

## STYLES AND WOOD LIMITED - SOFTWARE AS A SERVICE SUBSCRIPTION TERMS AND CONDITIONS

PLEASE READ CAREFULLY BEFORE PROCEEDING WITH YOUR ORDER AND SUBMITTING A SIGNED ORDER FORM.

BY SIGNING AND SUBMITTING THE ORDER FORM YOU AGREE TO FORM A LEGALLY BINDING CONTRACT WITH STYLES AND WOOD LIMITED IN ACCORDANCE WITH THESE CONDITIONS. IF YOU DO NOT WISH TO ENTER INTO A CONTRACT WITH STYLES AND WOOD LIMITED PLEASE DO NOT SIGN AND SUBMIT THE ORDER FORM.

Please retain a copy of the Contract for future reference.

### 1. Definitions and Interpretation

- 1.1 Unless the context requires otherwise, the following words and expressions shall have the following meanings for the purpose of the Contract:

**Additional Data Storage Fees:** the Supplier's annual fees from time to time for any Additional Data Storage Services;

**Additional Data Storage Request:** has the meaning set out in paragraph 1.3 of Schedule 2;

**Additional Data Storage Services:** those additional data storages services as are requested by the Customer and approved by the Supplier in accordance with paragraph 1.3 of Schedule 2;

**Additional Subscription Fees:** the Supplier's fees from time to time for any additional subscriptions granted to the Customer pursuant to Condition 5;

**Additional User Subscriptions:** has the meaning set out in Condition 5.1;

**Annual Hosting and Data Storage Fees:** the annual charges payable by the Customer to the Supplier for the Hosting and Data Storage Services, which are, as at the Effective Date, set out in the Order Form, as the same may be revised or increased from time to time by the Supplier in accordance with Condition 10.8;

**Annual Subscription Fee:** the annual charges payable by the Customer to the Supplier for the User Subscriptions, which are, as at the Effective Date, set out in the Order Form, as the same may be revised or increased from time to time by the Supplier in accordance with Condition 10.8 and/or in accordance with paragraph 1.4 of Schedule 2;

**Annual Support Fees:** the annual charges payable by the Customer to the Supplier for the Support Services, which are, as at the Effective Date, set out in the Order Form, as the same may be revised or increased from time to time by the Supplier in accordance with Condition 10.8;

**Authorised Users:** those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as further described in Condition 4.2;

**Back-up Policy:** the Supplier's standard back-up policy from time to time which shall be made available to the Customer in electronic form at <http://www.isite.co.uk>;

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when

banks in the City of London are open for business;

<b>Control:</b>	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expressions <b>Controls</b> , <b>Controlled</b> and <b>Change of Control</b> shall be construed accordingly;
<b>Conditions:</b>	the terms and conditions set out in this document as amended from time to time in accordance with Conditions 11 or 23;
<b>Confidential Information:</b>	any and all information of whatever nature disclosed directly or indirectly (whether before or after the date of the Contract and whether given in writing, verbally or by any other means) by a Party to the other Party, including any information relating to its business affairs, customers, clients, suppliers, operations, plans or intentions, products and services including databases, software, internet and website products and services, technical information and data, financial information, business strategies, marketing and promotional information, analyses, documents, data, formulae, processes, designs, know-how, trade secrets and Intellectual Property Rights, which information is designated in writing to be confidential or proprietary, or which information would, under the circumstances, appear to a reasonable person to be confidential or proprietary;
<b>Configuration Fees:</b>	the charges payable by the Customer to the Supplier for the Configuration Service, which are as at the Effective Date, set out in the Order Form (as may be varied in accordance with Condition 10.2);
<b>Configuration Service:</b>	the service pursuant to which the Supplier shall supply, install and configure the Software, and migrate certain Customer Data (as determined by the Customer), for use to provide the Services as more particularly set out in Condition 3 and (if appropriate) Schedule 3;
<b>Configuration Sign-off Form</b>	the Supplier's standard acceptance form from time to time which is to be signed by the Customer in accordance with Condition 3.2 to confirm satisfactory completion of the Configuration Services and its acceptance of the Live Date;
<b>Contract:</b>	the contract for the provision by the Supplier to the Customer of the Services comprising of these Conditions, the Schedules and the Order Form (and, if appropriate, any special terms which the Supplier may expressly incorporate into the Order) and which shall come into existence in accordance with Condition 2.2;
<b>Contract Year:</b>	the period of 12 months commencing on the Effective Date, and each subsequent 12 month period during the Term;
<b>Customer:</b>	the person, firm or company named as such in the Order Form;
<b>Customer Data:</b>	any Data inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf, for the purpose of using the Services or facilitating the Customer's use of the Services, or which may be migrated as part of the Configuration Service;
<b>Data:</b>	data of any form, nature or structure, that can be created, uploaded, inserted in or derived from or with the Services including proprietary and non-proprietary data, confidential and non-confidential data, non-personal and Personal Data as well as other human readable or machine readable data;
<b>Data Protection</b>	the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications

