

Everledger Enterprise Client Agreement (the “Agreement”)

Welcome to Everledger
Last updated 31st May 2021 (“**Update Date**”)

Everledger is the digital transparency company that has developed a range of software, distributed ledger systems and other technology solutions that address real-world economic, environmental and societal challenges by providing ecosystems of trust.

Everledger intends to make available to the entity entering into this Agreement (the “**Client**”) some of these technologies through its distributed-ledger based technology platform (the “**Everledger Platform**”) available at www.everledger.io, as well as any other selected services (the “**Services**”) (defined further below) subject to the terms and conditions (“**Terms**”) of this Agreement.

The Terms of this Agreement outline the respective legal rights and responsibilities of both Everledger and the Client in relation to the use of the Everledger Platform and selected Services.

By clicking on ‘I agree’ the Client agrees to accept these Terms and to be bound by them.

If an individual is accepting the Terms of this Agreement 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, in which case the term “Client” shall refer to such entity and its Affiliates. Everledger may contact the individual and seek additional evidence if there are any doubts about the capacity to bind the Client. If the individual accepting this Agreement does not have such authority or does not agree with these Terms, such individual must not use the Services.

Everledger has complete discretion to determine which entities can access and use the Everledger Platform and any Services. The Everledger Platform and Services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. Those entities which Everledger considers direct competitors are and will be prohibited from accessing the Everledger Platform or Services, except with Everledger’s prior consent.

This Agreement was last updated as of the Update Date. It is effective as of the date of the Client accepting this Agreement (“**Effective Date**”).

The following terminology and definitions apply to these Terms.

- 1.1. Clause, schedule and paragraph headings shall not affect the interpretation of these Terms.
- 1.2. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.3. Unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.
- 1.4. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5. A reference to a statute or statutory provision is a reference to it as it is in force at the time.
- 1.6. **Affiliate** means any entity that directly or indirectly controls, 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 50% of the voting interests of the subject entity.

- 1.7. **Agreement** means this Everledger Enterprise Client Agreement.
- 1.8. **Authorised Users** means an individual person (e.g. an employee, contractor, or agent of a Client) who is authorised by the Client to use the Everledger Platform and any other agreed selected Services in the manner prescribed in clause 3.1. The Client shall ensure that its Authorised Users comply with these Terms and is responsible for all actions of its Authorised Users.
- 1.9. **Business Day** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- 1.10. **Client** refers to the company or entity which has entered into this Agreement.
- 1.11. **Confidential Information** means all information whether disclosed prior to, on, or after the date of this Agreement (in whatever form, including written, visual or conveyed verbally, regardless of whether such information is marked confidential or not) whether related to the Services set out in this Agreement, or in pursuit of a partnership, collaboration or other engagement separate from the Services, and subject to any exclusions contained in the Terms of this Agreement.
- 1.12. **Client-Uploaded Content** means the content information and data uploaded to the Everledger Platform by the Client, Authorised Users, or Everledger on the Client's behalf.
- 1.13. **Data Protection Legislation** means all applicable data protection and privacy legislation which Everledger is subject to as outlined in its privacy policy (as amended from time to time): <https://www.everledger.io/privacy-policy/>.
- 1.14. **Everledger Content** means information, data and media available through the Everledger Platform by Everledger which has either been created by Everledger, is publicly available, or is provided by third parties.
- 1.15. **Everledger Platform** means the distributed-ledger based technology platform developed by and on behalf of Everledger including associated systems, applications, websites and APIs that has features and functionality to, amongst other things, identify and record data for the purposes of tracking and tracing the Provenance Story of assets and which is available here www.everledger.io.
- 1.16. **Intellectual Property Rights** means any or all of the following in any country:
 - (a) all patents and utility models and applications therefore, and all reissues, divisions, re-examinations, renewals, extensions, provisionals, continuations and continuations-in-part thereof, and equivalent or similar rights anywhere in the world in inventions and discoveries, including without limitation, invention disclosures;
 - (b) all trade secrets and other rights in technology, data, know-how and confidential or proprietary information;
 - (c) mask works, mask work and integrated circuit topography and registrations and applications therefore, and all other rights corresponding thereto throughout the world;
 - (d) all copyrights, copyrights registrations and applications therefore and all other

rights corresponding thereto throughout the world, including, where applicable, moral rights and droit d'auteur ("right of the author");

- (e) all industrial designs and any registrations and applications therefore throughout the world;
- (f) all rights in all trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications therefore and
- (g) any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world.

