

# risr/

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## master services agreement

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date issued: [25<sup>th</sup> April 2023]



[info@risr.global](mailto:info@risr.global)



visit [risr.global](https://risr.global)

# master services agreement

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THIS MASTER SERVICES AGREEMENT GOVERNS CUSTOMER'S RIGHT OF ACCESS AND USE OF **risr/** SERVICES. CAPITALISED TERMS HAVE THE DEFINITION SET FORTH HEREIN.

BY ACCEPTING THIS AGREEMENT, EITHER BY: (I) CLICKING A BOX INDICATING ACCEPTANCE OF THE TERMS OF THIS AGREEMENT; OR (II) EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE **risr/** SERVICES.

The **risr/** Services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

**risr/** direct competitors are prohibited from accessing the **risr/** Services, except with **risr/**'s prior written consent.

This Agreement was last updated on 25<sup>th</sup> April 2023. It is effective, between Customer and **risr/**, as of the date of Customer's acceptance of this Agreement and applies to all Order Forms and Annexes, unless specifically stated.

## 1. DEFINITIONS

"**Affiliate**" means any entity that directly or indirectly controls, or is controlled by, or is under common control with the subject entity. "**Control**", for the purposes of this definition, means direct or indirect ownership or control of more than fifty percent (50%) of the voting interests of the subject entity.

"**Content**" means any electronic files, materials, data, text, audio, videos, images or other content

transmitted, stored, retrieved or processed by Customer using the **risr/** Services.

**"Customer"** means an individual accepting this Agreement on behalf of a customer or other legal entity, for which such individual is accepting this Agreement, and Affiliates of that Customer or entity (for so long as they remain Affiliates) which have entered into an Order Form.

**"Documentation"** means the applicable operating manuals, technical literature and all other related materials, as updated from time to time, supplied by **risr/** in relation to the **risr/** Services.

**"Fees"** means the subscription fees as specified in the Order Form payable by Customer in accordance with Section 7 herein, and any other fees, such as expenses.

**"risr/"** means the FRY legal entity trading as **risr/** described further in Section 12 below.

**"risr/ Services"** means the services that are ordered by Customer under an Order Form or made available online by **risr/** as described in the Documentation. The **"risr/ Services"** excludes Content, Non-**risr/** Applications and any Professional Services.

**"risr/ Software"** means software that allows Customer to use certain functionality in connection with the **risr/** Services.

**"Initial Subscription Period"** means the period as specified in each applicable Order Form.

**"Malware"** means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros.

**"Non-**risr/** Applications"** means a web-based, mobile, offline or other software application functionality that interoperates with the **risr/** Service, that is procured by the Customer or by **risr/** on behalf of the Customer or by a third party.

**"Order Form"** means the ordering document or online order specifying the **risr/** Services to be provided hereunder that is entered into between Customer and **risr/** or any of their Affiliates, including

any addendum and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

**"Product & Services"** shall mean the non-bespoke Professional Services (as defined under Section 4 of this Agreement) and specified in more detail on the Order Form.

**"Subsequent Subscription Period"** shall have the meaning set forth in Section 7.II of this Agreement.

**"User"** means an individual authorised by Customer to access and use the **risr/** Services in accordance with the specific user type definition as specified in the Order Form, for whom Customer has purchased a subscription.

## 2. **risr/ SERVICES**

I. **Provision of the risr/ Services.** Subject to the terms of this Agreement, including payment of the Fees in accordance with Section 6 below, **risr/** will: a) make the **risr/** Services available to Customer pursuant to this Agreement, the applicable Order Form and Documentation; b) provide applicable **risr/** standard support for the **risr/** Services to Customer at no additional charge; c) use commercially reasonable efforts to make the **risr/** Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (for which **risr/** shall give advance electronic notice as soon as reasonably practicable); (ii) any unavailability caused by events beyond **risr/**'s reasonable control, including, for example, an act of God, an act of Government, flood, fire, earthquake, civil unrest, act of terror, strike, internet service provider, failure or delay, Non-**risr/** Applications or denial of service attack; and d) provide the **risr/** Services in accordance with laws and government regulations applicable to **risr/**'s provision of the **risr/** Services to its customers generally (i.e., without regard for Customers particular use of the **risr/** Services) and subject to Customers compliance with the terms of this Agreement.

