

# Hong Kong General Terms and Conditions

Revision Date: 31 July 2023

香港一般條款及條件

修訂日期：2023年7月31日

These Hong Kong General Terms and Conditions (“Legal Terms”) when incorporated by a Statement of Work or Order (each an “SOW”) shall govern the supply of Services (as defined below) and the Legal Terms and SOW together constitute the entire agreement (collectively the “Agreement”) between Customer and the Datasite entity (“Datasite”) (each a “Party” and together the “Parties”) named in the SOW. In the event of a conflict between the Legal Terms and any SOW, the SOW shall govern. Capitalized terms not defined within the Legal Terms are defined in the SOW.

當本香港一般條款及條件(“法律條款”)被納入工作說明書或訂單(各簡稱為“SOW”)時，應管轄服務的提供(定義見下文)，且法律條款及SOW為SOW中之Datasite實體(簡稱“Datasite”)與客戶間的完整協議(統稱為“協議”) (以下各單獨稱為“一方”，合稱為“雙方”)。如果法律條款與任何SOW間有所衝突，則應以SOW為準。未於法律條款中定義之術語定義見SOW。

## 1. Definitions

### 1. 定義

“Affiliate” of a Party means any entity that directly or indirectly controls, is controlled by, or is under common control with the Party executing this Agreement.

一方的“關聯公司”是指直接或間接控制簽訂本協議的一方、受簽訂本協議的一方控制或與簽訂本協議的一方處於共同控制之下的任何實體。

“Annual Minimum Fees” are as defined in the applicable SOW.

“最低年度費用”在適用的SOW中定義。

“Availability Guarantee” means the Content being available at least 99.5% of the time measured on a monthly basis.

“可用性保證”是指內容在每月至少99.5%的時間內可用。

“Classified Information” means any information or material, regardless of the form, which for reasons of national security, national defense, or foreign policy, has been specifically designated by the government of the Hong Kong Special Administrative Region, the Central Government of the People’s Republic of China or foreign government agency as requiring protection against unauthorized disclosure, including information classified pursuant to Executive Order 12958 of the United States of America, as amended, or similar classification authorities.

“機密信息”是指出於國家安全、國防或外交政策原因，由香港特別行政區政府、中華人民共和國中央政府或外國政府機構特別指定，要求防止未經授權的披露的任何信息或材料(無論是任何形式)(包括根據美國行政命令12958(經修訂)或類似的保密依據)。

“Confidential Information” means any information of a Party (including information obtained by a Party from one or more of its Affiliates) disclosed on, before or after the Effective Date, either directly or indirectly, in writing or orally, or by inspection of tangible objects which: (i) the disclosing Party identifies as confidential or proprietary; or (ii) reasonably appears to be confidential or proprietary to the disclosing Party or its Affiliates because of legends or other marking, the circumstances of its disclosure, or the nature of the information itself. Such information may include but is not limited to Content, Third-Party Data, the Services, the Website, any inventions, trade secrets, marketing plans, programs, source code, data and other documentation, customer and shareholder information, other information related to the business of the disclosing Party, and the terms and pricing of this Agreement. The term Confidential Information does not include: (i) information that was in the receiving Party’s possession or was known to it prior to its receipt from the disclosing Party; (ii) information that is or becomes publicly available without the fault of the receiving Party; (iii) information that is or becomes lawfully available on an unrestricted basis to the receiving Party from a source other than the disclosing Party; (iv) Feedback; (v) Services Data; or (vi) information independently developed by the receiving Party.

“保密信息”是指披露的一方在生效日期當天、之前或之後直接或間接，以書面或口頭方式，或通過檢視有形物體的任何信息(包括一方從其一個或多個其關聯公司獲得的信息)，且(i)披露一方識別該信息為保密或專有的;或(ii)由於圖例或其他標記、其披露情況或信息本身的性質，該信息合理地看來是披露一方或其關聯公司的保密或專有的信息。此類信息可能包括但不限於內容、第三方數據、服務、網站、任何發明、商業秘密、行銷計畫、程式、原始碼、數據和其他文檔、客戶和股東信息、與披露一方業務相關的其他信息以及本協議的條款和定價。“保密信息”一詞不包括：(i)接收一方或在從披露一方收到信息之前已擁有或已知道的信息；(ii)在接收一方沒有過錯的情況下已經可公開獲得的信息；

(iii)接收一方從披露一方以外的來源合法且不受限制地獲得的信息；(iv)回饋；(v)服務數據；或(vi)接收一方獨立開發的信息。

“Content” means any document or file that is uploaded to the Website by or on behalf of the Customer.

“內容”是指由客戶或代表客戶上傳到網站的任何文件或檔案。

“Credit” is the applicable credit set forth in the table provided in Section 7(b)(ii).

“折扣”是第 7 (b) (ii) 條的表格所列出的適用折扣。

“Customer Administrator” means any User authorized by Customer to initiate and conclude Services, upload and manage Content, invite other Customer Administrators and Users (which may include third parties), and access reports.

“客戶管理員”是指經客戶授權啟動和結束服務、上傳和管理內容、邀請其他客戶管理員和使用者（可能包括第三方）以及存取報告的任何使用者。

“Customer Material” means any Content and Customer’s trademarks and logos.

“客戶材料”是指任何內容以及客戶的商標和徽標。

“Due Date” means the date Customer receives an invoice from Datasite.

“到期日”是指客戶從 Datasite 收到發票的日期。

“Effective Date” is the date of Customer’s signature unless otherwise defined in the applicable SOW.

“生效日期”是客戶簽名的日期（除非適用的 SOW 中另有規定）。

“Feedback” means suggestions, improvements, comments, or other feedback regarding the Website or Services.

“回饋”是指有關網站或服務的建議、改進、評論或其他回饋。

“Fees” mean (i) the fees set forth in any SOW; or (ii) charges for Services not specified in any SOW (including without limitation additional new service features), provided that Customer has approved any such additional Services and related charges in advance in writing.

“費用”是指 (i) 任何 SOW 中列出的費用;或 (ii) 任何 SOW 中未有指定的服務的費用（包括但不限於額外新服務功能），前提是客戶已事先以書面形式批准了任何此類額外服務和相關費用。

“Hibernation Administrators” means Customer Administrators appointed by the Customer during the Hibernation Period. No more than two shall be permitted.

“Hibernation Period” means any time during a Renewal Term, when the Customer Administrator has requested a project to be placed in hibernation.

“休眠期”是指續期期限內客戶管理員要求將項目置於休眠狀態的任何時間。

“休眠期管理員”是指客戶在休眠期內指定的客戶管理員。休眠期管理員不得超過兩個。

“Intellectual Property Rights” means any and all tangible and intangible: (i) rights associated with works of authorship, including copyrights, moral rights, neighboring rights, and derivative works thereof; (ii) trademark and trade name rights; (iii) trade secret rights; (iv) patents, design rights, and other industrial property rights; and (v) other intellectual property rights (of every kind and nature however designated) whether arising by operation of law, treaty, contract, license, or otherwise, and together with all registrations, initial applications, renewals, extensions, continuations, divisions, or reissues thereof.

“知識產權”是指任何和所有有形和無形：(i) 與作者作品相關的權利，包括版權、精神權利、鄰接權及其衍生作品；

(ii) 商標權和商號權；(iii) 商業秘密權；(iv) 專利權、外觀設計權和其他工業產權；(v) 所有（任何類型和性質的、無論如何命名的）其他知識產權，無論是由法律、條約、合同、許可或其他方式運作產生的，以及其所有註冊、初始申請、續期、延期、延續、分割或重新頒發。

“Non-Datasite Applications” mean web-based, mobile, offline, or other software applications provided by Customer or a third-party which may interoperate with the Website.

“非 Datasite 應用程式”是指由客戶或第三方提供的、可與網站互通操作的基於網路的、移動的、離線的或其他種類的軟體應用程式。

“Order” means any Services provisioned or purchased using the Website.

“訂單”是指使用網站提供或購買的任何服務。

“Renewal Term” is as defined in the applicable SOW.

“續期期限”在適用的 SOW 中定義。

“Scheduled Maintenance” means periodic maintenance on the Website for system upgrades and maintenance and as further defined in Section 7(a)(xi).

“定期維護”是指在網站上進行系統升級和維護的定期維護，其在第 7 (a) (xi) 條中進一步定義。

“Services” mean those services ordered by Customer under an SOW or Order and any related customer support.