1.17. **Provenance Story** means all data related to an asset or assets displayed either wholly or in part, which from time to time can include but is not limited to:

- (a) Information about the producing entity;
- (b) The creation of the asset at its point of origin;
- (c) The asset's journey through a supply chain;
- (d) The alterations of an asset and its associated effect on that asset;
- (e) The transfer of the asset's ownership.

1.18. **Services** means the services provided by Everledger to the Client under these Terms which includes access to the Everledger Platform and any additional selected Services (as detailed in any Services Schedule).

1.19. **Third Party Client-Uploaded Content** means the content, information, and data uploaded to the Everledger Platform by a third party which has permission by Everledger to do so.

1.20. **Virus** means any thing or device (including software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware, network, telecommunications service, equipment or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.21. **Vulnerability** means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

2. Client Access to Everledger Platform

2.1. Subject to the other Terms henceforth, Everledger hereby grants to the Client a limited, worldwide, non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Client and its Authorised Users to use the Everledger Platform and any selected Services.

2.2. In relation to the Authorised Users, the Client undertakes that:

- (a) it will not allow or suffer any Authorised User's passwords or access information to be used by more than one individual Authorised User unless it has been

reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Everledger Platform and/or the Services;

- (b) each Authorised User shall keep a secure password for their use of the Everledger Platform and Services, and that each Authorised User shall keep his password confidential. This password should be changed on indication or suspicion of compromise, and any such suspicions should be reported to Everledger;
- (c) it shall maintain an, up to date list of current Authorised Users and provide such list to Everledger within 5 Business Days of Everledger's request at any time or times;
- (d) it shall permit Everledger, or Everledger's designated auditor, to audit the Services in order to establish the name and password of each Authorised User and Everledger's data processing facilities to audit compliance with this Agreement. Each such audit may be conducted no more than once per quarter, at Everledger's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Client's normal conduct of business;
- (e) if any of the audits referred to in clause 2.2(d) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Everledger's other rights, the Client shall promptly disable such passwords and Everledger shall not issue any new passwords to any such individual.

2.3. The Client shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any individual or company or property;

and Everledger reserves the right, without liability or prejudice to its other rights to the Client, to disable the Client's access to any material that breaches the provisions of this clause.

2.4. The Client shall not, except to the extent permitted under these Terms:

- (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the information located on the Everledger Platform in any form or media or by any means; or
- (b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Everledger Platform or any software contained within it; or
- (c) access all or any part of the Everledger Platform or Services in order to build a

product or service which competes with the Everledger Platform or the Services; or

- (d) use the Everledger Platform and/or the Services to provide services to third parties unless specifically authorized by Everledger to do so; or
- (e) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Everledger Platform and/or Services available to any third party except the Authorised Users; or
- (f) attempt to obtain, or assist third parties in obtaining, access to the Everledger Platform and/or Services, other than as provided under this clause 2; or
- (g) introduce or permit the introduction of any Virus or Vulnerability into Everledger's network and information systems.

2.5. The Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Everledger Platform and/or Services and, in the event of any such unauthorised access or use, promptly notify Everledger.

2.6. The rights provided under this clause are granted to the Client only, and shall not be considered granted to any subsidiary or holding company of the Client.

2.7. Access and continuing access to the Everledger Platform and the use of any Services will be subject to passing any due diligence requirements including but not limited to ensuring compliance with anti-money laundering and counter terrorist financing laws and Everledger shall, in its complete discretion, have the ability to deny the Client access and use of the Everledger Platform and any Services if Everledger does not believe such due diligence requirements have or are being satisfied.

