

# End User License Agreement

Version 1

Last updated: 8<sup>th</sup> April 2019

This Abyss Review End User License Agreement ("**EULA**") between Abyss Review ("**Abyss**", "**us**", or "**we**") and you ("**you**"), user of the Abyss Services.

This is your EULA for Abyss Review. Please read this carefully before using the Abyss Review service. You may want to retain a copy for your records. When you accept these terms, you confirm that you are duly authorised on behalf of the Client to place an order for Abyss Review subject to the terms and conditions set out below. You also warrant that the information submitted in signing up is correct and accurate to the best of your knowledge.

- A. **Property of Abyss Development Limited** following acceptance of this EULA you may access and use the Abyss Review software through our server(s). The copyright, database rights and any other intellectual property rights in the programs and data which constitute this software product, are and remain the property of Abyss Development Limited ("**Abyss Development**", "**we**", "**us**" and "**our**").
- B. **Licence acceptance procedure** by setting up an account, and logging into our system during the registration procedure, you indicate acceptance of this EULA and the limited warranty and limitation of liability set out in this EULA. Such acceptance is on behalf of any corporate entity which employs you or which you represent ("**Client**"). In this end user licence agreement, ("**you**") includes both the reader and any client. You should therefore read this EULA carefully before clicking on the acceptance field. If you do not agree to the terms of this EULA, do not use the website or the service.
- C. **User rejection** Abyss may in our absolute discretion reject your company from using the Abyss Review service within 21 days of submission, in which case you will be notified of such rejection by e-mail and shall be refunded any subscription fees paid to Abyss Development in respect of such period in connection with a premium service (if any).

## 1. Definitions

The following terms as used in this Agreement have the following meanings:

**"Agreement"** means this End User Licence Agreement which may be amended by Abyss Development from time to time in accordance with its terms;

**"Abyss Review"** means the online Performance Management platform managed by Abyss Development and provided through the Website and other properties;

**"Abyss Review"** means all the proprietary used in delivering the Service (including the software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to the Client by Abyss Development in providing the Service;

**"Client", "you", "yours"** means the corporate entity or organisation ordering the Service(s);

**"Client Data"** means any data, information or material provided or submitted by or on behalf of the Client to Abyss Development and/or the Service or generated by the Service in the course of using the Service including but not limited to employee data held in the Service;

**"Content"** means the documents, software, materials, products and services contained or made available to the Client in the course of using the Service;

**"Defect"** means an error in the operation of the Service that causes the Service to fail to operate substantially as documented;

**"Effective Date"** means the date upon which this Agreement is accepted by the Client;

**"Intellectual Property Rights"** means unpatented inventions, patent applications, patents, design rights, copyrights (including rights in computer software), trademarks, service marks, trade names, domain name rights, database rights, design rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

**"Law"** means any applicable law (statutory, common or otherwise), legislation (primary or secondary), statutory provision, statutory instrument, constitution, treaty, convention, ordinance, equitable principle, code, directive, edict, decree, rule, order, requirement, regulation, guidance, executive order, or other similar authority issued, enacted, adopted, promulgated, implemented, applied, or

otherwise put into legal effect by or under the authority of any governmental entity in any relevant jurisdiction;

**“Service(s)”** means the online Performance Management services developed, operated, and maintained by Abyss Development (and its licensors, where applicable), or ancillary online or offline products and services provided to the Client by Abyss Development, to which the Client is being granted access under this Agreement, including Abyss Review and the Content;

**“User(s)”** means the Client’s employees, representatives, consultants, contractors or agents who are authorised to use the Service and have been supplied user identifications and passwords by the Client (or by Abyss Development at the Client's request); and

**“Website”** means abyss-review.com

## **2. Privacy; Disclosure**

Abyss Development's privacy policy in relation to the Client's use of the Service may be viewed at [abyss-review.com](http://abyss-review.com) and is incorporated into this Agreement by reference. Abyss Development reserves the right to modify its privacy policy in its reasonable discretion from time to time. With regard to any personal data input by or collected from the Client that may be stored or processed in the Abyss Review system, such data shall be stored and processed by Abyss Development in accordance with UK data protection legislation. Note that because the Service is a hosted, online application, Abyss Development occasionally may need to notify all Users of the Service of important announcements regarding the operation of the Service. The Client agrees that Abyss Development can disclose the fact that the Client is a user of the Service.

