

MASTER TERMS

28 March 2023 v1.2

In these Master Terms, "Client" and "First Tack" or "First Tack" ("parties") refer to the entities identified in the applicable Order Form. Some of these Master Terms apply exclusively to specific Services. Those Service-specific terms and conditions are deemed applicable only where the Client executes an Order Form in respect of such Service. Where a Service includes the provision of: (a) Software, the Software Schedule shall apply; (b) Professional Services, the Professional Services Schedule shall apply, in addition to these Terms and Conditions. Capitalized terms used but not otherwise defined are set forth in Clause 19 (Definitions and Interpretation).

1. GENERAL

1.1. **Parties.** Each party and their Affiliates may enter into Order Forms which are governed by the Master Terms. Where an Order Form is entered into by an Affiliate, references in the Agreement to "First Tack" refer to First Tack's Affiliate, and references to "Client" refer to Client's Affiliate and "parties" or "party" shall be construed accordingly.

1.2. **Precedence.** If there is any conflict among any elements of the Agreement, the descending order of precedence will be (unless expressly stated otherwise for any particular terms): Order Form, Annexes, Schedules, Master Terms (excluding the Annexes and Schedules). Clause 6 (Third Party Provider Restrictions) takes precedence of any conflicting term of the Agreement.

2. TERM

The Master Terms commence on the Effective Date specified on the Order Form ("Effective Date") and will remain in force during the term of any Service. Unless otherwise stated in an Order Form, the initial term of each Service (and any permission granted) is one year from the first day of the month following the date the Service is first made available and will automatically renew for an additional one-year period on each successive anniversary date, unless one party gives the other at least 90 days' notice prior to the end of the then-current term.

3. CHARGES

3.1. **Payment of Charges.** Client will pay the Charges that are not the subject of a good faith dispute within 30 days of the date of the invoice and without set-off, counterclaim or deduction. Unless expressly stated otherwise in the Order Form, all Charges are due and payable in advance of the provision of the Services. Recurring Charges accrue from the first day of the month following the date the relevant Service is made available by First Tack until the end of the month in which a termination of the Service takes effect. Client agrees to notify First Tack of any disputes within 10 days of the date of invoice. First Tack may apply a service charge of 1% per month or the highest lawful interest rate (whichever is higher) to all amounts not paid to First Tack when due.

3.2. **Payment of Taxes.** The Charges are exclusive of taxes, and Client will also pay applicable taxes and duties (including withholding taxes, value added tax (VAT), or other taxes but excluding income taxes imposed on First Tack). Client will provide to First Tack written evidence of any withholding tax paid by Client or any tax exemption on which Client wishes to rely. If Client is obliged to withhold or deduct any portion of the Charges, then First Tack shall be entitled to receive from Client such amounts as will ensure that the net receipt, after tax and duties, to First Tack in respect of the Charges is the same as it would have been were the payment not subject to the tax or duties.

3.3. **Changes To Fees.** During the term of a Service First Tack may increase or adjust the basis for calculating the Fees for each Service annually ("Annual Adjustment") by providing Client at least 90 days' prior written notice or as otherwise required to reflect a change in the fees offered by the Licensor in respect of the Services. If solely as a result of the Annual Adjustment, First Tack increases the Fees by more than the greater of 5% or the change in the OECD CPI, Client may terminate the affected Service by notifying First Tack within 30 days of the date of First Tack's notice. Termination of such Service is effective on the date when the increase or adjustment takes effect.

3.4. **Changes to Related Charges.** First Tack may increase any recurring Related Charges from time to time. Related Charges for communications networks and facilities may be increased effective January 1 of each year by notifying Client on or before October 1 of the previous year. First Tack will endeavour to

provide Client with prior notice of any increase to other Related Charges, but may not be able to do so if First Tack does not receive sufficient prior notice from third parties.

3.5. **Excess Use.** Access to the Services is limited to the scope set forth on the applicable Order Form. In the event that the Client's scope of use exceeds the limits set out in the Order Form (such as the number of Users, transactions (including returns), entities, and/or territories) First Tack shall be entitled to charge additional Charges for the excess use at the rates set out in the Order Form or at the then current First Tack pricing, whichever is greater (which additional Charges shall be a one-time adjustment for perpetual licenses and pro-rated for subscription licenses for the remainder of the initial term or renewal term, as applicable). Where Client is responsible for administering users of the Service, Client shall inform First Tack in writing of any increase in the permitted number of Users used by Client and First Tack reserves the right to increase the Fees, pro-rata, in line with such increase. On each anniversary of the Effective Date, the Fees shall be increased automatically to reflect any increase in the number of Permitted Records and/or Users since the last Anniversary Date.

4. PERFORMANCE AND COMPLIANCE

4.1. **Obligations of the Parties.** First Tack will provide the Services to Client using reasonable skill and care. First Tack will provide, and Client will use, the Services in accordance with (a) the operating specifications to run or access the Service; and (b) applicable laws and regulations. If Client is permitted to provide an Affiliate with access to any part of the Services, Client will ensure that such Affiliate complies with all provisions of the Agreement applicable to Client as if they were its own. The Client acknowledges that First Tack is reliant on the Licensor in respect of the provision of some of the Services and accordingly agrees that First Tack is not liable for any delays or failures caused by the actions or omissions of the Licensor.

4.2. **Export Control and Sanctions.** Client will not obtain, retain, use, or provide access to the Services to an Affiliate or any third party in a manner that may breach any applicable export control or economic sanctions laws and regulations for any jurisdiction, including the United States of America, the United Kingdom and the European Union and its Member States. Client warrants that neither it nor any Affiliate to which Client provides access to the Services is or is affiliated with a specially designated or sanctioned entity under any of those laws and that, in any transaction relating to First Tack, it will not involve sanctioned parties, including without limitation through the use of bank accounts at banks that are sanctioned parties.