3. Services

3.1. The Everledger Platform will provide certain basic level Everledger Content and Services, some but not all of which is set out here: <https://www.everledger.io/our-technologies/>. Additional Everledger Content (including Third Party Client-Uploaded Content) and Services may also be available for the Client on terms as detailed in the additional Services Schedule or directly through the Everledger Platform.

3.2. Client-Uploaded Content will be available to Client through the Everledger Platform and may also be made available to third-parties if permissioned to do so by Client or because of an agreement in a Services Schedule.

3.3. Third Party Client-Uploaded Content may be made available to Client through the Everledger Platform subject to any third-party consent.

3.4. Everledger shall provide the following support to the Everledger Platform and selected Services:

- (a) advanced notification in the event of scheduled servicing and maintenance.
- (b) resolution time estimates in the event of non-scheduled maintenance or bug-fixes.
- (c) a service desk, accessible via the Everledger Platform, for the logging of issues, questions, requests for services and incident monitoring. In the event that the service desk is unavailable or cannot be accessed, please contact onboarding@everledger.io.

4. Client-Uploaded Content

- 4.1. Subject to any exclusions in any Services Schedule, Client hereby grants Everledger an irrevocable, worldwide, royalty-free, sublicensable, non-exclusive license to use, reproduce, modify and create derivative works of:
 - (a) Client-Uploaded Content;
 - (b) Any Intellectual Property Right that may be contained in the Client-Uploaded Content.
- 4.2. Without limiting the rights in clause 4.1, the Client explicitly agrees that Everledger shall be entitled to use the Client-Uploaded Content in the following ways:
 - (a) share with third party contractors of Everledger for the purposes of quality and assessment and to ensure compliance with Everledger's information security requirements;
 - (b) share with third-party auditors to verify compliance with ISO standards or similar;
 - (c) use the Client-Uploaded Content for producing general analytics for general marketing purposes, reporting or industry insight analysis purposes;
 - (d) use the Client-Uploaded Content for live demo purposes.
- 4.3. In the event of any loss or damage to Client-Uploaded Content, the Client's sole and exclusive remedy against Everledger shall be for Everledger to use reasonable commercial endeavours to restore the lost or damaged Client-Uploaded Content from the latest back-up of such Client-Uploaded Content maintained by Everledger in accordance with the archiving procedure described in its information security policy statement.
- 4.4. Everledger shall not be responsible for any loss, destruction, alteration or disclosure of Client-Uploaded Content caused by any third party.
- 4.5. The Client warrants that the Client-Uploaded Content or any Intellectual Property Rights contained in the Client-Uploaded Content do not infringe any third-party Intellectual Property Rights.
- 4.6. The client warrants that all Client-Uploaded Data is true, correct and complete to the best of their knowledge and Everledger assumes no responsibility for any Client-Uploaded Data that is inaccurate or incomplete.
- 4.7. The Client further agrees to indemnify Everledger with respect to any claims (including threatened legal claims and including any and all legal expenses) that Everledger's use of Client-Uploaded Content or any Intellectual Property Rights contained in the Client-Uploaded Content pursuant to this Agreement infringes any third party rights as further detailed in clause 11.

5. Client Personal Data

- 5.1. Everledger shall, in providing the Services, comply with its general Privacy Policy

relating to the privacy and security of the Client's personal data available at <https://www.everledger.io/privacy-policy> which may be amended from time to time by Everledger in its sole discretion.

- 5.2. Everledger and the Client will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace, Everledger or the Client's obligations or rights under the Data Protection Legislation.
- 5.3. Client will notify Everledger if Client-Uploaded Content contains information that might be considered personal data under the relevant Data Protection Legislation.
- 5.4. To the extent that Everledger and Client are required to agree to additional personal data related agreements to guard the personal data of clients and comply with Data Protection Legislation they will make good faith efforts to do so as quickly as possible.