If you do not agree with Abyss Development's privacy policy, then please do not use the Website or the Service.

## **3. Registration**

Upon signing up for the Service and at subsequent times as requested by Abyss Development, you agree to provide to Abyss Development your true, accurate, current, and complete personal name and/or business name, admin name, billing address, the addresses where the Service will primarily be used, email address, contact phone number, credit/debit card information (if applicable), and other data which may be necessary to administer your account (collectively,

**“Registration Data”**). You represent and warrant that the information you provide is accurate, current, and complete, and agree to promptly update any of the information if it changes.

If you provide Registration Data that is, or that Abyss Development suspects to be, false, inaccurate, not current, incomplete, fraudulent, or otherwise unlawful, Abyss Development has the right, in its sole discretion, to suspend or terminate the Service and refuse any and all current or future use of the Service by you, your business(es), affiliates and all users of your account. At all times, you shall maintain and promptly update Registration Data.

#### **4. Licence Grant and Restrictions**

Subject to and conditional upon the Client's compliance with the terms of this Agreement, Abyss Development hereby grants to the Client a non-exclusive, limited, personal, revocable, non-transferable, right to use the Service, solely for the Client's own internal business purposes, subject to the terms and conditions of this Agreement.

All rights not expressly granted to the Client are reserved by Abyss Development and its licensors.

The Client may not access the Service if they are a direct competitor of Abyss Development or any of Abyss Development's businesses or associated companies, except with Abyss Development's prior written consent.

In addition, the Client may not access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

The Client shall not:

1. license, sublicense, sell, resell, transfer, assign, rent, lease, export, import, act as an intermediary or provider, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way;
2. modify or make derivative works based upon the Service or the Content;
3. create Internet “links” to the Service or “frame” or “mirror” any Content on any other server or wireless or Internet-based device; or
4. reverse engineer or access the Service in order to:
  - a. build a competitive product or service;
  - b. build a product using similar ideas, features, functions or graphics of the Service, or

- c. copy any ideas, features, functions or graphics of the Service.

The Client may use the Service only for internal business purposes and shall not (not authorise any third party to):

1. store infringing, obscene, threatening, libellous, or otherwise unlawful or tortious material, including material harmful to children or in violation of third-party privacy rights;
2. store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;
3. interfere with or disrupt the integrity or performance of the Service or the data contained therein; or
4. attempt to gain unauthorised access to the Service or its related systems or networks.

Abyss Development, in our sole discretion, reserves the right to add, remove, or modify features or functions, or to provide fixes, updates and upgrades, to Abyss Review and the Service. You acknowledge and agree that Abyss Development has no obligation to make available to you any subsequent versions of Abyss Review or the Service. In addition, you and Abyss Development acknowledge that no third-party has any obligation whatsoever to furnish maintenance or support services with respect to Abyss Review or the Service and that Abyss Development is solely responsible for the provision of maintenance and support as provided in this Agreement and to the extent such maintenance and support is required under applicable Law.

Abyss Review and the Service may be integrated with third party applications, websites, and services ("**Third Party Services**") to make available content, products, and/or services to you. These Third-Party Services may have their own terms and conditions of use and privacy policies and your use of these Third-Party Services will be governed by and subject to such terms and conditions and privacy policies. You understand and agree that Abyss Development does not endorse and is not responsible or liable for the behaviour, features, or content of any Third-Party Services or for any transaction you may enter into with the provider of any such Third-Party Services.

## **5. The Client's Responsibilities**

The Client is solely responsible for all activity occurring under their User accounts and shall abide by all applicable Law in connection with their and their Users' use of the Service, including those related to data privacy, international

communications and the transmission of technical or personal data. The Client shall:

1. notify Abyss Development immediately of any unauthorised use of any password or account or any other known or suspected breach of security;
2. report to Abyss Development immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by the Client or their Users; and
3. not impersonate another Abyss Review user or provide false identity information to gain access to or use the Service.

You shall not use Abyss Review or the Service for any illegal, fraudulent, improper, or abusive purpose or in any way that interferes with Abyss Development's ability to provide a high-quality Service to other clients, prevents or restricts other clients from using the Service, or damages any of Abyss Development's or other clients' property.

