



Standard Terms and Conditions

Software as a Service (SaaS) Agreement GCloud10

Version 1.3.4

March 2018

Agreement Date

THIS AGREEMENT is dated [Date]

Agreement

1. Parties & Purpose

1.1. Parties

1.1.1. THE PROVIDER means FaultFixers Technologies Ltd, a company incorporated in England and Wales (registration number 08328746).

1.1.2. THE CLIENT whose name, address and other details are set out in Schedule 1: Client Details

1.2. Purpose

1.2.1. The Client wishes to offer the Services described below to its Employees and Customers as part of its Customers Services and Repairs Services operations.

1.2.2. FaultFixers is willing to provide the Services on the terms set out in this Agreement.

2. Definitions and Interpretation

The definitions and rules of interpretation apply throughout this Agreement and in the Schedules.

2.1. Definitions

Agreement: means this agreement between the Provider and the Client for the provision of the Services, together with all Schedules and Appendices to it.

Affiliate: means an entity that Controls, is Controlled by, or is under common Control with the relevant entity.

Business Day: means any week day, other than a public or bank holiday in England.

Business Hours: means between 9.30am and 5.30pm GMT on a business day.

Charges: means the amounts payable by the Client to the Provider under the terms or in relation to this Agreement.

Control: means the legal power to control (directly or indirectly) the management of an entity (and 'controlled' will be construed accordingly).

Confidential Information: any confidential or commercially sensitive information imparted to one Party from the other during the Term that is marked 'confidential' or should have been understood by either Party at the time of disclosure to be confidential, as a consequence of entering this Agreement.

Contract Year: the period of 12 months from the Launch Date and each consecutive period of 12 months thereafter during the term of this agreement.

Defect: means a defect error or bug having a materially adverse effect on the appearance, operation or functionality of the Platform, but excluding any defect, error or bug caused by or arising as a result of an act of omission of the Client, or an act or omission of one of the Client's employees, officers, agents, suppliers or sub-contractors.

Document: any document in writing, drawing, map, plan, diagram, design, picture or other image, tape, disk, or other devices or recording embodying information in any form.

Documentation: means the documentation produced by the Provider and made available on the platform to the Client specifying how the Platform should be used.

Employee(s): people who work for the Client in the UK and Ireland. This includes all staff, contractors, employees, pensioners, workers and freelancers to whom the Client wishes to promote the Services.

Faultfixers: is the trading name of Moorcrag Limited, also referred to as faultfixers.com

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, services marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in design rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Launch Date: the date specified in the relevant Schedule or as subsequently agreed by both parties.

Minimum Term: [period].

Permitted Purpose: means the process of managing facilities and property maintenance issues (or other similar uses) through the Platform.

Platform: means the software platform known as faultfixers.com that is owned and operated by the Provider, and that will be made available to the Client as a service via the internet under this Agreement, and as detailed in Schedule 2.

Services: the service or services to be provided by faultfixers under this agreement as set out in Schedule 2.

Support Services: means support and maintenance services provided or to be provided by the Provider to the Client in accordance with this Agreement

Term: the entire duration of this Agreement.

Upgrades: means new version of, and updates to, the Platform, whether for the purpose of fixing an error, bug or other issue in the Platform or enhancing the functionality of the Platform.

User: any Employee of the Client who has applied for and been granted access to the Service.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

2.2 Interpretations

- 2.2.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 2.2.2 The Schedules and any Appendices form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules and Appendices.
- 2.2.3 Words in singular shall include the plural and vice versa.
- 2.2.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 2.2.5 A reference to writing or written excludes faxes and e-mail unless explicitly provided for to the contrary elsewhere in this Agreement.
- 2.2.6 Where the words 'include(s)', 'including' or 'in particular' are used in this Agreement, they are deemed to have the words without limitation following them. Where the context permits, the words 'other' and 'otherwise' are illustrative and shall not limit the sense of the words preceding them.

- 2.2.7 Any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that being done.
- 2.2.8 References to Clauses and Schedules are to the Clauses and Schedules of this Agreement.

3 Commencement and Duration

3.2 Commencement

- 3.2.1 FaultFixers shall provide the Services to the Client on the terms and conditions of this Agreement
- 3.2.2 FaultFixers shall provide the Services to the Client from the Launch Date(s).