II. **Suspension of Services.** **risr/** may suspend Customer's access and use of the **risr/** Services and/or remove any Content that **risr/** reasonably and in good faith believes is in violation of this Agreement. **risr/** agrees to provide Customer with reasonable notice in advance of any suspension or disablement before its implementation unless such suspension or disablement is necessary to comply with applicable laws or prevent imminent harm to the **risr/** Services or any third party, in which case, **risr/** agrees to notify Customer to the extent allowed by applicable law of such suspension or disablement as soon as practicably possible.

III. **risr/ Personnel.** **risr/** will be responsible for the performance of its personnel (including its

employees and contractors) and their compliance with **risr/**'s obligations under this Agreement.

IV. **Usage Limits.** The **risr/** Services are subject to the usage limits as specified in the Order Form. If Customer exceeds the contractual usage limit, the Customer agrees to work with **risr/** in order to either: a) reduce Customer's usage so that it conforms to such limit; or b) execute an additional Order Form for such additional Users of the applicable **risr/** Services promptly and pay for excess and/or additional usage pursuant to Section 6 below.

V. **Future Functionality.** The Customer hereby acknowledges that it has not entered into this Agreement on the basis of any future service or functionality that **risr/** may offer in the future. **risr/** agrees to provide any such future service or functionality, if and when it is made generally available by **risr/** and Customer accepts that this is not a commitment on the part of **risr/** to deliver any other service or functionality. Furthermore, nothing in this Agreement shall restrict **risr/** from using in the design, development, or implementation of its services any anonymised data, information or techniques that it learns from services provided hereunder that are of general applicability to the marketplace.

VI. **Non-**risr/** Applications.** **risr/** may make Non-**risr/** Applications available to Customer for use in connection with the **risr/** Services. The Customer understands and accepts that **risr/** makes no warranties of any kind in relation to any Non-**risr/** Applications and the associated license by the respective provider and assumes no liability for Customer's use of the same.

### 3. CUSTOMER RESPONSIBILITIES

I. **Customer Responsibilities.** The Customer will be responsible for: a) its Users compliance with this Agreement and Documentation; b) the accuracy, quality and legality of all Content; c) the means by which the Customer has acquired the Content and Customer's use of the Content with the **risr/** Services and the inter-operation of any Non-**risr/** Applications with which Customer uses the Services and Content; d) using commercially reasonable efforts to prevent unauthorised access to or use of the Services and Content; and shall notify **risr/** promptly of any unauthorised access or use.

II. **Customer Restrictions.** The Customer will not: (a) make the **risr/** Service or Content available to anyone other than Customer, Affiliates or Users, or use the **risr/** Service or Content for the benefit of anyone other than Customer or its Affiliates unless expressly stated otherwise in an Order Form; unless permitted by applicable law; (b) directly or indirectly reverse engineer, decompile, disassemble the **risr/** Services, **risr/** Software or any other software, documentation or data related to access and use of the **risr/** Services; (c) sell, resell, license, sublicense, distribute, make available, rent or lease any **risr/** Service, or include any **risr/** Service in a service bureau or outsourcing offering; (d) use the **risr/**

Services or Non-**risr/** Applications to store or transmit infringing, libellous, or otherwise unlawful or tortious material, or to store or transmit material in violation of any third party privacy rights; (e) use the **risr/** Services or Non-**risr/** Applications to store or transmit any Malware; (f) interfere with or disrupt the integrity or performance of any **risr/** Services or third party data contained therein; (g) attempt to gain any unauthorised access to the **risr/** Services or its related systems and/or networks; (h) modify, translate, or create derivative works based on the **risr/** Services or any **risr/** Software (except to the extent expressly permitted by **risr/** in an Order Form); (i) remove any proprietary notices or labels. With respect to any **risr/** Software that is distributed or provided to the Customer for use on the Customer premises or devices, **risr/** hereby grants the Customer a non-exclusive, non-transferable, non-sublicensable license to use such **risr/** Software only in connection with the **risr/** Services and this Agreement.