6. Everledger's Obligations

- 6.1. Everledger undertakes that the Everledger Platform and the Services will be performed with reasonable skill and care.
- 6.2. The undertaking at clause 6.1 shall not apply to the extent of any non-conformance which is caused by the use of the Services contrary to Everledger's instructions, or modification or alteration of the Services by any party other than Everledger or Everledger's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Everledger will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Client's sole and exclusive remedy for any breach of the undertaking set out in clause 6.1.
- 6.3. Everledger:
 - (a) does not warrant that:
 - i. the Client's use of the Everledger Platform or the Services will be uninterrupted or error-free; or
 - ii. that the Everledger Platform or the Services, and/or the information obtained by the Client through the Services will meet the Client's requirements; or
 - iii. the Everledger Platform or the Services will be free from Vulnerabilities.
 - (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Everledger Platform and Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 6.4. These Terms shall not prevent Everledger from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under these Terms.
- 6.5. Everledger warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

7. Client's Obligations

7.1. The Client shall:

- (a) provide Everledger with:
 - i. all necessary cooperation in relation to these Terms in order to access and use the Everledger Platform; and
 - ii. all necessary access to such information as may be reasonably required by Everledger.
- (b) without affecting its other obligations under these Terms, comply with all applicable laws and regulations with respect to its activities under this Agreement and;
 - i. carry out all other Client responsibilities set out in these Terms in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by Everledger and the Client, Everledger may adjust any agreed timetable or delivery timeframe as reasonably necessary;
 - ii. ensure that the Authorised Users use the Everledger Platform and the Services in accordance with these Terms and shall be responsible for any Authorised User's breach of these Terms;
 - iii. obtain and shall maintain all necessary licences, consents, and permissions necessary for Everledger, its contractors and agents, to perform their obligations under these Terms, including without limitation the Services;
 - iv. ensure that its network and systems comply with the relevant specifications provided by Everledger from time to time; and
 - v. be, to the extent permitted by law and except as otherwise expressly provided in these Terms, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Everledger's servers, and be solely responsible for all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links caused by the internet.

8. Charges and Payment

8.1. The Client shall pay the fees to Everledger in accordance with this clause 8 and in accordance with the relevant Services Schedule.

8.2. If Everledger has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Everledger:

- (a) Everledger may, without liability to the Client, disable the Client's password, account and access to all or part of the Services and Everledger shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 5% over the then current base lending rate of the Bank of England, commencing on the due date and continuing until fully paid, whether before or after judgment; and
- (c) in the event any invoices remain unpaid after 90 calendar days Everledger will have the right to disable the Client account and permanently delete (to the extent

that is possible) all Client-Uploaded Content.

8.3. All amounts and fees stated or referred to in these Terms:

- (a) shall be payable in United States Dollars (unless otherwise agreed);
- (b) are, subject to clause 12.3(b), non-cancellable and non-refundable;
- (c) are exclusive of value added tax, which shall be added to Everledger's invoice(s) at the appropriate rate.

9. Proprietary rights

9.1. The Client acknowledges and agrees that Everledger and/or its licensors own all Intellectual Property Rights in the Everledger Platform, and the Services. Except as expressly stated herein, this Agreement does not grant the Client any rights to Intellectual Property Rights in respect of the Everledger Platform or the Services.

9.2. Everledger confirms that it has all the rights in relation to the Everledger Platform and the Services that are necessary to grant all the rights it purports to grant under, and in accordance with, these Terms.

10. Confidentiality

For the purposes of this section, "Everledger" and "Client" will each be a "Party" and together "Parties". Clause 10 endures even in the event that the agreement is terminated.

10.1. The Parties may be given access to Confidential Information from each other in order to perform its obligations under these Terms, or in the course of discussions that are not related to the Services. Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving Party;
- (b) was in the other Party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving Party by a third party without restriction on disclosure; or
- (d) is independently developed by the receiving Party, which independent development can be shown by evidence.

10.2. Client-Uploaded Content uploaded according to the Client Content Upload Policy will not ordinarily be considered Confidential Information but may nevertheless only be shared with other parties who access the Everledger Platform in accordance with the permissioning system on the Everledger Platform and subject to these Terms (or subject to separate agreement with the Client).

10.3. Subject to clause 10.5, each Party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these Terms.

10.4. Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or

agents in violation of these Terms.

