

# SPARQA LIMITED

## TERMS OF USE

Last updated: 4 December 2019

### IMPORTANT NOTICES:

Sparqa Legal does not provide legal advice. Sparqa Legal provides legal content and standardised, customisable documents either for free or at a competitive price and its liability is limited accordingly, as set out in clause 20. Your use of the site, including reliance on our content and use of any documents generated through the site, is strictly conditional upon your acceptance of these Terms of Use, including (without limitation):

- the disclaimers in clause 8 relating to your use of our content; and
- the exclusions of and limitations on Sparqa Legal's liability set out in clause 20.

If you wish to access Sparqa Legal's service as a non-paying Standard User, you are required to give your consent to email marketing in accordance with clause 4.4.

## 1. About us and these Terms of Use

- 1.1 This website, including any associated software programs (**Site**), is operated by Sparqa Limited (**Sparqa, us** or **we**), a company incorporated in England and Wales under company number 10199587. Our registered office is at Lower Ground Floor, 17-21 Emerald Street, London, WC1N 3QN.
- 1.2 These Terms of Use (**Terms**) together with any applicable Subscription Agreement or Partner Agreement (as defined below) and our [Privacy Policy](#) govern access to and use of the Site and the Content (as defined below) by each User (**you**). If you decide to use our "Ask a Lawyer" referral service, you will be required to agree to separate terms in relation to that service.
- 1.3 Before using this Site we would ask you to read these Terms and the Privacy Policy, which will become binding on you as soon as you start using this Site. By using this Site and in consideration for us permitting you to use the Site and the Content (as defined below), you agree to be bound by these Terms and the Privacy Policy as modified from time to time. Use of the Site includes accessing and browsing the Site.
- 1.4 The Site and Content have been produced from the point of view of the laws of England and Wales only, are only suitable for use under the laws of England and Wales and are not suitable for and should not be used for the purposes of any other law.
- 1.5 We may modify these Terms from time to time in accordance with clause 3. Please review these Terms and our Privacy Policy whenever you use the Site as any changes will be binding on you in accordance with clause 3.

## 2. Definitions

**Associated Person** means, in relation to a Partner Organisation (a) any member, client or customer of the Partner Organisation, and/or (b) any individual director, partner, employee or consultant of any Organisation which is a member, client or customer of the Partner

Organisation, as such persons (or class or persons) shall be specified in the Partner Agreement.

**Authorised User** means:

- (a) in relation to a Subscribing Organisation, any director, partner, employee or consultant of the Organisation granted access to the Site as a Premium User pursuant these Terms and/or the terms of any relevant Subscription Agreement;
- (b) in relation to a Non-Subscribing Organisation, any director, partner, employee or consultant of the Organisation who accesses the Site as a Standard User.

**Business** means the trade, business, craft or profession customarily undertaken by a User (or the User's employing Organisation).

**Cessation** means cessation of access to the Site and the Content pursuant to paragraph 18.1.

**Confidential Information** means any information concerning the business, affairs, customers, clients or suppliers of a party, including the Content.

**Content** means all content, materials, text, publications, articles, questionnaires, templates, Legal Documents, checklists, forms and other documents, know-how, files, and software from time to time contained or comprised in the Site, including Standard Content and Premium Content (as the context requires), and references to "Content" shall include any part of it.

**Group Companies** means in relation to Sparqa each subsidiary and each holding company of Sparqa from time to time and each subsidiary of each such holding company.

**Indemnified Person** means Sparqa and each of the Group Companies and each of their respective officers, directors, employees, agents, contractors, licensors and suppliers (each an **Indemnified Person**).

**Initial Term** has the meaning given in clause 13.1.

**Legal Documents** means template documents, guides, checklists, document packs and any other documents made available through the Site.

**Losses and Expenses** means any and all liabilities, losses, damages, demands, judgments, penalties, costs and expenses (including reasonable legal fees) howsoever arising.

**Non-Subscribing Organisation** means an Organisation that is a Standard User.

**Organisation** means a firm, company or other organisation howsoever constituted.

**Partner Agreement** means an agreement entered into between Sparqa and an Organisation relating to the provision of access to the Site to the Organisation's Associated Persons by way of the inclusion of the Site's website URL (or a URL created for the purpose) in materials (online or otherwise) given to such Associated Persons, or by such other means as may be agreed between Sparqa and such Organisation.

**Partner Organisation** means any Organisation that has entered into a Partner Agreement

with Sparqa.

**Premium Content** means all Content made available from time to time through the Site to Premium Users.

**Premium User** means any individual User who is a Subscriber, any Subscribing Organisation, any Authorised User of a Subscribing Organisation or any other Subscriber.

**Registration Portal** means an online portal enabling Users to register for access to the Site.

**Renewal Period** has the meaning given in clause 13.2.

**Standard Content** means the Content made available from time to time through the Site to Standard Users.

**Standard User** means any individual or Organisation that has registered with the Site for free access to the Standard Content.

**Subscriber** means any Subscribing Organisation, or any individual User, in each case having a Subscription.

**Subscribing Organisation** means any Organisation that has a Subscription.

**Subscription** means a paid subscription for access to the Premium Content, whether by an individual User, pursuant to a Subscription Agreement, or otherwise.

**Subscription Agreement** means an agreement entered into between Sparqa and a Subscribing Organisation in respect of a Subscription.

**User** means any person who has access to or uses the Site and/or any part of the Content, whether or not such person does so in accordance with these Terms and whether or not such access or use has been purchased and, for the avoidance of doubt, User shall also include any Subscribing Organisation or Partner Organisation.

2.1 In these Terms any reference to:

2.1.1 **holding company** or **subsidiary** are to the respective meanings given to these expressions in section 1159 of the Companies Act 2006 (as amended or re-enacted from time to time);

2.1.2 **party** means either of you or us;

2.1.3 **person** includes a legal or natural person, partnership, trust, company or other body (whether or not a corporate body);

2.1.4 the singular includes the plural and any reference to the plural includes the singular, unless the context otherwise requires; and

2.1.5 one gender includes a reference to all other genders, unless the context otherwise requires.