3.3 Duration

- 3.3.1 The Services supplied under this Agreement shall be supplied for the duration of the Minimum Term, or until this Agreement is terminated by one of the Parties giving to the other not less than 90 days notice of termination prior to the commencement of a Contract Year.
- 3.3.2 Notice may be given during the Minimum Term but not prior to 3 months before the end of the first complete Contract Year of the Minimum Term, and will be subject to Termination during the Minimum Term Clause 10.2.

4 FaultFixers Obligations

4.2 General

- 4.2.1 FaultFixers shall use all reasonable endeavours to provide the Services in accordance with this Agreement in all material respects.

4.3 Service Level Agreement

- 4.3.1 FaultFixers shall use all reasonable endeavours to provide the Services in accordance with the following service levels and in subject to Clause 12 (ie. Free for yr1, then charge):
- 4.2.1.1 Helpdesk
- FaultFixers will make available, during business hours, a telephone and email helpdesk facility for the purposes of:

- (a) assisting the Client with configuration of the platform/Services prior to and after the Launch Date.
- (b) assisting the Client with the proper use of the platform/Services; and/or
- (c) determining the causes of errors and fixing errors within the Platform/Services.

The Client must make all requests for Support Services through the helpdesk.

4.2.1.2 Response and Resolution time

- (a) 4 hour response time during business hours.
- (b) 24 hour response time outside of core operating hours.
- (c) Webserver availability of 98% measured across any rolling 12 month period excluding scheduled maintenance and emergency preventative maintenance.

4.2.1.3 Maintenance and Upgrades

- (a) The Client acknowledges that from time to time during the Term the Provider may apply Upgrades to the Platform/Services, and that such Upgrades may result in changes to the appearance and/or functionality.
- (b) If emergency preventative maintenance is required including emergency maintenance to, for example, apply a patch or software update then the webserver may be unavailable without prior notice and during core hours.
- (c) The Client acknowledges that faultfixers may sub-contract the provision of any of the Support Services without obtaining the consent from the Client, however whilst ensuring faultfixers obligations regarding Data Protection and Confidentiality are fully maintained.

5. Client Obligations

5.1. General

- 5.1.1 The Client shall co-operate with faultfixers in all matters relating to the Services.
- 5.1.2 The Client shall promote the Services exclusively to its Employees and Users and not sell or provide or permit to be sold or provided access to the Services to any other group or individual.
- 5.1.3 The Client is responsible for obtaining its own advice as necessary as regards to compliance with employment, data protection, tax and other legislation.

- 5.1.4 If faultfixers' performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants, employees or associated groups and individuals, faultfixers shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.

5.2. Payment

- 5.2.1. In the event of the Client being late in making any payment due under the terms of this Agreement then it shall, if duly notified by faultfixers, pay interest at the rate of 4% above the Bank of England Base Rate on any sums outstanding from the date the payment was due to the date cleared funds are in the hands of faultfixers.

6. Intellectual Property

6.1. Faultfixers grants to the Client

- 6.1.1. Faultfixers grants the Client for the Term a UK and Ireland only, royalty-free, non-exclusive, ksdflkmfsdfnt is responsible for obtaining
- 6.1.2. FaultFixers shall use all reasonable endeavours to provide the Services in accordance with this Agreement in all material respects.

6.2. Service Level Agreement

- 6.2.1. FaultFixers shall use all reasonable endeavours to provide the Services in accordance with the following service levels and in subject to Clause 12 (ie. Free for yr1, then charge):
- non-transferrable licence to use any naming, branding, graphics or other intellectual property that is supplied by faultfixers to the Client and which are necessary for the sole purpose of the Client enjoying rights and performing obligations under this Agreement. The Client shall not acquire any rights in or to faultfixers Intellectual Property other than as expressly set out in this Agreement. Faultfixers warrants that it owns the rights such supplied and indemnifies the Client against any action, claim or cost from any third party in protection of or defence of these rights.

6.2. The Client grants to faultfixers

- 6.2.1. The Client grants to faultfixers for the Term a UK and Ireland only, royalty-free, non-exclusive, non-transferrable licence to use any naming, branding,

graphics or other intellectual property that is supplied by the Client or its agents to faultfixers for the purpose of promoting, re-branding or co-branding the Service as necessary for the Client, its Employees and Users to make use of the Service. Faultfixers shall not acquire any rights in or to the Clients Intellectual Property other than as expressly set out in this Agreement. The Client warrants that it owns the rights such supplied and indemnifies faultfixers against any action, claim or cost from any third party in protection of or defence of these rights.

