Software-as-a-Service Agreement

Your use or subscription of our ecommerce Xatkit chatbot (the "Service") is governed by this Software-as-a-Service Terms (hereinafter referred to as the "Terms of Service" or the "Agreement"). For the purposes of these Terms of Service, reference to "Xatkit", "us", "we" or "our" mean Chatbot Creation Services, S.L. and "You" or the "Client" refer to you. Xatkit and You shall be individually the "Party" and collectively the "Parties".

1. Definitions

1.1. "Access Credentials" means the usernames, passwords and other credentials enabling access to the Services.

1.2. "Agreement" or "Terms of Service" refers to this Software as a Service Terms.

1.3. "Client" or "You" refers to Xatkit's client using or subscribing the SaaS.

1.4. "Client Confidential Information" means:
1.
1.4.1. any information disclosed by or on behalf of the Client to Xatkit during the Term that at the time of disclosure:
(a) was marked as "confidential" or
(b) should have been reasonably understood by Xatkit to be confidential;
1.4.2. the Client Data- However, the Customer Personal Data, Service Personal Data and its derivatives will not include Customer's Confidential Information.

1.5. "Effective Date" refers to the date in which the Sign-up Flow is submitted by Client, from which Client shall have access to the Service.

1.6. "Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars).
2.
1.7. "Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs).
3.
1.8. "Service" refers to Xatkit's ecommerce chatbot which is aimed at providing Client with a "digital assistant" that understands Client's website and online shop and provides assistance to Client's customers.

1.9. "Sign-up Flow" means an online flow accepted by Client containing the Xatkit Service features to be provided to that Client, which shall contain a description of any subscriptions and the related fees, incorporating the terms of this Agreement.

1.10. "Term" means the period starting from the execution of the Sign-up Flow and for the initial subscribed plan duration.

1.11. "Renewal Term" means the period starting form the end of the initial Term, until 1 year/month has elapsed.

1.12. *"Xatkit", "us", "we"* or *"our"* refers to Chatbot Creation Services S.L.

1.13. "Client Data" means all data, works and materials: uploaded to or stored on the Services by the Client; transmitted by the Services at the instigation of the Client; supplied by the Client to XatKit for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Services by the Customer (but excluding analytics and codified data relating to the use of the Platform and server log files). Client Data will not include any Customer Personal Data.
4.

1.14. "Customer Personal Data" means any Personal Data related to (i) Customer's representatives that entered into the Agreement by or on behalf the Customer; and (ii) any individual human user to whom Customer provides access authorization to User interface.
5.

1.15. "Service Personal Data" means personal data relating to the data subjects who benefit of the Service and which are processed by the Provider on behalf of the Customer in relation to this Agreement, but excluding personal data with respect to which the Provider is a data controller.

1.16. "Service Data" means the analytics and codified data relating to the use of the Platform and which are processed by the Provider in relation to this Agreement, and for which the Provider acts as data controller. The Service Data does not include Personal Data, because it is anonymized not being subject to the Data Protection Laws.
6.

1.17. "Data Protection Laws" means the EU GDPR and any other applicable laws relating to the processing of Personal Data.

1.18. "GDPR" means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

1.19. "Personal Data" means the definition of personal data set forth in the GDPR.

2.   Purpose

The purpose of this Agreement is to set forth the terms and conditions that shall apply to the Parties with regards to the Services.

3.   Services

3.1. Use of the Service must be accompanied with an order form or sign-up flow (the Sign-up Flow") for that Service. You are only entitled to use those features of the Service for which you are current and compliant with the applicable Terms of Service.

3.2. Xatkit shall provide to the Client upon the Effective Date the access credentials necessary to enable the Client to access and use the Services (the *"Access Credentials"*).