4.3. **First Tack Hosted Services.** Where First Tack, its affiliates, or its third-party providers, hosts Services on behalf of the Client or provides a hosted Service to Client, First Tack, its affiliates, or its third-party(s): (a) shall provide Client with the login details and make the Service available to Users over the Internet from the host site provided that Client's Users are authenticated by providing the correct login details; (b) may suspend access to the Service in order to perform maintenance, network upgrades or other work related to the host site and, where reasonably practicable, will provide reasonable advance notice to Client of such suspension within the Service or otherwise in writing, including by email; and (c) shall use commercially reasonable endeavours to: (i) maintain commercially reasonable server capacity and connectivity from the host site, in each case, to provide Users with reasonable access to the Service; (ii) make the Service available to Users from the host site on a twenty-four (24) hour per day basis, except in the case of work carried out pursuant to Clause 4.3(b) but shall not be in breach of the Master Terms where it fails to do so; and (iii) restore access to the Service in the event of an unscheduled interruption or suspension of Service.

5. USAGE PERMISSIONS AND RESTRICTIONS

- 5.1. Usage. First Tack permits Client to use the Services within the scope of use set out in the Master Terms and the relevant Schedule and/or Order Form. Unless expressly set out in the Order Form, First Tack's permission to use the Services is limited to use by the Client only and no third parties. Materials and communications facilities or networks in connection with the Services, may only be used to access the Services and benefit from the rights granted under the Agreement. First Tack may make available to Client an open API to achieve interoperability between a Service and any other software applications or technology, which the Client may use where applicable, subject to First Tack's then current Fees (if any) for such APIs.
- 5.2. Usage Restrictions. (a) Client will not: (i) copy or modify any part of the Services; (ii) use or provide the Services in a white-labelled basis, or otherwise, for the benefit of any third party (other than third parties to the extent they are expressly permitted under the Agreement to receive access to the Services); (iii) use any Materials, or communications facilities or networks provided by or on behalf of First Tack, other than to receive and properly use the Services; or (iv) merge, decompile, disassemble, or reverse-engineer Software (except as expressly permitted by law or regulation to achieve interoperability with other technology where such rights cannot be modified by agreement) or change the filename of Software. (b) Any Information, Materials or other rights provided with a Service are non-transferable and non-sublicensable by Client.
- 5.3. Trials and Testing. All trials or testing of Services are subject to the terms of the Agreement, unless otherwise notified by First Tack
- 5.4. Client Obligations When Installing and Hosting. (a) Where the relevant Service will be accessed via a Third Party Host: (i) Client shall be responsible for maintaining such licenses and paying such fees to the Third Party Host as are required by the Third Party Host to access its products and services and/or the Service via such products and services; and (ii) First Tack shall not be liable for any failure by the Third Party Host to make the Service available to Client or its Users or for any inability of Client or its Users to access the Service from the Third Party Host.

6. THIRD PARTY PROVIDER RESTRICTIONS

- 6.1. Licensor Restrictions. The Client accepts that the Software is licensed to First Tack by the Licensor and is subject to restrictions which are set out under this clause 6. For the avoidance of doubt any reference to a Third Party Provider under this clause includes the Licensor.
- 6.2. Third Party Provider Restrictions. Third Party Providers may impose additional restrictions on usage of their Information, Materials, or services and may change them from time to time. These restrictions may include prohibiting certain types of usage or requiring Client to report its usage to, obtain agreement from, or pay additional fees either through First Tack or directly to, the relevant Third Party Provider. Client can view restrictions that Third Party Providers have supplied to First Tack as issued by the Licensor at <https://myautoaudit.com/third-party-provider-terms/> ("**Third Party Terms Site**"), or alternatively, in some cases, within the relevant Service. First Tack will use commercially reasonable efforts to ensure that the applicable Third Party Terms Site or the Service (as relevant) is maintained with the latest policies of each relevant Third Party Provider. Changes to the Third Party Terms Site may be published quarterly, where First Tack will endeavour to provide Client 30 days' notice before a change goes into effect, but may not be able to do so if First Tack does not receive sufficient prior notice from third parties. These restrictions are binding on Client in the same way as any other provision in this Agreement
- 6.3. Third Party Provider Instructions. Third Party Providers may have the right to require that First Tack restrict, suspend or terminate Client's access to that Third Party Provider's Information, Materials, or services. If First Tack takes any such action, it will (a) use reasonable efforts to provide Client with notice and (b) not be liable for any resulting Damages Client may suffer.
- 6.4. Reporting to Third Party Providers. First Tack may provide Third Party Providers with details of Client's usage of, and any suspected breach of this Agreement relating to, that Third Party Provider's Information or Materials or services.

7. INTELLECTUAL PROPERTY AND FEEDBACK

- 7.1. Services. Client acknowledges that, as between the parties, all Intellectual Property Rights in the Services (including Information Materials) are (a) owned by First Tack, its Affiliates or Third Party Providers, and (b) hereby reserved to First Tack (or Third Party Providers) unless specifically granted in the Agreement. Client will not remove or conceal any proprietary rights notice in the Services, and will include such notices on any copy it is permitted to make.
- 7.2. Client Materials and Feedback. First Tack acknowledges that, as between the parties, all Intellectual Property Rights in the Client Materials are owned by Client or licensors to Client. First Tack may collect and use information related to Client's use of the Services for customer and technical support, to monitor compliance with the terms of our Agreement, and to recommend additional products or services. Additionally, First Tack may use information related to Client for other purposes, such as to test, develop, improve and enhance its products and services, so long as such information is not identifiable to the Client or any individual. If Client provides First Tack with any feedback on First Tack's products and services, Client grants First Tack and First Tack's Affiliates the right to use it to develop their services and products and to create and own derivative works based on such feedback without any obligation to pay Client any fees or royalties.
- 7.3. Use of Name. Other than as necessarily required for the provision of the Services or as set out under this clause, neither party may use the other party's name, trademarks or any derivatives of them, except for internal purposes or as required by law or regulation, without the other's prior written consent. First Tack shall be entitled to issue a press release and other content (such as a customer case study) on its website and other media regarding the relationship between the parties and provision of Services to the Client and is permitted to use the Client's name, logos and marks solely for that purpose