III. **Notification of Unauthorised Use.** Customer agrees to immediately notify **risr/** in writing of any unauthorised use of any Content or of the **risr/** Services that comes to the Customer's attention and provide **risr/** with such cooperation and assistance related to such unauthorised use as **risr/** may reasonably request to terminate such use.

#### 4. PROFESSIONAL SERVICES

I. **General Terms.** Customer may wish to receive certain professional, educational, operational or technical services (collectively "**Professional Services**") specified either as Products & Services in the applicable Order Form or if the Professional Services are of a bespoke nature, as described in a mutually agreed upon Statement of Work ("**SOW**") accompanying the applicable Order Form. **risr/** and Customer may, from time to time, execute additional Order Forms and/or SOW's that specify any further Professional Services to be provided to Customer. The Order Form and/or the SOW will at minimum, include: (a) a description of the Professional Services and any work product or other tangible and all training materials to be developed and or provided to Customer (each a "**Deliverable**"); (b) the scope of Professional Services; and (c) the applicable Fees and payment terms for such Professional Services. To the extent payment terms are not specified in an Order Form or a SOW the payment terms in this Agreement shall apply.

II. **Deliverables, Ownership.**

a. **Deliverables.** Unless otherwise set forth in the applicable Order Form or SOW, **risr/** shall own all rights, title and interest in and to the Deliverables (excluding any Customer Property, defined below) and related intellectual property rights. For the duration of each Order Form or SOW

and subject to terms and conditions of this Agreement, **risr/** hereby provides the Customer with a limited, non-exclusive, non-transferable and terminable license to use the Deliverables solely for the Customer's internal operations in connection with its authorized use of the **risr/** Services.

b. **risr/ Tools.** Nothing herein shall be construed to assign or transfer any intellectual property rights in the proprietary tools, libraries, know how, techniques and expertise ("**risr/ Tools**") used by **risr/** to develop the Deliverables and to the extent that such **risr/** Tools are delivered with or as part of the Deliverables, they are licensed, not assigned, to the Customer on the same terms as the Deliverables.

c. **Customer Property.** The Customer shall own all rights, title and interest in and to any Customer Property. "**Customer Property**" means any technology, Customer specific business processes, or deliverables, specifically as such materials are designated as Customer-owned property. **risr/** shall have the right to use any Customer Property solely for the purpose of providing the Professional Services to the Customer hereunder.

III. **Professional Services Warranty.** In regards to Professional Services only, **risr/** warrants that: (a) it and each of its employees, consultants and subcontractors (if any), that it uses to provide and perform Professional Services has the necessary knowledge, skills, experience, qualifications, and resources to provide and perform the Professional Services in accordance with the SOW; and (b) the Professional Services will be performed for and delivered to Customer in a professional and workmanlike manner in accordance with the laws and governmental regulations applicable to the performance of such Professional Services. The Customer acknowledges that **risr/**'s ability to successfully perform Professional Services is dependent upon the Customer's provision of timely information, access to resources and participation. If through no fault or delay of Customer the Professional Services do not conform to this foregoing warranty, and the Customer notifies **risr/** within seven (7) days of **risr/**'s delivery of the Professional Services, **risr/** will re-perform the non-conforming portions of the Professional Services at no cost to the Customer.

## 5. CONFIDENTIALITY AND PROPRIETARY RIGHTS

I. **Definition.** Either Party may disclose Confidential Information to the other Party during the term of this Agreement. "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other ("**Receiving Party**"), which is in tangible form and labelled "**confidential**" or the like, or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure. The following information will be considered Confidential Information whether or not marked or identified as such: (a) the **risr/** Services;

(b) Content; (c) the terms of this Agreement including all Order Forms (including pricing), and (d) the Disclosing Party's strategic roadmaps, product plans, product designs and architecture, technology and technical information, security audit reviews, business and marketing plans, and business processes. Confidential Information of the Customer includes non-public data provided by the Customer to **risr/** to enable the provision of the **risr/** Services ("**Customer Data**"). The Confidential Information of each party includes business and marketing plans, technology and technical information, product plans and designs and business processes disclosed by such parties. Confidential Information other than Content, does not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party, without breach of any obligation owed to the Disclosing Party; (c) is received from a third party without breach of any obligation owed to the Disclosing Party; (d) was independently developed by the Receiving Party; or (e) is required to be disclosed by law provided that to the extent legally and reasonably permissible the Receiving Party gives the Disclosing Party prior notice of such disclosure and reasonable assistance, at the Disclosing Party's expense, if the Disclosing Party seeks to contest such disclosure.