<b>Legislation:</b>	(Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of Personal Data and privacy;
<b>Data Storage Area:</b>	the Customer's designated storage area, procured by the Supplier;
<b>Documentation:</b>	the documentation made available to the Customer by the Supplier in electronic form at the Web Address from time to time which sets out a description of the Services and the user instructions for the Services (as may be developed, varied or amended by the Supplier from time to time at its discretion);
<b>Effective Date:</b>	the date set out as such in the Order Form;
<b>Fees:</b>	the Annual Subscription Fees, the Annual Support Fees, the Annual Hosting and Data Storage Fees, the Configuration Fee and (if applicable) any Additional Subscription Fees and Additional Hosting Fees, as may be revised from time to time by the Supplier in accordance with Condition 10.8;
<b>Customer Comms Links:</b>	any and all information technology communication links required by the Customer to facilitate its access to the Services;
<b>Customer Environment:</b>	the environment from which the Customer accesses and uses the Services including the Customer Comms Links;
<b>Force Majeure Event:</b>	an event or circumstance beyond the reasonable control of a Party, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable;
<b>Hosting and Data Storage Services:</b>	the hosting and data storage services procured by the Supplier to the Customer pursuant to which the Hosting and Data Storage Services Provider shall provide the hosting environment via which the Customer may access to use the Services and data storage solution as set out in Schedule 2 (including any Additional Data Storage Services from time to time);
<b>Hosting and Data Storage Provider:</b>	any provider of the Hosting and Data Storage Services that the Supplier may engage in connection with the Contract from time to time;
<b>Hosting and Data Storage Provider Terms:</b>	the Hosting and Data Storage Provider's standard terms and conditions from time to time, as may be notified to the Customer by the Supplier;
<b>Hosting Standard:</b>	means the standard of the Hosting and Data Storage Services purchased by the Customer, which shall include "Entry", "Bronze", "Silver", "Gold" and "Platinum" (as set out in the Order Form), each such standard having particular service levels which are set out in the Supplier's standard service levels documentation (as may be amended by the Supplier from time to time);
<b>Initial Term:</b>	the initial term of the Contract as set out in the Order Form;
<b>Initial User Subscriptions:</b>	the number of User Subscriptions set out in the Order Form to be purchased by the Customer as at the Effective Date;
<b>Insolvency Event:</b>	one or more of the following events: (a) any distress, execution or other process levied upon any of the assets of a Party; (b) where a Party suspends, or threatens to suspend, payment of its debts or is, or is

deemed, unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986; (c) where a Party convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory), or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or any court proceedings once commenced, notice given or petition passed for any of the foregoing; or (d) an event similar or analogous to (a) to (c) above in England and Wales or in any other jurisdiction;

<b>Intellectual Property Rights:</b>	any and all copyrights, moral rights, related rights, patents, supplemental protection certificates, petty patents, utility models, trade marks, trade names, service marks, design rights, database rights, website rights, semi-conductor topography rights, domain name rights, rights in undisclosed information or Confidential Information, rights in get up, goodwill or to sue for passing off, unfair completion rights, and other similar intellectual property rights (whether registered or not) and applications for any such rights as may exist anywhere in the world;
<b>Live Date:</b>	the date set out in the Configuration Sign-off Form or, if earlier, the date the Customer is able to commence use of the Services as determined in accordance with Condition 3.2;
<b>Normal Business Hours:</b>	9.00 am to 5.00 pm local UK time, each Business Day;
<b>Order:</b>	the Customer's order for the Services, as set out in the Order Form;
<b>Order Form:</b>	the purchase order form containing details of the Customer's order for the Services in such form as may be determined by the Supplier;
<b>Party:</b>	a party to the Contract and <b>Parties</b> shall be construed accordingly;
<b>Personal Data:</b>	has the meaning given to the term in the Data Protection Act 1998;
<b>Relevant Law:</b>	means: <ul style="list-style-type: none"> <li>(a) any statute, regulation, by law, ordinance or subordinate legislation which is in force for the time being to which a Party is subject;</li> <li>(b) the common law as applicable to the Parties (or any one of them);</li> <li>(c) any binding court order, judgement or decree applicable to the Parties (or any one of them); and</li> <li>(d) any applicable industry code, policy, guidance, standard or accreditation terms, <ul style="list-style-type: none"> <li>(i) enforceable by law which is in force for the time being; and/or</li> <li>(ii) stipulated by any regulatory authority to which either Party is subject,</li> </ul> </li> </ul> <p>in each case, for the time being;</p>
<b>Renewal Term:</b>	has the meaning set out in Condition 16.1;
<b>Schedule(s):</b>	the schedule(s) attached to these Conditions;
<b>Services:</b>	the provision of the Software as a subscription service (including access to the Software and the Documentation) provided by the Supplier to the

Customer via the Web Address;

<b>Software:</b>	the online software applications set out in the Order Form and the Documentation and hosted by the Hosting and Data Storage Provider;
<b>Supplier:</b>	Styles & Wood Limited (Company Number: 1568060);
<b>Support Services:</b>	the support services to be provided by the Supplier from time to time in accordance with the Support Services Policy;
<b>Support Services Policy:</b>	the Supplier's policy for providing support in relation to the Software from time to time, the current version of which is set out in Schedule 1;
<b>Term:</b>	the Initial Term together with all subsequent Renewal Terms;
<b>Territory:</b>	the United Kingdom (and/or any other territories agreed in writing between the Parties);
<b>User Subscriptions:</b>	the user subscriptions purchased by the Customer which entitle Authorised Users to access and use the Services and the Documentation in accordance with the terms of the Contract, being as at the Effective Date, the Initial User Subscriptions and as the same may be updated from time to time in accordance with Condition 5;
<b>Virus:</b>	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network 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 re-arranging, 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;
<b>Web Address:</b>	the web address set out in the Order Form for the Services as may be amended by the Supplier from time to time.

1.2 References to **Conditions** and the **Schedules** are to conditions of, and the schedules to, these Conditions. The Schedules form part of and are incorporated into the Contract. References to **paragraphs** are to paragraphs of the Schedules.

1.3 A reference in these Conditions to:

1.3.1 a **person** shall include an individual, company, limited liability partnership, corporate firm, partnership, joint venture, association, trusts or unincorporated bodies and associations (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns;

1.3.2 the **singular** shall include the plural and vice versa;

1.3.3 a **statute** or **statutory** provision is a reference to it as amended, extended or re-enacted from time to time;

1.3.4 **writing** or **written** excludes e-mail and fax;

1.3.5 **include**, **including** and in **particular** or anything similar are illustrative only and none of them shall limit the sense of the words preceding or following them and each of them shall be deemed to incorporate the expression **without limitation**.

