademark or patent to the extent any such infringement arose from Customer’s use or combination of the Clobba Software Products with any data, content, services or software or other materials not provided by Code. Each party’s indemnification obligation is subject to: (i) prompt notification of a claim in writing to the indemnifying party; (ii) consent to allow the indemnifying party to have sole control of the defense and any related settlement negotiations; and (iii) provision of information, authority and assistance as necessary for the defense and settlement of an indemnified claim. The indemnifying Party shall not consent to entry into judgment or enter into any settlement that admits liability of the indemnified Party, provides for injunctive or other non-monetary relief affecting the indemnified Party, without the prior consent of the indemnified Party, which consent shall not be unreasonably withheld.

5.4 Exceptions. Code will not be liable for any IP Claim arising from or based upon: (i) any unauthorized use, reproduction or distribution of the Clobba Software Products; (ii) any modification or alteration of the Clobba Software Products without the prior written approval of Code; (iii) use of the Clobba Software Products in combination with any other software, hardware, third party data or other materials not provided by Code; (iv) use of a prior version of the Clobba Software Products, if use of a newer version of the Clobba Software Products would have avoided such claim; or (v) any Third Party Materials provided with the Clobba Software Products.

5.5 Remedies. If the Clobba Software Product becomes, or in Code’s opinion is likely to become, the subject of an IP Claim, Code may, at its option and expense, either: (i) obtain the right for Customer to continue using the Clobba Software Products in accordance with this EULA; (ii) replace or modify the Clobba Software Products so that it becomes non-infringing while retaining substantially similar functionality; or (iii) if neither of the foregoing remedies can be reasonably provided by Code, terminate all rights to use the Clobba Software Products (without need for a ruling by a court or arbitrator)

End User License Agreement

and refund as applicable a pro rata portion of prepaid subscription fees from the date of purchase. Customer agrees to delete or destroy any copies of the Clobba Software after the effective date of any such termination.

5.6 SOLE AND EXCLUSIVE REMEDY. THIS SECTION 5 STATES CODE'S, ITS AFFILIATES AND AUTHORISED RESELLER'S SOLE AND ENTIRE OBLIGATION AND LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE RIGHT AND REMEDY, FOR INFRINGEMENT OR VIOLATION OF INTELLECTUAL PROPERTY RIGHTS.

6. Access to the Clobba Software Products.

6.1 Code does not provide Customer with the equipment to access the Clobba Software Products. Customer is responsible for all fees charged by third parties related to Customer's access and use of the Clobba Software Products (e.g., charges by Internet service providers).

6.2 Code reserves the right to modify or discontinue, temporarily or permanently, all or any portion of the Clobba Software Products without notice. Code will not be liable to Customer or to any third party for any modification, suspension, or discontinuance of all or any portion of the Clobba Software Products. Code also reserve the right, in its sole discretion, to reject, refuse to post, or remove any material that Customer posts or submits for posting, and to restrict, suspend, or terminate Customer's access to the Clobba Software Products at any time, for any or no reason, with or without prior notice, and without liability.

7. Restrictions on Use. Customer must comply with all applicable laws when using the Clobba Software Products. Except as may be expressly permitted by applicable law, or as Code Software may authorize expressly in writing. Customer will not, and will not permit anyone else to: (i) store, copy, modify, distribute, or resell any of the information; audio, visual, and audio visual works, or other content made available on the Clobba Software Products (collectively, "Service Content") or compile or collect any Service Content as part of a database or other work; (ii) use any automated tool (e.g., robots, spiders) to access or use the Clobba Software Products or to store, copy, modify, distribute, or resell any Service Content; (iii) rent, lease, or sublicense Customer's access to the Clobba Software Products to another person; (iv) use the Clobba Software products or Service Content for any purpose except for Customer's own personal use, or, if Customer is a legal entity, for Customer's internal business purposes; (v) circumvent or disable any digital rights management, usage rules, or other security features of the Clobba Software Products; (vi) use the Clobba Software Products in a manner that overburdens, or that threatens the integrity, performance, or availability of, the Clobba Software Products; or (vii) remove, alter, or obscure any proprietary notices (including copyright and trademark notices) on any portion of the Clobba Software Products or any Service Content.