3.3. You acknowledge and agree that we reserve the right to modify the Service (or any part thereof) from time to time at our sole discretion and that we shall not be liable to you or to any third party for any modification of the Service. At any time, XatKit may use subcontractors or strategic partners to perform portions of the Service. The Service may be comprised of new services that XatKit may choose to make available in its sole discretion from time to time. XatKit may modify or terminate any of these services in its sole discretion at any time. You may be able to subscribe to each of these services individually or as a bundle or bundles, again as determined by XatKit from time to time in its sole discretion. You may add to your existing subscription or subscribe to a new service by executing an additional Order Form or completing an additional Sign-up Flow. Each new Sign-up Flow or Order Form will include the price and billing date(s) of the service being added at that time. All services offered form part of the Service and are subject to these Terms of Service.

4. Grant of License

4.1. Subject to (i) your timely payment of all the fees set forth in the Sing-up Flow and (ii) your compliance with these Terms of Service, Xatkit hereby grants to the Client a non-exclusive license to use the Services to which Client has subscribed, for the purposes of digital assistance in Client's ecommerce website identified in the Sing-up Flow, during the period set forth in the Sign-up Flow.

4.2. The license granted by the XatKit to You under Section 4.1 is subject to the terms and limitations contained in the Sign-up Flow

4.3. Except to the extent expressly permitted in this Agreement or required by law on a non-excludable basis, the license granted by XatKit to Client under Section 5.1 is subject to the following prohibitions:

4.3.1. Client will not copy, modify or create any derivative works of the Service (or any portion thereof);

4.3.2. Client will not disassemble, reverse assemble, decompile, reverse engineer or otherwise attempt to derive the source code, the underlying ideas, algorithms, structure or organization of the Service;

4.3.3. Client will not assign, transfer, lease, provide services to third parties using the Service, rent or redistribute the Service;

4.3.4. Client will not authorize or permit any other third party to do any of the foregoing: (a) there are no implied licenses. There is no license to source code. All rights not expressly granted to Client are reserved solely to XatKit; (b) Client will not remove, alter, cover or obfuscate any copyright, trademark or other proprietary rights notices placed or embedded by XatKit on or in any of XatKit's Service; (c) nothing in this Agreement permits Client to sublicense, distribute, or resell the Service, or any portion thereof, to any other third party.

4.3.5. the Client shall not sub-license its right to access and use the Services;

4.3.6. the Client shall not permit any unauthorized person or application to access or use the Services;

4.3.7. the Client shall not use the Services to provide services to third parties other than assistance in the ecommerce to Client's customers or potential customers;

4.3.8. the Client shall not republish or redistribute any content or material from the Services;

4.3.9. the Client shall not make any alteration to the Services, except as permitted by Xatkit; and

4.3.10. the Client shall not conduct or request that any other person conduct any load testing or penetration testing on the Services without the prior written consent of the XatKit.

4.4. The Client shall implement and maintain reasonable security measures relating to the Access Credentials to ensure that no unauthorized person or application may gain access to the Services by means of the Access Credentials.

4.5. Xatkit shall use all reasonable endeavors to maintain the availability of the Services to the Client, but does not guarantee 100% availability.

4.6. For the avoidance of doubt, downtime caused directly or indirectly by any of the following shall not be considered a breach of this Agreement:

4.6.1. a Force Majeure Event;

4.6.2. a fault or failure of the internet or any public telecommunications network;

4.6.3. a fault or failure of the Client's computer systems or networks;

4.6.4. scheduled maintenance carried out in accordance with this Agreement.

4.7. The Client shall not use the Services in any way that causes, or may cause, damage to the Services or impairment of the availability or accessibility of the Services.

4.8. The Client shall not use the Services:

4.8.1. in any way that is unlawful, illegal, fraudulent or harmful; or

4.8.2. in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

4.9. For the avoidance of doubt, the Client has no right to access the software code (including object code, intermediate code and source code) of the Services, either during or after the Term.

5. Scheduled Maintenance

5.1. Xatkit may, from time to time, suspend the Services for the purposes of scheduled maintenance to the Services, providing that such scheduled maintenance shall be carried out in accordance with this Section 6.

5.2. Xatkit shall give to the Client prior written notice of scheduled maintenance that will, or is likely to, affect the availability of the Services.