## **2. Basis of Contract**

- 2.1 These Conditions apply to the Order to the exclusion of any other terms that the Customer seeks to impose or incorporate, or, which are implied by trade, custom or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Services in accordance with the Conditions. The Order shall be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.3 In the event of a conflict, the following order of precedence shall apply to the Contract:
- 2.3.1 to the extent applicable, any special terms which the Supplier may expressly incorporate into the Order;
  - 2.3.2 the provisions of these Conditions;
  - 2.3.3 the Schedules;
  - 2.3.4 the Order Form;
  - 2.3.5 any other documents expressly forming part of the Contract.

## **3. Configuration Services**

- 3.1 Subject to the Customer paying to the Supplier the Configuration Fees, the Supplier shall with effect from the Effective Date provide the Configuration Services:
- 3.1.1 with reasonable skill and care;
  - 3.1.2 using reasonable endeavours to meet any timescales agreed between the Parties (provided that such timescales shall be estimates only and shall not form part of the Contract).
- 3.2 Upon completion of the Configuration Services, the Supplier shall make the Software available to the Customer in order for the Customer to complete the Configuration Sign-off Form.
- 3.3 The Configuration Services shall be deemed satisfactorily completed (and the Software shall be accepted (or deemed accepted) by the Customer) at such time as the Customer completes the Configuration Sign-off Form or, where the Customer unreasonably refuses to sign the Configuration Sign-off Form or delays in doing so, the date that the Supplier determines (in its sole discretion) that the Customer is able to access the Services and that the Services function in material conformance with its specification.
- 3.4 If the Customer fails to sign the Configuration Sign-off Form, it shall notify the Supplier of any issues which the Customer may wish to raise and the Supplier shall, acting in good faith, seek to address any such issues. Notwithstanding the foregoing, if the Supplier believes (in its sole discretion) that the Customer is able to access the Services and that the Services function in material conformance with its specification and the Customer continues to fail to sign the Configuration Sign-off Form following a further request from the Supplier, then the Supplier shall be entitled to terminate the Contract and the Customer shall pay to the Supplier all Fees then due to the Supplier.
- 3.5 The Customer acknowledges that the any Live Date proposed by the Supplier in accordance with Condition 3.2 is an estimated Live Date only and there may be unforeseen delays which result in the Services commencing at a later date. The Customer's sole remedy for any such delay shall be that the Supplier will use all reasonable endeavours to ensure the Live Date occurs on such later date as the Supplier may notify to the Customer.
- 3.6 Any additional terms set out in Schedule 3 shall apply to the provision of the Configuration Services.

#### **4. User Subscriptions**

- 4.1 Subject to the Customer purchasing the User Subscriptions in accordance with Conditions 5.2 and Condition 10.3 and the Customer complying with the restrictions set out in this Condition 4 and the other terms of the Contract, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Services in the Territory from the Live Date during the Term solely for the Customer's internal business operations.
- 4.2 In relation to the Authorised Users, the Customer undertakes that:
- 4.2.1 the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has in place at any given time;
  - 4.2.2 it will not allow or suffer any User Subscription 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 Services and/or Documentation;
  - 4.2.3 each Authorised User shall: keep a secure password for his use of the Services and Documentation; keep such password confidential and adhere to any reasonable recommendations made by the Supplier during the Term concerning password security and frequency of password changes;
  - 4.2.4 it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 3 Business Days of the Supplier's written request at any time or times;
  - 4.2.5 it shall permit the Supplier (on giving reasonable notice) to audit the Services in order to establish the name and password of each Authorised User;
  - 4.2.6 if any of the audits referred to in Condition 4.2.5 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and
  - 4.2.7 if any of the audits referred to in Condition 4.2.5 reveal that the Customer has underpaid the Annual Subscription Fees and/or Additional Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Customer shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the Supplier's then standard prices within 10 Business Days of the date of the relevant audit.
- 4.3 The rights provided under this Condition 4 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

#### **5. Additional User Subscriptions**

- 5.1 Subject to Condition 5.2, if the Customer wishes to increase the number of User Subscriptions (each an **Additional User Subscription**), the Customer shall provide the Supplier with 30 days' prior written notice of the same, including details of how many Additional User Subscriptions are required. The Supplier shall evaluate each such request and notify the Customer of its approval or rejection of the same (not to be unreasonably withheld or delayed).
- 5.2 If the Supplier approves the Customer's request to purchase Additional User Subscriptions, the Customer shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the Additional Subscription Fees. If such Additional User Subscriptions are purchased by the Customer part way through the Initial Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Term or then current Renewal Period (as applicable). Upon payment of the Additional User Subscription Fee's such Additional User Subscription shall from such date for the purpose of the Contract be a User Subscription.

## **6. Services**

- 6.1 The Supplier shall, from the Live Date and during the Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of the Contract.
- 6.2 The Supplier shall use commercially reasonable endeavours to ensure that, subject to the proper operation of the Customer's Environment, the Services are available 24 hours a day, seven days a week, except for:
- 6.2.1 planned maintenance carried out during the maintenance window of 10.00 pm to 5.00 am (GMT); and
  - 6.2.2 unscheduled maintenance, provided that the Supplier has used reasonable endeavours to provide the Customer with prior notice if reasonably possible.
- 6.3 Subject to the Customer paying to the Supplier the Annual Support Fees and the Annual Hosting and Data Storage Fees, the Supplier shall, as part of the Services, provide the Customer with or procure that the Customer is provided with (as applicable):
- 6.3.1 the Support Services; and
  - 6.3.2 the Hosting and Data Storage Services,
- provided that the Customer may purchase enhanced support, training and system configuration separately from the Supplier at the Supplier's then current rates.