6.3. Supply of Intellectual Property

- 6.3.1. The Parties acknowledge that in supplying Intellectual Property to the other Party the receiving Party is entitled to use the Intellectual Property so supplied within the terms of this Agreement without further reference to the supplying Party.

7. Confidentiality

7.1. Obligations

- 7.1.1. Each Party agrees to keep confidential and not disclose Confidential Information to any person save as expressly permitted by this Clause 7 and protect the Confidential information

Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care and in accordance with relevant legislative laws and standards.

- 7.1.2. Confidential Information may be disclosed by the Provider to its officers, directors, employees, agents, insurers and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information disclosed.

- 7.1.3. The obligations of confidence referred to in this clause shall not apply to any Confidential Information or other information which:

7.1.3.1. is in the possession of and is at the free disposal of the receiving Party or is published or is otherwise in the public domain prior to the receipt of such Confidential Information;

7.1.3.2. becomes publically available on a non-confidential basis through no fault of the receiving Party;

- 7.1.3.3. is received in good faith by the receiving Party from a third party who imposes no obligations of confidence upon the receiving Party
- 7.1.3.4. is in the possession of the recipient Party prior to the disclosure by the disclosing Party;
- 7.1.3.5. is required to be disclosed by law, or by a governmental authority, stock exchange or regulatory body, provided that the providing Party must, where permitted by law, give to the other Party prompt written notice of the disclosure requirement.
- 7.1.4. Neither Party shall make any announcements or public statements about this Agreement or its terms without the prior written consent of the other Party. For the purposes of this clause only, written is deemed to include email.
- 7.1.5. The obligations of the Parties under this clause shall continue after the expiry of the termination of this Agreement for whatever reason.

8. Liability

7.2. General

- 7.2.1. Faultfixers provides, and the Client accepts that the Service is on an “as it” and “as available” basis. Faultfixers shall use all reasonable commercial endeavours to maximise the availability of the Service. However, the Client acknowledges that such access may occasionally be interrupted by scheduled downtime or for technical reasons beyond Faultfixers control. All implied warranties and conditions are hereby excluded to the maximum extent permissible by law.
- 7.2.2. Under no circumstances will on Party be liable to the other for any indirect or consequential loss including, without limitation, loss of profits, business, production, revenue, goodwill, anticipated savings, corruption of any data or any other kind of indirect special or consequential loss or damage, wasted expenditure or loss of data unless explicitly provided for elsewhere in this Agreement.
- 7.2.3. In the event of a breach of contract or obligations, FaultFixers liability will be limited to rectifying that breach, where such rectification is possible, within a reasonable period after notification, to be not less than 30 days. This limitation of liability excludes any liability for death or personal injury arising as a result of faultfixers’ negligence or the negligence of its agents.
- 7.2.4. Other than personal injury or death caused by a Party’s negligence, (for which no limit applies), one Party’s maximum aggregate liability to the other Party shall be limited to one quarter of the Annual Rental, calculated as 25%

multiplied by the Minimum Term annual pricing, paid by the Client to faultfixers.

- 7.2.5. Faultfixers warrants that it has acquired and will continue to hold throughout the Term all rights, consents and licences necessary for the use of the Service in accordance with this Agreement; and it will operate the Service in accordance with all relevant legislation and regulation including without limitation the Data Protection Act 1998, the Consumer Protection (Distance Selling) Regulations 2000 and the British Codes of Advertising and Sales Promotion.
- 7.2.6. Each Party warrants to the other that:
 - 7.2.6.1. it has the right and corporate authority to enter into this Agreement and has all necessary rights to perform its obligations under this Agreement;
 - 7.2.6.2. entry into this Agreement does not breach any other Agreement to which it is Party; and
 - 7.2.6.3. it owns or is licenced to use all Intellectual Property rights in and to all materials and content provided to the other Party hereunder.
- 7.2.7. Faultfixers agrees to indemnify the Client and keep it indemnified at all times against all claims, proceedings, demands, damages, liabilities and costs arising out of any breach by the Client of its warranties above.
- 7.2.8. The Client agrees to indemnify FaultFixers and keep it indemnified at all times against all claims, proceedings, demands, damages, liabilities and costs arising out of any breach by the Client of its warranties above.
- 7.2.9. Notwithstanding any provisions of this Agreement, neither Party excludes or limited liability to the other for death or personal injury caused by its own negligence, fraud or fraudulent misrepresentation by that Party, and any other liability the exclusion or limitation of which is prohibited by law.