8. SECURITY

Where Services are provided to an individual User, concurrent usage or sharing of Services between Users is not permitted. However, Client can transfer a Service from one User to another in the same country by notifying First Tack subject to paying any applicable transfer fees and so long as such transfer does not cause any breach of the scope of Services set forth on the applicable Order Form. Access to the Services may be subject to using passwords, smartcards, or other security devices ("Security Credentials") provided by First Tack. Such Security Credentials must not be shared. First Tack may change Security Credentials with notice to Client or Client's Users for security reasons. Each party will use reasonable efforts to (a) scan the Services and its related systems for any code or device which is designed or intended to impair the operation of any computer or database or prevent or hinder access to, or the operation of, any program or data, using detection software generally accepted in the industry, (b) secure its computing environments according to generally accepted industry standards to ensure that the Services cannot be accessed by any unauthorized person or malicious software, and (c) remedy any security breach of which it becomes aware.

9. SUPPORT

- 9.1. Support Provided. To assist in resolving technical problems with the Services, First Tack may provide telephone and/or online access to its helpdesk, or may provide self-help tools. Any specialist technical support will be provided by the Licensor. Additional information related to the support provided by First Tack and the Licensor may be described on <https://myautoaudit.com/support/terms-of-business/> ("**Service Levels**") or as otherwise provided by First Tack. Client understands that the Service Level Targets are only targets and although First Tack shall endeavour to provide support in accordance thereof it shall not be in breach for any failure to do so. Client will provide First Tack, the Licensor or their affiliates with reasonable assistance and prompt access to Client's systems or its site. In providing support on Client's premises, First Tack will comply with Client's reasonable security, health and safety, and confidentiality procedures that are provided to First Tack in advance in writing
- 9.2. Remote Support. First Tack, Licensor or their affiliates may seek Client's consent to install software agents on Client's systems to provide support or access to Software remotely. If Client withholds consent and First Tack is able to provide alternative support or access, additional Charges may apply.

9.3. **Support Exceptions.** If First Tack elects to provide support for any of the following, then additional Charges may apply: (a) issues caused by Client or third party information or materials; (b) any Services, or any versions of Services, that First Tack has advised Client are unsupported; (c) issues caused by Client's failure to follow First Tack's instructions or specifications; (d) Services not located in or conforming to the operating environment specified in the Agreement; (e) issues caused by accidents, modifications, support, relocation or misuse of the Service not attributable to First Tack; or (f) Client's networking or operating environment

10. CHANGES

10.1. **Changes to Services.** First Tack may modify a Service from time to time but will not change its fundamental nature, except as permitted in Clauses 11.1 (External Triggers) and 11.2 (Obsolescence). First Tack will use reasonable efforts to notify Client of significant changes to Services.

10.2. **Updates and Upgrades.** Client will promptly install any Update provided by First Tack, and any Upgrade that First Tack makes available to Client, at no additional charge. First Tack may make other Upgrades available to Client that are subject to additional Charges

10.3. **Technical Changes.** If First Tack or its affiliates initiates a change in the hardware, software, data or communications requirements, formats or protocols for any Service that will affect Client's systems or Client's ability to continue receiving the Service, then First Tack will, to the extent practical under the circumstances, provide Client at least three months' notice of such change, and at least six months' notice where a change is required to Client's hardware. However, if a Third Party Provider initiates such a change, First Tack will give Client as much notice as is reasonably practicable.

11. TERMINATION AND CONSEQUENCES OF TERMINATION

11.1. **External Triggers.** First Tack may, with notice ("First Tack's Notice"), terminate a Service in whole or in part, or modify it or the terms on which it is provided, if all or part of that Service: (a) depends on an agreement between First Tack or a First Tack Affiliate and a third party, and that third party agreement or the third party's materials or other input is modified or terminated (including First Tack's licensing agreement with the Licensor); (b) becomes illegal or contrary to any law, regulation, guideline or request of any regulatory authority; or (c) becomes subject to a claim or potential claim that it infringes or violates the rights of any third party. First Tack will endeavour to provide Client with reasonable prior notice of any such termination or modification, but may not be able to do so if the triggering event is under the control of a third party. The effective date of the termination or modification as indicated on First Tack's Notice is the "Change Date". If a partial termination or modification in accordance with this clause 11.1 fundamentally and detrimentally changes the nature of or the rights granted in the Service, Client may by providing First Tack with notice no later than 30 days after the date of First Tack's Notice: (i) terminate the affected Service; or (ii) request that First Tack remedy the change made to the affected Service. If First Tack fail to remedy the change within 30 days of receiving a request pursuant to (ii), the Client may terminate the affected Service by giving written notice.

11.2. **Obsolescence.** First Tack may obsolete: (a) a prior version of a Service on at least six months' prior notice following the general availability of an Update or Upgrade (whether designated with the same Service name or not), and (b) any Service as a whole on at least six months' prior notice. First Tack will have no obligation to provide or support obsolete Services or versions of Services at the end of such notice periods. In the case of a version obsolescence described in (a), the term of the affected Service will continue unless, where the new version is subject to additional Charges, Client may terminate the Service by providing First Tack with 30 days' notice after the date of First Tack's notice. In the case of Service obsolescence described in (b), the Service will terminate (except to the extent First Tack has granted Client a perpetual right to use the Software).

11.3. **Suspension.** First Tack may suspend, upon notice, all or part of a Service and Client's rights in relation to that Service if: (a) First Tack has the right to terminate the Service in accordance with Clauses 11.4 (Termination for Breach) or 11.5 (Termination for Insolvency); (b) First Tack is required to do so by a Third Party Provider affected by a breach of the Agreement; (c) First Tack is required to do so by law or regulation or at the request of any relevant regulatory authority or (d) in order to protect First Tack's

systems and security. Any such suspension may continue until First Tack is satisfied that the condition is remedied. Client is still required to pay the Charges during any period of suspension permitted by (a) or (b) above.