## **7. Customer data**

- 7.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 7.2 The Supplier shall use all reasonable endeavours to adhere to the Back-up Policy in all material respects.
- 7.3 In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the Back-up Policy. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up).
- 7.4 The Customer agrees and acknowledges that the Supplier may immediately remove any Customer Data from the Data Storage Area that breaches any Relevant Law, the terms of the Contract, or the Hosting and Data Storage Provider Terms, or which the Hosting and Data Storage Provider requests that the Supplier removes.
- 7.5 If the Supplier processes any Personal Data on the Customer's behalf when performing its obligations under the Contract, the Parties record their intention that the Customer shall be the data controller and the Supplier shall be a data processor and in any such case:
- 7.5.1 the Customer acknowledges and agrees that the Personal Data may be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Services and the Supplier's other obligations under the Contract;
  - 7.5.2 the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable Data Protection Legislation;



- 7.5.3 the Supplier shall process the Personal Data only in accordance with the terms of the Contract and any lawful instructions reasonably given by the Customer from time to time; and
- 7.5.4 each Party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the Personal Data or its accidental loss, destruction or damage.

## **8. Supplier's obligations**

- 8.1 The Supplier undertakes that the Services will be performed with reasonable skill and care.
- 8.2 The undertaking set out in Condition 8.1 shall not apply to the extent that a breach of Condition 8.1 arises as a result of or in connection with any:
  - 8.2.1 use of the Services by the Customer other than in accordance with the terms of the Contract or the Supplier's instructions; or
  - 8.2.2 modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents.
- 8.3 Subject to Condition 8.2, if the Services are not provided in accordance with Condition 8.1, the Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in Condition 8.1.
- 8.4 The Customer acknowledges and accepts that:
  - 8.4.1 the Supplier does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements;
  - 8.4.2 the Supplier 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 Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities;
  - 8.4.3 computers need routine maintenance and sometimes break down and that the Services may not operate continuously and in an error-free manner. As a result, the Supplier does not guarantee to anyone that the Customer or any other third parties will be able to access the Services at any particular time and the Customer agrees that the Supplier shall have no liability to the Customer if any such persons are temporarily not able to access the Services at all time;
  - 8.4.4 computer software including that provided via the Services is not error, fault or bug free, nor secure from persons wishing to misuse, tamper with, erase, alter or in any other way corrupt computer systems and that the data, information and records they display, retrieve, collate, transfer, calculate or disseminate may be affected by such occurrences, and the Customer agrees that, subject to the Supplier providing the Support Services on the terms of the Contract, the Supplier shall have no liability to the Customer nor to any other third party for any such occurrences arising in respect of or in relation to the Services;
  - 8.4.5 the Software and Services have been developed for use within the United Kingdom and to the extent that the Software and/or Services can be and is accessed or used outside of the United Kingdom, any such access and/or use is at the Customer's own risk and shall not, unless otherwise agreed in writing by the Supplier, form part of the Contract and the Supplier shall not be liable for any such access or use by or on behalf of the Customer;

8.4.6 the Supplier does not warrant that the Services or the Software will comply with any laws, regulations, licences, registrations, permits or approvals (as they may change from time to time) in any country other than the United Kingdom.

8.5 The Contract shall not prevent the Supplier 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 pursuant to the Contract.

8.6 The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Contract.

8.7 Subject to the foregoing, all conditions, warranties, terms and undertakings, express or implied, statutory or otherwise, in respect of the Services and the Support Services are hereby excluded to the fullest extent permitted by law.

## **9. Customer's obligations**

9.1 The Customer shall:

9.1.1 co-operate with the Supplier on all matters relating to the Contract and the provision of the Services;

9.1.2 provide the Supplier with access to all information as may be required by the Supplier in order to provide the Services including Customer Data, security access information and information relating to, or necessary for the provision of, the Configuration Services;

9.1.3 comply with all Relevant Law with respect to its activities under the Contract;

9.1.4 carry out all other Customer obligations set out in the Contract in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the Parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

9.1.5 ensure that the Authorised Users use the Services and the Documentation in accordance with the Contract and shall be responsible for any Authorised User's breach of the Contract;

9.1.6 obtain and shall maintain all necessary licences, consents and permissions necessary for the Supplier, its contractors and agents to perform their obligations under the Contract, including the Services; and

9.1.7 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9.2 The Customer shall not access, store, distribute or transmit any Viruses, or any material (including Customer Data) during the course of its use of the Services that:

9.2.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

9.2.2 facilitates illegal activity, depicts sexually explicit images, promotes unlawful violence or is discriminatory; or

9.2.3 is discriminatory based on race, gender, colour, religious belief, sexual orientation or disability,

9.2.4 in a manner that is otherwise illegal or causes damage or injury to any person or

property; or

9.2.5 violates the Hosting and Data Storage Provider Terms,

and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to suspend and/or disable the Customer's access to any material that breaches the provisions of this Condition 9.2.

9.3 The Customer shall not:

9.3.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties:

- (a) and except to the extent expressly permitted under the Contract, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
- (b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (c) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
- (d) use the Services and/or Documentation to provide services to third parties; or
- (e) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users; or
- (f) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this Condition 9;

9.3.2 access or use the Services in breach of the Hosting and Data Storage Provider Terms.

9.4 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.

## **10. Fees and payment**

10.1 The Customer shall pay to the Supplier the Configuration Fee on the dates and in the proportions set out in the Order Form.

10.2 If, during the provision of the Configuration Services, the Supplier reasonably expects that the actual cost of providing the Configuration Services will exceed the Configuration Fee, any work to be completed in additional man-days and any additional fees payable by the Customer to the Supplier, shall first be approved in writing by both the Supplier and the Customer, and shall result in an extension of any agreed acceptance date for the implementation of any such phase of the Configuration Services on a day-for-day basis.