8. Data Protection

8.1. General

- 8.1.1. The Client acknowledges and agrees that details of the Client's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of Faultfixers in connection with the provision of the Services.

- 8.1.2. For the purposes of this Agreement, the terms "Personal Data", "Processing", "Data Subject

Subject", "Data Processor", "Data Controller" shall have the same meaning as defined in the Data Protection Act 1998.

- 8.1.3. Faultfixers accepts and agrees that when acting as the Data Processor or Data Controller of Personal Data howsoever obtained it will act in accordance with its responsibilities and legal obligations under the Data Protection Act.
- 8.1.4. The Client acknowledges that as part of its performance of the Service, FaultFixers will need to process and control Personal Data relating to its Employees and Users.
- 8.1.5. Faultfixers is the owner of the data supplied to it by employees in performance of the Service.

8.2. Faultfixers obligations

- 8.2.1. Faultfixers agrees:

- 8.2.1.1. to process Personal Data only for the purposes of performing the Services;
- 8.2.1.2. to restrict access to Personal Data to those of its employees who need such access in relation to its performance of the Services and to take steps to ensure the reliability of those employees and users as regards to the processing of Personal Data including providing data protection training for its employees;
- 8.2.1.3. not to disclose any Personal Data to any other party except to the extent:
- (a) required for the supply of relevant services by its sub-contractors; and
 - (b) required by law, provided that Faultfixers notifies the Client of such required disclosure and provides the Client with the opportunity to object to such disclosure or to defend against a third party demand that such disclosure be made.

- 8.2.2. Faultfixers shall, upon notice by the Client at any time:

- 8.2.2.1. provide to the Client at the reasonable cost of the Client such reasonable information

Information and/or documentation requested by the Client relating to faultfixers processing of Personal Data and compliance with its obligations; and

- 8.2.2.2. allow the authorised representatives of the Client to enter its premises during normal business hours to inspect its procedures and operations as regards to the processing of Personal Data for the purposes of monitoring faultfixers' compliance with its obligations under this Agreement.

8.3. Client's obligations

- 8.3.1. The Client warrants that its transfer of any Personal Data to faultfixers is fair and lawful in accordance with the Data Protection Laws.
- 8.3.2. The Client shall indemnify faultfixers for any and all loss, costs, claims, demands, fines, penalties, damages, expenses, or other liability suffered or incurred by faultfixers or its permitted sub-contractors in respect of or arising out of a breach by the Client of any of its obligations or warranties.

9. Termination

9.1. General

- 9.1.1. Without prejudice to any other rights or remedies which the Parties may have, either Party may terminate this Agreement without liability to the other, subject to clause 10.2, on giving the other not less than 90 days' written notice if:
 - 9.1.1.1. the other Party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 28 days after being notified in writing to make such payment; or
 - 9.1.1.2. the other Party commits a breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
 - 9.1.1.3. the other Party repeatedly breaches any of the terms of this Agreement 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 this Agreement; or

- 9.1.1.4. the other Party suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
- 9.1.1.5. the other Party commences negotiations with all, or any class or, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with, its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies, or the solvent reconstruction of that other Party; or
- 9.1.1.6. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other Party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies, or the solvent reconstruction of that other Party; or
- 9.1.1.7. an application is made to the court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other Party; or
- 9.1.1.8. a floating charge holder over the assets of that other Party has become entitled to appoint, or has appointed, an administrative receiver; or
- 9.1.1.9. a person becomes entitled to appoint a receiver over the assets of the other Party, or a receiver is appointed over the assets of the other Party; or
- 9.1.1.10. a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- 9.1.1.11. any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this clause; or