### 3. Modifications to these Terms

3.1 We may modify these Terms from time to time as follows:

3.1.1 We will notify you of any material amendments to these Terms (for the purposes of this clause 3, each a **material amendment**) by placing a clear notice about them on the Site or by other means.

3.1.2 If you are a Subscriber:

(a) if such amendment is materially adverse to your interests as a Subscriber, you will have the right to terminate your Subscription within 14 days of notification and if you fail to do so within such period you will be automatically bound by the amended Terms immediately upon expiry of such period; or

(b) if such amendment is not materially adverse to your interests as a Subscriber, you will be automatically bound by the amended Terms from the date such amendment takes effect.

3.1.3 If you are an Authorised User of a Subscribing Organisation, you will be bound by any material amendment that your Subscribing Organisation is bound by in accordance with clause 3.1.2.

3.1.4 If you are any other User, you will be automatically bound by the amended Terms from the date any amendment takes effect.

### 4. Standards Users and Premium Users

4.1 Sparqa operates the Site and grants access to the Content on a “freemium” basis. This means that we have two types of User:

4.1.1 **Standard Users** – any person can, by registering with the Site and consenting to the receipt of marketing emails (see clause 4.4 below), access the Standard Content on the Site as a Standard User.

4.1.2 **Premium Users** – any person can, by paying for a Subscription, become a Premium User with access to the Premium Content on the Site.

4.2 Whether you are a Standard User or a Premium User, these Terms apply to you and set out important provisions in relation to your use of the Site, including provisions relating to our liability to you as set out in clause 20.

4.3 Access to the Content, whether Standard Content or Premium Content, is only available to a User in connection with their Business and individual Users must be at least 18 years old.

#### **Marketing Consent: marketing emails**

4.4 In order to access the Standard Content for free, a Standard User is required to consent to receiving marketing emails sent by Sparqa (the **Marketing Consent**). If you are a Standard User, you acknowledge and agree that:

- 4.4.1 the Marketing Consent is strictly necessary for Sparqa to be able to grant free access to the extensive legal information included in the Standard Content;
- 4.4.2 Sparqa would be unable to offer Standard Users free access to the Standard Content on a commercially sustainable basis without the Marketing Consent, and would instead be forced to adopt a fully pay-wall protected, subscription model;
- 4.4.3 your Marketing Consent is freely given and you may withdraw your Marketing Consent at any time;
- 4.4.4 withdrawal of your Marketing Consent will result in you ceasing to be able to access the Standard Content and, given the preceding provisions of this clause 4.4, this does not and should not be construed as imposing any penalty on you, or causing you to suffer any detriment; and
- 4.4.5 there are many alternatives to Sparqa by which you can obtain legal information and documents.

## 5. Users subject to these Terms

- 5.1 **Individual Users.** If you are an individual User you are bound by these Terms and confirm that you are using the Site for purposes which are solely within your trade, business, craft or profession and therefore fall outside the definition of 'consumer' for the purposes of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and the Consumer Rights Act 2015. You acknowledge that you are not permitted to use the Site for any purpose which is outside your trade, business, craft or profession.
- 5.2 **Subscribing Organisations and Non-Subscribing Organisations.** If you are a Subscribing Organisation or a Non-Subscribing Organisation, you and your Authorised Users are bound by these Terms and you shall procure that your Authorised Users comply with these Terms. You shall be responsible and liable to us for any breach of these Terms by any of your Authorised Users or any other person who is associated with you or who has gained access to the Site or Content through you or any of your Authorised Users.
- 5.3 **Partner Organisations.** If you are a Partner Organisation, you are bound by these Terms and acknowledge that your Associated Persons are bound by these Terms. You shall be responsible and liable to us for any breach of these Terms by any director, partner, employee or consultant of your Organisation.

## 6. Licence

- 6.1 Subject to these Terms, for the duration of your permitted use of the Site, we grant you a revocable, non-exclusive, non-transferable licence (the **Licence**) to access the Site and to use, copy, translate, modify, amend, customise and create derivative works of the Content to which you are granted access as a Standard User or Premium User solely for the purposes of:
  - 6.1.1 assisting with legal questions for the sole benefit of your Business;
  - 6.1.2 preparing agreements and other documents for sole use by your Business; and

6.1.3 the internal administration of your Business.

6.2 Subject to clause 7, and except where we exercise our rights under clauses 21.1.2(b), (c) or (f), for a reasonable period of time following suspension or cancellation of your access to the Site or termination or expiry of your Subscription you may continue to use Content which was downloaded, copied, translated, modified, amended or customised (and any derivative works thereof) prior to Cessation solely in the ordinary course of the Business or as required by applicable law.

#### **Document limits**

6.3 The Licence is subject to reasonable usage and download limits.

### **7. Acceptable use**

7.1 In relation to use of the Site and the Content, unless otherwise agreed in writing by us you shall not:

7.1.1 use the Site in any way that breaches these Terms or any applicable local, national or international law;

7.1.2 resell or sublicense the Site or any Content to any person,

7.1.3 provide any Content and/or documents or information derived from any Content, or allow access to the Site or to any Content, to any person who is not a registered User or the Site, whether on a commercial basis or otherwise;

7.1.4 if you are a Premium User, provide any Premium Content and/or documents or information derived from Premium Content, or allow access to the Site or to any Premium Content, to any person who is not a Premium User;

7.1.5 access the Site or the Content for the purpose of developing a product or service that competes with the Site;

7.1.6 copy the features, technology or user interface of the Site for any purpose;

7.1.7 gain, or attempt to gain, unauthorised access to, or disrupt the integrity or performance of, the Site or any of the Site's underlying software or source code;

7.1.8 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form any of the Site's underlying software or source code except where expressly permitted by law and only to the extent such permission cannot be excluded by agreement between you and us;

7.1.9 use the Site or the Content in a way that infringes the copyright, trade marks or other intellectual property rights owned by or licensed to us;

7.1.10 create any database of, or other store for, the Content (or any material part of it) that creates the ability for you or any third party to access the Content (or any material part of it) or has the effect of permitting offline or other access to the Content (or any material part of it) without requiring the use of the Site;

- 7.1.11 use, copy, translate, modify, amend or create derivative works based on the Content other than in accordance with the Licence;
- 7.1.12 search, view, copy, download, share, print out or otherwise reproduce the Content except as permitted using the functionality provided by the Site; or
- 7.1.13 provide us with any information (including confidential information) which might breach any law or regulation or your professional or other legal duties.