“服務”是指客戶根據 SOW 或訂單訂購的服務以及任何相關的客戶支持。

“Services Data” means Content incorporated with or into similar information derived or obtained from other customers of Datasite that has been anonymized or aggregated to remove references to numerical values, addresses, locations, and personal data.

“服務數據”是指與從 Datasite 的其他客戶派生或獲得的類似信息一起納入的內容。這些信息已經過匿名或匯總處理，以刪除對數值、位址、位置和個人數據的提及。

“Special Media” means all Content processed on the Website and not converted to PDF format because: (i) its inherent nature precludes it from conversion to a PDF; or (ii) Customer Administrator has designated it as a download-only file. Any examples of Special Media provided in any SOW are for representative example, illustration, and/or convenience purposes only and are not intended to be an exhaustive list of all types of Special Media.

“特殊媒體”是指上傳到網站但因為：(i) 其固有性質使其無法轉換為 PDF;或 (ii) 客戶管理員已將其指定為僅可下載檔案，而未轉換為 PDF 格式的所有內容。任何 SOW 中提供的任何特殊媒體例子僅作代表性例子、示例和/或方便目的而提供，並非旨在構成所有類型的特殊媒體的詳盡清單。

“Taxes” means any taxes, levies, duties, or similar governmental assessments of any nature, including, but not limited to any sales, use, GST, value-added, withholding, or similar taxes, whether domestic or foreign, assessed by any jurisdiction, but excluding taxes charged on the income, property, or employees of Datasite.

“稅款”是指由任何司法管轄區評估的任何無論是本地還是外地的稅款、徵稅、關稅或任何性質的類似政府評估，包括但不限於任何銷售稅、使用稅、消費稅、增值稅、預扣稅或類似稅款，但不包括基於 Datasite 的收入、財產或員工的稅款。

“Term” is as defined in the applicable SOW.

“期限”在適用的 SOW 中定義。

“Third-Party Data” means any data, including but not limited to Content, User Data, made available on the Website (including through a Non-Datasite Application) that is owned by a third-party.

“第三方數據”是指由第三方所有，並在網站上（包括通過非 Datasite 應用程式）提供的任何數據，包括但不限於內容、使用者數據。

“Trial Services” mean beta or test services and such related documentation.

“試用服務”是指 beta 版或測試版服務以及相關文件。

“Website” means collectively, those Datasite’s URLs, virtual data rooms (also referred to as projects), contents, and features provided to Customer through which Users access, process, store, upload/download, and communicate Content.

“網站”統指提供給客戶的 Datasite 網頁位址、虛擬數據室（也稱為項目）、內容和功能。使用者通過此等 Datasite 網頁位址、虛擬數據室、內容和功能可存取、處理、存儲、上傳/下載和傳送內容。

“Usage Data” means queries, logs, and other information about Customer’s or a User’s use of the Services, excluding Content.

“使用數據”是指有關客戶或使用者使用服務的查詢、日誌和其他信息，但不包括內容。

“Users” mean those individuals authorized by Customer, and enabled by Datasite or Customer, to access Content on the Website.

“使用者”是指由客戶授權並由 Datasite 或客戶容許存取網站上內容的個人。

“User Data” means information about or relating to Users.

“使用者數據”是指有關使用者或與使用者相關的信息。

## **2. Fees, Taxes, Billing Disputes.**

### **2.費用、稅費、帳單糾紛。**

(a) Fees. Customer will provide all accurate “Bill-to” information reasonably necessary to issue an invoice. Customer shall pay to Datasite all Fees invoiced under this Agreement, including any Fees invoiced to Customer and any of its advisors in connection with the Services. Except as otherwise expressly specified herein or in the applicable SOW, all payment obligations are non-cancelable, and Fees paid are non-refundable. Any Annual Minimum Fees cannot be decreased during the relevant Term. All Fees are payable in the currency used or designated in the applicable SOW. On each one-year anniversary of the Effective Date of an SOW, Datasite may adjust pricing by an amount equal to the greater of: (i) six percent (6%); or (ii) the average of the year-to-year change to the monthly Hong Kong Composite Consumer Price Index for the 12 months immediately preceding the adjustment date.

(a) **費用**。客戶應提供開具發票合理必要的所有準確的“付款人”信息。客戶應向 Datasite 支付根據本協議出具發票收取的所有費用，包括因服務而向客戶及其任何顧問出具的發票所收取的任何費用。除非本文或適用的 SOW 中另有明確規定，否則所有付款義務均不可取消，並且已支付的費用不可退還。任何最低年度費用在相關期限內均不能降低。所有費用均應以適用 SOW 中使用或指定的貨幣支付。在 SOW 生效日期的每一周年，Datasite 可調整價格，有關調整金額等於：(i) 百分之六（6%）；或 (ii) 調整日前 12 個月的香港綜合消費物價指數的平均年度變化（以較高者為準）。

(b) **Payment**. Unless otherwise specified in the applicable SOW and subject to Section 2(c) below, Customer shall pay to Datasite all Fees owing under this Agreement on the Due Date. Fees or amounts not paid by this date shall be considered past due. For any failure to pay past due Fees, amounts or invoices, Datasite may accelerate Customer's unpaid Fees for the full outstanding period of the Term and require immediate payment by Customer of such Fees and/or suspend Services until the outstanding amounts are paid in full. Interest may be added from the Due Date to all past due invoices up to the highest rate permitted under applicable law. If Customer intends for any Fees charged under this Agreement be paid by a third-party, then: (i) Customer shall promptly notify Datasite in writing; (ii) Customer shall provide all accurate information reasonably necessary to issue the invoice to the third-party via either the SOW, email or through the Website and work with Datasite to correct any problems or errors Datasite observes or discovers; (iii) payment of Fees from such third-party to Datasite will be due on the Due Date; and (iv) Customer will not be relieved of its obligations to pay those or any other Fees to Datasite. Payment of Fees shall not be conditioned upon completion of Customer on-boarding forms, purchase orders, or Datasite's use of Customer's billing and other portals. Datasite shall be under no obligation to use any billing portal. Datasite reserves the right to charge the Customer for any costs incurred to recover any amounts owed to it including, but not limited to, any debt recovery services or other third-party services, including but not limited to, reasonable attorneys' fees.

(b) **付款**。除非在適用的 SOW 中另有規定，並符合以下第 2(c)條的規定，客戶應在到期日向 Datasite 支付本協議項下的所有應付費用。在此日期或之前未支付的費用或款項應被視為逾期未付。如果有任何未能繳付到期的費用款項或發票的情況，Datasite 可能會加速客戶在所有尚餘期限內的費用，並要求客戶立即支付該等費用和/或暫停服務，直到未付費用被全額支付為止。就所有逾期發票，可以從到期日加收不多於法律所允許的最高利率的利息。如果客戶打算由第三方支付根據本協議收取的任何費用，則：(i) 客戶應迅速以書面形式通知 Datasite; (ii) 客戶應提供所有合理必要的準確信息，以便通過 SOW、電子郵件或網站向第三方開具發票，並與 Datasite 合作糾正 Datasite 觀察到或發現的任何問題或錯誤; (iii) 該等第三方向 Datasite 支付的費用將於到期日到期; (iv) 客戶不會被免除向 Datasite 支付這些費用或任何其他費用的義務。費用的支付不應以完成客戶加入表格、採購訂單或 Datasite 使用客戶的帳單和其他門戶網站為條件。Datasite 沒有義務使用任何帳單門戶網站。Datasite 保留向客戶收取為收回任何客戶欠其的金額而產生的任何費用的權利，包括但不限於任何債務追償服務或其他第三方服務，包括但不限於合理的律師費。

(c) **Payment Disputes**. Notice of any disputed Fees, amounts, or invoices must be provided to Datasite via email sent to [billing@datasite.com](mailto:billing@datasite.com) no later than ten (10) days after to the Due Date otherwise it shall be deemed accepted. Notices must include details identifying the invoice by number and detailing the amounts in dispute. Upon receipt of the dispute notice, Datasite will determine in its sole and absolute discretion, whether the charges in dispute were correctly issued and notify Customer. If there has been an error, Datasite will work with Customer to correct the error and determine the outcome.