- 9.1.1.12. the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

9.2. Termination during the Minimum Term

- 9.2.1. The Client may give no less than 90 days notice to terminate this Agreement during the Minimum Term but not prior to 90 days before the end of the first complete Contract Year of the Minimum Term.
- 9.2.2. The Client agrees and acknowledges that:
 - 9.2.2.1. by subscribing to the terms of this Agreement they are benefitting in the receipt of the lowest available rental charge, as set out in Schedule 2, in exchange for their commitment to receive the Services for the duration of the Minimum Term.
 - 9.2.2.2. the lowest available rental charge is agreed between both Parties on the basis that the Client continues to subscribe for the Services from faultfixers for the duration of the minimum term
 - 9.2.2.3. if no less than 90 day's notice is given to the Provider, but no earlier than 90 days before the end of the first complete Contract Year, the Client may be liable for a rental charge differential, calculated as:
 - (a) the respective Default Monthly Rental Per Tag based on the effective contract rental term (per Schedule 2: Clause 3.2) multiplied by the average number of Active Location Tags across the period from Launch Date to Notice of Termination, multiplied by the total number of completed months across the period from Launch Date to effective date of Termination (rounding up to the nearest whole month), less rental payments received from the Client to date.
 - 9.2.2.4. Beneficial discounts provided to the Client shall be forfeited.

9.3. On termination

- 9.3.1. On termination of this Agreement for any reason:
 - 9.3.1.1. The Client shall immediately pay to faultfixers all of faultfixers' outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, faultfixers

may submit an invoice, which shall be payable immediately on receipt; and

9.3.1.2. The accrued rights and obligations and liabilities of the Parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

9.3.2. On termination of this Agreement (however arising) the following clauses shall survive and continue in full force and effect:

9.3.2.1. clause 5.2 "Client obligations – payment"

9.3.2.2. clause 9 "Data Protection";

9.3.2.3. clause 7 "Confidentiality";

9.3.2.4. clause 20 "Governing law and jurisdiction"

10. Force Majeure

10.1. General

10.1.1. A Party, provided that it has complied with the provisions of this clause, shall not be in breach of this Agreement, nor liable for any failure or delay in performance or any obligations under this Agreement (and, subject to this clause, the time for performance of the obligations shall be extended accordingly) arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (Force Majeure Event), including but not limited to any of the following:

10.1.1.1. Fire, flood, earthquake, windstorm or other natural disaster;

10.1.1.2. War, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;

10.1.1.3. Terrorist attack, civil war, civil commotion or riots;

10.1.1.4. Nuclear, chemical or biological contamination or sonic boom;

10.1.1.5. Voluntary or mandatory compliance with any law (including a failure to grant any licence or consent needed or any change in the law or interpretation of the law);

10.1.1.6. Explosion or accidental damage;

10.1.1.7. Adverse weather conditions;

- 10.1.1.8. Collapse of building structures, failure of plant machinery, machinery, computers or vehicles;
- 10.1.1.9. Any labour dispute, including but not limited to strikes, industrial action or lockouts;
- 10.1.1.10. Interruption or failure of utility service, including but not limited to electric power, gas or water.
- 10.1.2. The corresponding obligations of the other Party will be suspended to the same extent.
- 10.1.3. Any Party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that it:
 - 10.1.3.1. Promptly notifies the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
 - 10.1.3.2. Could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
 - 10.1.3.3. Has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.
- 10.1.4. If the Force Majeure Event prevails for a continuous period of more than 3 months, either Party may terminate this Agreement by giving 7 days' written notice to the other Party. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to the rights of the Parties in respect of any breach of this Agreement occurring prior to such termination.

11. Variation

11.1. General

- 11.1.1. No variations of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

12. Waiver

12.1. General

- 12.1.1. Failure to exercise, or any delay, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.
- 12.1.2. No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the exercise of any such right or remedy.
- 12.1.3. A waiver (which may be given subject to conditions) of any right or remedy provided under this Agreement or by law shall only be effective if it is in writing and shall apply only to the Party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the Party who has given the waiver from subsequently relying on the right or remedy in other circumstances.
- 12.1.4. A Party that waives a right or remedy provided under this Agreement or by law in relation to another Party, or takes or fails to take any action against that Party, does not affect its rights in relation to any other right or remedy.
- 12.1.5. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

13. Severance

13.1. General

- 13.1.1. If any provision in this agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected, and the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable

14. Entire Agreement

14.1. General

14.1.1. This Agreement constitutes the whole agreement between the Parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

14.1.2. Each Party acknowledges that, entering into this Agreement it does not rely on any statement, representation, assurance or warranty (Representation) of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement. Each Party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract as expressly provided in this Agreement. Nothing in this clause shall limit or exclude any liability for fraud.