II. **Permitted Use and Disclosure.** The Receiving Party will only use the Confidential Information for the purpose of complying with its obligations or exercising its rights under this Agreement or to receive the benefit of the **risr/** Services. The Receiving Party agrees to take precautions to protect such Confidential Information in a manner no less stringent than it would protect its own Confidential Information to: (a) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (b) except as otherwise authorised by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its Affiliates, employees and contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party, containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its; Affiliates, legal counsel and accountants without the other party's prior written consent provided that a party that makes any such disclosure to its Affiliates, legal counsel or accountants will remain responsible for such Affiliates, legal counsel's or accountant's compliance with this Section 5. Notwithstanding the foregoing, **risr/** may disclose the terms of this Agreement and any applicable Order Form to a subcontractor or Non-**risr/** Application provider, to the extent necessary to perform its obligations under this Agreement and always under the terms of confidentiality materially as protective as set forth herein.

III. **Ownership by risr/.** **risr/** exclusively owns and retains all right, title and interest in and to: (a)

the **risr/** Services and **risr/** Software, Documentation and all improvements, enhancements or modifications thereto and **risr/**'s Confidential Information, (b) any software, applications, inventions or other technology developed in connection with the **risr/** Services, and (c) all intellectual property rights related to any of the foregoing. No title to or ownership of any intellectual property rights related to the **risr/** Services is transferred to the Customer pursuant to this Agreement. **risr/** reserves all rights not explicitly granted to the Customer.

IV. **Ownership by Customer.** The Customer exclusively owns and retains all right, title and interest in and to the Content, Customer Data and Customers Confidential Information.

V. **Feedback.** The Customer hereby grants **risr/** a worldwide, perpetual, irrevocable, royalty free license to use and incorporate into its services any suggestions, improvements, modifications or other feedback provided by Customer that **risr/** may adopt for any of its services.

## 6. FEES

I. **Fees.** In consideration of the supply of the **risr/** Services, the Customer will pay **risr/** the then applicable Fees described in the Order Form in accordance with the terms herein. Payment obligations are non-cancellable, and Fees paid are non-refundable, and usage limits cannot be decreased during the Initial Subscription Period or a Subsequent Subscription Period.

II. **Payment Terms.** Unless otherwise specified in the Order Form, the Customer agrees to pay all Fees annually in advance and within thirty (30) days of the date of the applicable invoice. Unpaid amounts are subject to a late fee of 8% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate suspension or termination of the **risr/** Services.

III. **Fee Increases.** Upon expiration of the Customer's Initial Subscription Period or the first twelve (12) months, whichever is earlier, **risr/** reserves the right to increase its Fees in line with the Consumer Price Index (CPI) for any and all Subsequent Subscription Period(s).

IV. **Taxes.** Unless otherwise stated, all Fees are exclusive of all applicable taxes (including local sales tax and VAT), levies or duties imposed by taxing authorities, including without limitation value-added and withholding taxes, and Customer shall be responsible for payment of all such taxes, levies or duties, excluding any taxes based on **risr/**'s income.

## 7. TERM & TERMINATION

I. **Term of Agreement.** This Agreement commences on the date Customer first accepts it and shall remain in effect for the Initial Subscription Period unless terminated in accordance with Section

7.III below.

II. **Renewal.** Following expiration of the Initial Subscription Period, the Order Form(s) under this Agreement shall automatically renew for 12-month periods subject to payment of the corresponding Fees ("**Subsequent Subscription Period**"). Each party will have the ability to provide written notice to the other of its intention not to renew a Subsequent Subscription Period upon at least 90 days' notice prior to the end of the then current Subsequent Subscription Period of such Order Form. For the avoidance of doubt, any promotion or discounted Fees offered by **risr/** during the Initial Subscription Period or any Subsequent Subscription Period will not apply during any new Subsequent Subscription Period unless specified in an Order Form.