- 10.5. A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 10.5, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- 10.6. The Client acknowledges any Everledger Content and Services, and the results of any performance tests of the Services or Everledger Content, constitute Everledger's Confidential Information.
- 10.7. For the avoidance of doubt, the terms of this Clause 10 also applies to any discussions between the Client and Everledger concerning matters not related to the Services, including but not limited to: discussions around potential partnerships or collaborations, demonstrations, proof of concepts, research and development, or investment.

11. Indemnity

- 11.1. The Client shall defend, indemnify and hold harmless Everledger against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Client's use of the Services and/or Everledger Platform and/or Everledger's use of Client's Data or any Intellectual Property Rights contained in Client-Uploaded Content, provided that:
 - (a) the Client is given prompt notice of any such claim;
 - (b) Everledger provides reasonable co-operation to the Client in the defence and settlement of such claim, at the Client's expense; and
 - (c) the Client is given sole authority to defend or settle the claim.
- 11.2. Everledger shall defend the Client, its officers, directors and employees against any claim that the Client's use of the Services or Everledger Platform in accordance with these Terms infringes any third party Intellectual Property Rights (except with respect to Client-Uploaded Content and any Intellectual Property Rights contained therein) and shall indemnify the Client for any amounts awarded against the Client in judgment or settlement of such claims, provided that:
 - (a) Everledger is given prompt notice of any such claim;
 - (b) the Client provides reasonable co-operation to Everledger in the defence and settlement of such claim, at Everledger's expense; and
 - (c) Everledger is given sole authority to defend or settle the claim.
- 11.3. In the defence or settlement of any claim, Everledger may procure the right for the Client to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate their use of the Everledger Platform under these Terms on two (2) Business Days' notice to the Client without any additional liability or obligation to pay liquidated damages or other additional costs to the Client.
- 11.4. In no event shall Everledger, its employees, agents and subcontractors be liable to the

Client to the extent that the alleged infringement is based on:

- (a) a modification of the Services or Everledger Platform by anyone other than Everledger; or
- (b) the Client's use of the Services or Everledger Platform in a manner contrary to the instructions given to the Client by Everledger; or
- (c) the Client's use of the Services or Everledger Platform after notice of the alleged or actual infringement from Everledger or any appropriate authority; or
- (d) a claim by a third party that Everledger's use of the Client-Uploaded Content or any of the Intellectual Property Rights contained therein infringes their legal rights.

11.5. The foregoing states the Client's sole and exclusive rights and remedies, and Everledger's (including Everledger's employees', agents' and subcontractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

12. Limitation of liability

12.1. Except as expressly and specifically provided in these Terms:

- (a) the Client assumes sole responsibility for results obtained from the use of the Everledger Platform and the Services by the Client, and for conclusions drawn from such use. Everledger shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Everledger by the Client in connection with the Services, or any actions taken by Everledger at the Client's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms; and
- (c) the Everledger Platform and the Services are provided to the Client on an "as is" basis.

12.2. Nothing in these Terms excludes the liability of Everledger:

- (a) for death or personal injury caused by Everledger's negligence; or
- (b) for fraud or fraudulent misrepresentation.

12.3. Subject to clause 12.1 and clause 12.2:

- (a) Everledger shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Terms; and
- (b) Everledger's total aggregate liability in contract (including in respect of the indemnity at clause 11.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Terms shall be limited to the total fees paid during the 12 months immediately preceding the date on which the claim arose.

13. Term and termination

For the purposes of this section, "Everledger" and "Client" will each be a "Party" and together "Parties".

13.1. These Terms, unless otherwise terminated as provided in this clause 13, commence upon the Client's acceptance indicated by acknowledging these Terms below, and shall continue thereafter, unless:

- (a) Either Party notifies the other party of termination with at least 60 days notice; or
- (b) This Agreement is otherwise terminated in accordance with the provisions of this Agreement.