11.4. **Termination for Breach.** Either party may terminate the Agreement, upon notice, if the other party materially breaches the Agreement and the breach (a) remains unremedied 30 days after the date the breaching party receives a notice from the other party describing the breach and requiring it to be cured, or (b) is incapable of being cured. However, if the material breach relates solely to one or more Services (but not all the Services), the non-breaching party only may terminate the relevant Service(s).

11.5. **Termination for Insolvency.** Either party may terminate the Agreement, immediately upon notice, if: (i) the other party enters into a composition with its creditors; (ii) a court order is made for the winding up of the other party; (iii) an effective resolution is passed for the winding up of the other party (other than for the purposes of amalgamation or reconstruction); (iv) the other party has a receiver, manager, administrative receiver or administrator appointed with respect to it, (v) the other party ceases to be able to pay its debts as they fall due; (vi) the other party takes or suffers any action similar to any of the above on account of debt in any jurisdiction.

11.6. **Rights to use the Services.** Upon termination of this Agreement, the licenses, permissions and rights granted under this Agreement shall immediately cease, save for any perpetual license granted hereunder.

11.7. **Injunctive Relief.** Nothing in this Agreement prevents First Tack or Client from seeking an immediate injunction or similar remedy from a court of competent jurisdiction to prevent or restrain breaches of the Agreement.

11.8. **Refunds.** Where First Tack terminates a Service other than under Clauses 11.4 (Termination for Breach) or 11.5 (Termination for Insolvency), or Client terminates a Service where the Agreement permits it to, Client will be entitled to a pro rata refund of any recurring Fees that Client has paid in advance for the terminated Service.

11.9. **Delete or Return Information and Materials.** Following termination, and at any time with respect to Confidential Information, (a) at Client's request and subject to the remainder of this clause 11.9, First Tack will promptly cease use of, return, delete or destroy Client Materials and Client's Confidential Information, and (b) at First Tack's request Client will promptly cease use of, return, delete or destroy all Information, Materials, and First Tack's Confidential Information and if requested by First Tack confirm in writing that it has done so. However, each party may retain copies to the extent required by, and used only to (i) comply with, law or regulation, and (ii) support the enforcement or defense of a party's rights under the Agreement. This clause 11.8 will not apply to the extent First Tack has granted Client a perpetual right to Information or Materials, unless First Tack is terminating that perpetual right under Clauses 11.4 (Termination for Breach) or 11.5 (Termination for Insolvency). First Tack will not be required to return, delete or destroy any feedback, Contributed Data or material contributed by Client's Users to any Service.

11.10. **Survival of Terms.** Termination of all or any part of the Agreement will not affect a party's respective accrued rights and obligations. The following will survive termination: Clauses 3.1 (Payment of Charges), 3.2 (Payment of Taxes), 11.8 (Refunds), 11.9 (Delete or Return Information and Materials), 11.10 (Survival of Terms), and 12 to 18 (Confidentiality; Data Privacy; Audit; Disclaimers; Limitation of Liability; Indemnity and Miscellaneous), along with any others that by their nature should survive.

12. CONFIDENTIALITY

12.1. **Non-disclosure.** The Receiving Party will hold the Disclosing Party's Confidential Information in confidence and will not disclose any part of it to any third party except to its Affiliates, consultants and third-party contractors (including financial advisors, accountants and attorneys) (collectively, "Representatives") who are acting on behalf of the Receiving Party and are bound by, or are otherwise protected by legal privilege or confidentiality and non-disclosure commitments substantially similar to those contained in this Agreement. If a Receiving Party is legally compelled to disclose the Disclosing Party's Confidential Information, the Receiving Party shall (a) provide prompt notice (if legally permissible) to the Disclosing Party so that the Disclosing