5.3. Xatkit shall ensure that all scheduled maintenance is carried out, when possible, outside business hours.

6. Service Data

6.1. The Customer hereby grants to the XatKit a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Service Data to the extent reasonably required for the performance of the XatKit's obligations and the exercise of the XatKit's rights under this Agreement. The Customer also grants to the XatKit the right to sub-license these rights to its hosting, connectivity and telecommunications service providers, subject to any express restrictions elsewhere in this Agreement. For avoidance of doubt, Service Data shall not include any Personal Data.

6.2. The Customer warrants to the XatKit that the Service Data when used by the XatKit in accordance with this Agreement will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation in any jurisdiction and under any applicable law.

7.   Intellectual Property Rights

7.1. Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from XatKit to Client, or from Client to XatKit.

7.2. The Intellectual Property Rights in the Service shall remain the sole property of XatKit or its licensors.

7.3. The intellectual Property Rights relating to Client's ecommerce shall remain the sole property of Client or its licensors.

7.4. XatKit agrees to use reasonable efforts to protect the proprietary rights of Client and its licensors; however, XatKit expressly disclaims any obligation or intention to adopt or implement particular or additional safeguards or other measures, beyond those generally utilized as part of the XatKit Service, to protect Client's proprietary rights. Client expressly accepts the risks associated with the use of the XatKit Service. XatKit agrees to inform Client of any violation of Client's or Client's licensors' proprietary rights that come to its attention.

7.5. XatKit trademarks are owned or licensed solely and exclusively by XatKit. XatKit grants Client a right, during the Term, to display the XatKit logo on Client's websites relating to commerce with the phrase "powered by XatKit" or similar phrasing. Except as specifically provided in this Agreement, this Agreement does not give Client any right to use any XatKit trademarks, and any use of any XatKit trademarks by Client shall inure to the benefit of XatKit. Client agrees, upon request, to stop or adjust any uses of XatKit trademarks.

7.6. Each Party is granted the right to display the name, logos, service marks, trademarks of the other Party on its website, and to describe the Parties' business relationship on its websites. Client will promptly notify XatKit of any use by any third party of the XatKit trademarks or any use by such third parties of similar marks, of which Client becomes aware, which may constitute an infringement or passing off of any of the XatKit trademarks. At no time during or after the Term will Client challenge or assist others to challenge a XatKit trademark, or the registration thereof, or attempt to register any trademarks, marks or trade names confusingly similar to a XatKit trademark.

8.   Xatkit's Confidentiality Obligation

8.1. XatKit shall:

8.1.1. keep the Client Confidential Information strictly confidential; and
8.1.2. not disclose the Client Confidential Information to any person without the Client's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in this Agreement; and
8.1.3. use the same degree of care to protect the confidentiality of the Client's Confidential Information as XatKit uses to protect XatKit's own confidential information of a similar nature, being at least a reasonable degree of care; and
8.1.4. act in good faith at all times in relation to the Client's Confidential Information; and
8.1.5. not use any of the Client's Confidential Information for any purpose other than to provide the Services to client.

8.2. Notwithstanding Section 9.1, XatKit may disclose the Client Confidential Information to XatKit's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Client's Confidential Information for the performance of their work with respect to this Agreement and who are bound by a written agreement or professional obligation to protect the confidentiality of the Client's Confidential Information.

8.3. This Section 8 imposes no obligations upon XatKit with respect to Client Confidential Information that:

8.3.1. is known to XatKit before disclosure under this Agreement and is not subject to any other obligation of confidentiality; or
8.3.2. is or becomes publicly known through no act or default of XatKit; or
8.3.3. is obtained by XatKit from a third party in circumstances where XatKit has no reason to believe that there has been a breach of an obligation of confidentiality.

8.4. The restrictions in this Section 8   do not apply to the extent that any Client Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request.