15. No Partnership or Agency

15.1. General

15.1.1. Nothing in this Agreement is intended to, or shall operate to, create a partnership between the Parties, or to authorise either Party to act as agent for the other, and neither Party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making or any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

16. Rights of Third Parties

16.1. General

16.1.1. A person who is not a party to this Agreement shall not have any rights under or in connection with it.

17. Notices

17.1. General

- 17.1.1. A notice or other communication given to a Party under or in connection with this Agreement shall be:
 - 17.1.1.1. In writing in English
 - 17.1.1.2. Clearly marked with the words 'Notice in Connection with Contractual Agreement'
 - 17.1.1.3. Signed by or on behalf of the Party giving it
 - 17.1.1.4. Sent for the attention of the person, to the address specified in this Clause (or to such other address or person as that Party may notify to the other, in accordance with the provisions of this Clause); and shall be:
 - 17.1.1.5. Delivered personally; or
 - 17.1.1.6. Sent by commercial courier; or
 - 17.1.1.7. Sent by pre-paid first class post or recorded delivery

17.2. Delivery

- 17.2.1. The addresses for service of a notice (or other communication) for faultfixers are as follows:
 - 17.2.1.1. FAO: faultfixers CEO, 35B Ramsden Road, London, SW12 8QX
 - 17.2.1.2. FAO: faultfixers CEO, Ingelby Global, North Block, The Courtyard, 17 West St, Farnham, GU9 7DR
- 17.2.2. The addresses for service of a notice (or other communications) for the Client are as set out in Schedule 1.
- 17.2.3. If a notice or other communication has been properly sent or delivered in accordance with this Clause, it will be deemed to have been received as follows:
 - 17.2.3.1. If delivered personally, at the time of delivery; or
 - 17.2.3.2. If delivered by commercial courier, at the time of signature of the courier's receipt; or
 - 17.2.3.3. If sent by pre-paid first-class post or recorded delivery, when the serving Party has confirmed with the receiving Party by telephone that it has been received.

17.2.4. For the purposes of this Clause:

17.2.4.1. All times are to be read as local time in the place of deemed receipt; and

17.2.4.2. If deemed receipt under this Clause is not within Business Hours, the notice or other communication is deemed to have been received when business next starts in the place of receipt.

17.2.5. The provisions of this Clause shall not apply to the services of any process in any legal action or proceedings.

18. Dispute Resolution

18.1. General

18.1.1. If any dispute in connection with this Agreement, faultfixers and the Client shall, within 10 working days of a written request from one Party to the other, meet in good faith effort to resolve the dispute.

18.1.2. If the dispute is not resolved at that meeting, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator will be nominated by CEDR. To initiate the mediation, a party must give notice in writing (ADR notice) to the other party requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than 28 days after the date of the ADR notice.

18.1.3. The commencement of a mediation will not prevent the Parties commencing or continuing court proceedings.

19. Governing Law and Jurisdiction

19.1. Conditions

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

- 19.1.2. 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 this agreement or its subject matter or formation (including non-contractual disputes or claims).

20. Additional Terms

20.1. General

- 20.1.1. The Client grants to faultfixers during the Term a non-exclusive licence to store, copy and otherwise use the materials uploaded to, stored on, processed using or transmitted via the platform/Service by or on behalf of the Client, for the purposes of operating the platform, providing the Services, fulfilling its other obligation under the Agreement.
- 20.1.2. The Client hereby agrees that the Provider may freely assign any or all of its contractual rights and/or obligations under the Agreement to any Affiliate of the assigning party or any successor to all or a substantial part of the business of the assigning party from time to time. Save as expressly provided in this Clause or elsewhere in the Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any contractual rights or obligations under the Agreement

Schedule 1: Client Details

Name of Company or Organisation			
Registered Office			
Address if invoices (if different)			
Company Number			
Phone Number			
Fax (if applicable)			
Name of Primary Contact			
Email for Primary Contact			
Phone Number for Primary Contact			
Alternative Contact Details			
Is Purchase Order (PO) required?			
Number of Location Tags operational at Launch date (Active Location Tags)	[4,500 example]		
Rental Payment Option	Monthly Rental	Annual Rental	Total Contract Rental
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Schedule 2: The Services and Platform

1. Operation of the Service and Platform

In addition to the interpretations and definitions in section 1 of this Agreement, in this part of the Schedule the definitions below apply

1.1 Additional Definitions

Active Location Tag(s): means the number of operational and deployed Location Tags across the Client's estate for use with the faultfixers Services and Platform.