### **Legal documents**

- 7.2 In relation to Legal Documents which you are permitted to download through the Site, you shall be responsible for removing any logo, mark or text identifying Sparqa as the originator of the document prior to using such document.
- 7.3 Legal Documents are suitable for use under the laws of England and Wales only and not any other law. They are only suitable for use by a company registered in England and Wales and not for any other type of company or any other person.
- 7.4 Those Legal Documents which are template documents are pro forma only and must be modified as appropriate for the circumstances in which, and purpose for which, they are being used.
- 7.5 Information which you input into a Legal Document using the functionality provided on the Site will be stored on our servers. We accept no liability in relation to the loss or destruction of Legal Documents stored on our servers (or the contents thereof).
- 7.6 Some Legal Documents are created using information which you provide through the Site. Certain clauses or other wording may be included in a Legal Document depending on the information that you provide. You are solely responsible for the information that you provide through the Site, and Sparqa shall not be liable for any mistake that you make in such information.

### **Intellectual property notice**

- 7.7 This Site and the Content are protected by copyright, trade marks and other intellectual property rights owned by us or licensed to us. Nothing in these Terms, other than the Licence, grants or is intended to grant any right, title or interest in the Site or the Content or any intellectual property rights contained therein. The Content must not be used or reproduced (in whole or part) for any purpose other than as expressly permitted in accordance with these Terms, including on or in connection with another website or publication, except with our express prior written permission.

## **8. Disclaimer**

- 8.1 Except as may be expressly set out in these Terms, we give you no warranty or assurance and all implied conditions, warranties, representations or other terms in relation to the Site and the Content are excluded to the maximum extent permitted by law.
- 8.2 By using the Site and the Content, you agree that:

- 8.2.1 the Content is provided for information purposes only and does not (and is not intended to) constitute advice on or a definitive or complete statement of the law or practice on any given subject, nor to replace the need to obtain advice from a legal practitioner (or other professional adviser) as may be required in the circumstances;
  - 8.2.2 you will not use any Content (including any Content incorporated into internal advice for your Business) without applying your skills, knowledge and judgement;
  - 8.2.3 the Content does not address your or any third party's individual requirements and is not tailored to answer any specific question or set of facts raised by you or any third party;
  - 8.2.4 any of the Content may be inaccurate or out of date at any given time;
  - 8.2.5 the Site and the Content may be added to, removed, updated or otherwise changed at any time without notice to you;
  - 8.2.6 the Content is limited to information relating to, and Legal Documents governed by, English law; and
  - 8.2.7 to the maximum extent permitted by law, we do not guarantee or give any warranty, representation or undertaking (whether express or implied) as to the accuracy, currency or completeness of the Content.
- 8.3 You agree that none of the Content constitutes any solicitation, offer, opinion, representation, endorsement or recommendation by us nor does it provide legal, tax, accounting, financial or investment advice or services. It is not intended to be and should not be relied on by you or any third party to make, or refrain from making, any decisions or commitments. To the maximum extent permitted by law we do not accept any liability or responsibility for action taken as a result of the Content (including any Legal Document) or other information provided by us, whether via the Site or otherwise. Appropriate independent professional advice should be obtained in relation to any specific issues, questions or set of facts and before taking or refraining from taking any action on the basis of the Content.
- 8.4 Nothing in these Terms shall operate to create a solicitor-client relationship or any other fiduciary relationship and your use of the Site or the Content shall not, to the maximum extent permitted by law, be construed to give rise to any duty of care or other duty of any kind between us and you and/or us and any third party.

### **Third Party Information**

- 8.5 Third party websites, pages and documents (**Third Party Information**) to which the Site or any of the Content is linked or which you may otherwise access through links on the Site are independent of the Site and our service and are for information only. Third Party Information has not been reviewed by us and is not in any way approved or endorsed by us. We have no responsibility for the content, availability or your use of Third Party Information, or the maintenance or updating of any links thereto. We accept no liability or responsibility for any Losses and Expenses whatsoever that may be incurred by you as a result of your use of or reliance on any Third Party Information, including content, products or services available on or through third party websites, pages or documents or any links to the same.



## **9. Your account and password**

- 9.1 Each person who registers with the Site or is granted access to the Site and/or any Content will be issued with login details (including a username and password).
- 9.2 You may not disclose your login details to the Site (including any username and/or password) to any other person and you acknowledge that the Content and the access details provided by us are our confidential information, the use and disclosure of which is only permitted in accordance with these Terms and the terms of any Subscription Agreement or Partner Agreement.
- 9.3 You agree to promptly inform us (see contact details in clause 26) in the event that you know or suspect that your login details are known or have been used by anyone other than you to access and use the Site and/or the Content or if you know or suspect that a person other than an Authorised User, Standard User or Premium User has accessed the Site and/or the Content.
- 9.4 You agree to indemnify and hold harmless each Indemnified Person from and against any and all Losses and Expenses any Indemnified Person incurs as a result of any unauthorised use of the access details given to you.