10.3 The Customer shall pay to the Supplier the following Fees annually in advance:

10.3.1 the Annual Subscription Fees;

10.3.2 the Annual Support Fees; and

10.3.3 the Annual Hosting and Data Storage Fees.

10.4 The Annual Subscription Fees, Annual Support Fees and Annual Hosting and Data Storage Fees

for the first Contract Year shall be payable by the Customer to the Supplier on the Effective Date. The Annual Subscription Fees and Annual Support Fees for each subsequent Contract Year shall be due and payable on the expiry of the preceding Contract Year. Without prejudice to the foregoing, the Supplier shall, on or around the expiry of each Contract Year, raise an invoice for the Annual Subscription Fees and the Annual Support Fees for the next Contract Year which it shall submit to the Customer for payment.

- 10.5 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 10.6 If the Supplier has not received payment within 30 days after the due date or the date of the invoice (whichever is earlier), and without prejudice to any other rights and remedies of the Supplier:
  - 10.6.1 the Supplier may, without liability to the Customer, disable the Customer's access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
  - 10.6.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 10.7 All amounts and fees stated or referred to in these Conditions are, subject to Condition 15.5.2, non-cancellable and non-refundable and are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.
- 10.8 The Supplier shall be entitled to increase the Annual Subscription Fees, the Annual Support Fees and/or the Additional Subscription Fees at the start of each Renewal Period upon 60 days' prior notice to the Customer and the Contract shall be deemed to have been amended accordingly. The Supplier may increase its standard rates for the provision of any additional services from time to time and shall not be required to serve any notice on the Customer for any such increases.

## **11. Change Control**

- 11.1 If either Party wishes to change the scope of the Services (including Customer requests for additional hosting services), it shall submit details of the requested change to the other in writing.
- 11.2 If either Party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
  - 11.2.1 the likely time required to implement the change;
  - 11.2.2 any variations to the Fees arising from the change; and
  - 11.2.3 any other impact of the change on the terms of the Contract.
- 11.3 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the Parties have agreed in writing the necessary variations to the Fees, any additional Fees which may be payable by the Customer and any other relevant terms of the Contract to take account of the change.
- 11.4 If the Supplier requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it.

## **12. Proprietary rights**

- 12.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all Intellectual Property Rights in the Services and the Documentation. Except as expressly stated herein, this

Contract does not grant the Customer any rights to, or in, any Intellectual Property Rights in respect of the Services or the Documentation.

- 12.2 The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of the Contract.

### **13. Confidentiality and compliance with policies**

- 13.1 Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under the Contract. A Party's Confidential Information shall not be deemed to include information that:

- 13.1.1 is or becomes publicly known other than through any act or omission of the receiving Party;
- 13.1.2 was in the other Party's lawful possession before the disclosure;
- 13.1.3 is lawfully disclosed to the receiving Party by a third party without restriction on disclosure;
- 13.1.4 is independently developed by the receiving Party, which independent development can be shown by written evidence; or
- 13.1.5 is required to be disclosed by Relevant Law, by any court of competent jurisdiction or by any regulatory or administrative body.

- 13.2 Each Party shall hold the other's Confidential Information in confidence and, unless required by Relevant Law, 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 the Contract, save that in the case of the Supplier, the Customer agrees that its Confidential Information can be disclosed to the Hosting and Data Storage Provider.

- 13.3 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 the terms of the Contract.

- 13.4 Neither Party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

- 13.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.

- 13.6 The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.

- 13.7 No Party shall make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), except as required by Relevant Law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

### **14. Indemnity**

- 14.1 The Customer shall defend, indemnify and hold harmless the Supplier 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 Customer's use of the Services and/or Documentation, provided that:

- 14.1.1 the Customer is given prompt notice of any such claim;

- 14.1.2 the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
  - 14.1.3 the Customer is given sole authority to defend or settle the claim.
- 14.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
  - 14.2.1 the Supplier is given prompt notice of any such claim;
  - 14.2.2 the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
  - 14.2.3 the Supplier is given sole authority to defend or settle the claim.
- 14.3 In the defence or settlement of any claim, the Supplier may procure the right for the Customer 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 the Contract on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.
- 14.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
  - 14.4.1 a modification of the Services or Documentation by anyone other than the Supplier; or
  - 14.4.2 the Customer's use of the Services or Documentation in a manner contrary to the terms of the Contract or any instructions given to the Customer by the Supplier; or
  - 14.4.3 the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- 14.5 This Condition 14 and Condition 15.5.2 state the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.
- 15. Limitation of liability**
- 15.1 The following provisions set out the entire financial liability of the Supplier (including any liability for the acts and omissions of its officers, directors, employees, agents and sub-contractors) to the Customer in respect of:
  - 15.1.1 any breach of the Contract howsoever arising;
  - 15.1.2 any use made by the Customer of the Services, the Documentation or any part of them; and
  - 15.1.3 any misrepresentation, mis-statement or tortious act or omission (including negligence but excluding any of the same made fraudulently) arising under or in connection with the Contract.
- 15.2 Any act or omission on the part of the Supplier or its officers, directors, employees, agents or sub-contractors falling within Condition 15.1 shall for the purposes of this Condition 15 be known as an **Event of Default**.
- 15.3 Notwithstanding anything to the contrary in the Contract, the liability of the Supplier to the

Customer for fraud, death or personal injury resulting from its own negligence or that of its officers, directors, employees, agents or sub-contractors or fraud or fraudulent misrepresentation shall not be limited.