13.2. Without affecting any other right or remedy available to it, either Party may terminate their obligations under these Terms with immediate effect by giving notice to the other Party if:

- (a) the Client fails to pay any amount due under these Terms on the due date for payment and remains in default not less than 10 days after being notified to make such payment;
- (b) the other Party commits a material breach of any other term of these Terms where the breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 days after being notified to do so;
- (c) the other Party repeatedly breaches any part of these Terms in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these Terms;
- (d) either Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
- (e) the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other party;
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of either Party other than for the sole purpose of a scheme for a solvent amalgamation of that either Party with one or more other companies or the solvent reconstruction of either Party;
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over either Party;
- (h) the holder of a qualifying floating charge over the assets of either Party has become entitled to appoint or has appointed an administrative receiver;
- (i) an individual or company becomes entitled to appoint a receiver over the assets of either Party or a receiver is appointed over the assets of the either Party;
- (j) a creditor or encumbrancer of either Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other Party's assets and such

attachment or process is not discharged within 14 days;

- (k) any event occurs, or proceeding is taken, with respect to either Party in any jurisdiction to which it is subject, that has an effect equivalent or similar to any of the events mentioned in clause 13.2(d) to clause 13.2(j) (inclusive);
- (l) either Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

13.3. On termination of these Terms for any reason:

- (a) Client shall immediately pay to Everledger all of Everledger's outstanding unpaid invoices and interest and, in respect of any Services supplied to Client but for which no invoice has been submitted, Everledger may submit an invoice, which shall be payable immediately on receipt;
- (b) all licences granted under these Terms shall immediately terminate and the Client shall immediately cease all use of the Everledger Platform and/or the Services;
- (c) Everledger may (but is not obliged to) destroy or otherwise dispose of any of the Client-Uploaded Content in its possession;
- (d) If Everledger receives, no later than ten days after the Effective Date of the termination of these Terms, a request for the delivery to the Client of the then most recent back-up of the Client-Uploaded Content. Everledger shall use reasonable commercial endeavours to deliver the back-up to the Client within 30 days of its receipt of such a request, provided that the Client has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination); and
- (e) any rights, remedies, obligations or liabilities of Everledger or the Client that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these Terms which existed at or before the date of termination shall not be affected or prejudiced.

14. Force majeure

Everledger shall have no liability to the Client under these Terms if it is prevented from or delayed in performing its obligations under these Terms, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Everledger or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Everledger or subcontractors, provided that the Client is notified of such an event and its expected duration.

15. Conflict

If there is an inconsistency between any of the provisions in the main body of this Agreement and any Services Schedule, the provisions in the main body of this Agreement shall prevail.

16. Variation

Everledger reserves the right to amend these Terms at any time and by continuously accessing the Everledger Platform the Client agrees to be bound to and follow these Terms.

17. Waiver

No failure or delay by either Party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18. Rights and remedies

Except as expressly provided in these Terms, the rights and remedies provided are in addition to, and not exclusive of, any rights or remedies provided by law.

19. Severance

19.1. If any provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the terms in these Terms.

19.2. If any provision or part-provision of these Terms is deemed deleted under clause 19.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

20. Entire agreement

20.1. These Terms constitute the entire agreement between the Everledger and the Client and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

20.2. Everledger and the Client acknowledge that by accepting these Terms they do not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms.

20.3. Everledger and the Client agrees that neither shall have a claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms.

21. Assignment

21.1. The Client shall not, without the prior consent of Everledger, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms.

21.2. Everledger may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms.

22. No partnership or agency

Nothing in these Terms is intended to or shall operate to create a partnership between the Everledger and the Client, or authorise either to act as agent for the other, and neither Everledger or the Client shall have the authority to act in the name of or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

23. Third party rights

These Terms do not confer any rights on any individual or party (other than Everledger and the Client and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

24. Communicating with Everledger

- 24.1. Any notice required to be given under this Agreement or any other communication related to the legal terms of this agreement shall be sent to legal@everledger.io.
- 24.2. Everledger will use the email provided on sign up by the Client to provide any notice or other legal communication and the Parties agree this is legally binding and effective.

25. Governing law

These Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

26. Jurisdiction

The Client irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms or its subject matter or formation (including non-contractual disputes or claims).

Services Schedule

Additional services.

API Usage Policy

These additional commercial terms are agreed to by Client before any use of API to connect to the Everledger Platform or access any Everledger Content or any Everledger Services.