## **10. Purchasing a Subscription**

- 10.1 Subscriptions for access to the Premium Content are available to business customers only and, in the case of individual Subscribers, you must be at least 18 years old to purchase a Subscription.
- 10.2 You may place an order to purchase a Subscription (an **Order**) by phone, email or via the Site in accordance with the instructions set out on the Site or otherwise provided by us. You should check all of the information that you provide to us or enter via the Site and correct any errors before submitting your Order, as once your Order is submitted we will begin processing it immediately.
- 10.3 Your Order constitutes an offer to us. We will confirm our acceptance of your Order in writing (which might include, without limitation, email or the submission of an invoice) confirming the information you included in your Order (the **Confirmation Notice**). These Terms and any other terms contained in the Order will become legally binding on a Subscriber and us when we send such Subscriber the Confirmation Notice and each Order shall incorporate these Terms and shall be a new and separate contract between such Subscriber and us in respect of the Subscription and use of the Site by such Subscriber.

## **11. Purchasing documents**

If you are a Standard User, you are still permitted to purchase Legal Documents at any time (a **Document Purchase**). All Document Purchases are subject to such additional terms and conditions as you may be required to agree to at the time of purchase. You should check all of the information that you provide to us or enter via the Site and correct any errors before purchasing any documents, as your order will be processed as soon as it is submitted.

## 12. Authorised Users and Associated Persons

- 12.1 If you are a Subscribing Organisation, you are permitted to nominate up to five (5) Authorised Users to be granted access the Premium Content. If you would like a larger number of Authorised Users to access the Premium Content, you are required to confirm to us prior to commencement of your Subscription the number of individuals that you wish to be given access to the Site as Authorised Users. The agreed number of Authorised Users will be set out in the Confirmation Notice (or your Subscription Agreement, as the case may be) and you shall not be permitted to grant access to the Site to any person in excess of such number. If you wish to increase the number of Authorised Users during the Initial Term of any Renewal Period, you should notify Sparqa of such request.
- 12.2 If you are a Subscribing Organisation, upon payment of the Subscription Charges in accordance with clause 14 we will provide you with either (a) individual login details for each Authorised User, or (b) access to an online Registration Portal via which Authorised Users can set up their personal Sparqa account and be issued with individual login details.
- 12.3 If you are a Partner Organisation, the access to the Site to be granted to your Associated Persons will be provided in accordance with your Partner Agreement.
- 12.4 Login details are confidential and specific to each User and may not in any circumstances be shared with other individuals. We reserve the right to refuse to activate a personal Sparqa account for any person we reasonably believe (a) has previously breached these Terms or otherwise misused the Site or any of the Content, or (b) is (or is associated with) a competitor or likely competitor of Sparqa.

## 13. Period of access

- 13.1 Unless otherwise terminated or cancelled in accordance with these Terms, your access to and use of the Site for Premium Content will last for the period set out in the relevant Confirmation Notice or Subscription Agreement, or as otherwise agreed with Sparqa (the **Initial Term**). The Initial Term shall, unless otherwise agreed, be a minimum of 12 months (the **Minimum Term**).
- 13.2 Your Subscription will, unless cancelled by you in accordance with these Terms or otherwise specified in your Subscription Agreement, automatically renew following the Initial Term on a rolling month-by-month basis (each such further monthly period, a **Renewal Period**).
- 13.3 You may cancel your Subscription by: (i) contacting us using the contact details in clause 26, or (ii) using any functionality provided on the Site from time to time, in each case at least one day prior to expiry of your Subscription. If you cancel your Subscription under this clause, your Subscription will be cancelled with effect from the end of the Initial Term or relevant Renewal Period (as applicable) in which we receive notification from you that you wish to cancel your Subscription.
- 13.4 You will continue to have access to the Premium Content for the period between you notifying us that you wish to cancel your Subscription and the cancellation taking effect under clause 13.3, provided that you have paid the Subscription Charges (as defined in clause 14 below) for that period.

## 14. Charges and payment

### Subscription Charges

- 14.1 The price for your Subscription will be communicated to you directly via the Site, or by email or telephone (the **Subscription Charges**).
- 14.2 You may pay the Subscription Charges using our third party online payments processor, Stripe ([www.stripe.com](http://www.stripe.com)) or, if we so permit, by bank transfer. If you pay by bank transfer, we shall invoice you for the Subscription Charges for the Initial Term and each subsequent Renewal Period in advance of that Initial Term or Renewal Period (as applicable). Unless agreed otherwise in any applicable Subscription Agreement, you must pay invoiced Subscription Charges in full within 7 calendar days of receipt by you of such invoice, and in accordance with the payment instructions included with such invoice. Additional Authorised Users granted access to the Site during the Initial Term or any subsequent Renewal Period will be charged at the subscription price then prevailing unless otherwise agreed with Sparqa.
- 14.3 We have the right to make changes to the Subscription Charges from time to time, although we shall not make any change to the Subscription Charges applicable to you during the current Initial Term or Renewal Period (as applicable). If these changes result in an increase in the Subscription Charges payable by you, we shall inform you at least 7 days in advance of the change. If you do not agree to pay the increased Subscription Charges, you may terminate your Subscription in accordance with clause 13.3.

### Document Purchases

- 14.4 The price for your Document Purchase will be communicated to you directly via the Site, or by email or telephone (the **Document Charges**).
- 14.5 You may pay the Document Charges using our third party online payments processor, Stripe ([www.stripe.com](http://www.stripe.com)) or, if we so permit, by bank transfer. If you pay by bank transfer, we shall invoice you for the Document Charges in advance of providing you with the relevant documents. Unless otherwise agreed, you must pay invoiced Document Charges in full within 7 calendar days of receipt by you of such invoice, and in accordance with the payment instructions included with such invoice.

### General

- 14.6 The Subscription Charges and the Document Charges shall include the price for your Subscription or Document Purchase (as the case may be) plus any applicable VAT or, if VAT is not applicable, any other similar sales, turnover or consumption taxes in effect (if any) at the applicable rate chargeable for the time being in your country of residence for tax purposes.
- 14.7 You shall pay all amounts due under these Terms in full without any deduction or withholding except as required by law. In the event that any such deduction or withholding is required by law, you will pay such additional amount or amounts to us as are necessary to ensure that we receive a net amount equal to the full amount we would have received had payment not been made subject to deduction or withholding.
- 14.8 We may, without limiting our other rights or remedies, set off any amount owing to us by you against any amount payable by us to you.