- 15.4 Except as expressly and specifically provided in the Contract:
- 15.4.1 the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction; and
  - 15.4.2 the Services and the Documentation are provided to the Customer on an "as is" basis.
- 15.5 Subject to Condition 15.3, the total liability of the Supplier in respect of all Events of Default in any Contract Year shall be limited to damages of an amount equal to:
- 15.5.1 £1 million in respect of damage or loss to the tangible property of the Customer due to an Event of Default; and
  - 15.5.2 in respect of any other damage or loss, 125% of the amount of the Fees that have been paid to the Supplier in the immediately preceding Contract Year or until the first invoice issued under the Contract has actually been paid by the Customer to 125% of the amount set out in such invoice.
- 15.6 Subject to Condition 15.3, the Supplier shall not be liable to the Customer in respect of any Event of Default for any loss or damage which may be suffered by the Customer (or any person claiming through or under the Customer) whether the same are suffered directly or indirectly and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which falls within the following categories:
- 15.6.1 loss of profits;
  - 15.6.2 loss of turnover;
  - 15.6.3 loss of anticipated savings;
  - 15.6.4 loss of business opportunity;
  - 15.6.5 loss of goodwill;
  - 15.6.6 loss or corruption of data or information;
  - 15.6.7 damage to reputation;
  - 15.6.8 any special indirect or consequential loss,
- provided that this Condition 15.6 shall not prevent claims for loss of or damage to the Customer's tangible property that fall within the provisions of Condition 15.6 or any other claim for direct financial loss that are not excluded by Condition 15.6.1 to 15.6.8 (inclusive).
- 15.7 If a number of Events of Default give rise substantially to the same loss, then they shall be regarded as giving rise to only one claim under the Contract.
- 15.8 The Supplier shall have no liability to the Customer in respect of any Event of Default unless the Customer shall have served notice of the same upon the Supplier within 3 months of the date the Customer became aware or ought to have become aware of the consequences of the Event of Default.

## **16. Term and termination**

- 16.1 The Contract shall, unless otherwise terminated as provided in this Condition 16, commence on the Effective Date and shall continue for the Initial Term and, thereafter, shall be automatically renewed for successive periods of 12 months (each a **Renewal Term**), unless:
- 16.1.1 either Party notifies the other Party of termination, in writing, at least 28 days before the end of the Initial Term or any Renewal Term, in which case the Contract shall terminate upon the expiry of the applicable Initial Term or Renewal Term; or
  - 16.1.2 otherwise terminated in accordance with the provisions of these Conditions.
- 16.2 The Supplier may terminate the Contract at any time with immediate effect (or following such notice period as it sees fit) by written notice to the Customer if the Customer:
- 16.2.1 fails to pay any amount due under the Contract on the due date for payment and remains in default for not less than 30 days thereafter;
  - 16.2.2 commits a material breach of any term of the Contract which is irremediable or, if remediable, is not remedied within 14 days after being notified in writing to do so;
  - 16.2.3 repeatedly breaches any of the terms of the Contract 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 the Contract;
  - 16.2.4 suffers an Insolvency Event or suspends or ceases (or threatens to suspend or cease) to carry on all or a substantial part of its business;
  - 16.2.5 suffers a Change of Control.
- 16.3 Either Party shall be entitled to terminate the Contract in accordance with Condition 17.3.
- 16.4 On termination of the Contract for any reason:
- 16.4.1 all licences and rights granted under the Contract shall immediately terminate;
  - 16.4.2 the Customer shall immediately pay to the Supplier any outstanding Fees;
  - 16.4.3 each Party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other Party;
  - 16.4.4 the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession unless the Supplier receives, no later than ten days after the effective date of the termination of the Contract, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and Fees outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Customer Data;
  - 16.4.5 any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced; and
  - 16.4.6 any Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## **17. Force Majeure Event**



- 17.1 Neither Party shall be deemed to be in breach of the Contract or otherwise liable to the other Party in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to a Force Majeure Event.
- 17.2 If a Party's performance of its obligations under the Contract is affected by a Force Majeure Event:
- 17.2.1 it shall give written notice to the other Party, specifying the nature and extent of the Force Majeure Event, immediately on becoming aware of the Force Majeure Event and will at all times use its reasonable endeavours to mitigate the severity of the Force Majeure Event;
  - 17.2.2 subject to Condition 17.3, the date for performance of such obligation shall be deemed suspended only for a period equal to the delay caused by such event;
  - 17.2.3 it shall not be entitled to payment from the other Party in respect of extra costs and expenses incurred by virtue of the Force Majeure Event.
- 17.3 If a Force Majeure Event continues for more than four weeks, then either Party shall be entitled to terminate the Contract immediately on giving written notice to the other Party. The Parties shall not have any liability in respect of the termination of the Contract as a result of a Force Majeure Event.

## **18. Warranties**

Except as expressly set out in the Contract, all warranties, conditions terms and undertakings, express or implied, statutory or otherwise are excluded from the Contract to the fullest extent permitted by law.

## **19. Assignment**

- 19.1 The Customer shall not be entitled to assign, charge or otherwise transfer the Contract nor any of its rights or obligations under the Contract, sub-license the right to use the Services or receive the Support Services or hold the benefit of the Contract in trust for any other person without the prior written consent of the Supplier.
- 19.2 The Supplier shall be entitled to delegate any of its obligations under the Contract to any associate and in the case of the Hosting and Data Storage Services, the Customer agrees that the Supplier may subcontract such obligations to the Hosting and Data Storage Provider on such terms as they require from time to time. Any such delegation shall not affect the obligations and liability of the Supplier under the Contract.

## **20. Entire agreement**

- 20.1 The Contract and any documents expressly referred to in it (including, if applicable, any special terms expressly incorporated into the Contract by the Supplier) contains the entire understanding between the Parties in relation to its subject matter and supersedes all (if any) subsisting agreements, arrangements, understandings, negotiations, discussions or correspondence (written or oral, express or implied) relating to the same.
- 20.2 Each Party acknowledges that in entering into the Contract it has not relied on any warranty, representation or undertaking (whether made innocently or negligently) which is not contained in or specifically incorporated into the Contract. Each Party agrees and acknowledges that its only remedy in respect of those representations, statements, assurances or warranties set out in the Contract will be for breach of contract, in accordance with the terms of the Contract, provided always that nothing in this Condition 20.2 shall exclude or limit the liability of a Party to the other Party for any fraudulent misrepresentation or warranty fraudulently given and upon which the other Party can prove it has placed reliance.