(c) **付款爭議**。任何有爭議的費用、付款或發票的通知必須在到期日後十（10）天內通過電子郵件發送到 [billing@datasite.com](mailto:billing@datasite.com)，否則視為接受。通知必須包括按編號標識發票的詳細信息，並詳細說明爭議金額。在收到爭議通知後，Datasite 將自行全權酌情決定有關爭議費用是否正確作出，並通知客戶。如果出現錯誤，Datasite 將與客戶一同更正錯誤並決定結果。

(d) **Taxes**. The Fees stated in any SOW do not include Taxes. Customer is responsible for paying all Taxes associated with its purchases hereunder. If Datasite has a legal obligation to collect Taxes for which Customer is responsible, Datasite will invoice Customer and Customer shall pay the amount owing. If Customer is lawfully required to withhold any sums from an invoice, Customer must effect such withholding and remit such amounts to the appropriate taxing authorities, and ensure that, after such deduction or withholding, Datasite receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount Datasite would have received and retained in the absence of such required deduction or withholding.

(d) **稅款**。任何 SOW 中列出的費用均不含稅款。客戶有責任支付與其本協議項下的購買相關的所有稅款。如果 Datasite 有法律義務收取客戶應負責的稅款，Datasite 將向客戶開具發票，且客戶應支付所欠金額。如果法律要求客戶預扣任何發票中的款項，則客戶必須作出此類預扣並將此類款項匯給適當的稅務機關，並確保在此類扣除或預扣之後，Datasite 可收到並保留一筆無需承擔此類扣除或預扣責任的淨額，該淨額等於 Datasite 在沒有此類扣除或預扣的情況下可收到和保留的金額。

### **3. Ownership and Limited License.**

#### **3. 所有權和有限許可。**

(a) **Customer Ownership**. As between the Parties, Customer shall have and retain all Intellectual Property Rights in Customer Materials. Customer has sole responsibility for the accuracy, quality, legality, integrity, and appropriateness of all data, content, and information it, or any of its Users, provides to Datasite in conjunction with the Services. Customer hereby grants to Datasite a non-exclusive, irrevocable, fully paid-up, royalty-free, sub-licensable, worldwide right and license to reproduce, distribute, use, and display the Customer Materials to the extent necessary

for Datasite: (i) to provide the Services to Customer; (ii) to create and use the Services Data, Feedback, and Usage Data for any purposes and (iii) for any other activities expressly agreed to by Customer.

(a) **客戶所有權**。在雙方之間，客戶應擁有並保留客戶材料中的所有知識產權。客戶對其或其任何使用者就服務向 Datasite 提供的所有數據、內容和信息的準確性、品質、合法性、完整性和適當性承擔全部責任。客戶特此授予 Datasite 非排他性、不可撤銷、全額付清、免版稅、可再許可的全球權利和許可，以複製、分發、使用和顯示客戶材料以在 Datasite 所需的範圍內：(i) 向客戶提供服務；(ii) 出於任何目的創建和使用服務數據、回饋和使用數據，以及 (iii) 用於客戶明確同意的任何其他活動。

(b) **Datasite Ownership**. As between the Parties, Datasite shall have and retain all Intellectual Property Rights in materials, documentation, methodologies, source code, processes, websites, applications, and software that Datasite uses for the purpose of providing the Website and Services, Feedback, Usage Data, and any and all derivatives, future enhancements, or modifications to the foregoing, however produced. No Intellectual Property Rights are granted to Customer under this Agreement or otherwise except as expressly set forth herein.

(b) **Datasite 所有權**。在雙方之間，Datasite 應擁有並保留 Datasite 用於提供網站和服務、回饋和使用數據的材料、文件、方法、原始程式碼、流程、網站、應用程式和軟體的所有知識產權，以及上述項目的無論以何種方式產生的任何和所有衍生品、未來增強功能或修改。除非本協議明確規定，否則並沒有根據本協議或其他方式授予客戶任何知識產權。

(c) **Services Data and User Data**. Without limiting any other rights set forth herein, during and after the term of this Agreement, Customer agrees that Datasite may use, collect, and make derivatives of Services Data, and User Data to develop, improve, support, and operate its products and services, and to create and offer new products and services.

(c) **服務數據和使用者數據**。在不限制本協議規定的任何其他權利的情況下，在期限內和之後，客戶同意 Datasite 可以使用和收集服務數據、和使用者數據，並製作服務數據、和使用者數據的衍生品，以開發、改進、支援和營運其產品和服務，以及創建和提供新產品和服務。

#### 4. **Warranties**.

##### 4. **保證**。

(a) **General Warranties**. Each Party warrants that: (i) it has full power and authority to enter into and perform its obligations under this Agreement; (ii) this Agreement has been duly executed and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms; (iii) it will comply with all laws applicable to the Party; and (iv) it will use up-to-date, generally accepted virus detection devices and procedures to reasonably ensure that any electronic data transmitted to the other Party will not contain a virus or other harmful component.

(a) **一般保證**。每一方保證：(i) 其擁有簽訂和履行本協議項下義務的全部權力和授權；(ii) 本協議已經妥為簽署，並構成可根據本協議條款對該一方強制執行的有效且具有約束力的協議；(iii) 它將遵守適用於該一方的所有法律；(iv) 它將使用最新的、普遍接受的病毒偵測設備和程式，以合理地確保傳輸到另一方的任何電子數據不會包含病毒或其他有害元件。

(b) **Datasite Warranties**. During the term of the applicable SOW, Datasite warrants that: (i) the Services will be rendered using professional practices and in a competent and professional manner; and (ii) it has all necessary permissions, software licenses, and ownership rights to provide the Services. Customer must provide written notice to Datasite of any warranty claim. Such warranty shall apply only if the applicable Services have been used for their intended purpose and in accordance with the applicable documentation, this Agreement, and any and all applicable law. In the event of a breach of Section 4(c)(ii), Datasite may, in its sole and absolute discretion: (1) substitute substantially similar services; (2) procure for Customer the right to continue using the Services; or if (1) and (2) are not commercially reasonable, (3) terminate this Agreement and refund to Customer the Fees paid by Customer for the Services that were prepaid but not used. This section sets out Datasite's sole and exclusive liability, and Customer's sole remedy, with respect to any claim of infringement of Intellectual Property Rights.

(b) **Datasite 保證**。在期限內，Datasite 保證：(i) 服務將通過專業實踐做法以稱職和專業的方式提供；(ii) 它擁有提供服務之所有必要許可權、軟體許可和所有權。客戶必須向 Datasite 就任何保證索賠提供書面通知。僅當適用的服務被用於其預期目的並符合適用的文檔、本協議以及任何和所有適用法律時，此類保證才適用。在違反第 4 (c) (ii) 條的情況下，Datasite 可自行全權酌情決定：(1) 以實質上類似的服務替代；(2) 促使客戶獲得繼續使用服務的權利；或者如果 (1) 和 (2) 在商業上不合理，(3) 終止本協議並向客戶退還客戶就已預付但未使用的服務之費用。本條列出了 Datasite 對任何侵犯知識產權的索賠的唯一和排他性責任，以及客戶的唯一補救措施。

##### (c) **Customer Warranties**.

(i) Customer warrants that it: (1) has obtained all permissions and consents, provided all relevant notices, or has otherwise established any valid legal basis required by law (as applicable) to transfer the Content and/or User Data so that Datasite may lawfully use, process and transfer the Content and User Data in accordance with this Agreement, the Data Processing Addendum when applicable, and in compliance with applicable data protection laws, including but not limited to, any data localization or data sovereignty laws or regulations; (2) will use the Services for the intended business purpose; (3) has delegated authority to its advisors and Customer Administrators to provide instructions in connection with the Services, and Datasite has no duty to verify such delegation, and may rely on such instructions; (4) will use reasonable efforts to provide Datasite with clear and legible copies of the Content in the best

possible condition; (5) will cooperate with Datasite to correct any problems associated with the Content; (6) will comply with all economic sanctions laws and not take any action which would place Datasite in a position of non-compliance with any such economic sanctions laws; (7) will promptly report to Datasite any problems or errors it observes or discovers with the Content; and (8) will immediately notify Datasite in writing of all court orders it receives which may restrict the use, distribution, or disposition of any Content delivered to Datasite.