8. Links and Third Party Content. Code's Clobba Software Products may display, or contain links to, third party products, services, and websites. Any opinions, advice, statements, services, offers, or other information that constitutes part of the content expressed, authored, or made available by other users or other third parties on the Clobba Software Products, or which is accessible through or may be located using the Clobba Software Products (collectively, "Third Party Content") are those of the respective authors or producers and not of us or Code's shareholders, directors, officers, employees, agents, or representatives. Code does not control Third Party Content and cannot and do not guarantee the accuracy, integrity or quality of such Third Party Content. Code is not responsible for the performance of, we do not endorse, and we are not responsible or liable for, any Third Party Content or any information or materials advertised in any Third Party Content. By using the Clobba Software

End User License Agreement

Products, Customer may be exposed to content that is offensive, indecent, or objectionable. Code are not be responsible or liable, directly or indirectly, for any damage or loss caused to Customer by Customer's use of or reliance on any goods, services, or information available on or through any third party service or Third Party Content. It is Customer's responsibility to evaluate the information, opinion, advice, or other content available on and through the Clobba Software Products.

9. Confidentiality

9.1 Each Party will hold in confidence the other Party's Confidential Information and will not disclose or use such Confidential Information except as necessary to exercise its express rights or perform its express obligations hereunder. Any Party's disclosure of the other Party's Confidential Information may be made only to those of its employees or consultants who need to know such information in connection herewith and who have agreed to maintain the Confidential Information as confidential as set out herein. Notwithstanding the foregoing, a Party may disclose the other Party's Confidential Information to the extent that it is required to be disclosed in accordance with an order or requirement of a court, administrative agency or other governmental body, provided that such Party, to the extent permitted by law, provides the other Party with prompt notice of such order or requirement in order that it may seek a protective order. Each Party's confidentiality obligations hereunder will continue for a period of three (3) years following any termination of this EULA, provided, however, that each Party's obligations will survive and continue in effect thereafter with respect to, and for so long as, any Confidential Information continues to be a trade secret under applicable law. The Parties acknowledge and agree that the Clobba Software Products and all pricing information shall be treated as the Confidential Information of Code and Authorised Reseller. Customer will maintain reasonable access controls and system security to safeguard the Clobba Software Products.

10. Term and Termination

10.1 Term. The EULA is effective upon the earlier of the effective date of the first Order Form or the date Customer first accesses or uses Clobba Software Products and shall remain in effect until terminated (i) as set out in this Section, or (ii) automatically upon expiration of all rights to use any Clobba Software Products pursuant to one or more Order Forms.

10.2 Termination for Breach or Insolvency. Code or any Authorised Reseller may terminate this EULA or any applicable Order Form, license or, subscription (without resort to court or other legal action) if the Customer fails to cure a material breach within ten (10) days after written notice of such breach provided that Code or Authorised Reseller may terminate this EULA immediately upon any breach of Section 1.4 or if Customer terminates or suspends its business without a successor or becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. If Clobba Software Products are purchased through an Authorized Reseller, Code may terminate any right to use the Clobba Software Products pursuant to this Section in the event Code fails to receive payment for such Clobba Software Products from the Authorised Reseller.

10.3 Effect of Termination. Unless earlier terminated, Customer's rights with respect to Clobba Software Products and Services, including any related Software license or subscription, will end upon termination of this EULA or expiration of any applicable subscription or term. Unless earlier terminated, Customer's right to receive Support will end upon termination of this EULA or expiration of the Support Term. Upon termination of this EULA or the right to use any Clobba Software Products or Services, Customer shall: (i) immediately cease using the applicable Clobba Software Products and Services,

End User License Agreement

including any access by Authorized Third Parties; and (ii) certify to Code within thirty (30) days after expiration or termination that Customer has uninstalled, deleted and destroyed all copies of the applicable Software, the Documentation and all other Code Confidential Information in its possession. Termination of this EULA or any licenses or subscriptions shall not prevent Code from pursuing all available legal remedies, nor shall such termination relieve Customer's obligation to pay all fees that are owed for the entirety of the applicable term. All provisions of this EULA relating to Code's ownership of the Clobba Software Products, limitations of liability, disclaimers of warranties, confidentiality, waiver, audit and governing law and jurisdiction, will survive the termination of this EULA.