## **21. Further assurance**

The Customer will at all times after date of the Contract do and execute or procure to be done and executed all other necessary acts, deeds, documents and things to give effect to the Contract.

**22. Costs and expenses**

Each Party shall pay the legal and other costs and expenses incurred by it in connection with the preparation, negotiation and completion of the Contract and all ancillary documents.

**23. Modifications to the Contract**

The Supplier may modify these Conditions (including the Schedules) at any time by providing written notice of the same to the Customer by post or e-mail, save in respect of adverse changes to Support Services, in respect of which the Supplier will provide at least 90 days' prior written notice. Subject to the 90 days' prior written notice requirement in respect of the Support Services, the modified terms will become effective upon posting or, if notice is provided by email, as stated in the email message.

**24. Third Party rights**

Notwithstanding anything to the contrary contained in the Contract, the Parties agree and intend that nothing in the Contract shall confer any rights on any third parties whether pursuant to the Contract (Rights of Third Parties) Act 1999 or otherwise.

**25. Waiver**

A failure, delay or neglect by either Party to exercise any right or remedy or enforce any of the provisions of the Contract shall not be construed or deemed to be a waiver or continuing waiver of that Party's rights or remedies, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

**26. No partnership**

The Parties agree that nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between them, constitutes any Party the agent of the other Party, nor authorises any Party to make or enter into any commitments for or on behalf of the other Party.

**27. Severance**

27.1 If any of the provisions of the Contract shall be declared invalid or unenforceable in whole or in part by any competent court or other authority whose decisions shall have the force of law binding on the Parties, that provision or part-provision shall, to the extent required, be deemed to be deleted and the validity and enforceability of the other provisions shall not be affected.

27.2 If the invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the Parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and to that greatest extent possible achieves the Parties original commercial intention.

**28. Anti-bribery and anti-corruption compliance**

28.1 Each Party warrants the other Party that:

28.1.1 in the negotiation of the Contract it has complied with all Relevant Law and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010;

28.1.2 it has and will maintain in place at all times procedures under the Bribery Act 2010 to ensure continued compliance with the Bribery Act 2010 and will enforce those procedures where appropriate; and

28.1.3 it will promptly report to the other Party any request or demand for or offer of any undue financial or other advantage of any kind received by it in connection with the Contract.

28.2 The Parties agree that a breach of Condition 28.1 shall be deemed to be a material breach of the Contract.

## **29. Modern Slavery Act**

The Supplier warrants and represents to the Customer that it has and will maintain in place at all times procedures under the Modern Slavery Act 2015 to ensure its compliance with the Modern Slavery Act 2015 and will enforce those procedures where appropriate.

## **30. Notices**

30.1 Any notice required to be given under the Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its registered office address or such other address as may have been notified by that party for such purposes.

30.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

## **31. Governing Law and Jurisdiction**

31.1 The Contract and any dispute 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 English Law.

31.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

## SCHEDULE 1

### Support Services Policy

- 1.1 Subject to the Customer paying to the Supplier the Annual Support Fees, the Supplier shall provide the Support Services, pursuant to which the Supplier shall:
- 1.1.1 provide general support during Normal Business Hours through the Supplier's help desk service to resolve common support issues, such help desk service being available to the Customer via such telephone number and/or email address as may be notified to the Customer by the Supplier from time to time;
  - 1.1.2 carry out routine maintenance to the Software in accordance with Condition 6.2 of the Conditions (including, at the Supplier's discretion, upgrading versions and applying patches to the hosted systems);
  - 1.1.3 provide technical support for the Software in accordance with paragraphs 1.4 to 1.7 (inclusive).
- 1.2 The Support Services shall not cover:
- 1.2.1 any support which the Customer may require outside of Normal Business Hours;
  - 1.2.2 any services provided by the Supplier which relate to bespoke software development (or support in respect of the same) or support of a higher level than that which reasonably expected at the Supplier's helpdesk staff (in the Supplier's sole and reasonably held opinion);
  - 1.2.3 any services provided by the Supplier in connection with any apparent problem regarding the Software which the Supplier determines has been caused by the Customer failing to use the Software correctly, in accordance with the terms of the Contract, in a manner consistent with the Documentation or any other cause outside the Supplier's reasonable control.
- 1.3 If the Customer requires any services of the type referred to in paragraph 1.2, it shall notify the Supplier and the Supplier shall consider whether it is able to provide such services, in which case the Supplier may, at its discretion, offer to provide such services to the Customer under a separate contract (to be agreed between the Parties) and on the Supplier's then current rates.
- 1.4 Should the Customer determine that Services include a defect, the Customer may file an error report or support request. The Supplier shall accept e-mail and telephone calls for English language telephone support during Normal Business Hours.
- 1.5 The Supplier shall use reasonable endeavours to process support requests, issue trouble ticket tracking numbers if necessary, determine the source of the problem and respond to the Customer. The Supplier shall use reasonable endeavours to respond to all support requests from the Customer within the time periods specified in paragraph 1.6 below, according to priority.
- 1.6 The Supplier shall determine the priority of any fault in accordance with the following table.