(c) 客戶保證。

(i) 客戶保證其：(1) 已獲得所有相關許可和同意、提供所有相關通知、或(如適用)以其他方式建立法律要求的任何有效法律依據，以轉移內容和/或使用數據，以使 Datasite 可以根據本協議、數據處理補充協議(如適用)，並遵守適用的數據保護法律(包括但不限於任何數據本地化或數據主權法律或法規)，合法使用、處理和轉移內容和使用者數據；(2) 將服務用於預期的商業目的；(3) 已授權其顧問和客戶管理員，以提供與服務相關的指示，且 Datasite 沒有義務驗證此類授權的責任，並可依賴此類指示；(4) 將盡合理努力向 Datasite 提供內容最佳狀態的清晰易讀的副本；(5) 將與 Datasite 合作糾正與內容相關的任何問題；(6) 將遵守所有經濟制裁法律，並且不採取任何會使 Datasite 處於不遵守任何此類經濟制裁法律境地的行動；(7) 迅速向 Datasite 報告其觀察到或發現的任何內容問題或錯誤；及(8) 將立即以書面形式通知 Datasite 其收到的所有可能會限制交付給 Datasite 的任何內容的使用、分發或處置的法院命令。

(ii) Customer additionally warrants that it will not: (1) use, nor permit any third-party to use, the Services in a manner which would give rise to civil liability; (2) engage in, nor assist, encourage, or authorize others to engage in, conduct which could constitute a criminal offense under any applicable law or regulation; (3) upload Content or use Non-Datasite Applications which reasonably could infringe, misappropriate, or otherwise violate any Intellectual Property Rights of any third-parties; (4) perform, nor permit or instruct any third-party to perform on its behalf, any code review, vulnerability testing, penetration testing, or any other network tests on the Website or Services, or attempt to gain unauthorized access to the Website, Services, or its related systems or networks; and (5) (except to the extent that must be permitted by law) attempt to, nor permit or otherwise instruct any third-party attempt to, reverse engineer, decompile, disassemble, create derivative works from, sell, market, transfer or otherwise seek to obtain: (A) any Third-Party Data (excluding Content), (B) the source code for the Website, or (C) any other software made available to Customer in connection with the Services.

(ii) 客戶還保證其不會：(1) 以可能引至民事責任的方式使用服務，或允許任何第三方以可能引至民事責任的方式使用服務；(2) 從事，或協助、鼓勵或授權他人從事根據任何適用法律或法規可能構成刑事犯罪的行為；(3) 上傳可合理地被視為侵犯、盜用或以其他方式違反任何第三方的任何知識產權的內容或使用可合理地被視為侵犯、盜用或以其他方式違反任何第三方的任何知識產權的非 Datasite 應用程式；(4) 就網站或服務作出(或容許或指示任何第三方代表其作出)任何代碼審查、漏洞測試、滲透測試或任何其他網路測試，或試圖未經授權存取網站、服務或其相關系統或網路；(5) (除非在法律必須允許的範圍內) 試圖(或容許或指示任何第三方試圖)反向工程、反編譯、反彙編、出售、行銷、轉讓或以其他方式尋求獲取：(A) 任何第三方數據(不包括內容)，(B) 網站的原始程式碼，或(C) 就服務提供給客戶的任何其他軟體；或試圖(或容許或指示任何第三試圖)利用(A) 任何第三方數據(不包括內容)，(B) 網站的原始程式碼，或(C) 就服務提供給客戶的任何其他軟體創建衍生作品。

(d) Disclaimer of Warranties. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICES, TRIAL SERVICES, AND WEBSITE(S) ARE PROVIDED AS-IS, WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, MERCHANTABILITY, OR THOSE ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. THE ABOVE WARRANTIES DO NOT GUARANTEE THAT THE SERVICES WILL BE SECURE, PERFORM UNINTERRUPTED OR ERROR-FREE, THAT DATASITE WILL BE ABLE TO CORRECT ALL ERRORS, OR THAT THE SERVICES MEET CUSTOMER'S REQUIREMENTS. ANY SERVICES PROVIDED AND DATA MADE AVAILABLE TO CUSTOMER (INCLUDING THIRD PARTY DATA) IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT ARE NOT INTENDED TO PROVIDE, AND SHOULD NOT BE RELIED UPON, FOR LEGAL, TAX, FINANCIAL, INVESTMENT RECOMMENDATIONS, OR ANY OTHER TYPE OF ADVICE.

(d) 免責聲明。除非本協議中明確規定，並在法律允許的最大範圍內，否則服務、試用服務和網站均以“按現狀”的基礎提供，不作任何明示或暗示的陳述或保證，包括但不限於對特定用途的適用性、不侵權、適銷性或因交易、使用或貿易慣例而產生的任何保證。上述保證不保證服務是安全的、執行不中斷或無錯誤的，DATASITE 將能夠糾正所有錯誤，或服務將符合客戶的要求。就服務或本協議提供給客戶的任何服務和數據(包括第三方數據)均無意提供法律、稅務、財務、投資或任何其他類型的建議，也不應被依賴作法律、稅務、財務、投資建議或任何其他類型的意見。

(e) Security Classified Information. THE SERVICES ARE EXPRESSLY PROHIBITED FROM BEING USED TO STORE ANY CLASSIFIED INFORMATION ON THE WEBSITE. ACCORDINGLY, DATASITE DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR ACCESSING OR STORING ANY CLASSIFIED INFORMATION OR INFORMATION REQUIRING A SECURITY CLEARANCE AND DATASITE SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM OR RELATED TO THE USE OF THE SERVICES FOR SUCH INFORMATION.

(e) 安全機密信息。明確禁止利用服務於網站存儲任何機密信息。因此，DATASITE 不對存取或存儲任何機密信息或

需要任何政府的安全許可的信息的適用性做出任何明示或暗示的保證，並且 DATASITE 不對就此類信息利用服務而引起或與之相關的任何索賠或損害承擔責任。

## 5. Confidentiality.

### 5. 保密性。

(a) Each Party shall: (i) hold Confidential Information of the other Party in confidence; (ii) not use any Confidential Information of the other Party for any purpose outside the scope of this Agreement and, if applicable, the Data Processing Addendum; (iii) take reasonable steps to maintain the confidentiality of all Confidential Information of the other Party; (iv) only disclose Confidential Information of the other Party: (1) to such Party's or its Affiliates employees who have a need to know such information; or (2) for the purposes envisioned or intended under this Agreement. This Agreement expressly supersedes and replaces in its entirety any non-disclosure agreement executed by Datasite arising out of or in connection with this Agreement.

(a) 每一方應：(i) 對另一方的保密信息保密；(ii) 不得將另一方的任何保密信息用於本協議和數據處理補充協議（如適用）範圍之外的任何目的；(iii) 採取合理措施維護所有另一方的保密信息的保密性；(iv) 僅（1）向需要瞭解此類信息的該一方（或該一方的關聯公司）的僱員披露另一方的保密信息；或僅（2）就本協議設想或預期的目的披露另一方的保密信息。本協議明確替代並完全取代 Datasite 因本協議或與本協議相關而簽署的任何保密協議。

(b) If a Party is compelled by court order, subpoena, or other requirement of law to disclose Confidential Information of the other Party, the Party will provide the other Party with prompt notice (unless such notice is prohibited) so that the Party may, at its option and expense, seek a protective order or other remedy.

(b) 如果一方因法院命令、傳票或其他法律要求而被迫披露另一方的保密信息，則該一方應及時向另一方發出通知（除非此類通知被禁止），以使該一方可以自行選擇並自費尋求保護令或其他補救措施。

(c) Upon termination of the Agreement, all Content uploaded to the Website by Customer shall be destroyed, or in accordance with the applicable SOW, returned to the Customer. Upon Customer's request, Datasite shall provide a certification of deletion or destruction of the Content. Customer must pay all invoices in full prior to the release of any Content under this section. Datasite shall not be obligated to immediately erase Content contained in an archived computer system backup made in accordance with its security or disaster recovery procedures, provided that such archived copy shall remain subject to the same obligations of confidentiality until destruction.

(c) 當本協議終止，客戶上傳到網站的所有內容均將被銷毀，或根據適用的 SOW 退還給客戶。根據客戶的要求，Datasite 應提供刪除或銷毀內容的證明書。客戶必須在本條規定的任何內容釋放之前全額支付所有發票。Datasite 沒有義務立即刪除根據其安全或災難恢復程序而在其存檔計算器系統備份中儲存的內容，前提是此類存檔副本在銷毀之前應受相同的保密義務。

(d) The Parties agree that Datasite does not receive any personal data as consideration for the Services. Customer acknowledges that Datasite's provision of the Services may involve the use, processing or transfer of personal data (as defined by applicable data protection laws) which may include Datasite sharing such personal data with Customer's advisors, its authorized third-party Users or as otherwise provided in the Agreement or the Data Processing Addendum. Customer has sole responsibility for ensuring that personal data it provides to Datasite for processing complies with all applicable data protection laws. If Customer or Datasite is subject to data protection laws that require entering into a Data Processing Addendum, Customer will download Datasite's Data Processing Addendum available at <https://www.datasite.com/us/en/legal/services-agreement.html>, sign it, and return it to [privacy@datasite.com](mailto:privacy@datasite.com).