If Abyss Development finds that you are using the Service for anything other than as permitted by this Agreement or for any of the prohibited uses in this Agreement, Abyss Development may at our sole discretion terminate your Service with immediate effect. Prohibited uses include, but are not limited to:

- Behaviour that is illegal, obscene, threatening, harassing, defamatory, libellous, deceptive, fraudulent, malicious, infringing, tortious, or invasive of another's privacy.
- Harvesting or otherwise collecting information about others, including email addresses, without their consent or in breach of applicable data protection or privacy laws.
- Negligently, recklessly, knowingly, or intentionally transmitting any material that contains viruses, time bombs, Trojan horses, worms, malware, spyware, or any other programs that may be harmful or dangerous.
- Transmitting any material that may infringe, misappropriate, or otherwise violate any third party's Intellectual Property Rights.
- Using the Service in any way that interferes with other clients' and third parties' use and enjoyment of the Service or use the Service in any manner which disrupts, prevents or restricts any other client from using the Service.
- Using or employing methods and/or devices that are designed or likely to take advantage of, bypass, exploit, or otherwise avoid the restrictions and limitations contained in this Agreement.

You further understand and agree that:

- You shall be solely liable for any transmissions sent through Abyss Development and the Service under your account, including the content of any transmission sent through the Service under your account.
- You will abide by all applicable Abyss Development policies, procedures, and agreements related to Abyss Review and the Service.

If we, in our sole discretion, consider you to be in breach of this Agreement, or likely to be in breach of this Agreement, we may take any action we think is necessary to protect Abyss Review, the Service and its users.

We may:

- a) withdraw your right to use Abyss Review and the Service;
- b) remove Client Data from Abyss Review;
- c) take legal proceedings against you;
- d) disclose any information to law enforcement authorities we think is necessary or as required by Law.

These actions are not limited, and we may take any other action we reasonably deem appropriate.

As you will be submitting and providing Client Data which may contain the personal data (and potentially sensitive personal data (as such terms are defined under the Act) of Users and third parties, you acknowledge and accept that you are solely responsible for obtaining all required consents, authorisations and permissions from such Users and third parties to enable you to provide such information to us and to grant to us the rights set forth in this EULA and the privacy policy. It is your responsibility to ensure that all such Users and third parties are aware of and accept the terms of this EULA and the privacy policy and that you have obtained explicit consent of Users to our processing any of their sensitive personal data in accordance with this EULA and the privacy policy.

You may not provide us with any Client Data or other information containing personal data of Users or third parties unless and until you have obtained all necessary consents, authorisations and permissions to do so.

## **6. Account Information and Data**

Abyss Development does not own any of the Client Data. The Client, not Abyss Development, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Client Data, and Abyss Development shall not be responsible or

liable for the deletion, correction, destruction, damage, loss or failure to store any Client Data.

In the event this Agreement is terminated (other than by reason of the Client's breach), Abyss Development shall advise the Client how it may retrieve the Client Data but it will be the sole responsibility of the Client to retrieve a copy of their Client Data within 30 days of termination after which time, to the extent permitted by applicable Law, Abyss Development may delete all such data.

Abyss Development reserves the right to withhold, remove and/or discard Client Data without notice for any breach by the Client without limitation. Upon termination by Abyss Development for any breach, the Client's right to access or use Client Data immediately ceases, and Abyss Development shall have no obligation to maintain or store or forward any Client Data.

## **7. Intellectual Property Ownership**

You hereby grant to Abyss Development a perpetual, worldwide, royalty-free, fully paid-up, non-exclusive, non-transferable (except in connection with an assignment of this Agreement) licence to copy, store, share, record, transmit, display, view, print, and use Client Data to the extent required to provide or improve Abyss Review and the Service and in accordance with our privacy policy.

Abyss Development alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the Abyss Review Technology, the Content, and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by the Client or any other party relating to the Service. This Agreement is not a sale and does not convey to the Client any rights of ownership in or related to the Service, the Abyss Review Technology or the Intellectual Property Rights owned by Abyss Development. The Abyss Review name, the Abyss Review logo, and the product names associated with the Service are trademarks of Abyss Development or third parties, and no right or licence is granted to use them.