1. Client agrees to (a) only allow requests for Everledger Content via the Everledger API for the number of requests agreed to in the Commercial Terms below (b) reproduce and display the Everledger Content received from Everledger solely within the intended usage specified in the Commercial Terms and in this Agreement and not for any other purpose or use case.
2. Client agrees to use the same security, encryption, firewalls and other technological means that Client uses to secure and protect its data and confidential information stored on its systems, but not less than reasonable means, to secure and protect the Everledger Content stored in Client's systems from unauthorized access.
3. Client will only access (or attempt to access) the Everledger Content via the Everledger Services by the application programming interface described in the documentation for the Everledger Services and using your Everledger-issued credentials. Everledger will assign to Client access credentials, and you must use those credentials in connection with your requests for Everledger Services and Everledger Content. Client will not misrepresent or mask either its identity or the identity of its systems that connect to the Everledger Services via an application programming interface.
4. Client agrees Everledger may set and enforce limits on your use of the Everledger Services and your requests for Everledger Content (e.g., limiting the number of requests that you may make to receive Everledger Content), in Everledger's sole discretion. Client agrees to, and will not attempt to circumvent, such limitations. If you would like to make requests beyond these limits, you must obtain Everledger's express written consent (and Everledger may decline such request or condition acceptance on your agreement to additional terms and/or charges for that use).
5. Client acknowledges that Everledger, in its sole discretion, may update, upgrade or otherwise modify the Everledger Services from time to time. Client is required to make any changes to your systems that are required as the result of such an update, upgrade or modification to the Everledger Services, at your sole cost and expense. Everledger may disable older versions of the application programming interface used to access the Everledger Services and Everledger Content after Everledger makes available a new version of such application programming interface. Updates may adversely affect the manner in which you access the Everledger Services or receive Everledger Content, or display Everledger Content. Client's continued access or use of the Everledger Services following an update, upgrade or modification will constitute binding acceptance of the update, upgrade or the modification.
6. Client agrees the Everledger Services are designed to help you enhance Client's application, product or technology. Client agrees that Everledger may (but is not required) to monitor your use of the Everledger Services and requests for Everledger Content including without limitation to ensure quality, improve Everledger Services, the Everledger Platform and Everledger Technology and to verify your compliance with this Agreement. Client will not interfere with this monitoring. Everledger may use any technical means to overcome such interference. Everledger may suspend your access to the Everledger Services and Everledger Content without notice if Everledger in its sole discretion reasonably believes that you are in violation of the terms.

7. Client agrees Everledger does not acquire ownership in any Client application, product or technology. By receiving the Services, you do not acquire ownership of any rights in the Everledger Content that is accessed through the Everledger Services. Client acknowledges that Everledger is and will remain the sole and exclusive owner of all right, title and interest in and to and the Everledger Content and that the only rights granted to you with respect to the foregoing are the express licenses granted in this Agreement.
8. Client's access to the Everledger Content made available via the Everledger Services may be restricted, limited, or filtered in accordance with applicable law, regulation, and policy. Everledger may determine, in its sole discretion, what Everledger Content is available via the Services and Everledger may change that Everledger Content from time to time in Everledger's sole discretion.
9. Client will not, and will not permit your end users or others acting on your behalf to, do the following with Everledger Content:
 - (a) Display or distribute any Everledger Content or other data or information pertaining to a graded gemstone that is inaccurate, false, fraudulent or misleading in any manner;
 - (b) Represent, imply or infer that the data or information pertaining to a particular item is Everledger Content or from Everledger when it is not;
 - (c) Display or distribute any data or information pertaining to a graded gemstone from a source that is not Everledger in combination with any Everledger Content in such a manner that there is the potential for such data or information to be constructed as being Everledger Content or otherwise sourced from Everledger;
 - (d) Misrepresent the source or ownership of the Everledger Content; or
 - (e) Remove, obscure, or alter any copyright, trademark, or other proprietary rights notices; falsify or delete any author attributions, legal notices, or other labels of the origin or source of material, including without limitation the Everledger Content.

Commercial Terms:

1. Price per API request [x]
2. Intended usage: [x]
3. Description of Client application, product, technology: [x]