10.4 Support Term. Where Customer receives support services from an Authorized Reseller, such support services will be provided pursuant to a separate written agreement between Customer and the Authorized Reseller.

11. General Provisions

11.1 Definitions. Unless defined elsewhere in this EULA, the capitalized terms utilized in this EULA are defined below.

(i) "Agreement" means this End User License Agreement, each Addendum (which is incorporated by reference), and any Order Form(s) between Code (or Authorized Reseller) and Customer for the provision of Clobba Software Products or Services.

(ii) "Authorized Third Party" means any third party authorized by Code to access and use Clobba Software Products under the Customer's license.

(iii) "Authorized Reseller" means a reseller, distributor or other partner authorized by Code to sell Clobba Software Products or Services.

(iv) "Authorized User" means (a) in the case of an individual accepting this EULA on such individual's own behalf, such individual; (b) an employee or Authorized Third Party of the Customer, who has been authorized by Customer to use the Clobba Software Products in accordance with the terms and conditions of this EULA, and has been allocated a license or user credentials for which the applicable fees have been paid.

(v) "Confidential Information" means non-public information that is disclosed by or on behalf of a Party under or in relation to this EULA that is identified as confidential at the time of disclosure or should be reasonably understood to be confidential or proprietary due to the nature of the information and/or the circumstances surrounding its disclosure. Confidential Information does not include information which, and solely to the extent it: (i) is generally available to the public other than as a result of a disclosure by the receiving Party or any of its representatives; (ii) was known to the receiving Party prior to the date hereof on a non-confidential basis from a source other than disclosing Party or its representatives; (iii) is independently developed by the receiving Party without the benefit of any of the disclosing Party's Confidential Information; (iv) becomes lawfully known to the receiving Party on a non- confidential basis from a source (other than disclosing Party or its representatives) who is not prohibited from disclosing the information to the receiving Party by any contractual, legal, fiduciary or other obligation; or (v) was disclosed by the disclosing Party to a third party without an obligation of confidence. In any dispute concerning the applicability of these exclusions, the burden of proof will be on the receiving Party and such proof will be by clear and convincing evidence.

(vi) "Consulting Services" means any mutually agreed upon consulting services performed by Code or Authorized Reseller subject to the terms of this EULA and any applicable Order Form.

End User License Agreement

- (vii) “Customer” means an individual or company that has entered into this EULA by electronically accepting the terms or by accessing and using the Clobba Software Products; or where an Order Form has been executed, then Customer means the entity identified on the Order Form.
- (viii) “Delivery Date” means the date on which both the Clobba Software Products specified in the relevant Order Form for such Products are initially made available (via download or otherwise) to the Customer or to the Authorized Reseller as applicable.
- (ix) “Documentation” means the then-current user documentation for the Clobba Software Products
- (x) “Training Services” means any training or education services performed by Code or its Authorized Resellers under the terms of any applicable Order Form.
- (xi) “External Use” means an Authorized Third Party’s use of any Clobba Software Products, which are designated for external use in the Documentation, provided such use is solely in connection with Customer’s business relationship with the Authorized Third Party.
- (xii) “Order Form” means an order form, statement of work or written document pursuant to which Customer orders Clobba Software Products or Services, and executed by the Parties or by Customer and an Authorized Reseller.
- (xiii) “Party” or “Parties” means Code and Customer, individually and collectively, as the case may be.
- (xiv) “Clobba Marks” means Code’s trademarks, service marks, trade names, logos, and designs, relating to Clobba Software Products, whether or not specifically recognized, registered or perfected.
- (xv) “Clobba Software Products” means Software, Clobba Software Products and any related product offerings provided or licensed by Code. Clobba Software Products do not include Services or early release, beta versions or technical previews of product offerings.
- (xvi) “Clobba Software Products” means a service offering on a cloud infrastructure hosted and/or managed by Code or its affiliates.
- (xvii) “Services” means Support, Consulting Services or Training Services provided by Clobba pursuant to an Order Form. Services does not include Clobba Software Products.
- (xviii) “Service Content” means any output, results content or data including information; audio, visual, and audio visual works, or other content made available on the Clobba Software Products provided using the Clobba Software products;
- (xix) “Software” means the generally available release of the Clobba software, in object code form, initially provided or made available to Customer as well as updates thereto that Clobba elects to make available at no additional charge to all of its customers that subscribe to Support for the Software.
- (xx) “Support” means end user support and access to updates for the Clobba Software Products, which are provided by Code or Authorized Reseller pursuant to a support contract or as included in a subscription.
- (xxi) “Support Term” means the period during which Customer is entitled to receive Support during a subscription term or pursuant to a support contract.