III. **Termination for Cause.** Either party may terminate this Agreement for cause, upon thirty (30) days' written notice in the event of a material breach and such breach remains uncured at the expiration of such period or if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

IV. **Obligations Upon Termination.** If the Agreement is terminated due to a breach by **risr/**, the Customer will be entitled to a refund of the balance of the Fees already paid covering the remaining number of days in the relevant Subsequent Subscription Period following the effective date of termination. In the event this Agreement is terminated due to a breach by the Customer, all Fees due will become payable immediately. In no event will termination relieve the Customer of its obligation to pay the Fees due to **risr/** for the period of the **risr/** Services provided prior to the date of termination. Furthermore, upon termination or expiration for any reason of this Agreement, the Customer rights to use the **risr/** Services shall cease and Customer will, within 30 days of termination or expiration, destroy all copies of the **risr/** Software, Documentation and Confidential Information of **risr/** and if requested by **risr/** provide a written certification signed by an authorised representative of the Customer certifying that all Confidential Information has been destroyed. **risr/** will grant limited access to the **risr/** Services for a period of thirty (30) days following termination for the purposes of the Customer's retrieval of the Content, but thereafter **risr/** shall delete any stored Customer Data (Including Content) in accordance with **risr/**'s Retention Policy, available upon request. All sections of this Agreement, which by their nature should survive termination, will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

V. **Expiration of Users.** Customer understands that as each User leaves the Customer and/or such User ceases to be a paid User under the terms of this Agreement, the rights for that User to use

the **risr/** Services shall cease and the Customer shall have a period of two (2) years from the date that such User becomes a non-User, to either retrieve or destroy said User's data otherwise such User's data shall be deleted in accordance with **risr/**'s Retention Policy.

## 8. DATA PROTECTION

I. **risr/** agrees to implement and maintain appropriate administrative, physical and technical safeguards designed to secure the **risr/** Services and the Content against accidental or unlawful loss, access or disclosure while in the possession or under the control of **risr/ (other than by Customer or Users)**. The terms of the of the data processing addendum at <https://risr.global/agreements> ("**DPA**") are hereby incorporated by reference and shall apply to the extent Customer Data includes Personal Data, as defined in the DPA under which both parties agree to comply with the terms of the DPA. Where the Customer specifically directs **risr/** to act as a Processor (as defined in the DPA) for the benefit of the Customer, **risr/** warrants that it shall comply at all times with the provisions of the DPA applicable to **risr/**'s obligations as a Processor of Personal Data and shall further process all Personal Data (as defined in the DPA) on behalf of the Customer in accordance with the DPA. To the extent Personal Data from the EU, EEA, the UK, Switzerland are processed by **risr/**, the Standard Contractual Clauses shall apply, as set forth in the DPA.

## 9. WARRANTIES AND DISCLAIMER

I. **Mutual Warranty.** Each party warrants that it has the necessary rights to enter into this Agreement.

II. **risr/ Warranty.** **risr/** warrants that while the corresponding Fees are paid: (a) it shall use all reasonable efforts consistent with prevailing industry standards to maintain and provide the **risr/** Services with the functions specified in the Documentation when used in a manner that conforms to the terms and conditions of this Agreement and Documentation; (b) to provide the **risr/** Services in a reliable and professional manner; and (c) it is in compliance with, and will perform the **risr/** Services in compliance with all applicable law and regulations. Subject to section 7.III, Termination for Cause, the Customer's sole and exclusive remedy and **risr/**'s entire liability for a breach of the above warranty, shall be for **risr/** to use commercially reasonable efforts to modify the **risr/** Services to substantially achieve in all respects the functionality described in the Documentation and if **risr/** is unable to restore such functionality, the Customer shall be entitled to terminate the applicable Order Form and receive a pro-rated refund of the Fees pre-paid to **risr/** for the corresponding unused portion of the Subscription Period. The warranties set forth herein are made to and for the benefit of Customer only.

III. **Customer Warranty.** The Customer warrants that: (a) it has all rights, title and interest in and to the Content; and (b) the Customer has all rights in the Content to grant the rights to **risr/** contemplated by this Agreement.