- Party can seek a protective order or other appropriate remedy, and (b) limit any such disclosure to the extent of the legal requirement and the disclosed information will remain Confidential Information despite such disclosure.
- 12.2. **Exceptions.** These obligations of confidentiality do not apply to information which: (a) is or becomes (through no act or omission of the Receiving Party), generally available to the public; (b) becomes known to the Receiving Party or any of its Affiliates on a non-confidential basis through a third party who is not subject to an obligation of confidentiality with respect to that information; (c) was lawfully in the possession of the Receiving Party or any of its Affiliates prior to such disclosure; (d) is independently developed by the Receiving Party or any of its Affiliates and can provide evidence of the same; or (e) the Disclosing Party agrees is not confidential or may be disclosed, to the extent of that consent.
13. **DATA PRIVACY**
- 13.1. **Data Protection Legislation.** Each party will at all times comply with Data Protection Legislation in respect of its processing of Personally Identifiable Information.
- 13.2. **Client-Provided Data.** Client confirms that any Client Personal Data has been collected and disclosed in accordance with Data Protection Legislation. When using the Services, or accessing First Tack's systems (including any systems licensed by First Tack) or any other information held by First Tack, Client shall not input, upload, maintain or disclose any irrelevant or unnecessary information about individuals.
- 13.3. **Cooperation.** The parties shall use reasonable efforts to assist one another in relation to the investigation and remedy of any claim, allegation, action, suit, proceeding or litigation with respect to alleged unauthorized access, use, processing or disclosure of Personally Identifiable Information.
- 13.4. **Protective Measures.** Each party will maintain, and will require all third party data processors each such party engages to maintain, appropriate physical, technical and organizational measures to protect Personally Identifiable Information against accidental, unauthorized or unlawful destruction, loss, alteration, disclosure or access.
- 13.5. **Licensor.** The Client hereby accepts that the Licensor shall be an independent Controller of any Personally Identifiable Information that is disclosed under this Agreement and shall process such information in accordance with its privacy policy: <https://empoweredsystems.com/privacy-policy/> ("Licensor Privacy Policy"). The Client agrees to provide individual Users of the Service with a copy of the Licensor Privacy Policy. The Client shall indemnify and hold harmless First Tack from any Damages suffered or incurred by First Tack arising from or in connection with the Licensor's collection, use and processing of an such Personally Identifiable Information.
- 13.6. **Local Law Requirements.** The parties hereby agree that they shall comply with the terms of the GDPR Annex. Any reference to Clause 13 (Data Privacy) in this Agreement shall be construed to include such the additional privacy terms set out in the GDPR Annex
14. **AUDIT**
- 14.1. **Audit Rights.** First Tack has the right (by itself or through its representatives) to audit Client, on at least 10 business days' notice and during normal business hours, to verify whether Client is complying with the Agreement. First Tack will comply with Client's reasonable security, health and safety, and confidentiality procedures that are provided to First Tack in advance in writing. First Tack will not audit more than once in every 12 months per Client location, unless (i) First Tack has cause to suspect, or an audit reveals, that Client is non-compliant, or (ii) where required to do so by a Third Party Provider with respect to its Information or Materials.
- 14.2. **Charges and Costs.** If the audit reveals that Client has breached the Agreement, Client will pay (a) any underpaid charges with respect to any period of non-compliance, and (b) the costs of undertaking the audit if Client has underpaid the charges by more than 5% or where such costs are imposed on First Tack by a Third Party Provider.
15. **DISCLAIMERS**
- 15.1. **General Disclaimer.** All warranties, conditions and other terms implied by statute or common law including, without limitation, warranties or other terms as to suitability, merchantability, satisfactory quality and fitness for a particular purpose, are excluded to the maximum extent permitted by applicable laws. Unless expressly provided, the Services are delivered "as is" without warranty of any kind. First Tack does not warrant or represent that the Services (or services, information or material supplied to First Tack on which all or part of a Service depends) will be delivered free of any inaccuracies, interruptions, delays, omissions or errors ("Faults"), or that all Faults will be corrected. First Tack shall not be liable for any Damages resulting from any such Faults. Client assumes sole responsibility and entire risk as to the suitability and results obtained from use of the Services, and any decisions made or actions taken based on the information contained in or generated by the Services. Client is solely responsible for the preparation, content, accuracy and review of any documents, data, or output prepared or resulting from the use of the Services. In no event shall First Tack, its affiliates, or its third party providers be liable for any penalties, interest or taxes assessed by any governmental or regulatory authority.
- 15.2. **No Advice.** Client understands that First Tack is a reseller and provider of information (including opinions) for general information purposes only and does not provide financial, tax and accounting, medical, legal or other professional advice. Some Information may contain the opinions of third parties, and First Tack is not responsible for these opinions. Likewise, First Tack is not responsible for any Damages resulting from any decisions of Client, or anybody accessing the Services through Client, that are made in reliance on the Services, including decisions relating to the sale and purchase of instruments or legal, compliance and/or risk management decisions. Client agrees that it uses the Services at its own risk in these respects.
16. **LIMITATION OF LIABILITY**
- 16.1. **Unlimited Liability.** The limits on liability in Clause 16. 2 (Liability Cap) do not apply to: (a) a party's fraud, fraudulent misrepresentation, wilful misconduct, or conduct that demonstrates a reckless disregard for the rights of others; (b) negligence causing death or personal injury, (c) any indemnification obligations, other than to the extent described in Clause 17. 2 (Third Party Limitation), (d) Client's liability to pay the Charges and any amounts First Tack would have charged for use of the Services beyond the usage permissions and restrictions granted under the Agreement. Nothing in this Agreement limits liability that cannot be limited under law.
- 16.2. **Liability Cap.** Each party's aggregate liability to the other in any calendar year for Damages (in contract, tort including negligence or otherwise) arising out of or in connection with the Agreement will not exceed the Fees payable by Client to First Tack for the applicable Service(s) which forms the basis for the claim(s) during the 12 month period immediately preceding the incident (or the first incident in a series) giving rise to any claim for those Damages.
- 16.3. **Exclusions.** Neither party will be liable for any: (a) indirect, incidental, punitive, special or consequential Damages arising out of or in connection with the Agreement; (b) loss of data (except that First Tack or it's affiliates shall be liable to restore data from any available back-ups); or (c) loss of profits (except with respect to the Charges); even if such Damages or losses in (a) to (c) could have been foreseen or prevented.
- 16.4. **Force Majeure.** Neither party will be liable for any Damages or failure to perform its obligations under the Agreement due to circumstances beyond its reasonable control. If such circumstances cause material deficiencies in the Services and continue for more than 30 days, either party may terminate any affected Service upon notice to the other party.
17. **INDEMNITY**
- 17.1. **First Tack Indemnity.** First Tack will indemnify Client against Damages Client incurs as a result of any third party claim that the Services infringe the Intellectual Property Rights of a third party in the locations where Client is permitted by First Tack to use the Services, except if the Damage results from: (a) the combination of all or part of the Service with other products or technology not supplied by First Tack or its affiliates; (b) modification of all or part of the Service other than by First Tack or its subcontractors; (c) use of a version of the Service after First Tack has notified Client