8.5. The provisions of this Section shall continue in force indefinitely following the termination of this Agreement.

9.   Data Protection

9.1. In compliance with the provisions of the GDPR, and/or any other applicable data protection regulations, XatKit informs the Client that the Customer Personal Data, which includes the Client's representative, as well as of its employees' and other contact persons who may intervene in the formalized legal relationship shall be processed by XatKit, which shall act as Data Controller. Such personal data shall be processed for the purposes of performing and maintaining this Agreement, and the contractual relationship deriving from the same; and complying with the legal obligations deriving from said relationship. The legal basis for the processing is the performance of the contractual relationship between the Parties, the legitimate interest pursued by XatKit and the compliance with applicable legal obligations. The Customer Personal Data will be kept during the development of this relationship, and the years necessary

to comply with the legal obligations of XatKit. The data may be disclosed to those third parties to whom XatKit is legally or contractually obliged to disclose them (as is the case of third-party service suppliers to whom a service linked to the management or execution of this Agreement has been entrusted, or public administrations). The data subject may exercise his/her rights of access, to rectification, erasure, restrict processing, data portability and object by writing to Rbla del Poblenou, 156 08018 Barcelona and/or sending an email to admin@xatkit.com. If they haven't obtained satisfaction in the exercise of their rights, they may lodge a complaint with a competent supervisory authority.

7.

9.2. Under or in relation to this Agreement, when providing the Service, XatKit shall process Service Personal Data as a Data Processor (hereinafter, the "Processor"), being the Client the Data Controller (hereinafter, the "Controller"). Both Parties agree that all Personal Data processed under the terms of this Agreement shall remain the property of the Client, with the exception of what is stated in clause 9.3. Under no circumstances will XatKit act, or be deemed to act, as the Data Controller of the Service Personal Data under any applicable Data Protection Laws. Such processing shall be subject to the GDPR and governed by the provisions set out in the following clauses:

9.2.1. <u>Purpose of the processing</u>. Except as provided in clause 9.3 of this Agreement, the Processor shall process the Service Personal Data for the sole purpose of providing the Service contemplated in this Agreement, in addition to what is specified in these clauses.

9.2.2. <u>Description of the processing</u>. The processing activity carried out by the Processor consists in collection, consultation, access, use, erasure and such others necessary for the provision of the Service. The categories of the data subjects are the website users, end-users, potential customers and/or customers of Controller (the Client). The type of personal data processed can be of a great variety, however, it will be the Personal Data introduced to the Service according this Agreement.

9.2.3. <u>Disclosure of the Controller's data</u>. The Processor shall not disclose or communicate any Service Personal Data of the Controller, unless (a) it is necessary for the provision of the Service in this Agreement; (b) it is indicated by the Controller itself; and (c) it is required by law, court or official authority.

9.2.4. <u>Confidentiality</u>. The Processor guarantees that only the personnel who need to have direct access to the personal data in order to fulfill their obligations in compliance with the Services will have access to the Service Personal Data. The Processor also has reasonable measures in place to ensure the reliability of the personnel who may have access to the Service Personal Data of the Controller, being subject to a relevant confidentiality agreement.

9.2.5. <u>Obligations of the Client</u>. The Client, as Controller, undertakes and guarantees to (a) comply with the obligations that correspond to its role as Controller according to the applicable Data Protection Laws; (b) ensure and monitor that the Processor complies with all the obligations mentioned in this Agreement when processing personal data; and (c) ensures the accuracy of all Service Personal Data required for the proper operation of the Service.

9.2.6. <u>Obligations of the Processor</u>. XatKit, as Processor, undertakes to: (a) to keep in writing a record of all the categories of processing activities carried out on behalf of the Controller in compliance with Article 30 of the GDPR; (b) implement and comply with the security, organizational and technical measures appropriate to ensure an adequate level of security appropriate considering the state of the art and the costs of implementation regarding the risks and the nature of the personal data to be protected, in order to ensure the security and integrity of the Controller's Service Personal Data and prevent the accidental or unlawful destruction, loss or alteration of personal data transmitted, or the unauthorized disclosure of or access to such data; (c) to carry out periodic reviews of the effectiveness of such measures and to make available to the Controller the information that demonstrates compliance with its obligations, and where appropriate, to assist the Controller in carrying out data protection impact assessments, prior consultations with the supervisory authority where appropriate, and to assist in any reviews and audits that the Controller may carry out; (d) process the data following the documented instructions of the Controller, not disclosing the data to third parties unless expressly instructed by the Controller, keeping the data confidential and notifying the Controller without undue delay and within 48 hours of any breach of data security of which it becomes aware; (5) assist the Controller in fulfilling its obligation to respond to requests from data subjects.