You are only entitled to the limited use of the rights expressly granted to you in this Agreement. You will not take any action to jeopardise, limit, restrict or interfere with Abyss Development's Intellectual Property Rights or do any other action or thing which otherwise has the effect of jeopardising, limiting, restricting or interfering with Abyss Development's ownership or use of such Intellectual Property Rights. You acknowledge and agree that any unauthorised use of the Abyss Review Technology and the Content is a breach of this Agreement, as well



as a breach of applicable intellectual property laws. You acknowledge and understand that all title and rights in and to any third-party content that may be accessed through Abyss Review or the Service is the property of the respective content owners and may be protected by applicable copyright or other intellectual property laws and treaties.

## **8. Set-up and Training Services**

Set-up and training services may be available on request from Abyss Development. Their availability and cost will be subject to agreement between the parties.

## **9. Excess Data Storage Fees**

Disk maximum storage space allowance provided to the Client is at the sole discretion of Abyss Development and Abyss Development reserves the exclusive right to amend this at any time without notice.

## **9. Premium Services**

As well as the free service provided to clients, Abyss Development may also offer additional services, features and resources to premium clients for a monthly subscription fee, or annual subscription fee (the "**Premium Services**"). Abyss Development provides information on its Website about the Premium Services and its additional services and features. For Clients with a valid subscription (or free trial (where applicable)) to a Premium Service, the Premium Service shall, for the purposes of these terms, form part of the "Services".

We may need certain information from you so that we can supply the Premium Services to you. If you do not give us this information, or if you give us incomplete or incorrect information, we may either end the contract for the supply of the Premium Services or make an additional charge of a reasonable sum to compensate us for any extra work that is required as a result. We will not be responsible for supplying the Premium Services late or not supplying any part of the Premium Service if this is caused by you not giving us the information we need.

The Premium Services are subscription-based services and there is no minimum contract commitment, which means you can cancel at any time.

The subscription fee for each Premium Service is outlined on the Website and will be charged on the first day you subscribe to a Premium Service (or following a free trial period (if applicable) and then monthly on or after the calendar day corresponding to the commencement of your membership subscription ("**Renewal Date**"). This fee will continue to be charged on each Renewal Date thereafter unless and until you cancel, and regardless of how much you use the purchased Premium Service and we will charge the fee to the debit/credit card that you provide to our payment processor partners (including, without limitation, Stripe) during registration for such Premium Service. We may change the fees and charges in effect, or add new fees and charges from time to time, but we will give you advance notice of these changes by email. If you do not agree to the change or otherwise no longer want to be a Premium Service Client, you may cancel your subscription at any time by emailing us at support@abyss-review.com. The cancellation of your Premium Service subscription shall take effect upon expiry of the then current subscription month/year, and no refund (or partial refund) shall be given in respect of such current month. The Client acknowledges that, in respect of some Premium Services, the subscription price per month may vary depending on the number of active accounts used by the Client during the applicable month (which we may determine in our sole discretion).

You must pay all amounts due to us for a Premium Service in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **10. Termination**

This Agreement commences on the Effective Date.

You understand and agree that Abyss Development may at any time, and without additional notice to you, terminate, modify, suspend, discontinue, or block access to some or all of the features of Abyss Review or the Service if:

- Abyss Development determines that you have materially breached this Agreement (without limiting the generality of the foregoing any unauthorised use of the Abyss Review or Service by the Client will be deemed a material and irremediable breach of this Agreement).
- Abyss Development determines that you did not or will not reasonably comply or cooperate with any applicable Law.
- Abyss Development is ordered by any regulator, law enforcement or other government agency to suspend or terminate the Service.

- You bring any legal action or proceeding, including without limitation in any court, regulatory, or administrative body, arbitral body, or mediator, against Abyss Development, or participate in any class action lawsuit against Abyss Development.
- Abyss Development determines that such action is necessary to protect, maintain, or improve the Service; to prevent fraud or misrepresentation by affirmative acts and/or omissions; to protect Abyss Development, our clients, or other third parties affiliated with Abyss Development; or for any other good cause.

You also understand that Abyss Development may terminate this Agreement without cause upon thirty (30) days' prior written notice.

## **11. Termination Consequences**

Upon any termination or suspension of your account, Abyss Development may immediately deactivate or delete your account and all related information and files in your account and/or restrict any further access to such files, information, or Service.

Abyss Development shall not be liable to you or any third party for any reason for terminating or suspending your use or access to Abyss Review or the Service.