(d) 雙方同意，Datasite 不會以接收任何個人數據作為服務的對價。客戶承認 Datasite 提供的服務可能涉及個人數據（由適用的數據保護法定義）的使用、處理或轉移，其中可能包括 Datasite 與客戶的顧問、其授權的第三方使用者或協議或數據處理補充協議中另有規定的情況下共用此類個人數據。客戶需承擔全部責任確保其提供給 Datasite 進行處理的個人數據符合所有適用的數據保護法律。如果客戶或 Datasite 受約束的數據保護法律要求簽訂數據處理補充協議，客戶將從 <https://www.datasite.com/us/en/legal/services-agreement.html> 下載 Datasite 的數據處理補充協議，簽署數據處理補充協議，並將其返還給 [privacy@datasite.com](mailto:privacy@datasite.com)。

## 6. Limitation of Liability.

### 6. 責任限制。

TO THE EXTENT PERMITTED BY ANY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY NOR ANY THIRD-PARTY UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, FOR ANY PUNITIVE OR EXEMPLARY DAMAGES OR, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL LOSS INCLUDING: LOSS OF PROFITS (EXCEPT THE PROFIT ELEMENT OF THE FEES), BUSINESS, GOODWILL, REPUTATION, OR OTHER LOSS RESULTING FROM BUSINESS INTERRUPTION ARISING FROM OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT. UNLESS OTHERWISE STATED HEREIN, THE PARTIES AGREE THAT THE REMEDIES PROVIDED IN THIS AGREEMENT ARE EXCLUSIVE.

在任何適用法律允許的範圍內，任何一方均不對另一方或任何第三方承擔任何追償理論（無論是基於合同、侵權（包括疏忽和嚴格責任）、保證或是其他方式）下的任何懲罰性或懲戒性損害賠償或間接、特殊、附帶或後果性損失之責任，

包括：因本協議引起或與本協議有關的利潤損失（費用的利潤部分除外）、業務損失、商譽損失、聲譽損失、或業務中斷而造成的其他損失。除非本協議另有說明，否則雙方同意本協議中提供的補救措施是排他性的。

THE PARTIES AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT, UNDER WARRANTY, OR OTHERWISE, SHALL NOT EXCEED THE GREATER OF (1) THE TOTAL FEES PAID BY CUSTOMER TO DATASITE UNDER THE APPLICABLE SOW FOR THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY LIABILITY, AND (2) US\$50,000, IN EACH CASE EXCEPT FOR BREACH OF SECTIONS 5(a) AND 5(d) WHERE THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY SHALL NOT EXCEED FIVE HUNDRED THOUSAND US DOLLARS (\$500,000 USD).

雙方同意，在適用法律允許的範圍內，任何一方在任何追償理論下的責任總額，無論是基於合同、侵權行為、保證還是其他方式，在每個情況均不得超過（1）客戶在引起任何責任的事件之前的 12 個月內根據適用的 SOW 向 DATASITE 支付的總費用或（2）50,000 美元（以較高者為準），但違反第 5（a）和 5（d）條除外。在違反第 5（a）和 5（d）條的情況下，任何一方的責任額不得超過五十萬美元（500,000 美元）。

THE LIMITATIONS OF LIABILITY SET OUT IN THIS SECTION 6 OF THE LEGAL TERMS SHALL NOT APPLY TO: (a) FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT; (b) A BREACH OF SECTIONS 3(b) (DATASITE OWNERSHIP), 4(c)(i) AND (ii) (CUSTOMER WARRANTIES), OR 9(d) (RESTRICTED PARTIES AND EXPORT LAWS) OF THE LEGAL TERMS; (c) DAMAGES TO THE EXTENT CAUSED BY FRAUD OR A PARTY'S WILLFUL MISCONDUCT OR (d) DEATH OR INJURY TO THE EXTENT CAUSED BY A PARTY'S NEGLIGENCE.

本法律條款第 6 條中規定的責任限制不適用於：（a）客戶根據本協議支付或應付的費用；（b）第 3（b）條（DATASITE 所有權）、第 4（c）（i）和（ii）條（客戶保證）或第 9（d）條（受限制方和出口法律）的違反；（c）由欺詐或一方的故意不當行為的範圍內所造成的損害；或（d）因一方疏忽的範圍內所造成的死亡或受傷。

## 7. Hosting Terms.

### 7. 託管條款。

#### （a）Usage.

##### （a）使用。

（i）Website Management. By Customer Administrators accessing the Website or using the Services, Customer agrees that these Legal Terms shall apply. Customer authorizes Datasite to act on any instructions reasonably believed by Datasite to be authentic communications from Customer, its advisors, or Customer Administrators with respect to the management of Customer's Website. Customer shall be responsible for monitoring its and its Users' use of the Services within the limits set out in the applicable SOW.

（i）網站管理。 客戶管理員訪問網站或使用服務，即代表客戶同意這些法律條款為適用的。客戶授權 Datasite 根據 Datasite 合理認為是客戶、其顧問或客戶管理員就客戶網站管理進行的真實通信的任何指示採取行動。客戶應負責在適用 SOW 中規定的限制內監測其及其使用者對服務的使用。

（ii）Obligations. Users must consent to the [Terms of Use](#) and [Privacy Notice](#) included in the Website which may be amended by Datasite from time to time. Customer is responsible for the use of the Website by any of its Users in compliance with this Agreement. Datasite retains the right to remove authorization and access of any User from the Services upon request of the employer of such User.

（ii）義務。 使用者必須同意網站包含的[使用條款](#)和[私隱聲明](#)。Datasite 可能會不時對使用條款和私隱權聲明進行修訂。客戶應對其任何使用者根據本協議使用網站負責。Datasite 保留根據任何使用者的僱主的要求解除任何使用者就服務的授權和存取許可權的權利。

（iii）Go Live Date, Sandbox, Datasite Prepare. Prior to the Go Live Date, or if Customer elects to utilize the Sandbox (as described in the applicable SOW) or the Datasite Prepare offering, Customer agrees only to use such Services: (1) for the purpose of managing and distributing Content within the transaction team, including Customer's employees, agents, clients, and advisors in connection with an actual or proposed merger, acquisition, joint venture, or other transaction involving the sale or exchange of assets or voting securities; or (2) for such other purpose as expressly agreed to by the Parties in the applicable SOW. In respect of both (1) and (2) under this sub-section (iii), (3) the Content shall not be made accessible to any third-party other than Customer's agents, advisors, or clients. Datasite retains, in its sole and absolute discretion, the right to terminate the Services if suspension is necessary to avoid harm to Datasite or its business, or in the event Customer, or any of its Users, has violated this provision.

（iii）上線日期、沙盒、Datasite Prepare. 在上線日期之前，或者如果客戶選擇使用沙盒（如適用的 SOW 中所述）或 Datasite Prepare 產品，則客戶同意僅使用此類服務：（1）於交易團隊（包括與實際或建議的合併、收購、合資或其他涉及出售或交換資產或有表決權證券的交易有關的客戶員工、代理人、顧客和顧問）內管理和分發內容之用；或（2）於雙方在適用的 SOW 中明確同意的其他目的。對於本第（iii）小節的（1）和（2），（3）除客戶代理人、顧問或其顧



客外，任何第三方均不得獲得內容。Datasite 保留全權自行酌情決定是否在以下情況下終止服務的權利，即中止為必要措施，以避免對 Datasite 或其業務的實質損害，或客戶或任何其他其使用者違反此條款。

(iv) Continuation. When applicable, and upon Customer entering into a Renewal Term, Customer will be invoiced for all Content hosted at the Continuation rate. For any additional Content uploaded during the Renewal Term, Customer will be invoiced processing and hosting Fees at the Pricing and Continuation rates listed in the applicable SOW. Fees incurred during the Renewal Term will not be prorated.

(iv) 續約。在適用的情況下，客戶進入續約期後需要按續約費率支付所有託管內容的費用。對於續約期內上傳的任何額外內容，將按照 SOW 中列明的價格和續約費率向客戶收取處理和託管費。在續約期內發生的費用將不按比例計算。

(v) Redaction. Upon Customer replacing redacted Content with its original version on the Website, Customer will be charged for that replacement at the page, MB, or GB increments set forth in the SOW.