11.2 Recordkeeping, Verification and Audit. While this EULA is in effect and for one (1) year after the effective date of its termination, upon request by Code or Authorized Reseller but not more than

End User License Agreement

once per calendar year, Customer shall conduct a self-audit of its use of the Clobba Software Products and, within ten (10) business days after receipt of such request, submit a written statement to Code or Authorized Reseller verifying that it is in compliance with the terms and conditions of this EULA. Code or Authorized Reseller shall have the right, on its own or through its designated agent or third party accounting firm, to conduct an audit of Customer's use and deployment of the Clobba Software Products and monitor use of any Clobba Software Products, in order to verify compliance with this EULA. Code or Authorized Reseller's written request for audit will be submitted to Customer at least fifteen (15) days prior to the specified audit date, and such audit shall be conducted during regular business hours and with the goal of minimizing the disruption to Customer's business. If such audit discloses that Customer is not in material compliance with the terms of this EULA, then Customer shall be responsible for the reasonable costs of the audit, in addition to any other fees or damages to which Clobba may be entitled under this EULA and applicable law.

11.3 Third Party Materials. Clobba Software Products may include certain open source or other third party software, data, or other materials (the "Third Party Materials") that are separately licensed by their respective owners. Third Party Materials are identified in the Documentation. Code represents that if the Clobba Software Products are used in accordance with this EULA, such use shall not violate any license terms for the Third Party Materials. Code makes no other representation, warranty, or other commitment regarding the third party materials, and hereby disclaims any and all liability relating to customer's use thereof.

11.4 Connectivity to Third Party Applications. Use of Clobba Software Products to connect with or access third party web-based applications or services may be governed by terms and conditions established by such third party. Third-party application programming interfaces ("API") are not managed by Code, and Code shall have no liability for connectivity if any third-party APIs are changed or discontinued by the respective third parties.

11.5 Evaluation. If Customer is provided Clobba Software Products for evaluation purposes ("Evaluation Products"), use of the Evaluation Products is only authorized in a non-production environment and for the period limited to 30 days unless agreed in writing by both parties. Code will make the applicable Evaluation Products available to Customer for its internal business operations on an evaluation basis free of charge until the earlier of: (a) the end of the evaluation period; (b) the start date of any purchased subscription ordered by Customer; or (c) termination by Code or Authorized Reseller in its sole discretion. Notwithstanding any other provision in this EULA, licenses for the Evaluation Products are provided "AS IS" without indemnification, Support, or warranty of any kind, expressed or implied. In no event will Code's maximum cumulative liability for Evaluation Products exceed one thousand US Dollars (\$1,000).

11.6 Assignment. Customer may not assign or transfer the license in the Clobba Software Products or this EULA or its rights and obligations hereunder to any third party. For purposes of this Section, any change of control of Customer, whether by merger, sale of equity interests or otherwise, will constitute an assignment requiring the prior written consent of Code. Any attempt by Customer to assign this EULA or its rights and obligations hereunder in violation of this Section will be null and void. Code is free to assign or transfer any or all of its rights or obligations under this EULA at its discretion. All terms of this EULA will be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and permitted assigns of Code and Customer.

11.7 Statistical Data Collection and Use. Code may collect and use certain Statistical Data to enable,

End User License Agreement

optimize, support, and improve performance of the Clobba Software Products. “Statistical Data” means non-personal statistical, demographic, or usage data or metadata generated in connection with any use of the Clobba Software Products. Statistical Data does not include any personally identifiable information or any personal data and is owned by Code.