Annual Rental: means the Monthly Rental multiplied by 12 months (for the period of 1 complete Contract Year), after taking account of the Annual Rental Discount.

Annual Rental Discount: means the discount in percentage points to the annualised Monthly Rental, that is available to the Client if they subscribe to the Annual Rental Payment Option.

Annual Rental Payment Option: means the Client agrees to pay Annual Rentals in advance to faultfixers, prior to the Launch Date or Contract Year anniversary.

Location Tags: means the physical mobile-readable codes specific to each Client location as entered into the Platform during the Platform setup or subsequently added to the Platform, and deployed across the Client estate.

Monthly Rental Per Tag: means the respective rental cost of an individual Location Tag per month.

Monthly Rental: means the respective Monthly Rental Per Tag multiplied by the number of Active Location Tags.

Relevant Rental: means the payment option that the Client subscribes to, either being the Monthly Rental, Annual Rental or Total Contract Rental.

Total Contract Rental: means the Annual Rental multiplied by the Minimum Term, after taking account of the Total Contract Rental Discount.

Total Contract Rental Discount: means the discount in percentage points applied to the Annual Rental multiplied by the Minimum Term, that is available to the Client if they subscribe to the Total

Contract Rental Payment Option.

Total Contract Rental Payment Option: means the Client agrees to pay the Total Contract Rental in advance to faultfixers, prior to the Launch Date.

1.2 General

- 1.2.1 For the avoidance of doubt, the Client has no right to access the object code or source code of the Platform, either prior to during or after the Minimum Term.

2. Operation of the Service and Platform

2.1 Faultfixers' obligations

- 2.1.1 Faultfixers will provide the Client with a tailored account and full access to the faultfixers.com cloud-based platform, enabling the Client to benefit from the facilities and property maintenance, customer support and communication services, on the terms of this Agreement.
- 2.1.2 Faultfixers will configure and host the Platform tailored to the Client's needs in terms of logo's and creating the required building, location, location type, asset type and fault category infrastructure pre-populated. Any bespoke domain names registered by and paid for by faultfixers will remain the property of faultfixers at all times.
- 2.1.3 Subject to the prohibitions set out in Schedule 2 Clause 1.3.4., faultfixers grants to the Client a non-exclusive licence to use the Platform for the Permitted Purpose (meaning the process of managing property and facilities maintenance issues through the Platform) via any standard web browser in accordance with the Documentation during the Minimum Term.
- 2.1.4 Faultfixers will provide a helpdesk for enquiries from Employees and Users of the Platform. Communication from the Client to Employees and Users will direct them to this helpdesk for enquiries about the service, as detailed in Clause 4.2 of this Agreement.
- 2.1.5 Faultfixers will provide the Client with secure access to an online administrative console allowing the Client to add, edit, remove any Users it requires to gain access to the Platform. The administrative console will also allow the Client to add, edit and remove various levers of user rights and permission to securely enable various groups of Employees various views and restricted access in and around the platform as the Client so chooses.

2.2 The Client's obligations

- 2.2.1 The Client will use the online administrative console to ensure that all Employees and Users whom are given access to the Platform's Services and functionality are authorised individuals or group with the appropriate level of user permissions to access the Platform and the various tailored areas within the Platform. No failure of this arrangement will make faultfixers liable in any

way, whatsoever for damages to the Client caused by the inappropriate access of unauthorised users.

- 2.2.2 The Client may not grant access to the Platform and its Services to any other persons other than the Employees and Users outside of the platforms in-built user authentication facility.
- 2.2.3 The Client warrants that Schedule 1 is a fair and accurate statement of the number of location tags required by the Client on the Launch Date.
- 2.2.4 The licence granted by faultfixers to the Client under Schedule 2 Clause 1.2.3. is subject to the following prohibitions, except to the extent mandated by applicable law or expressly permitted in the Agreement:
 - 2.2.4.1 The Client must not sub-licence its rights to access and use the Platform or allow any unauthorised person to access or use the Platform;
 - 2.2.4.2 The Client must not frame or otherwise re-publish or re-distribute the platform; and
 - 2.2.4.3 The Client must not alter or adapt or edit the Platform save as expressly permitted in the Documentation.
- 2.2.5 The Client must not use the Platform in any way that causes, or may cause, damage to the Platform or impairment of the availability or accessibility of the Platform, or any of the areas of, or Services on, the Platform.
- 2.2.6 The Client must not use the Platform:
 - 2.2.6.1 in any way that is unlawful, illegal, fraudulent or harmful; or
 - 2.2.6.2 in connection with any unlawful, illegal, fraudulent, or harmful purpose or activity.