IV. **Disclaimer.** Except as provided in this Section 9, and to the maximum extent permitted by applicable law, **risr/** does not warrant that the **risr/** Services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the **risr/** Services. Except as expressly set forth in this section, the **risr/** Services are provided 'as is' and **risr/** disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose and non-infringement.

## 10. INDEMNITY

I. **Indemnification by risr/.** **risr/** will defend the Customer against any alleging third party claim that the **risr/** Services infringes a third party intellectual property right, including but not limited to any United Kingdom patent, copyright or misappropriation of any trade secret, and will indemnify the Customer for the resulting costs and damages finally awarded against the Customer to such third party by a court of competent jurisdiction or agreed to in settlement, provided the Customer promptly notifies **risr/** of any and all threats, claims and proceedings related thereto and the Customer gives sole control to **risr/** over the defence and settlement. The foregoing obligations do not apply with respect to any portions or components of the **risr/** Services: (i) not supplied by **risr/**; (ii) made in whole or in part in accordance with the Customer specifications; (iii) that are modified after delivery by **risr/**; (iv) combined with other products, processes or materials where the alleged infringement relates to such combination; (v) where the Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; or (vi) where the Customer's use of the Services is not strictly in accordance with terms of this Agreement. If, due to a claim of infringement against the Customer pursuant to this Section 10.I, **risr/** may at its option and expense: (i) replace or modify the **risr/** Services to be non-infringing; (ii) obtain for the Customer a license to continue using the **risr/** Services; or (iii) if neither of the foregoing is commercially feasible, terminate this Agreement and the Customer's rights hereunder and provide the Customer a refund of any prepaid, unused Fees for the **risr/** Services.

II. **Indemnification by Customer.** The Customer will defend **risr/** against any alleging third party claim that the Customer's use of the **risr/** Services is in breach of this Agreement, infringes a third-party intellectual property right, including but not limited to, any United Kingdom patent, copyright or misappropriation of any trade secret, provided the Customer is promptly notified of any and all

threats, claims and proceedings related thereto and given sole control over the defence and settlement. The Customer will indemnify **risr/** for the resulting costs and damages finally awarded against **risr/** to such third party by a court of competent jurisdiction or agreed to in settlement.

III. **Exclusive Remedy.** This Section 10 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this section.

## 11. LIMITATION OF LIABILITY

I. Notwithstanding anything to the contrary, except for death or personal injury of a person caused by its negligence, neither party shall be responsible or liable with respect to any subject matter of this Agreement or terms and conditions related thereto under any contract, negligence, strict liability or other theory to the other:

- a. for error or interruption of use or for loss or inaccuracy or corruption of data or cost of procurement of substitute goods, services or technology or loss of business;
- b. for any indirect, exemplary, incidental, special or consequential damages;
- c. for any matter beyond each party's reasonable control; or
- d. for any amounts that, together with amounts associated with all other claims, exceed the Fees paid by the Customer to **risr/** for the **risr/** Services under this Agreement in the 12 months prior to the act that gave rise to the liability, in each case, whether or not the party has been advised of the possibility of such damages.

II. Neither party shall be liable to the other for loss of profits (or loss of anticipated profits), loss of or damage to data, records, cost of procuring substitute goods, services or technology, nor for any special, indirect, incidental or consequential damages.

## 12. **risr/** CONTRACTING ENTITY, NOTICES, GOVERNING LAW AND VENUE.

I. The **risr/** entity entering into this Agreement, the address to which Customer should direct notices under this Agreement, the law that will apply in any dispute arising out of or in connection with this Agreement, and the courts that have jurisdiction over such dispute shall depend on where the Customer is domiciled.

Customer domiciled in:	risr/ entity entering into this Agreement:	Notices should be addressed to:	Governing Law is:	Courts with exclusive jurisdiction are:
<b>Australia/New Zealand</b>	FRY-IT PTY LTD (trading as <b>risr/</b> )	FRY-IT PTY LTD, Level 29, 66 Goulburn Street, Sydney, 2000, New South Wales, Australia  <b>Attn:</b> Chief Operating Officer	New South Wales, Australia	Sydney, New South Wales
<b>Canada</b>	FRY-IT Canada Ltd (trading as <b>risr/</b> )	FRY-IT Canada Ltd 1881 Steeles Avenue West 1 c/o CBES, Unit 406, Toronto, ON, M3H 5Y4  <b>Attn:</b> Chief Operating Officer	Ontario	Toronto, Ontario
<b>Europe</b>	FRY-IT Assessment Solutions Ireland Ltd (trading as <b>risr/</b> )	FRY-IT Assessment Solutions Ireland Ltd, The Black Church, St Mary's Place, DUBLIN 7, DUBLIN, D07 P4AX, IRELAND  <b>Attn:</b> Chief Operating Officer	Republic of Ireland	Dublin, Ireland
<b>Rest of World</b>	FRY-IT LTD (trading as <b>risr/</b> )	FRY-IT LTD, 71-75 Shelton Street, London,	England	London, England