## **15. Breach of these Terms**

- 15.1 If you breach any of these Terms, we may immediately do any or all of the following (without limitation):
- (a) issue a warning to you;
  - (b) temporarily or permanently withdraw your right to use the Site and the Content;
  - (c) issue legal proceedings against you for reimbursement of all costs resulting from the breach (including, but not limited to, reasonable administrative and legal costs);
  - (d) take legal action against you; and/or
  - (e) disclose such information to law enforcement authorities as we reasonably feel is necessary to do so.
- 15.2 If you are a Subscribing Organisation, in respect of any breach by an Authorised User we may (without limitation) take any of the steps set out in clause 15.1 in respect of you and any of your Authorised Users.
- 15.3 If you are a Partner Organisation, in respect of any breach by an Associated Person we may (without limitation) take any of the steps set out in clause 15.1 in respect of you and any of your Associated Persons.

## **16. Personal information**

- 16.1 You acknowledge you have read and understood our [Privacy Policy](#). If you are a 'controller' (as such term is defined in the General Data Protection Regulation (2016/679) and other applicable national privacy legislation), the data processing terms set out in the Annex shall apply to the relationship between us and you.
- 16.2 If you utilise the document assembly capabilities on the Site in relation to any Legal Document, you acknowledge and agree that we may store on our servers information which you input into the Legal Document (such as name fields) through the functionality provided on the Site, for the purposes of providing you with the ability to create and store customised documents in your account.

## **17. Indemnity**

You agree to indemnify and hold harmless each Indemnified Person from and against any and all Losses and Expenses any Indemnified Person incurs (a) as a result of your breach of these Terms, or (b) in connection with any third party claim against an Indemnified Person arising from your actual or alleged misuse of the Site or the Content or your breach of these Terms.

## **18. Access to the Site, updates and changes**

We are under no obligation to provide uninterrupted access to the Site or the Content. Access to all or any part of the Site or the Content may be restricted from time to time to allow for repairs, maintenance or updating or for any other reason. We may update, amend, suspend,

withdraw, discontinue or change all or any part of the Site or the Content at any time and without notice.

## **19. Confidentiality**

19.1 Each party undertakes that it shall keep strictly confidential and shall not at any time disclose to any person the Confidential Information of the other party, except as permitted by clauses 19.2 and 19.3.

19.2 Each party may disclose the other party's Confidential Information:

19.2.1 to its group companies, employees, officers, representatives and advisers who need to know such information for the purposes of exercising the party's rights or the carrying out of its obligations in each case under or in connection with these Terms, provided that each party shall procure that each person to whom it discloses the other party's Confidential Information in accordance with this clause 19.2.1 complies with this clause 19;

19.2.2 in the case of the Content, in accordance with the Licence;

19.2.3 if such Confidential Information is in or enters the public domain other than as a result of breach of this clause 19; and

19.2.4 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, provided that, where reasonably possible, notice shall be given to the other party of such required disclosure and the party making such disclosure shall use reasonable endeavours to procure and enforce confidentiality undertakings in its favour from the relevant third party.

19.3 We may disclose the Confidential Information of a User, including any applicable Subscription Agreement or Partner Agreement, to (a) a prospective purchaser of or subscriber for shares or other securities in Sparqa or any Group Company, and (b) a prospective lender to Sparqa or any Group Company, provided in each case that such third party recipient is subject to obligations of confidentiality no less onerous than those contained in this clause 19.

19.4 You agree that disclosure of the Content in accordance with the Licence does not cause the Content to be in the public domain or otherwise permit any other disclosure or use of the Content not expressly permitted by the Licence.

19.5 Neither party shall use the other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with these Terms.

## **20. Liability**

20.1 Nothing in these Terms excludes or limits liability for (a) death or personal injury arising from negligence, (b) fraud or fraudulent misrepresentation, or (c) any other liability that cannot be excluded or limited under applicable law.

20.2 Subject to clause 20.1, to the maximum extent permitted by law we will not be liable to you for:

- 20.2.1 loss of profits;
  - 20.2.2 loss of sales or business;
  - 20.2.3 loss of business opportunity;
  - 20.2.4 loss of revenue;
  - 20.2.5 loss of agreements or contracts;
  - 20.2.6 loss of anticipated savings;
  - 20.2.7 loss of or damage to goodwill;
  - 20.2.8 wasted expenditure;
  - 20.2.9 losses arising out of inaccuracies or omissions in the Content or unavailability of the Content;
  - 20.2.10 loss of use or corruption of software, data or information; or
  - 20.2.11 any indirect or consequential loss or damage,
- even if we were aware that such loss or damage might be incurred by you.

#### **Relevant Losses**

- 20.3 For the purposes of this clause 20, **Relevant Losses** shall mean Losses and Expenses, whether in contract or tort (including negligence), for breach of statutory duty, or otherwise, arising out of or in connection with these Terms or any applicable Subscription Agreement or Partner Agreement, or out of or in connection with any use of (or inability to use) or reliance on the Site or the Content.

#### **Our liability to Standard Users**

- 20.4 If you are a Standard User, you acknowledge that you are using our Site for free, and that all Content on our Site is made available for general information purposes only. We do not offer any warranty as to the accuracy, completeness or quality of such Content and you should not rely upon our Content for any purpose. As such, to the maximum extent permitted by law and subject to clause 20.1, we will not be liable to you for any Relevant Losses whatsoever. You acknowledge and agree that the complete exclusion of Sparqa's liability set out in this clause 20.4 is reasonable and necessary because Sparqa is offering free legal information to a large number of Standard Users (a significant proportion of whom it is anticipated will not previously have had access to similar legal resources) and would not be able to do so on a sustainable commercial basis if it were to assume any liability to such non-paying Standard Users. If, notwithstanding the foregoing, we are liable to you for any Relevant Losses, the total aggregate liability of Sparqa in respect of any Relevant Losses that are not otherwise excluded under this Agreement shall not exceed £100.