(v) 刪減。當客戶將網站上刪減內容替換為其原始版本時，將按照 SOW 中列出的按頁、MB 或 GB 的增量單位向客戶收取更換費用。

(vi) Hibernation Period. During the Hibernation Period, the Customer acknowledges and agrees that: (1) only the Hibernation Administrator will be able to access, view, edit, and add Content within the project; (2) all other Users and Customer Administrators access will be withdrawn; (3) Hibernation Administrators will not be able to modify User permissions in any way; and (4) Customer will be charged at the Hibernation rates as listed in the applicable SOW for the duration of the Hibernation Period. Hibernation Administrators may terminate the Hibernation Period at any time with prior written notice to Datasite.

(vi) 休眠期。在休眠期間，客戶承認並同意：(1) 只有休眠期管理員才能存取、查看、編輯和添加項目中的內容；(2) 所有其他使用者和客戶管理員的存取許可權將被撤銷；(3) 休眠期管理員無法以任何方式修改使用者許可權；(4) 在休眠期內，將按適用 SOW 中列出的休眠期費率向客戶收費。休眠期管理員可以隨時終止休眠期，但須事先書面通知 Datasite。

(vii) Third-Party Data. Customer acknowledges and agrees that: (1) Users will have access (including to view, download and query) to Third-Party Data and it is Customer's sole responsibility to evaluate and assume the risks related to sharing such Third-Party Data with Users; and (2) Datasite has no control over, and no liability whatsoever, for any acts or omissions of any User with respect to Third-Party Data. Customer shall comply with any and all applicable terms of service for any Third-Party Data. If Customer receives notice, including from Datasite, that Third-Party Data may no longer be used or must be removed, modified, or deleted to avoid violating applicable law, third-party rights, or this Agreement, Customer must promptly do so and provide Datasite written confirmation of such.

(vii) 第三方數據。客戶承認並同意：(1) 使用者將有權存取（包括查看、下載和查詢）第三方數據，並且客戶需負有全部責任評估並承擔與使用者共用此類第三方數據相關的風險；(2) Datasite 無法控制任何使用者對第三方數據的任何作為或不作為，也不就該等使用者對第三方數據的任何作為或不作為承擔任何責任。客戶應遵守任何第三方數據的任何和所有適用服務條款。如果客戶收到通知（包括來自 Datasite 的通知），表示第三方數據不可再被使用，或者必須被移除、修改或刪除，以避免違反適用法律、第三方權利或本協議，則客戶必須迅速地這樣做，並向 Datasite 提供書面確認。

(viii) Trial Services. Datasite may make Trial Services available to Customer. Any Trial Services shall be provided "As Is" and without any guarantee or warranty of any kind, express or implied. All confidentiality and ownership rights applicable to Services generally under this Agreement, and all Customer obligations concerning the Services and Content hereunder, shall also apply equally to Customer's use of Trial Services. Datasite reserves the right to discontinue the Trial Services at any time in its sole and absolute discretion and may never make them generally available. Datasite shall have no liability for any harm or damage arising out of or in connection with the Trial Services. The provision of any Trial Services to Customer may be subject to additional terms and conditions.

(viii) 試用服務。Datasite 可能會向客戶提供試用服務。任何試用服務均以“按現狀”的基礎提供，不附帶任何明示或暗示的擔保或保證。本協議下一般適用於服務的所有保密性和所有權，以及客戶對本協議項下服務和內容的所有義務，也應同樣適用於客戶對試用服務的使用。Datasite 保留自行全權酌情決定隨時終止試用服務的權利，並且可能永遠不會將其公開提供。Datasite 對因試用服務引起或與試用服務相關的任何損害或破壞不承擔任何責任。任何向客戶提供的試用服務可能受其他條款和條件的約束。

(ix) Integration with Non-Datasite Applications. The Website may contain features designed to interoperate with Non-Datasite Applications. Datasite does not warrant or support Non-Datasite Applications, nor can it guarantee the continue availability of such features. Datasite reserves the right to cease making available any Non-Datasite Application without entitling Customer to any refund, credit, or other compensation. If Customer chooses to use a Non-Datasite Application with the Website, Customer is responsible, and Datasite disclaims all liability, for the privacy or

security of such Non-Datasite Application, including but not limited to, any disclosure, modification, or deletion of data resulting from a Non-Datasite Application or its provider. Customer agrees to comply with the terms of service of any Non-Datasite Applications.

(ix) 與非 Datasite 應用程式的整合。網站可能包含旨在與非 Datasite 應用程式相互通操作的功能。Datasite 不保證或支援非 Datasite 應用程式，也不保證此類功能的持續可用性。Datasite 保留停止提供任何非 Datasite 應用程式而不對客戶作出任何退款、抵扣或其他補償的權利。如果客戶選擇在網站上使用非 Datasite 應用程式，則客戶應對此類非 Datasite 應用程式的私隱或安全負責，包括但不限於非 Datasite 應用程式或其供應商對數據的任何披露、修改或刪除，而 Datasite 對此不承擔任何責任。客戶同意遵守任何非 Datasite 應用程式的服務條款。

(x) Scheduled Maintenance. Datasite performs periodic Scheduled Maintenance and advance notice of such is provided on the Website. Scheduled Maintenance will not exceed four (4) hours per calendar month. Datasite reserves the right to update, modify, improve, support, and operate the Website and Services at any time. Any updates or modifications will not materially diminish the functionality of the Website.

(x) 定期維護。Datasite 執行週期性定期維護，並在網站上提供此類維護的事先通知。定期維護每個日曆月不會超過四 (4) 小時。Datasite 保留隨時更新、修改、改進、支援和運營網站和服務的權利。任何更新或修改都不會重大地削弱網站的功能。

(b) Service Level Agreements.

(b) 服務水平協議.

(i) Availability Guarantee Credits. As Customer's sole and exclusive remedy, Datasite's sole liability, for any month during the Term that Datasite fails to meet the Availability Guarantee is to provide Credits as set forth.

(i) 可用性保證抵扣。作為客戶的唯一和排他性補救措施，Datasite 的唯一責任為 Datasite 會為在期限內 Datasite 未能滿足可用性保證的任何月份提供如下所述的抵扣。

(ii) For the applicable SOW, Customer may request Datasite provides Customer with the credits below, provided Customer makes such request within twenty (20) days after Datasite's failure to meet the Availability Guarantee.

(ii) 就適用的 SOW，客戶可以要求 Datasite 向客戶提供以下抵扣，前提是客戶在 Datasite 未能滿足可用性保證後的二十 (20) 天內提出該請求。

Actual Percentage of Time the Content is Available in the Relevant Month 在相關月份內容可用的實際時間百分比	Credit only for affected month 僅就受影響月份的抵扣
99.5% or more 99.5%以上	None 沒有
97% to less than 99.5% 97%至 99.5%以下	10% of monthly Fees 每月費用的 10%
96% to less than 97% 96% 至 97% 以下	25% of monthly Fees 每月費用的 25%
95% to less than 96% 95%至 96%以下	50% of monthly Fees 每月費用的 50%

(iii) If Datasite fails to meet 95% of the Availability Guarantee in any given month, Customer may terminate the applicable SOW and request Datasite to deliver, as soon as commercially practicable, the Content on the Website to Customer's designee, provided Customer makes such request within twenty (20) days after Datasite's failure to meet the Availability Guarantee.

(iii) 如果 Datasite 在任何特定月份未能滿足可用性保證的 95%，客戶可以終止適用的 SOW，並要求 Datasite 在商業上可行的情況下儘快將網站上的內容交付給客戶的指定人員，前提是客戶在 Datasite 未能滿足可用性保證後的二十 (20) 天內提出該請求。

(iv) Availability Guarantee Exceptions. No period of inoperability will be included in calculating the Availability Guarantee to the extent such downtime is due to: (1) Scheduled Maintenance; (2) failure of Customer's or its Users' internet connectivity; (3) internet traffic problems of either Party other than problems arising from networks controlled by Datasite; (4) any Force Majeure Event; or (5) Non-Datasite Applications.