9.2.7. <u>Destination of Service Personal data</u>. When the Processor is providing the Service, no personal data is stored. However, in the event that it is stored, upon termination of the Service and of the services related to the procession of Service Personal Data, the Processor shall delete all personal data. However, the Processor may keep the Personal Data duly blocked during the period in which liabilities may arise from its relationship with the Controller, in compliance with the applicable Data Protection Laws. Pursuant clause 9.3 of this Agreement, the Processor may keep those data and information that are anonymized, since it is not considered personal data or information, and is not subject to data protection regulations.
1.

9.2.8. <u>Sub-processing.</u> If it is necessary to subcontract, the Processor shall notify this in advance and in writing to the Controller, indicating the processing that is intended to subcontract and identifying clearly and unequivocally the sub-processor. The subcontracting may be carried out provided that the Controller has not objected to it within 10 working days after notification. In any case, the Processor must sign an agreement with the sub-processor in compliance with the provisions of Article 28 of the GDPR. In case of non-compliance of the sub-processor, the Processor shall be responsible before the Controller.

9.3. Hereby the Client is informed and agrees that Service Personal Data shall be anonymized, and once there is no personal data, the information generated by the anonymization process and the Service Data shall be used for diagnostic and operational purposes of the Service, and for improving the Service.

10. Warranties

10.1. The XatKit warrants to Client that:

10.1.1. XatKit has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement; and

10.1.2. XatKit will comply with all applicable legal and regulatory requirements applying to the exercise of XatKit's rights and the fulfilment of XatKit's obligations under this Agreement; and

10.1.3. XatKit has or has access to all necessary know-how, expertise and experience to perform its obligations under this Agreement; and

10.1.4. the Service will incorporate security features reflecting the requirements of good industry practice.

10.2. The Client warrants to XatKit that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

10.3. All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

11.   Acknowledgements and Warranty Limitations

11.1. The Client acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, XatKit gives no warranty or representation that the Services will be wholly free from defects, errors and bugs.

11.2. The Client acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, XatKit gives no warranty or representation that the Services will be entirely secure.

11.3. The Client acknowledges that the Services are designed to be compatible only with that software and those systems specified as compatible with the Services; and XatKit does not warrant or represent that the Services will be compatible with any other software or systems.

11.4. The Client acknowledges that XatKit will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Services; and, except to the extent expressly provided otherwise in this Agreement, XatKit does not warrant or represent that the Services or the use of the Services by the Client will not give rise to any legal liability on the part of the Client or any other person.

12.   Limitations and Exclusions of Liability

12.1. Nothing in this Agreement will:

12.1.1. limit or exclude any liability for death or personal injury resulting from negligence; or

12.1.2. limit or exclude any liability for fraud or fraudulent misrepresentation; or

12.1.3. limit any liabilities in any way that is not permitted under applicable law; or

12.1.4. exclude any liabilities that may not be excluded under applicable law.