### **Our liability to Subscribers**

20.5 Subject to clause 20.1, if you are a Subscriber, our total aggregate liability to you in respect of any and all Relevant Losses that are not otherwise excluded under this Agreement shall be limited as follows:

20.5.1 for any Relevant Losses incurred in respect of any individual event or connected series of events, an amount equal to the aggregate of all subscription fees paid by you to Sparqa in the 12 month period prior to the event(s) giving rise to the liability, and

20.5.2 in aggregate across the duration of your Subscription and for any liability after your Subscription ceases, an amount equal to the aggregate of all subscription fees paid by you to Sparqa in the 24 month period prior to the event(s) giving rise to the liability (or, if your Subscription has ceased, the final 24 months of your Subscription).

You acknowledge and agree that the exclusion of liability for Sparqa as set out in this clause 20.5 is reasonable and necessary because Sparqa is offering access to the Premium Content on a very competitively priced basis to a large number of Subscribers, and would not be able to do so on a sustainable commercial basis if it faced the prospect of claims from large numbers of Subscribers in excess of the caps on liability set out in this clause 20.5.

20.6 To the maximum extent permitted by law, a Subscribing Organisation shall ensure that no claim for Losses and Expenses will be brought or threatened against Sparqa by any Authorised User (or any other person associated with such Subscribing Organisation).

### **Our liability to Authorised Users of a Subscribing Organisation**

20.7 If you are an Authorised User of a Subscribing Organisation, we will not be liable to you for any Relevant Losses whatsoever. You acknowledge and agree that the complete exclusion of Sparqa's liability set out in this clause 20.7 is reasonable and necessary because Sparqa is liable to your Subscribing Organisation pursuant to the terms of the relevant Subscription Agreement and/or these Terms, and would not be able to offer its services on a sustainable commercial basis if it were to also assume separate liability to non-paying Authorised Users of a Subscriber.

### **Our liability to Partner Organisations**

20.8 If you are a Partner Organisation that is not a Subscribing Organisation:

20.8.1 subject to the Terms of our Partner Agreement with you, to the maximum extent permitted by law we will not be liable to you for any Relevant Losses whatsoever; and

20.8.2 these Terms shall be imported into the Partner Agreement and shall form part of it, and references to the 'Terms' herein shall be construed (as the context requires) as references to the Partner Agreement.

20.9 For the avoidance of doubt, if you are a Partner Organisation that is also a Subscribing Organisation:

20.9.1 your obligations to us, and our liability to you, arising out of or in connection with the the Partner Agreement and your Associated Persons, shall be determined according to the Partner Agreement and the provisions of these Terms which apply to Partner Organisations and Associated Persons; and

20.9.2 your obligations to us, and our liability to you, arising out of or in connection with your Subscription and your Authorised Users shall be determined in accordance with the Subscription Agreement and the provisions of these Terms which apply to Subscribing Organisations and Authorised Users.

### **Our liability to Associated Persons of Partner Organisations**

20.10 If you are an Associated Person of a Partner Organisation, you will either be a Standard User, in which case you will be subject to the provisions of these Terms as they apply to Standard Users, or you will be a Premium User, in which case you will be subject to the provisions of these Terms as they apply to Premium Users.

### **General**

20.11 We will not be liable to you for Losses and Expenses that may be incurred by you as a result of your breach of these Terms or any applicable Subscription Agreement or Partner Agreement.

20.12 You acknowledge and agree that, subject to the remaining terms of this Agreement, your sole remedy (to the maximum extent permitted by law) against Sparqa for any Relevant Losses, shall be a claim for breach of contract, and all other remedies in tort (including negligence), breach of statutory duty or otherwise are excluded to the maximum extent permitted by law.

20.13 We do not guarantee that the Site will always be available, be secure or free from bugs, errors, worms, trojans or viruses and we shall not be liable for any Losses or Expenses you may suffer as a result of such unavailability or any technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Site or to your downloading of any Content on it, or on any website linked to it. You are responsible for ensuring that you have installed appropriate anti-virus software on your systems to protect your systems from such bugs, errors, worms, trojans or viruses.

20.14 You agree that you will not knowingly introduce to the Site any viruses, bugs, trojans, worms or other matter which is malicious or technologically harmful. You must not gain or attempt to gain unauthorised access to the Site, the server on which the Site is stored or any server, computer or database connected to the Site.

## **21. Suspension of cancellation of access**

21.1 We may suspend or cancel your access to the Site and the Content as follows:

21.1.1 if you are a Standard User, for any reason on giving you seven (7) days' notice in writing (email sufficing); or

21.1.2 immediately and without notice at any time (and without liability or responsibility to you) if:



- (a) any trial period granted in respect of the Site (including trial access to the Premium Content) has expired, or we cease to provide the Site;
- (b) we reasonably believe you have breached the Terms or the terms of any relevant Subscription Agreement or Partner Agreement;
- (c) we reasonably believe that your use of the Site is infringing or is likely to infringe any third party rights or that you are in any way committing fraudulent activity in the use of the Site;
- (d) any relevant Subscription Agreement or Partner Agreement terminates or expires for any reason or we exercise any rights of suspension or cancellation in any such agreement;
- (e) in the case of Authorised Users, you cease to be authorised by your Subscribing Organisation as an Authorised User; or
- (f) you are in breach of a separate agreement with us.

21.2 On Cessation:

21.2.1 the Licence granted pursuant to clause 6 shall immediately terminate;

21.2.2 you will take reasonable steps to delete or destroy the Content (whether electronic or hardcopy), except where continued use of such Content is permitted by the Licence;

21.2.3 you shall immediately pay to us all outstanding unpaid Charges; and

21.2.4 your access to the Site will be revoked.

21.3 Cessation shall not affect or prejudice the accrued rights of either you or us at the date of Cessation, or the continuation of any provision expressly stated to survive or implicitly surviving, including, but not limited to, this clause 21.3 and clauses 6.2, 7, 8, 15, 17, 19, 20, 24 and 25.