- of a requirement to use a subsequent version; or (d) Client's breach of the Agreement.
- 17.2. **Third Party Limitation.** Where the indemnity obligation in clause 17.1 (First Tack Indemnity) arises from Information or Materials First Tack obtained from a Third Party Provider, First Tack's monetary liability to Client will be limited to the amount First Tack recovers from the relevant Third Party Provider, divided by the number of other actual or potential claims by First Tack customers (including Client) against First Tack arising from those Information or Materials.
- 17.3. **First Tack's Remedial Options.** First Tack may remedy any alleged or anticipated infringement of a third-party Intellectual Property Right by: (a) procuring the right for Client to continue using the Service in accordance with this Agreement; (b) replacing affected Information and/or Materials with replacement(s) that do not alter the fundamental nature of the relevant Service; or (c) taking the actions in Clause 11.1 (External Triggers).
- 17.4. **Client Indemnity.** Client will indemnify First Tack and its Affiliates against Damages they incur arising out of or in connection with any brought or threatened third party claim, regulatory investigation or similar action initiated by a regulatory authority, or a regulatory fine or penalty, connected to: (a) an allegation that their use of Client Materials infringes the Intellectual Property Rights of a third party; (b) Client's, its Affiliates' or their sub-contractors' use of the Services, including communications and networks, in breach of the Agreement; (c) First Tack's compliance with any instruction given by Client to First Tack in the course of the provision of Services; (d) any action or omission by the Client under the Agreement (including any of the same which puts First Tack in breach of its obligations under any Third Party Provider agreements); or (e) an assertion by any person accessing or receiving the benefit of any part of a Service through Client (except to the extent of any indemnity First Tack provides under Clause 17. 1 (First Tack Indemnity)).
- 17.5. **Conduct of Claims.** The indemnification obligations in Clause 17 (Indemnity) are conditioned on the indemnified party: (a) providing the indemnifying party with prompt notice of the details of the claim and, if the indemnifying party requests it, control of the claim; (b) co-operating, at the indemnifying party's or relevant Third Party Provider's expense, in the defense or prosecution of the claim; and (c) not making any admission or taking steps to settle any claim without the indemnifying party's prior written approval. The indemnified party may participate, at its expense, in the defense of any such claims through legal counsel of its choice.
18. **MISCELLANEOUS**
- 18.1. **Notices.** All notices under the Agreement must be in writing and sent by email or mail, courier, fax or delivered in person at the address set out on the latest Order Form between the parties (or such other more recent address notified to the other). However, First Tack may give technical or operational notices or notices of Third Party Provider restrictions via publication on any site or portal availability to the Customer via the Services themselves.
- 18.2. **Choice of Law and Jurisdiction.** The Agreement and any dispute or claim arising out of or in connection with the Agreement will be governed by and construed in accordance with the laws of England and Wales. Each party hereby consents to the exclusive jurisdiction of the Courts of England and Wales to settle all disputes or claims arising out of or in connection with the Agreement.
- 18.3. **Assignment.** Neither party may assign or transfer (by operation of law or otherwise) any right or obligation under the Agreement without the other party's prior written consent, which may not be unreasonably withheld or delayed. Any assignment in violation of this clause shall be null and void. However, First Tack may, without Client's consent, assign the Agreement or any rights granted in the Agreement, in whole or part, either (a) to an Affiliate; (b) in connection with First Tack's or an Affiliates' sale of a division, product or service; or (c) in connection with a reorganization, merger, acquisition or divestiture of First Tack or any similar business transaction.
- 18.4. **Third Party Rights.** Clauses 4. 1 (Obligations of the Parties), 5 (Usage Permissions and Restrictions), 6 (Third Party Provider Restrictions), 7 (Intellectual Property and Feedback), 11.8 (Delete or Return Information and Materials), 12 (Confidentiality), 14 (Audit), 15 (Disclaimers), 16 (Limitation of Liability), 17.4 (Client Indemnity), and 17.5 (Conduct of Claims) benefit Third Party Providers and First Tack's Affiliates to the same extent as they would benefit First Tack. The limitations and exclusions set out in Clause 16 (Limitation of Liability) will apply with respect to all such recipients of a claim under each Agreement so that the aggregate liability will not exceed that applying to one recipient of a claim. Third Party Providers and First Tack's Affiliates may exercise their rights directly or First Tack may exercise such rights on their behalf.
- 18.5. **Severability.** If any part of the Agreement that is not fundamental is illegal or unenforceable, it will be deemed modified to the minimum extent necessary to make it legal and enforceable. If such modification is not possible, the part will be deemed deleted. Any such modification or deletion will not affect the validity and enforceability of the remainder of the Agreement.
- 18.6. **No Waiver.** If either party delays or fails to exercise any right or remedy under the Agreement, it will not have waived that right or remedy.
- 18.7. **Entire Agreement and Non Reliance.** The Agreement contains the entire understanding between the parties regarding its subject matter and supersedes all prior agreements, understandings, negotiations, proposals and other representations, verbal or written, in each case relating to such subject matter. Each party acknowledges that in entering into the Agreement it has not relied on any representations made by the other party that are not expressed in the Agreement.
- 18.8. **Signature and Amendment.** The Agreement is binding when First Tack accepts an Order Form signed by Client either by executing the Order Form or performing the Services. The Agreement may be varied only by a written amendment signed by both parties.
19. **DEFINITIONS AND INTERPRETATION**
- Access Declaration** – any report that First Tack requires Client to complete and return in connection with Services where Client controls, or is required to disclose, any access to the Services.
- Affiliate** – in the case of First Tack, any entity that, from time to time, is directly or indirectly controlling, controlled by, or under common control with First Tack; in the case of Client, any entity that, from time to time, is directly or indirectly controlling, controlled by, or under common control with Client. "Control" means the power to direct or cause the direction of the management or policies of such entity, whether through the ownership of voting securities, by contract, or otherwise, and the terms "controlling" and "controlled" shall be construed accordingly.
- Agreement** – all Order Forms and Access Declarations governed by these Master Terms, and other schedules, exhibits or addenda referred to or incorporated in them, each between the same parties.
- Charges** – the Fees and any applicable Related Charges.
- Client** - the entity signing these Master Terms or its Affiliate referred to in Clause 1. 1 (Parties) as relevant to the Agreement.
- Client Materials** – means (a) information, software, or other materials provided to First Tack by or on behalf of Client, which First Tack is required to host, use or modify in the provision of a Service, (b) Client's Contributed Data and (c) material Users contribute to any Interactive Service.
- Client Personal Data** – the Personally Identifiable Information made available or uploaded into the Services by, or on behalf of, Client and processed by First Tack in connection with this Agreement.
- Confidential Information** – information in any form, whether oral or written, of a business, financial or technical nature which the recipient reasonably should know is confidential and which is disclosed by a party in the course of the Agreement, but excluding the information listed in Clause 12. 2 (Confidentiality Exceptions) and Contributed Data.
- Contributed Data** – information created by First Tack customers and provided to First Tack, and accepted by First Tack, for inclusion in any service of First Tack or its Affiliates for distribution to its customers.