(iv) 可用性保證例外。如果未能使用是在以下原因範圍內造成的，則在計算可用性保證時不會包括該無法使用的時間：(1) 定期維護；(2) 客戶或其使用者的互聯網連接故障；(3) 除 Datasite 控制的網路引起的問題外，任何一方的互聯網流量問題；(4) 任何不可抗力事件；或 (5) 非 Datasite 應用程式。

## 8. Term & Termination.

## 8. 期限和終止。

(a) **Term.** This Agreement is effective as of the Effective Date. The Initial Term and any Renewal Terms of an SOW will remain in effect until terminated in accordance with its terms. In no event will termination relieve Customer of its obligation to pay any Fees or amounts payable to Datasite under the applicable SOW.

(a) **期限。**本協議自生效日期起生效。初始期限和 SOW 的任何續期期限將一直有效，直到根據其條款終止。在任何情況下，終止均不會免除客戶根據適用的 SOW 向 Datasite 支付任何費用或款項的義務。

(b) **Termination For Cause.** A notice of default or breach from the non-breaching Party or an intent to default from the breaching Party under this provision shall not constitute a notice of termination under this Agreement. Any notice of termination must be provided separately in writing. Excluding Customer's payment obligations which are solely subject to Section 8(c), either Party may terminate this Agreement and all SOWs issued hereunder, in whole or in part, with immediate effect upon written notice if the other Party:

(b) **因故終止。**非違約一方發出的違約或違反通知，或違約一方在本條款下違約的意向，不構成本協議項下的終止通知。任何終止通知必須以書面形式單獨提供。除客戶僅受第 8 (c) 條約束的付款義務外，任何一方均可以書面通知立即全部或部分終止本協議和根據本協議出具的所有 SOWs，前提是另一方符合以下條件：

(i) breaches any material obligation of this Agreement and either has not cured such breach within thirty (30) days of receiving written notice from the non-breaching Party, or the breach cannot be cured within thirty (30) days;

(i) 另一方違反本協議的任何重大義務，並且在收到非違約一方的書面通知後三十 (30) 天內未糾正此類違約行為，或者該違約行為無法在三十 (30) 天內糾正;

(ii) ceases to actively conduct its business;

(ii) 另一方停止積極經營業務;

(iii) files a voluntary petition for bankruptcy or insolvency or has filed against it an involuntary petition for bankruptcy or insolvency;

(iii) 另一方自願提出破產或無力償債申請，或其已被提出破產或無力償債的非自願申請;

(iv) makes a general assignment for the benefit of its creditors;

(iv) 另一方為債權人的利益進行一般性轉讓;

(v) applies for the appointment of a receiver, administrator, or trustee for all or substantially all of its property or assets, or the other Party or the court has permitted the appointment of any such receiver, administrator, or trustee; or

(v) 另一方就其全部或實質上所有財產或資產申請委任接管人、管理人或受託人，或另一方或法院已允許委任任何該等接管人、管理人或受託人;或

(vi) has its receivables subject to garnishment.

(vi) 另一方的應收款須予扣押。

(c) **By Datasite Only.** If Customer fails to: (i) execute and deliver to Datasite a signed SOW within ten (10) days after the project is created; (ii) provide all accurate "bill-to" information reasonably necessary to issue an invoice; or (iii) pay any invoice in full, within ten (10) days of notice of default, Datasite may, in its sole and absolute discretion, terminate this Agreement and all SOWs issued hereunder, in whole or in part, and/or suspend or entirely cease provision of the Services. Under such default, Datasite shall have no obligation to preserve or return any Content. Datasite may immediately restrict or suspend access to the Services if Datasite becomes aware of, or reasonably suspects, any breach of this Agreement by Customer or its Users. Datasite may remove any Content posted or transmitted through the Website(s) which it deems in its sole and absolute discretion to have violated this Agreement or any applicable law, regulation, or other legal requirement. Datasite will act in good faith and use reasonable efforts to notify Customer via phone or email prior to suspending or restricting any Service. Customer shall remain responsible for full payment of the Fees and any amounts owed or owing under this Agreement and any SOW(s) even if access to the Services is suspended or terminated for any breach of this Agreement.

(c) **僅由 Datasite 終止。**如果客戶未能：(i) 在項目創建後十 (10) 天內簽署 SOW 並把經簽署的 SOW 交付給 Datasite，(ii) 提供開具發票合理必要的所有準確的“付款人”信息;或 (iii) 在違約通知發出後十 (10) 天內全額支付任何發票，Datasite 可全權自行酌情決定全部或部分終止本協議和根據本協議出具的所有 SOWs，和/或暫停或完全停止提供服務。在此類違約情況下，Datasite 沒有義務保留或返還任何內容。如果 Datasite 發現或合理懷疑客戶或其使用者任何違反本協議的行為，Datasite 可能會立即限制或暫停服務的存取。Datasite 可以刪除通過網站發佈或傳輸的，任何 Datasite 自行全權酌情認為違反了本協議或任何適用的法律、法規或其他法律要求的內容。Datasite 將本著善意行事，並在暫停或限制任何服務之前，盡合理努力通過電話或電子郵件通知客戶。即使因違反本協議而暫停或終止服務的存取，客戶仍應負責全額支付費用以及根據本協議和任何 SOW(s)該付的任何款項。

(d) **Effect of Termination.** The following will occur upon termination or expiration of the applicable SOW(s) or this Agreement for any reason:

(d) 終止的效果。在適用的 SOW(s)或本協議因任何原因終止或到期時，將發生以下情況：

(i) Datasite will terminate Customer's and all Users' access to the Website(s).

(i) Datasite 將終止客戶和所有使用者對網站的存取。

(ii) Datasite will take reasonable efforts to promptly delete all of Customer's Content maintained by Datasite and Datasite's obligation to provide the Services under the applicable SOW will cease.

(ii) Datasite 將盡合理努力迅速刪除 Datasite 維持的客戶的所有內容。Datasite 根據適用的 SOW 提供服務的義務將停止。

## 9. General.

### 9. 一般。

(a) Affiliate. Datasite shall be entitled to perform any of its obligations and exercise any of its rights under the Agreement through any Affiliate, provided that any act or omission of such Affiliate shall, for all purposes of this Agreement, be deemed to be the act or omission of Datasite.

(a) 關聯公司。Datasite 有權通過任何關聯公司履行其在本協議項下的任何義務並行使其在本協議項下的任何權利，但就本協議的所有目的而言，該關聯公司的任何作為或不作為均應被視為 Datasite 的作為或不作為。

(b) No Waiver. No failure or delay by either Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

(b) 不棄權。任何一方未有或延遲行使本協議項下的任何權利均不得視為放棄該權利。任何一方對違反本協議任何條款的棄權均不得視為對隨後違反相同或任何其他條款有任何放棄。

(c) Survival. The following Sections will survive expiration or termination of this Agreement: 1,2,3,5,6,8(d),9.

(c) 存續。以下各條在本協議到期或終止後仍然有效：1、2、3、5、6、8 (d)、9。

(d) Restricted Parties and Export Laws. Customer represents that it is not and will not make the Website available to any entity incorporated in or resident of a country or jurisdiction subject to economic or trade sanctions by the U.S. State Department, OFAC, the government of the Hong Kong Special Administrative Region or the Central Government of the People's Republic of China, or are listed as a "Specially Designated National," a "Specially Designated Global Terrorist," a "Blocked Person," or similar designation under the OFAC sanctions regime, or sanctioned by the government of the Hong Kong Special Administrative Region or the Central Government of the People's Republic of China. Any breach of this section will be a material breach of this Agreement and Datasite may immediately terminate this Agreement. Customer will not permit any User to access or use any Service or Website in a U.S., Hong Kong, Mainland China or UN-embargoed country or region, or in violation of any U.S., UN, Hong Kong, Mainland China or international export law, sanction, or regulation. Customer is solely responsible for obtaining any and all necessary export license(s) or other approval(s) to transfer Content in connection with its use of the Service.

