Scarlet Terms of Use

In these terms, references to 'we', 'us', or 'our' refer to Smelter Limited, a company registered in England with company number 09659304, whose registered address is 83 Ducie Street, Manchester, M1 2JQ. 'You' and 'your' refer to you, the company registering to use scarlet.

These terms govern your access to scarlet, and constitute the entire agreement between you and us.

We may modify these terms from time to time, and we will provide you notice to give you the opportunity to review such changes before they become effective. If you object to any changes, you may cancel your account. Your continued use of scarlet after we notify you of our changes to these terms means that you consent to the updated terms as of their effective date.

1 Scarlet Software Access

1.1 In order to access scarlet, you must register for an account via the website (www.scarlet.ae).

1.2 We will use reasonable endeavours to maintain the availability of scarlet at all times, but as we are reliant on a third-party hosting provider, we cannot guarantee 100% availability. We endeavour to make sure that Scarlet will perform as described on our website, however: (i) it is: made available only an 'as-is' basis; (ii) we cannot guarantee that it will be uninterrupted or bug/error free; and (iii) you accept that scarlet was not designed or produced to your individual requirements.

2 Licence

2.1 We grant you a personal, royalty-free, non-transferable, non-sublicensable, limited and revocable licence to access scarlet via the internet to the extent necessary for you to make reasonable use of the functionality and features of scarlet for your internal business purposes.

2.2 Except to the extent expressly permitted in these terms, you agree that you shall not:

a) sub-license your right to access and use scarlet;

b) permit any unauthorised person to access or use scarlet using your account;

c) use scarlet to provide services to third parties;

d) republish or redistribute any content or material from scarlet; and

e) conduct or request that any other person conduct any load testing or penetration testing on scarlet.

3 Obligations

3.1 You shall comply with all applicable laws and regulations.

3.2 You shall use reasonable endeavours, including reasonable security measures relating to account access details, to ensure that no unauthorised person may gain access to scarlet using your account.

3.3 You shall ensure that any persons authorised by you to use scarlet shall do so in accordance with these terms, and you shall be responsible for any such authorised user's breach of these terms.

3.4 You will provide scarlet with the credentials to your systems and grant scarlet access to your network as necessary to perform the service. You warrant that you are entitled to provide scarlet with such credentials and that scarlet's use of such information does not violate applicable law nor anyone's rights (including personal data and intellectual property rights). We shall have no liability for the legality, reliability, integrity, accuracy and quality of any information you provide.

3.5   You agree that it is your sole responsibility to ensure that your systems are compatible with scarlet, to maintain your systems, create backups of any and all data, and ensure your systems are secure, as you see fit. You accept that we shall have no liability for any system failure, malfunction or data loss as a result of scarlet accessing your system, or your failure to comply with this clause.

4   Fees and Payment

4.1   The fees are calculated on a monthly metered basis, based on your usage of scarlet, chargeable at our current pricing which you can find at www.scarlet.ae.

4.2   Upon registering your account, you shall provide your payment card details via our payment service provider, and we will automatically collect the fees monthly in arrears.

4.3   If your card details are incorrect, or collection of the fees is unsuccessful for any reason, we will contact the you immediately to rectify the issue. If you are unable to successful rectify the issue and pay the fees within 5 business days from the date of our initial contact to inform you of such issue, we will suspend your account and access to scarlet until payment is made.

4.4   We may increase the fees by notifying you in writing with at least 30 days' notice.

4.5   If payment of the fees or any part thereof is overdue, you shall pay an interest charge on any undisputed sum outstanding to us at the rate of 8% above Barclays Bank Sterling base rate as at the date of the attempted collection of such fees, until the outstanding sum and any interest thereon is paid in full.

5   Cancellation

5.1   You may cancel your account at any time for any reason.

5.2   If we believe that you are abusing the scarlet system, we may cancel your account immediately.

5.3   Upon cancellation of the agreement by either party, you will no longer be able to access scarlet and fees will be collected for any usage in the month of cancellation up until the point of cancellation.