Data Protection Legislation – means legislation relating to an individual's right to privacy with respect to the processing of PII which is applicable to a party from time to time.

Damage(s) – any liability, loss, damage or cost.

Derived Data – Information modified by Client (e. g. perform calculations or combining it with other data) to such a degree that it cannot be recognized as deriving from the Information, reverse engineered or otherwise traced back to the Information, without an extraordinary amount of time and effort other than by the creator. All other Information that does not satisfy these criteria constitutes "Information. "

Disclosing Party – a party who discloses Confidential Information, and a party's Affiliates who disclose Confidential Information.

Fees – fees First Tack charges for the supply of a Service as specified or referred to in the relevant Order Form(s) or related schedules.

Information – the information (including, but not limited to, data, text, images and sound recordings) contained in the relevant Service in raw form and such information as it may be modified by Client, except to the extent that the modified information is Derived Data.

Intellectual Property Rights – database rights, design rights, moral rights, the rights in and to patents, trademarks, service marks, trade and service names, copyrights, know-how and trade secrets, and all rights or forms of protection of a similar nature or having similar or equivalent effect which may subsist anywhere in the world now existing or hereafter arising.

Interactive Services – features that allow users to contribute content or facilitate interactivity among users (such as instant messaging, chatrooms, forums, polls or bulletin boards), other than those the parties agree in writing are private to Client.

Licensor - Empowered Systems Ltd, 275 New North Road, Islington Suite 1539, London, N1 7AA, United Kingdom

Master Terms – this document, including its Schedules, as amended from time to time.

Materials – hardware, Software, and related documentation supplied by First Tack or its Affiliates including Materials obtained by a Third Party Provider.

OECD CPI – the consumer price index (all items) applicable to the jurisdiction in which Client is located, as published by the Organization for Economic Co-operation and Development (OECD), or if an Agreement is entered into with a Client outside the OECD, the local equivalent consumer price index for the country in which that Client is located. The change in the OECD CPI is calculated as the annual percentage change from the OECD CPI published on the last business day in July preceding the date the price increase takes effect.

Order Form – the First Tack form First Tack has accepted that lists or describes the services and products to be supplied to Client, including any statement of work First Tack has accepted that details the professional services Client orders.

Personally Identifiable Information or PII – personal data (as such term is defined in Data Protection Legislation) processed as part of the Services or in connection with this Agreement.

Professional Service – any Services, such as implementation, customization, specialist support, training and consulting services, that may be performed to Client's specific requirements, as identified on the statement of work.

First Tack – the First Tack entity signing these Master Terms or its Affiliate referred to in Clause 1.1 (Parties) as relevant to the Agreement.

Receiving Party – a party, or a party's Affiliates, who receives Confidential Information from the Disclosing Party.

Related Charges – those charges which are specified on the Order Form or related schedules as being Related Charges, or which are indicated in the Agreement as being charges additional to the Fees, which may include: (a) installation, relocation and removal charges; (b) charges for certain items of support such as those described in Clause 9. 3; (c) charges for communications networks and facilities used to deliver Services; and (d) charges for information, materials and other services provided by certain third parties (such as stock exchanges or other information providers).

Schedule(s) – schedule(s) that are attached and incorporated into this document, as required (e. g. , setting out additional or specific terms and conditions relating to certain categories or types of Services).

Service(s) – any services or products First Tack supplies pursuant to an Order Form, which may include Information or Materials as a service.

Software – the object code version of the software (including Updates, Upgrades and application programming interfaces (APIs)) and related documentation provided by First Tack or its Affiliates.

Subsidiary – an Affiliate over which a party owns directly or indirectly more than 50% of the issued share capital and over which the party exercises direct or indirect control.

Third Party Provider – a third party (other than a party and its Affiliates) including the Licensor whose Information, Materials or services are included or used in a Service.

Updates – any bug fixes, service packs or patches, or maintenance releases to the Services.

Upgrade – any release or version of a Service which includes new features or additional functionality.

User – (a) each individual employed by Client, or contractor acting under Client's direction in the ordinary course of Client's business, in each case authorized or allowed by First Tack to access the relevant Service; or (b) in the context of Access Declarations where Client is expressly permitted to distribute to Subsidiaries, such employees or contractors of Client's Subsidiaries; or (c) each group of individuals specifically designated as a User on an Order Form.

GDPR Annex**1. DATA PRIVACY**

1.1. Data Protection Legislation. Each party will at all times comply with the Data Protection Legislation in respect of its processing of Personally Identifiable Information.

1.2. Role of First Tack. The parties acknowledge that, in relation to any Service, First Tack may process Personally Identifiable Information as Processor and/or Controller or (where First Tack does not process Personally Identifiable Information in the context of that Service) as neither Controller nor Processor. Further information on First Tack's role in relation to a specific Service may be set out in product information made available by First Tack from time to time at <https://myautoaudit.com/privacy-statement/>.

1.3. Use of Personally Identifiable Information. First Tack may process Personally Identifiable Information for the purpose of or in connection with: (i) carrying out relevant diligence and administrative tasks prior to the provision of the Services; (ii) providing the Services; (iii) as permitted or in accordance with law (the "Purposes").