(d) 受限制方和出口法律。客戶聲明，其並非在受美國國務院、OFAC、香港特別行政區政府或中華人民共和國中央政府制裁的國家或司法管轄區註冊成立或居住的任何實體，亦非“特別指定的國民”、“特別指定的全球恐怖分子”、“被封鎖的人”或在 OFAC 制裁制度下的類似指定的實體，或受香港特別行政區政府或中華人民共和國中央政府制裁。客戶亦聲明其不會將網站提供給任何在受美國國務院、OFAC、香港特別行政區政府或中華人民共和國中央政府制裁的國家或司法管轄區註冊成立或居住的任何實體，或“特別指定的國民”、“特別指定的全球恐怖分子”、“被封鎖的人”或在 OFAC 制裁制度下的類似指定的實體，或受香港特別行政區政府或中華人民共和國中央政府制裁的實體。任何違反本條的行為都將構成對本協議的重大違反，Datasite 可立即終止本協議。客戶不得允許任何使用者在美國、香港、中國大陸或聯合國禁運的國家或地區存取或使用任何服務或網站，或以違反任何美國、聯合國、香港、中國大陸或國際出口法律、制裁或法規的方式存取或使用任何服務或網站。客戶需負上所有獲得任何和所有就使用服務以轉移內容所必要的出口許可證或其他批准的責任。

(e) No Third-Party Beneficiaries. This Agreement does not create any third-party beneficiary rights (including under the Contracts (Rights of Third Parties) Ordinance (Cap. 623)) except as expressly provided by its terms.

(e) 無第三方受益人。除非本協議條款明確規定，否則本協議不產生任何（包括合約（第三者權利）條例（第 623 章）下的）第三方受益人權利。

(f) Assignment. Upon providing written notice, either Party may assign its rights, interests, and/or obligations under this Agreement or any SOW to any parent, subsidiary, Affiliate, or to a successor of all its assets or stock. Notwithstanding the foregoing, Customer may not assign its rights, interests, and/or obligations under this Agreement or any SOW to any Datasite Competitor without Datasite's prior written consent. For purposes of this clause, "Competitor" shall mean any entity which, either itself or has an Affiliate which, sells, licenses, or provides, any software, application service or system comprised of one or more electric or digital document repositories for facilitating transaction due diligence, mergers, acquisitions, divestiture, financing, investment, investor or government relations, research and development, clinical trials or other business processes in competition with any of the Services or other services Datasite provides. This Agreement is binding upon and inure to the benefit of the Parties and their respective successors and assigns.

(f) **轉讓**。在提供書面通知後，任何一方均可將其在本協議或任何 SOW 下的權利、利益和/或義務轉讓給任何母公司、子公司、關聯公司或其所有資產或股份的繼承人。儘管有上述規定，未經 Datasite 事先書面同意，客戶不得將其在本協議或任何 SOW 項下的權利、利益和/或義務轉讓給任何 Datasite 競爭對手。就本條款而言，“競爭對手”是指任何無論是其本身還是其關聯公司銷售、許可或提供促進交易盡職調查、合併、收購、剝離、融資、投資、投資者或政府關係、研發、臨床試驗或其他業務流程的，由一個或多個電子或數字文件存儲庫組成的、與任何服務競爭或與 Datasite 提供的任何其他服務競爭的任何軟件、應用程式服務或系統的實體。本協議對雙方及其各自的繼承人和受讓人具有約束力。雙方及其各自的繼承人和受讓人均享有本協議下的利益。

(g) **Notices**. Wherever provision is made in this Agreement for the giving, service, or delivery of any notice, such notice shall be in writing and shall be given using a method providing for proof of delivery, which shall include acknowledgement of receipt of email.

(g) **通知**。如本協議中有對發出、送達或交付任何通知的條款，此類通知應採用書面形式，並應使用可提供送達證明的方法（其中應包括電子郵件的確認收到通知）發出。

(h) **Force Majeure**. Neither Party is responsible for any failure or delay in the performance of any obligation under this Agreement to the extent the failure or delay results from events beyond the reasonable control of such Party and is not occasioned by such Party's fault ("Force Majeure"). If a delay or failure of a Party to comply with any obligation set forth in this Agreement is caused by Force Majeure, that obligation (other than the obligation to pay money when due and owing) will be suspended during the continuance of the Force Majeure condition and will not be considered a breach of this Agreement.

(h) **不可抗力**。任何一方均不需就因超出該一方合理控制範圍且非該一方失誤所引起的事件(簡稱“不可抗力”)所導致的本協議項下任何義務的執行失敗或延遲負責。如果一方延遲或未能遵守本協議中規定的任何義務是由不可抗力造成的，則該義務（到期應付時支付款項的義務除外）將在不可抗力條件的持續期間暫停，並且不會被視為違反本協議。

(i) **Marketing Support**. Upon the public announcement of an applicable transaction, Datasite may identify Customer as a Datasite customer and use Customer's name or logo on any Datasite websites or other marketing materials.

(i) **行銷支援**。在公開宣佈適用交易後，Datasite 可能會將客戶標識為 Datasite 客戶，並在任何 Datasite 網站或其他行銷材料上使用客戶的名稱或徽標。

(j) **Counterparts**. Any SOW may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) **對應本**。任何 SOW 可在兩個或多個對應本上簽立，每個對應本均應視為原件，但所有該等對應本應共同構成同一文書。

(k) **Anti-Corruption and Bribery**. Neither Party has received nor been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other Party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business and permitted by all applicable law do not violate the above restriction.

(k) **反腐敗和賄賂**。任何一方均未從另一方的僱員或代理人處就本協議收到或被提供與本協議有關的任何非法或不當賄賂、回扣、付款、贈與或有價物品。在正常業務過程中提供且所有適用法律允許的合理禮品和款待並不違反上述限制。

(l) **Anti-slavery and Trafficking**. Neither Party uses nor procures services in breach of anti-slavery and trafficking laws.

(l) **反奴隸制和販運**。任何一方均未使用或獲取違反反奴隸制和人口販運法的服務。

(m) **Governing Law and Jurisdiction**. This Agreement will be construed and enforced in accordance with the laws of the Hong Kong Special Administrative Region without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on Contracts for the International Sale of Goods (CISG). The Parties agree to submit to the non-exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region.

(m) **適用法律和管轄權**。本協議將根據香港特別行政區的法律解釋和執行，且不考慮其法律衝突規定，也不考慮《聯合國國際貨物銷售合同公約》（CISG）。雙方同意服從香港特別行政區法院的非專屬管轄權。

(n) **Severability**. If a court of law holds any provision of this Agreement to be illegal, invalid, or unenforceable that provision shall be deemed amended to achieve an economic effect that is as near as possible to that provided by the original provision and the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

(n) **可分割性**。如果法院認為本協議的任何條款是非法的、無效的或不可執行的，則該條款應被視為經過修改，以達到盡可能接近原始條款所提供的經濟效果，並且本協議其餘條款的合法性、有效性和可執行性不應因此受到影響。

(o) **Entire Agreement**. This Agreement, together with any applicable SOWs and Data Processing Addendum (if executed), constitutes the entire agreement between the Parties and supersedes all previous agreements, proposals, and negotiations, whether written or oral, regarding the subject matter herein. In entering into this Agreement neither Party has relied on, and neither party will have any right or remedy based on, any statement, representation or warranty (whether made negligently or innocently), except those expressly stated in this Agreement. No terms

contained in any Customer issued purchase order or similar form or invoice shall be valid or enforceable against Datasite. No trade usage, regular industry practice, or method or course of dealing between the Parties shall be used to modify, interpret, supplement, or alter the terms of this Agreement in any way. Any changes to the Legal Terms must be agreed in writing by both Parties, provided that Datasite may modify the Legal Terms from time to time by issuing new versions on the Website and the latest new version shall become effective on the creation of all subsequent projects, or on entering into a new SOW.

(o) 完整協議。本協議以及任何適用的 SOWs 和數據處理補充協議（如果已簽訂）構成雙方之間的完整協議，並取代之前關於本協議主旨事項的所有書面或口頭協議、提案和談判。在簽訂本協議時，任何一方均未依賴任何聲明、陳述或保證（無論是否因疏忽還是無意作出的），並且任何一方均不會就任何聲明、陳述或保證（無論是否因疏忽還是無意作出的）獲得任何權利或補救措施，但在本協議中明確規定的除外。任何客戶發出的採購訂單或類似表格或發票中包含的任何條款均不對 Datasite 有效或可執行。雙方之間的任何貿易慣例、常規行業慣例或交易方法或過程均不得用於以任何方式修改、解釋、補充或變更本協議的條款。對法律條款的任何更改必須得到雙方的書面同意，前提是 Datasite 可以通過在網站上發佈新版本來不時修改法律條款，而這些法律條款的最新版本會在客戶創建後續項目或簽訂新的 SOW 時生效。

(p) Language. If there is any discrepancy between the English version and Chinese version of the Legal Terms, the English version shall prevail.

(p) 語言。如法律條款英文版與中文版的內容有歧義，概以英文版為準。