**22. Termination**

22.1 Each party to a Subscription Agreement or Partner Agreement (as the case may be) shall be entitled (without prejudice to its other rights) to terminate the agreement by giving notice to the other party (the **Relevant Party**) if:

22.1.1 (i) the Relevant Party admits its inability to pay its debts or becomes insolvent, or (ii) a petition is presented and is not discharged within twenty-eight days, an order is made or a resolution is passed for the liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction), administration, bankruptcy or dissolution of the Relevant Party, or (iii) an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer is appointed to the Relevant Party or over all or any part of the assets of the Relevant Party, or (iv) the Relevant Party enters into or proposes any composition or arrangement with its creditors (or any class of its creditors) generally, or (v) anything equivalent to any of the events or circumstances stated in (i) to (iv) inclusive occurs in any applicable jurisdiction; or

22.1.2 the Relevant Party commits a material breach of this Agreement which is not capable of remedy or, in the case of a remediable breach, fails to remedy the breach within thirty days of receipt of the other party's notice to do so,

and any such termination shall take effect either immediately or at such other date as may be specified in the notice.

## **23. Notices**

23.1 Any notice or notification from one party (**Sender**) to the other party (**Recipient**) given pursuant to these Terms or any Subscription Agreement or Partner Agreement must be in writing (which excludes e-mail), signed on behalf of the Sender, and be addressed to the Recipient. Notices must be delivered by hand or sent by recorded delivery, and satisfactory proof of such delivery or sending must be retained by the Sender. For the purposes of this clause 23.1: (a) Sparqa's details for notices are set out below, and (b) any other party's details shall be the address set out in any applicable Subscription Agreement or Partner Agreement or, otherwise, the address provided by that party when registering as a User with the Site or, failing that, the registered office of that party:

### **Sparqa Limited**

For the attention of:                   The Chief Operating Officer and General Counsel  
Address:                                   17-21 Emerald Street, London WC1N 3QN  
Copy to:                                   notices@sparqa.com

23.2 Any notice shall be deemed to have been served (a) if delivered by hand, at the time and date of delivery shown on the delivery receipt kept by the Sender, or (b) if sent by recorded delivery, forty-eight hours from the date of posting (such date as evidenced by proof of postage kept by the Sender).

## **24. General**

24.1 If any provision or part-provision of these Terms is or becomes invalid, illegal or for any reason unenforceable then it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, that provision or part-provision will be deemed deleted. Any such modification or deletion of any provision or part-provision will not affect the validity and enforceability of the remaining provisions.

24.2 We may delay enforcing our rights under these Terms without waiving or losing the right to do so later. No failure by us to exercise any right or remedy under these Terms or otherwise shall constitute a waiver of the right subsequently to exercise those or any other rights or remedies.

24.3 We may assign or transfer any of our rights and obligations under these Terms (or subcontract any of our obligations) to another legal entity. You may not assign or transfer or otherwise dispose of any of your rights or obligations under these Terms except with our prior written agreement.

24.4 Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between you and us, constitute either party as the agent of the other, or authorise either party to make or enter into commitments for or on behalf of the other.

24.5 These Terms are made between you and us and no other person shall have any rights to enforce any of the provisions of these Terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise, provided always that the provisions of clause 17 (*Indemnity*) are for the benefit of each Indemnified Person (and each such person shall be entitled to assert and enforce those provisions directly as though they are us). We do not need the consent of any third party to terminate these Terms or vary any provisions thereof.

24.6 These Terms and our Privacy Policy, along with the terms of any relevant Subscription Agreement or Partner Agreement, constitute the entire agreement between you and us in relation to their subject matter, and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, in relation to that subject matter. You acknowledge that in accepting these Terms, you have not relied upon any oral or written statements, collateral or other warranties, assurances, undertakings, misrepresentations or representations that were made by or on behalf of us in relation to the subject-matter of these Terms at any time before your acceptance of these Terms (together, **Pre-Contractual Statements**), other than those that are set out expressly in these Terms, any Subscription Agreement or Partner Agreement and our Privacy Policy. You hereby waive all rights and remedies which might otherwise be available to you in relation to such Pre-Contractual Statements (although nothing in this clause shall exclude or restrict the liability of you or us arising out of pre-contract fraudulent misrepresentation or fraudulent concealment).

## **25. Governing law and jurisdiction**

25.1 These Terms, and any dispute or claim arising out of or in connection with them (including any dispute or claim relating to non-contractual obligations), shall be governed by, and construed in accordance with, English law.

25.2 The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms (including any non-contractual disputes or claims).

## **26. Contact us**

If you have any questions about these Terms, please contact us at [info@sparqa.com](mailto:info@sparqa.com) or on +44 (0) 20 3912 0619.

## **ANNEX**

### **Data Processing Terms**

The General Data Protection Regulation (2016/679) (**GDPR**) came into effect on 25 May 2018. In order to comply with Article 28 of the GDPR, the data processing terms below form part of the Terms.

For the purposes of this Annex, the terms '**controller**', '**data subject**', '**personal data**', '**processing**' and '**processor**' have the meanings given to them in the GDPR and other applicable national privacy legislation (**Data Protection Legislation**). The provisions of this Annex apply where a User is a 'controller' for the purposes of the GDPR (a **Relevant User**).

'**Applicable law**' means any applicable law of the EU or any EU member state. References to '**Articles**' are references to articles of the GDPR.

#### **1. General**

- 1.1 Sparqa and each Relevant User will each comply with the Data Protection Legislation in relation to the processing of personal data which has been supplied by the Relevant User to Sparqa in connection with the provision of access to the Site (**Supplied Personal Data**).
- 1.2 Sparqa's [Privacy Policy](#) (as amended from time to time) sets out the subject-matter, nature, purpose and duration of the processing it undertakes, along with the types of personal data and categories of data subjects.