The provisions of this Agreement relating to intellectual property ownership, Client representations and warranties, confidentiality, use policies and restrictions, storage of user information, publicity rights, payment terms, indemnification, force majeure, warranty disclaimers, limitations of liability, notices, assignment, modifications, interpretation, dispute resolution and choice of law shall survive termination or expiration of this Agreement for the maximum term allowable by Law.

## **12. Representations and Warranties**

Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

Abyss Development represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially as documented under normal use and circumstances. The sole remedy for breach of this warranty shall be correction of any Defects by Abyss Development within a

reasonable time from notification by the Client of the Defect that constitutes such a breach, providing that such remedial work is commercially practicable, and the Client provides all the information that may be necessary to assist Abyss Development in resolving the Defect, including sufficient information to enable Abyss Development to recreate the Defect.

You represent, warrant and undertake to Abyss Development that:

1. the Client Data you provide or make available is accurate, current, and complete, and agree to promptly update any of the information if it changes;
2. you have obtained all rights, licences and consents necessary to grant the licences to Abyss Development pursuant to this Agreement;
3. the Client Data will not infringe the rights of any third party, including any Intellectual Property Rights, rights in confidential information or rights in privacy;
4. you have obtained all necessary permissions and consents from any persons associated with or identifiable from the Client Data (including the Users);
5. your provision of the Client Data is made in compliance with all applicable Law and the processing and use of such Client Data by or on behalf of Abyss Development shall not cause Abyss Development to breach any applicable Law or infringe the rights of any third party.

### **13. Confidential Information**

Abyss Development will use its reasonable commercial endeavours to keep all Client Data confidential, providing that Client Data may be disclosed to Abyss Development's employees, representatives, consultants, contractors or agents (who in turn will be legally bound to keep the Client Data confidential). The obligation to keep the Client Data confidential will not apply to any information that:

1. is already known to the public; or
2. is required to be disclosed by Law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction, providing that Abyss Development will give the Client notice of the requirement to disclose of that disclosure as soon as practicable.

## **14. Indemnification**

The Client shall indemnify and hold Abyss Development, its licensors and each such party's parent organisations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including legal fees and costs) arising out of or in connection with:

1. a claim alleging that use or disclosure of the Client Data infringes the rights of, or has caused harm to, a third party (including the Users);
2. a claim, which if true, would constitute a violation by the Client of their representations and warranties under this Agreement; or
3. a claim arising from the breach by the Client or their Users of this Agreement.

In connection with a claim for indemnification pursuant to this Clause 15, Abyss Development shall:

- a) give written notice of the claim promptly to the Client;
- b) give the Client sole control of the defence and settlement of the claim (provided that the Client may not settle or defend any claim unless they unconditionally release Abyss Development of all liability and such settlement does not affect Abyss Development's business or Service);
- c) provide to the Client all reasonably relevant and available information and assistance; and (d) not compromise or settle such claim, without your consent.

## **15. Disclaimer of Warranties**

Abyss Development and its licensors do not guarantee that:

1. Abyss Review or the Service will operate error free or without interruption;
2. all program defects in relation to the Services will be corrected; or
3. Abyss Review or the Service will operate with any hardware, software, system or data not identified in the ordering process.

All conditions, representations and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of satisfactory quality, fitness for a particular purpose, or non-infringement of third-party rights, are hereby disclaimed to the maximum extent permitted by applicable Law by Abyss Development and its licensors.

Abyss Development makes no representations or warranties that the Service is free of rightful claims of any third party for infringement or misappropriation of intellectual property or other proprietary rights.

In addition, Abyss Development makes no representation, nor does it warrant, endorse, guarantee, or assume responsibility for any Third-Party Services (or the content thereof).

Although every effort is made to ensure that data transmissions of Client Data are secure, Abyss Development makes no guarantees of security.

## **16. Internet Delays**

Abyss Development's Service may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications. Abyss Development is not responsible for any delays, delivery failures, or other damage resulting from such problems.

## **17. Force Majeure**

In this Agreement, "force majeure" shall mean any cause preventing Abyss Development from performing any or all of Abyss Development's obligations which arise from or are attributable to acts, events, omissions or accidents beyond Abyss Development's reasonable control including without limitation strikes, lock-outs or other industrial disputes, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, interruption or failure of utility service, including but not limited to electric power, gas or water or default of suppliers or sub-contractors.