3. Fees and Payment

3.1 General

- 3.1.1 Increases to the Monthly Rental and Annual Rental are capped at 5% per Contract Year during the Minimum Term.
- 3.1.2 Faultfixers will charge VAT at the rate in force on the invoice date.

- 3.1.3 Faultfixers will invoice the Client for the Relevant Rental (Monthly Rental, Annual Rental or Total Contract Rental) plus the Setup Fee within 30 days of the date of this Agreement.
- 3.1.4 The Client agrees to pay the Setup Fee and the Relevant Rental prior to the Launch Date.
- 3.1.5 The Client will pay all valid invoices in full within 30 days of the date of invoice. The provision of service will not commence until the first year invoice is paid and may be withdrawn or suspended if invoices in future years are not paid within 30 days of the invoice date.
- 3.1.6 Should the number of location tags in operation increase beyond the figure stated in Schedule 1, or as subsequently agreed by both Parties, at any time, and that increase be reasonably believed to be sustained for a period exceeding 30 days, then the Client will notify faultfixers of the revised number of location tags. In this case, the Client agrees to pay a supplementary invoice equal to:
 - 3.1.6.1 The increase in the number of location tags multiplied by the relevant monthly tag rental multiplied by the number of whole months remaining until the anniversary of the Launch Date.
- 3.1.7 Invoices for each Contract Year will be based on the number of Location Tags that are active in the Client's account in the Platform as identified by faultfixers at the start of a Contract Year.
- 3.1.8 All fees and charges stated in or in relation to this Agreement are stated exclusive of VAT, unless the context requires otherwise. The Client acknowledges that VAT will be payable to faultfixers in addition to the principal amounts.
- 3.1.9 In the event of the Client being late in making any payment due under the terms of this Agreement then it shall, if duly notified by faultfixers, pay interest at the rate of 4% above the Bank of England Base Rate on any sums outstanding from the date the payment was due to the date cleared funds are in the hands of faultfixers.
 - 3.1.9.1 the increase in the number of Active Location Tags multiplied by the relevant Monthly Rental Per Tag multiplied by, if on an Annual Rental basis, the number of whole months remaining until the anniversary of the Launch Date, or if on a Total Contract payment basis, the number of whole months remaining until the end of the Minimum Term.
- 3.1.10 Invoices for each Contract Year will be based on the number of Location Tags that are active in the Client's account in the Platform as identified by faultfixers

at the start of a Contract Year, with rental charges based on costings in Schedule 2: Clause 3.2.

- 3.1.11 All fees and charges stated in or in relation to this Agreement are stated exclusive of VAT, unless the context requires otherwise. The Client acknowledges that VAT will be payable to faultfixers in addition to the principal amounts.
- 3.1.12 In the event of the Client being late in making any payment due under the terms of this Agreement then it shall, if duly notified by faultfixers, pay interest at the rate of 4% above the Bank of England Base Rate on any sums outstanding from the date the payment was due to the date cleared funds are in the hands of faultfixers.
- 3.1.13 The Client acknowledges and accepts that the costs outlined in the Costs Tables 3.2 are variable and subject to change based on variable inputs such as Rental Payment Option and number of Active Location Tags, which are all subject to change throughout the Minimum Term, and that final invoice values may be greater or less than as indicated in Costs Tables 3.2.
- 3.1.14 Eligibility for the Annual Rental Discount or the Total Contract Rental Discount is only valid if the Client makes all payments in accordance with the terms of this Agreement.
- 3.1.15 Subject to the supplementary rental calculation outlined in Clause 10.2.2.3 (a), if the final balance is negative and a rebate payment is due from faultfixers to the Client, the Client acknowledges and agrees to receive a 90 day payment term from the date of effective Termination.

Schedule 3: Signed

For and on behalf of faultfixers

Signature	
Name	
Position / Job Title	
Date	

For and on behalf of the Client

Signature	
Name	
Position / Job Title	
Date	