12.2. The limitations and exclusions of liability set out in this Section 13 and elsewhere in this Agreement:

12.2.1. are subject to Section 13.1; and

12.2.2. govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

12.3. XatKit shall not be liable to Client in respect of any losses arising out of a Force Majeure Event.

12.4. XatKit shall not be liable to Client in respect of any loss of profits or anticipated savings.

12.5. XatKit shall not be liable to Client in respect of any loss of revenue or income.

12.6. XatKit shall not be liable to Client in respect of any loss of business, contracts or opportunities.

12.7. XatKit shall not be liable to Client in respect of any loss or corruption of any data, database or software.

12.8. XatKit shall not be liable to Client in respect of any special, indirect or consequential loss or damage.

12.9. FOR ALL CASES AND CONTROVERSIES ARISING OUT OF XATKIT'S RELATIONSHIP WITH CLIENT, WHETHER OR NOT ARISING OUT OF THIS AGREEMENT AND WHETHER BROUGHT IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, XATKIT'S AGGREGATE LIABILITY TO CLIENT SHALL NOT EXCEED THE FEES PAID OR PAYABLE TO XATKIT DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH LIABILITY, EXCEPT IN THE EVENT OF A CLAIM BY CLIENT FOR TRANSACTION AMOUNTS ALLAGED TO BE UNPAID AND OWED BY XATKIT TO CLIENT, IN WHICH CASE THE MAXIMUM LIABILITY OF XATKIT SHALL BE THOSE AMOUNTS.

13. Force Majeure Event

13.1. If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under this Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

13.2. A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under this Agreement, shall:

13.2.1. promptly notify the other; and

13.2.2. inform the other of the period for which it is estimated that such failure or delay will continue.

13.3. A party whose performance of its obligations under this Agreement is affected by a Force Majeure Event shall take reasonable steps to mitigate the effects of the Force Majeure Event.

14. Term and Termination

14.1. Term. Unless otherwise agreed in the Sign-Up Flow, this Agreement is effective as of the date of execution of the relevant Sign-up Flow (the "Effective Date") and will continue for the initial subscribed plan duration (the "Term"). At the end of the initial Term, this Agreement will automatically renew for another one (1) year/month (each a "Renewal Term"). At the end of each subsequent Renewal Term, this Agreement will again automatically renew for another one (1) year Renewal Term, unless terminated as set forth in Section 14.2 below.

14.2. Termination. Either Party may terminate this Agreement or any XatKit Service, which would result in the termination of the additional terms applicable to that service, by giving the other Party thirty (30) days' prior written email notice to the email used in the Sign-Up Flow of termination If this Agreement is terminated by XatKit for any reason not including the breach of this Agreement by You, Force Majeure or bankruptcy, Xatkit shall refund You with the fees paid for the remaining period of time until completion of the Term. If this Agreement is terminated by You for any reason not including the breach of this Agreement by XatKit, no refund to You from Xatkit shall be carried out.

14.3. Notwithstanding anything contained in these Terms of Service to the contrary, should XatKit, in its sole discretion, reasonably determine or suspect that the XatKit Services have been: (a) fraudulently or illegally used by either Client or any party affiliated with Client, (b) that Client may have engaged in deceptive practices, or (c) that Client has violated any statute, law, regulation, etc. XatKit shall have the right to suspend the Service immediately, and to terminate any and all Agreements made in connection with the XatKit Service immediately upon notice to the Client. Notwithstanding anything in these Terms of Service to the contrary, Client shall have the right, in its sole discretion, to terminate the Service and all related Agreements immediately upon notice to Client, if Client terminates or breaches any other contractual agreements between the Parties.

14.4. Upon termination, XatKit shall provide Client with its data in a standard form within 30 days of termination of this Agreement, and upon XatKit's provision of such data to Client, XatKit may delete all Client data from the XatKit Service. Upon termination, each Party shall promptly return or destroy the other's Confidential Information.

14.5. Upon termination of this Agreement, Client shall (i) no longer have access to the XatKit Service and Client's license to use the Service shall immediately terminate, and (ii) immediately remove any reference to XatKit on its website, including hyperlinks, and from all online media and all printed media, including without limitation marketing collateral and print advertising.

15. General

15.1. Any notice to be given between XatKit and Client shall be deemed sufficiently given if forwarded by e-mail with a subject title "Legal Notice" to Client at the address in Client's registration at the time of the notice, by email to XatKit at admin@xatkit.com or to Client at physical address listed in Client's registration at the time of the notice.
8.

15.2. No breach of any provision of this Agreement shall be waived except with the express written consent of the party not in breach.

15.3. If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

15.4. This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

15.5. Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

15.6. This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

15.7. Subject to Section 12, this Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

16. Applicable Law and Jurisdiction

16.1. This Agreement shall be governed by and construed in accordance with the laws of Spain.

16.2. The courts of the city of Barcelona (Spain) shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.