11.8 Compliance with Laws. Customer agrees at all times to comply with all applicable laws and regulations in its performance of this EULA, which may include, without limitation export control laws and regulations of the U.S., E.U. and other governments, and regulations declared by the U.S. Department of the Treasury Office of Foreign Assets Control, the U.S. Department of Commerce, the Council of the E.U. and their counterparts under applicable law, (“Export Control Laws”), including all end user, end-use and destination restrictions imposed by such Export Control Laws. Customer will indemnify, defend and hold harmless Code and its respective officers, agents and employees from and against any and all losses, costs, claims, penalties, fines, suits, judgments and other liabilities (including applicable attorney’s fees) arising out of, relating to or resulting from Customer’s failure to comply with any Export Control Laws.

11.9 Governing Law and Jurisdiction. This EULA is governed by the laws of England excluding any conflict of law rules or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is hereby expressly excluded. Any suit, action or proceeding arising out of or relating to this EULA will be brought before the courts of England. Notwithstanding anything to the contrary in this EULA, either Party may at any time seek injunctive or interlocutory relief in a court of competent jurisdiction in order to protect any urgent interest of such Party, including, but not limited to, the confidentiality and use restrictions of this EULA. TO THE EXTENT AVAILABLE UNDER APPLICABLE LAW, CUSTOMER EXPRESSLY WAIVES ANY RIGHT TO A JURY TRIAL REGARDING DISPUTES RELATED TO THIS EULA.

11.10 Force Majeure. Neither Code nor any Authorised Reseller shall be liable to the other for any delay or failure to perform any obligation under this EULA if the delay or failure is due to unforeseen events, which occur after the effective date of this EULA and which are beyond the reasonable control of Code or any Authorised Reseller, such as strikes, blockade, war, terrorism, riots, natural disasters, refusal of license by the government or other governmental agencies, failure or diminishment of power, telecommunications or data networks or services, malicious attacks or materials shortage in so far as such an event prevents or delays Code or any Authorised Reseller from fulfilling its obligations and Code or any Authorised Reseller is not able to prevent or remove the force majeure at reasonable cost.

11.11 Notices. All notices concerning a default, breach or violation of this EULA must be in writing and delivered to Code Software UK Ltd (“Code”) with its principal office at 4 The Apple Store, Far Peak, Northleach, Gloucestershire, UK, GL54 3JL (0)1285 720489 or email info@codesoftware.net or to the address notified by Authorised Reseller. Unless otherwise specified in writing by the Customer, all notices to Customer shall be sent to the address provided by Customer in the Order Form. Notice to Authorised Reseller shall be to the address set out in the Order Form.

11.12 Relationship between the Parties. The Parties are independent contractors. Nothing in this EULA will be construed to create an agency, joint venture, partnership, fiduciary relationship, joint venture or similar relationship between the Parties.

11.13 Waiver. No term of this EULA will be deemed waived and no breach excused unless such waiver or excuse shall be in writing and signed by Code. Neither this EULA nor any Order Form shall be

End User License Agreement

dependent on Customer issuing a purchase order. Customer acknowledges that any purchase order is for its administrative convenience only and that Code has the right to issue an invoice and collect payment without a corresponding purchase order. Any additional or conflicting terms or conditions in any purchase order shall have no legal force or effect.

11.14 **Equitable Relief.** Customer acknowledges that Code may be irreparably harmed by a breach of the terms of this EULA and that damages, alone, may not be an adequate remedy. Customer agrees that, in addition to any other rights or remedies permitted under applicable law, Code or any Authorized Reseller will have the right to enforce this EULA by injunctive or other equitable relief without the need to prove actual damages or post a bond.

11.15 **Limitation.** Subject to applicable law, no action, regardless of form, arising out of this EULA may be brought by Customer more than two (2) years after the cause of action arose.

11.16 **Entire Agreement; Severability; Language.** The EULA, any Addenda or documents referenced in the Agreement are the complete statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements and communications pertaining to the subject matter of this EULA. The EULA may be modified or updated at any time by Code. If any provision of this EULA is found by a court of competent jurisdiction to be invalid or unenforceable, that provision will be limited to the minimum extent necessary so that this EULA will otherwise remain in force and effect. Where an Order Form includes additional and more specific terms and conditions those terms shall be subject to the terms of this EULA and in the event of any conflict these EULA terms shall prevail. The English language version of this EULA shall be the governing version used when interpreting or construing this EULA.