5.4   Any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of cancellation, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

6   Limitation of Liability

6.1   We do not exclude liability for (i) fraud or other criminal act, (ii) personal injury or death caused by negligence, or (iii) any other liability that cannot be excluded by law.

6.2   In no event will we be liable under these terms for any damages resulting from loss of use, lost profits, loss of anticipated savings, loss of revenue, loss of opportunity, loss of goodwill, loss of reputation, loss of, damage to or corruption of data, system malfunction or failure, or any indirect or consequential loss. Such liability is excluded whether such damages were reasonably foreseeable or actually foreseen.

6.3   Except as provided in Clause 6.1 and in Clause 6.2, our maximum aggregate liability to you for any cause whatsoever shall be for direct costs and damages only and will be limited to a sum equivalent to 125% of the fees paid and payable by you for the year immediately prior to your claim in respect of service that is the subject of your claim.

6.4   To the fullest extent permitted by law, we exclude all liability that has not been expressly accepted in these terms. These limitations will apply regardless of the form of action, whether under statute, in contract, tort, including negligence, or any other form of action. For the purposes of this clause 6, 'we' includes our employees, sub-contractors, licensors and suppliers who shall therefore have

the benefit of the limits and exclusions of liability set out in this clause 6 in terms of the Contracts (Rights of Third Parties) Act 1999.

6.5 No action, regardless of form, arising out of or in relation to these terms may be brought more than six (6) months after the event giving rise to the cause of action.

6.6 You acknowledge that in entering into this agreement you have not relied on any representation or warranty not set out in these terms, and shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement made by us. We do not exclude or limit any liability for any misrepresentation made by us fraudulently.

7 Intellectual Property

7.1 We are the owner or licensee of the patent, copyright, trade secrets, trademarks and any other intellectual property rights which subsist in scarlet. Title to scarlet shall remain vested in us or our licensors. For the avoidance of doubt title and all intellectual property rights to any design, new software, new protocol, new interface, enhancement, template, mailer, web page, update, derivative works, revised screen text or any other items that we create for you shall remain vested in us or our licensors. Any rights not expressly granted herein are reserved to us.

7.2 You shall not attempt to access, reverse engineer, decompile or disassemble the scarlet object code or source code, nor shall you examine any part of the scarlet object code or source code for the purpose of developing a competing product with similar functionality to scarlet. Furthermore, you shall not, except to the extent permitted by law, permit any third party to access scarlet and/or its operating code for these purposes.

8 Privacy and Data Protection

8.1 We will use reasonable endeavours to keep your information confidential.

8.2 We and you will comply with all relevant data protection laws including the Data Protection Act 2018 and the General Data Protection Regulation 2016/679. We will process any personal data in accordance with our current data privacy notice which can be viewed at www.scarlet.ae.

9 Contact

9.1 Any questions about these terms, or about your use of scarlet, can be sent to us at support@scarlet.ae.

10 General

10.1 These terms shall be governed by English law and subject to the exclusive jurisdiction of the English courts. This shall not prevent either you or us from seeking injunctive relief in any competent court.

10.2 You may not assign this agreement or otherwise transfer any rights or obligations without our prior written consent (not to be unreasonably withheld or delayed).

10.3 Neither party is responsible for any failure or delay in fulfilling its obligations due to any cause beyond its reasonable control that directly or indirectly delays or prevents its timely performance under these terms. Any specified dates or times for performance by the affected party will be postponed automatically for the extent of the delay or prevention. The affected party must use reasonable endeavours to overcome the cause as soon as possible and to mitigate the delay.

10.4 Any invalidity or unenforceability of any part of these terms and conditions will not affect the validity or enforceability of any other part. No failure or delay in the exercise of any right by either party shall constitute a waiver of any rights.

10.5 Except as set out herein, a person who is not a party to this agreement has no rights to enforce any term of it under the Contracts (Rights of Third Parties) Act 1999.