1.4. First Tack As Processor. To the extent that First Tack processes Client Personal Data as Processor of Client pursuant to this Agreement, the following provisions of this paragraph 1. 4 shall apply:

(a) *Scope of processing*. The subject matter, nature, purpose and duration of First Tack's processing of Client Personal Data as Processor of Client is: any Client Personal Data which First Tack processes as a Processor in order to provide the Services, such data to be Processed for the duration of the term of the Agreement.

(b) *Documented instructions for processing*. First Tack, as Processor, will only process Client Personal Data on the documented instructions of Client unless required to process that Client Personal Data for other purposes by EU Law. Where such a requirement is placed on First Tack, it shall provide prior notice to Client unless the relevant law prohibits the giving of notice.

(c) *Processor obligations*. Notwithstanding anything to the contrary in this Agreement, with effect from 25 May 2018, First Tack shall comply with the express obligations of a Processor as set out in Articles 28(3)(b) to 28(3)(h) inclusive of the GDPR, provided that: (a) Client may not instruct First Tack to delete copies of data that it holds on its own behalf as Controller; and (b) the requirements of Article 28(3)(b) of the GDPR shall not apply to persons that First Tack is required by applicable laws or regulatory requirements to grant access to Client Personal Data.

(d) *General Authorization for Sub-processing*. Client provides a general authorization to First Tack to engage further Processors to process Client Personal Data. A list of those further Processors shall be provided to the Client from time to time and First Tack shall give Client notice of any intended addition to or replacement of those further Processors by notifying the Client. If Client reasonably objects to a change to the list, at First Tack's option First Tack will either: (i) give Client an opportunity to pay for a version of the relevant part of the Service without use of the Processor to which Client objects; or (ii) terminate the provision of the affected part of the Service to Client immediately upon notice.

(e) *Client's Responsibilities*. Client acknowledges that it has the primary responsibility for the processing of Client Personal Data and shall notify First Tack of any assistance it requires pursuant to Articles 28(3)(a) to 28(3)(h) of the GDPR inclusive. The parties acknowledge that such assistance will be provided following agreement between the parties on the scope and timing of such assistance, and the fees chargeable by First Tack for such assistance.

(f) *Verification*. From 25 May 2018, and following a written request from Client, First Tack shall, in fulfilment of its obligation to demonstrate compliance with this paragraph 1. 4 (and any other relevant parts of paragraph 1), make available to Client information on its processing of Client Personal Data. At First Tack's discretion, such information may take the form of certificates, third party audit reports or other relevant information.

1.5. First Tack as Controller. The parties acknowledge that First Tack may process Personally Identifiable Information as Controller, and that in such circumstances the provisions of this paragraph 1. 5 shall apply:

(a) *First Tack Privacy Notice*. The Client acknowledges that First Tack has made a privacy notice for each Service available to the Client (each a "Privacy Notice"). The Client shall take reasonable steps to bring this Privacy Notice to the attention of any individuals that Client makes the Service available to (or requests First Tack to deal with or carry out research on in the context of the Services).

(b) *Client as Separate Controller*. The parties acknowledge that where First Tack acts as Controller in the provision of the Services, Client acts as a Controller in respect of any Personally Identifiable Information it chooses to record as a result of its receipt and use of the Services and that, in such circumstances, Client will be responsible for the use and receipt of the Services in accordance with Data Protection Legislation.

1.6. Joint Responsibility. The parties acknowledge and agree that they may be jointly responsible for the processing of Personally Identifiable Information to the extent specified in any applicable Schedule or product information and that in such circumstances their respective responsibilities in relation to that processing are as stated in the Schedule or product information.

1.7. Transfers outside of the EEA. The parties acknowledge and agree that First Tack may transfer Client Personal Data outside of the EEA where permitted for that transfer under Articles 44 to 49 of the GDPR.

1.8. Client-Provided Data. Client shall ensure that any Client Personal Data has been collected and disclosed in accordance with Data Protection Legislation. When using the Services or accessing First Tack's systems or any other information held by First Tack, Client shall ensure that it does not input, upload or disclose to First Tack, or allow any other third party to disclose on its behalf, any irrelevant or excessive information about individuals.

1.9. Cooperation. The parties shall use reasonable efforts to assist one another in relation to the investigation and remedy of any claim, allegation, action, suit, proceeding or litigation with respect to alleged unauthorized access, use, processing or disclosure of Personally Identifiable Information.

1.10. Protective Measures. Each party will maintain, and will require all Processors each such party engages to maintain, appropriate physical, technical and organizational measures to protect Personally Identifiable Information against accidental, unauthorized or unlawful destruction, loss, alteration, disclosure or access ("Security Breach"). Client shall, without undue delay, notify First Tack within a reasonable time period of any actual or suspected non-trivial Security Breach relating to Personally Identifiable Information and shall take adequate remedial measures as soon as possible. Where First Tack acts as Processor of Client, First Tack will notify Client without undue delay of any non-trivial Security Breach that may adversely affect Client Personal Data.

2. DEFINITIONS

Capitalised Terms which are used but not defined in this Schedule shall have the meaning given to them in the Master Terms.

Client Personal Data – means Personally Identifiable Information made available or uploaded into the Services by, or on behalf of, Client, and processed by First Tack in connection with this Agreement

Controller – means a data controller or controller (as such term is defined in Data Protection Legislation)

Data Protection Legislation – the following legislation to the extent applicable from time to time: (a) national laws implementing the Data Protection Directive (95/46/EC) (b) the GDPR; and (c) any other similar national privacy law.

EEA – European Economic Area.

EU Law – European Union Law and the law of any current Member State of the European Union from time to time.

GDPR – the General Data Protection Regulation (2016/679).

Personally Identifiable Information or PII – personal data (as such term is defined in Data Protection Legislation) processed as part of the Services or in connection with this Agreement.

Processor – means a data processor or processor (as such term is defined in Data Protection Legislation) that processes Client Personal Data.

Sensitive Personal Data – sensitive personal data (as such term is defined in Data Protection Legislation).