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England, WC2H 9JQ

**Attn:** Chief Operating  
Office

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### 13. MISCELLANEOUS

- I. **Affiliates.** An Affiliate may use the **risr/** Services provided under this Agreement and/or may enter into an Order Form for the **risr/** Services, governed by the terms of this Agreement. By entering into an Order Form by making use of the **risr/** Services, such Affiliate agrees to be bound by the terms of this Agreement as if it were an original party thereto. The Customer represents and warrants that it has sufficient rights and authority to make this Agreement binding upon each Affiliate. The Customer and each of its Affiliates shall be jointly and severally liable for any damages, costs or liabilities arising from such Affiliate's use of the **risr/** Services. The Customer will remain responsible for all acts and omissions of each Affiliate in connection with each such Affiliate's use of the **risr/** Services, including, without limitation, the breach of the applicable terms of this Agreement.
- II. **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force, effect and enforceable.
- III. **Assignment.** This Agreement is not assignable, transferable or sub licensable by the Customer except with **risr/**'s prior written consent (such consent not to be unreasonably withheld).
- IV. **Integration; Order of Precedence.** This Agreement, together with any Order Form(s) and any Annexes, which are incorporated and included into this Agreement, constitutes the entire agreement between the parties and supersedes any and all prior agreements or communications between the parties with regard to the subject matter hereof. The parties expressly disclaims any reliance on any and all prior RFP's, agreements, understandings, verbal and/or written communications related to the **risr/** Services to be provided by **risr/**. In the event of a conflict between terms of this Agreement and an Order Form, the terms of the Order Form shall prevail.
- V. **Contractual Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and the Customer does not have any authority of any kind to bind **risr/** in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and legal fees.

VI. **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested, and sent to the applicable address specified in section 12 above.

VII. **Governing Law.** Each party agrees to the applicable governing law as set out in section 12 above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts.

VIII. **Press Releases; References.** The parties shall work together in good faith to issue at least one mutually agreed upon announcement within six (6) months of the effective date of this Agreement, and the Customer agrees to reasonably cooperate with **risr/** to serve as a reference account upon request. **risr/** agrees that use of the Customer's logo shall be optional, subject to the written consent of the Customer and in accordance with the Customer's logo use guidelines as provided to **risr/**.

IX. **Export.** The **risr/** Services, any other **risr/** technology and derivatives thereof may be subject to export laws and regulations of the United Kingdom and other jurisdictions. Customer shall not permit access or use of any of the **risr/** Services in an embargoed country or in breach of any UK export law or regulation.

X. **Rights of Third Parties.** Nothing in this Agreement shall confer, or is intended to confer, on any third party any benefit or the right to enforce any term of this Agreement.

XI. **Non-Solicitation.** Neither Party will offer employment to, not employ any staff of the other party after commencement of this Agreement and prior to the date 12 months after termination or expiration of this Agreement, without the prior written consent of the other party.

XII. **Force Majeure.** In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any cause beyond the reasonable control of the party invoking this provision (including, without limitation, for causes due to war, fire, earthquake, flood, hurricane, riots, acts of God, internet service provider failures or delays, denial of service attacks, or other similar causes) the affected party's performance will be excused and the time for performance will be extended for the period of delay or inability to perform due to such occurrence; provided that the affected party (a) provides the other party with prompt notice of the nature and expected duration of the event, (b) uses commercially reasonable efforts to address and mitigate the cause and effect of such event, (c) provides periodic notice of relevant developments, and (d) provides prompt notice of the end of such event.



**risr/**