Priority	Response Time	Target resolution time	Description	Criteria
Priority 1 (IT1)	Within 2 Normal Business Hours.	5 Normal Business Hours.	The entire Services are completely inaccessible or there is a major security issue. Priority 1 incidents shall be reported by telephone only.	Loss of business critical system affecting high number of Authorised Users.
Priority 2 (IT2)	Within 4 Normal	10 Normal Business	Operation of the Services is severely degraded, or major components of the	Loss of business critical system that

	Business Hours.	Hours.	Services are not operational or there is a minor security issue. Priority 2 incidents shall be reported by telephone only.	has an alternative short-term workaround.
Priority 3 (IT3)	Within 4 Normal Business Hours	18 Normal Business Hours.	Certain non-essential features of the Service are impaired while most major components of the Service remain functional.	Loss of non-business critical system which has some impact on the Customer's use of the Services.
Priority 4 (IT4)	Within 4 Normal Business Hours	26 Normal Business Hours.	Errors that are non-disabling or cosmetic and clearly have little or no impact on the normal operation of the Services.	Loss of non-business critical system which has little or no impact on the Customer's use of the Services.
Priority 5 (IT5)	Within 4 Normal Business Hours	40 Normal Business Hours.	Minor changes or "how do I?" queries including requests from information from Authorised Users which are non-urgent.	General queries raised by Authorised Users not falling within IT1 to IT4.

- 1.7 If no progress has been made on a Priority 1 or Priority 2 incident within the target resolution time, the incident shall be escalated within the iSite division and the Supplier shall use all reasonable endeavours to ensure that the incident is prioritised and resolved as soon as practicable thereafter.

## SCHEDULE 2

### Hosting and Data Storage Services

- 1.1 Subject to the Customer paying to the Supplier the Annual Hosting and Data Storage Fees (and if appropriate the Additional Data Storage Fees), the Supplier shall provide (or shall procure that the Hosting and Data Storage Provider shall provide) the Hosting and Data Storage Services to the Customer.
- 1.2 The Supplier shall use its reasonable endeavours to procure that the Hosting and Data Storage Services shall comply in all material respects with the applicable service levels for the relevant Hosting Standard purchased by the Customer.
- 1.3 If, during the Term, the Customer wishes to purchase additional data storage services, it shall provide the Supplier with written confirmation of the request setting out details of the additional storage services which it wishes to purchase (**Additional Data Storage Request**). The Supplier shall evaluate each such Additional Data Storage Request and notify the Customer of its approval or rejection (whether in whole or part) of the same (which shall be at the Supplier's discretion) and such additional data storage services as are approved by the Supplier shall be the Additional Data Storage Services at that time. The Customer agrees that the Additional Data Storage Services shall as from the date of approval by for the remainder of the Term.
- 1.4 If the Supplier approves the Customer's request to purchase Additional Data Storage Services, the Annual Hosting and Data Storage Fees shall be increased by the Additional Data Storage Fee. If such Additional Data Storage Services are purchased by the Customer part way through a Contract Year, the Additional Data Storage Fees shall be pro-rated for the remainder of the Contract Year. The Customer shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the Additional Hosting Fees. Upon payment of the Additional Data Storage Fees, the Supplier shall procure that the Additional Data Storage Services shall be supplied to the Customer.
- 1.5 The Customer acknowledges that the Hosting and Data Storage Services may be provided to the Customer via the Hosting and Data Storage Provider and accordingly:
  - 1.5.1 the Customer hereby warrants and undertakes to the Supplier that it shall comply with the Hosting and Data Storage Provider Terms and shall indemnify and keep the Supplier fully indemnified and hold the Supplier harmless against any claims, damages, losses, liabilities, costs, and expenses (including reasonable legal fees) arising out of or relating to any breach by the Customer of the Hosting and Data Storage Provider Terms; and
  - 1.5.2 the Customer agrees to provide to the Supplier or the Hosting and Data Storage Provider such information and/or materials as reasonably requested by the Supplier or the Hosting and Data Storage Provider to verify the Customer's compliance with the Hosting and Data Storage Provider Terms.
- 1.6 The Customer shall ensure that it maintains at its own cost the continuous operation of the Customer's Comms Links during the Term. The Customer acknowledges and accepts that, whilst the Supplier may provide advice as to how the requirements for the Customer's Comms Links might be met, the Supplier shall have no responsibility or liability for the selection, installation, operation, security, maintenance or suitability of the Customer's Comms Links or the Customer's Environment.
- 1.7 The Customer shall promptly report to the Supplier any failure or likely failure of the Customer's Comms Links of which it becomes aware.
- 1.8 The Supplier agrees to use its reasonable endeavours to utilise such support as is made available to it by its Hosting and Data Storage Provider.
- 1.9 In addition to any other rights set out in these Conditions, the Supplier shall have the right to suspend the Customer's access to the Services immediately upon notice to the Customer if the Supplier or the Hosting and Data Storage Provider determine (in their sole discretion) that:

- 1.9.1 the Customer's use of the Services poses a security risk to the Supplier, the Hosting and Data Storage Provider or any other third party; or
  - 1.9.2 the Customer is in breach of the Hosting and Data Storage Provider Terms or any of its obligations under these Conditions or this Schedule 2 concerning the Hosting and Data Storage Services.
- 1.10 Without prejudice to any of the Supplier's other rights and remedies (including its right to terminate the Contract in accordance with the Conditions), if the Supplier suspends the Customer's right to access or use all or any part of the Services pursuant to paragraph 1.7, the Customer shall remain responsible for all Fees:
  - 1.10.1 incurred during such suspension; and
  - 1.10.2 for in-progress tasks completed after the date of such suspension.

### **SCHEDULE 3**

#### **Configuration Service**

**1 Additional Terms**

- 1.1 No additional terms shall apply to the Configuration Service as at the date of the Contract.

**2 Order of Precedence**

- 2.1 Notwithstanding Condition 2.3, to the extent that any of the additional terms set out in paragraph 1 conflict with the Conditions, the Parties agree that the additional terms set out in paragraph 1 of this Schedule 3 shall, to the extent of the conflict, prevail.