#### **2. Instructions**

- 2.1 Sparqa will only process Supplied Personal Data on the documented instructions of the Relevant User unless required to do so by applicable law (in which case, Sparqa will before processing give the Relevant User notice of the requirement, unless Sparqa is prohibited from doing so by applicable law).
- 2.2 Sparqa and the Relevant User will each take steps to ensure that any natural person acting under its authority does not process Supplied Personal Data except on the Relevant User's documented instructions (unless he or she is required to do so by applicable law).

#### **3. Confidentiality and security of processing**

- 3.1 Sparqa will ensure persons authorised to process Supplied Personal Data are subject to obligations of confidentiality or are under an appropriate statutory obligation of confidentiality.
- 3.2 In ensuring compliance with Article 32:
  - 3.2.1 Sparqa and the Relevant User will each implement appropriate technical and organisational measures to ensure a level of security in relation to the Supplied Personal Data appropriate to the risk. Such measures will take into account (a) the state of the art and costs of implementation, (b) the nature, scope, context and purpose of the processing, and (c) the risk of varying likelihood and severity for the rights and freedoms of natural persons; and
  - 3.2.2 in assessing the appropriate level of security, Sparqa will take into account the risks that are presented by processing the Supplied Personal Data including the risk of

accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed (a **Personal Data Breach**).

- 3.3 Where Sparqa acts as processor in relation to Supplied Personal Data, it will notify the Relevant User without undue delay of any Personal Data Breach affecting the Supplied Personal Data.

#### **4. Sub-processors and third country transfers**

- 4.1 The Relevant User generally authorises Sparqa to engage further processors (**Sub-Processors**) to process Supplied Personal Data in connection with the provision of the Service.

- 4.2 The Relevant User generally authorises Sparqa to continue to use those Sub-Processors already engaged by Sparqa as of the date the Relevant User is granted access to the Site (or the date of any relevant Subscriber Agreement or Partner Agreement, as the case may be), subject to Sparqa in each case as soon as practicable meeting the obligations set out in paragraph 4.4 of this Annex.

- 4.3 Sparqa will give prior notice to the Relevant User of the proposed addition of any Sub-Processors by placing a clear notice about them on the Site in advance of the change. If the Relevant User objects to the addition of one or more Sub-Processors, Sparqa may (at its sole discretion) (a) ensure that Supplied Personal Data is not processed by the new Sub-Processor(s), (b) select one or more alternative Sub-Processors acceptable to the Relevant User, or (c) cease providing access to the Site to the Relevant User.

- 4.4 Prior to any Sub-Processor processing Supplied Personal Data (or otherwise in accordance with paragraph 4.2 of this Annex), Sparqa will ensure that the arrangement between Sparqa and the Sub-Processor is governed by a written contract pursuant to which:

4.4.1 the Sub-Processor is subject to obligations equivalent to those set out in this Annex and which otherwise provide sufficient guarantees to implement appropriate technical and organisation measures in such a manner that the processing will meet the requirements of the GDPR; and

4.4.2 if the Sub-Processor fails to fulfil its data protection obligations, Sparqa remains fully liable to the Relevant User for the performance of the Sub-Processor's obligations.

- 4.5 Sparqa may transfer Supplied Personal Data outside the European Economic Area as permitted by Articles 44 to 49.

#### **5. Information and assistance**

- 5.1 Subject to paragraph 5.2 of this Annex, Sparqa will assist the Relevant User:

5.1.1 by appropriate technical and organisational measures (insofar as possible) to respond to requests in exercise of a data subject's rights set out in Articles 12 to 23 (as relevant);

- 5.1.2 following a written request by the Relevant User, in ensuring compliance with the Relevant User's obligations relation to the security of processing (Article 32), the notification of personal data breaches (Articles 33 and 34), data protection impact assessments (Article 35) and prior consultation (Article 36), in each case taking into account the nature of the processing of Supplied Personal Data and the information available to Sparqa;
  - 5.1.3 following a written request by the Relevant User, by making available to the Relevant User all information necessary to demonstrate compliance with the obligations set out in this Annex in relation to Sparqa's processing of Supplied Personal Data, including allowing for and contributing to audits and inspections conducted by the Relevant User or a third party auditor.
- 5.2 Sparqa will provide assistance pursuant to paragraph 5.1 of this Annex subject to both parties acting in good faith to agree the scope, method, timing and reasonable fees chargeable by Sparqa for such assistance and on the basis that the parties will work in good faith to minimise the disruption to Sparqa's business.
  - 5.3 Subject to paragraph 5.4 of this Annex, Sparqa will as soon as reasonably practicable delete all Supplied Personal Data (including copies) following the cessation of the provision of the Service unless applicable law requires storage of the Supplied Personal Data. This provision will not apply to any personal data in relation to which Sparqa is the controller.
  - 5.4 The Relevant User may by written notice to Sparqa require that Sparqa return a complete copy of all Supplied Personal Data to the Relevant User, following which Sparqa will delete all other copies of such Supplied Personal Data.

## **6. Supply of Personal Data**

- 6.1 The Relevant User confirms that any Supplied Personal Data provided to Sparqa has been collected and disclosed in accordance with the Data Protection Legislation, and that the Relevant User and its directors, employees and consultants will only provide Sparqa with Personal Data reasonably necessary for the purpose of providing the Service to the Relevant User.
- 6.2 In respect of any Supplied Personal Data, the Relevant User shall inform each relevant data subject that Sparqa will process his or her personal data in accordance with the [Privacy Policy](#) and that his or her use of the Site is subject thereto.

## **7. Brexit**

Sparqa and each User that is a 'controller' agree that the provisions of the [Data Processing Addendum](#) (accessible via the embedded link), which incorporates the Standard Contractual Clauses (Processors) (decision 2010/87/EU), shall apply to transfers of personal data by the User from an EEA state to Sparqa in the event that the UK becomes a 'third country' for the purposes of Article 44 of the GDPR where (and for so long as) there has not been an adequacy decision by the European Commission pursuant to Article 45 of the GDPR in respect of the UK in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the purposes of Article 46 of the GDPR.

## **8. General**

Nothing in this Annex will relieve Sparqa of its own direct obligations and liabilities under the GDPR, whether as a processor or controller.