Abyss Development shall not be in breach of this Agreement if it is subject to a force majeure event, provided that it uses reasonable endeavours to notify you in writing of the nature and extent of the force majeure event causing Abyss Development's failure or delay in performance. If the force majeure event prevails for a continuous period of more than 2 months, the Client may terminate this Agreement by giving 14 days' written notice to Abyss Development.

On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to Abyss Development's rights in respect of any breach of this agreement occurring prior to such termination.

## 18. Limitation of Liability

1. Nothing in this Agreement will exclude or limit Abyss Development's liability for: death or personal injury caused by Abyss Development's negligence;
2. fraud or fraudulent misrepresentation; or
3. any other liability which may not be excluded or limited under Applicable Law.

Abyss Development shall not be liable for any damages or losses as a result of a force majeure event, or from your or your Users' use of a Third-Party Service.

To the fullest extent permitted by Law, in no event shall Abyss Development or its affiliates be liable to you or any third party for indirect, incidental, consequential, or punitive damages of any kind whether arising under contract, warranty, tort (including negligence or strict liability), or any other theory of liability, even if Abyss Development has been informed in advance of such damages or such damages could have been reasonably foreseen by Abyss Development.

Without limiting the foregoing, Abyss Development shall not be liable for any of the following losses (whether direct, indirect, incidental or consequential):

1. any loss of profits or other economic advantage;
2. any loss of data;
3. any loss of goodwill; and/or
4. any loss of anticipated savings, arising in respect of any representation, statement, act or omission in connection with this Agreement, whether the claim arises under contract, tort, misrepresentation or breach of statutory duty.

For Clients which are not Premium Service users, subject to paragraph 1 of this clause, in no event shall Abyss Development's aggregate liability exceed the sum of £10,000 in total. In recognition of the free nature of the Service, you acknowledge and agree that such allocation of liability between us is reasonable, appropriate and fair in the circumstances.

For Clients which are Premium Service users, subject to paragraph 1 of this clause, in no event shall Abyss Development's aggregate liability exceed the greater of: (a) sum of £10,000; and (b) the sum equal to the total sums paid by you to us in connection with the Premium Service(s) during the immediately preceding 12 months.

The limitation of liability reflects the allocation of risk between the parties. The limitations specified in this section will survive and apply in any and all circumstances.

## **19. Notice**

Abyss Development may give notice by means of electronic mail to the Client's e-mail address on record in Abyss Development's account information. Such notice shall be deemed to have been given upon the expiration 12 hours after sending the email.

## **20. Modification to Terms**

Abyss Development reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time. Such modified terms and conditions will be issued or made available to the Client electronically via email or the Website and shall be deemed effective 12 hours after electronic delivery or notification. Continued use of the Service after any such changes shall constitute the Client's consent to such changes.

## **21. Assignment; Change in Control**

This Agreement may not be assigned by the Client without the prior written approval of Abyss Development but may be assigned without the Client's consent by Abyss Development to:

1. a parent or subsidiary;
2. an acquirer of assets; or
3. a successor by merger.

Any purported assignment in violation of this section shall be void.

Any actual or proposed change in control of the Client that results or would result in a direct competitor of Abyss Development directly or indirectly owning or controlling 50% or more of the Client shall entitle Abyss Development to terminate this Agreement for cause immediately upon written notice.



## **22. General**

This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties agree that any dispute relating to its terms or subject matter shall be subject to the exclusive jurisdiction of the English courts.

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

No joint venture, partnership, employment, or agency relationship exists between the Client and Abyss Development as a result of this Agreement or use of the Service.

The failure of Abyss Development to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Abyss Development in signed writing authorised by a director of Abyss Development.

This Agreement together with Abyss Development's privacy policy and any copyright notices on the Website comprises the entire agreement between the Client and Abyss Development in relation to the Service and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

## **23. Third parties**

For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

## **24. Acceptance of Agreement**

By creating an account for the Abyss Review Service, or by logging into the Abyss Review Service, you confirm acceptance of this End User Licence Agreement, which shall constitute a binding contract between Abyss Development and the Client, subject to the ability of Abyss Development within 21 days to reject the Client.

## **25. Company information**

Abyss Development Limited is incorporated under the laws of England, with company number 10023728.

Abyss Development's registered address is:

66 Cannon Park Road  
Coventry  
CV4 7AY  
United Kingdom