11.17 **Publicity.** Customer hereby grants Code the right to list Customer as a customer of Code along with other customers in marketing materials such as the Code web site, customer-facing presentations and press releases.

11.18 **Class Action Waiver.** To the extent permitted by law, any and all proceedings to resolve or litigate a dispute must be conducted solely on an individual basis. Neither Customer nor Beneficiaries shall seek to have any dispute heard as a class action, private attorney general action, or in any other proceeding in which either party acts, or proposes to act, in a representative capacity.

11.19 **Copyright Policy.** Customer may not post, distribute, or reproduce in any way any Code Software copyrighted material, trademarks, or other proprietary information unless Customer have the right to do so. It is Code Software's policy to, in its sole discretion, terminate the Account of any user who infringes copyright rights of Code Software, BENEFICIARIES or third parties. If Customer believe that Customer's work has been copied and posted on the Site in a way that constitutes copyright infringement, please follow the requirements for appropriate notifications under the Digital Millennium Copyright Act (DMCA), 17 U.S.C. § 512. At a minimum, Customer must provide Code's Copyright Agent with the following information: an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; a description of the copyrighted work that Customer claim has been infringed; an identification of the location on the Site of the material that Customer claim is infringing; Customer's address, telephone number, and email address; a written statement by Customer that Customer have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and a statement by Customer, made under penalty of perjury, that the above information in Customer's notice is accurate and that Customer are the copyright owner or authorized to act on the copyright owner's behalf. Code Software's Copyright

End User License Agreement

Agent for notice of claims of copyright infringement can be reached by writing the following: [insert email address for Copyright Agent] or at Code's address listed below, attention "Copyright Agent".

11.20 Electronic Communications. The communications between Customer and Code Software use electronic means, whether Customer use the Site or send us emails, or whether Code Software posts notices on the Site or communicates with Customer via email. For contractual purposes, Customer (a) consent to receive communications from Code Software in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Code Software provides to Customer electronically satisfy any legal requirement that such communications would satisfy if it were be in a hardcopy writing. The foregoing does not affect Customer's non-waivable rights.

11.21 Contact Us. Any questions or concerns about the Clobba Software Products or this EULA should be directed to: info@codesoftware.net.

12. Privacy Policy. Code may collect registration and other information about Customer through the Clobba Software Products. Code's collection and use of this information is governed by Code's Privacy Policy, available at www.codesoftware.net. Our Privacy Policy only applies to Code's collection of information about visitors to www.codesoftware.net and Code's registered users of Code's Service. Our Privacy Policy does not apply to visitors to Customer's websites through which Customer use Code's Service. As a condition of using the Service Customer agree that Customer will conspicuously post Customer's own appropriate privacy policy or notice ("Privacy Notice") disclosing the collection and use of information from Customer's website visitors by Customer and Code's Service. Customer will disclose in Customer's Privacy Notice:

(i) that Customer uses a third party service that uses unique identifiers to tracks usage and activities of visitors to Customer's site using cookies and browser data and to match and combine that data with information about the characteristics and activities of those visitors collected by cookies and data from third party aggregators,

(ii) that the collected information includes user ID, IP address, location data (to zip code), access times, pages viewed, browser information (e.g., type and language), referring website, and operating system, how Customer use the information Customer receive from Code's Service,

(iii) that Customer shares aggregate and de-identified data with third parties for their own purposes, and Customer agrees that in addition to the foregoing it is Customer's responsibility to ensure that Customer's privacy policy or notice and Customer's use of the information relating to Code's Service will be in compliance with applicable laws and regulations which may impose additional requirements and restrictions on Customer's use of Code's Service and the information Customer collect through Code's Service.

(iv) Customer further agree that Code Software has the right, for any purpose, to collect, store, use, share, and publish in aggregated or de-identified form information collected from Customer and Customer's website through Customer's use of the Service. Customer agree that Customer will not use Code's Service in connection with any website or online service directed towards children or that knowingly collects information from children.