

**SyntheSys Systems Engineers Ltd. Software as a Service
Terms and Conditions**

Please read these terms and conditions carefully, as they set out our and your legal rights and obligations in relation our CloudbaSE platform and services. You will be asked to agree to these terms and conditions before becoming a customer. If you have any questions or complaints about our services, please contact us by writing to The Business Services Manager, SyntheSys Systems Engineers Limited, St. Hilda's Business Centre, The Ropery, Whitby, North Yorkshire YO22 4ET or by email to cloudba@synthesys.co.uk.

1. Definitions and Interpretation

1.1 In the Agreement:

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

"Agreement" means the agreement between the Provider and the Customer for the provision of the Platform as a service, incorporating these terms and conditions (including the Schedules) and the Statement of Services, and any amendments to the Agreement from time to time;

"Application" means the software application supplied by the Provider to the Customer (called CloudbaSE) for the purpose of enabling the Customer to access and use the Platform;

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

"Business Hours" means between 09:00 and 17:00 on a Business Day;

"CCN" means a Change Control Notice issued in accordance with Clause [8], which may be in the form specified in Schedule [4];

"CCN Consideration Period" means the period of 5 Business Days following the receipt of a CCN sent by the other party;

"Change" means any change to the terms of the Agreement;

"Charges" means the amounts payable by the Customer to the Provider under or in relation to the Agreement (as set out in Schedule [2]);

"Confidential Information" means the Customer Confidential Information and the Provider Confidential Information;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and **"Controlled"** will be construed accordingly);

"Customer" means the customer specified in the Statement of Services;

"Customer Confidential Information" means

- (a) any information disclosed (whether disclosed in writing, orally or otherwise) by the Customer to the Provider during the Term that is marked as "confidential", described as "confidential" or should have been understood by the Provider at the time of disclosure to be confidential;
- (b) the financial terms and conditions of the Agreement;
- (c) the Customer Materials;

"Customer Indemnity Event" has the meaning given to it in Clause [10.1];

"Customer Materials" all works and materials:

- (a) uploaded to, stored on, processed using or transmitted via the Platform or Application by or on behalf of the Customer or by any person or application or automated system using the Customer's account; and
- (b) otherwise provided by the Customer to the Provider in connection with the Agreement;

"Customer Representatives" means the person or persons identified as such in the Statement of Services;

"Customisations" means customisations to the Platform that the Provider and Customer agree the Provider will produce on behalf of the Customer;

"Defect" means a defect, error or bug having an 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:

- (a) an act or omission of the Customer, or an act or omission of one of the Customer's employees, officers, agents, suppliers or sub-contractors; or
- (b) an incompatibility between the Platform and any other system, application, program or software not specified as compatible in the Statement of Services;

"Documentation" means the documentation produced by the Provider and supplied to the Customer specifying how the Platform and Application should be used;

"Effective Date" means the date of execution of the Agreement;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or problems with the internet or a part of the internet, hacker attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility

models, semi-conductor topography rights and rights in designs);

"Minimum Term" means the period specified as such in the Statement of Services;

"Permitted Purpose" means the Provider operates the Platform and provides the Support Services and the Customer is granted access to the Platform and receives the Support Services;

"Personal Data" has the meaning given to it in the Data Protection Act 1998;

"Platform" means the software platform known as CloudbaSE that is owned and operated by the Provider, and that will be made available to the Customer as a service via the internet under the Agreement;

"Provider" means SyntheSys Systems Engineers Limited, a company incorporated in England and Wales (registration number 2204802 having its registered office at 62/63 Westborough, Scarborough, North Yorkshire YO11 1TS;

"Provider Confidential Information" means:

- (a) any information disclosed (whether disclosed in writing, orally or otherwise) by the Provider to the Customer during the Term that is marked as "confidential", described as "confidential" or should have been understood by the Customer at the time of disclosure to be confidential;
- (b) the financial terms and conditions of the Agreement;

"Provider Indemnity Event" has the meaning given to it in Clause [10.3];

"Provider Representatives" means the person or persons identified as such in the Statement of Services;

"Representatives" means the Customer Representatives and the Provider Representatives;

"Schedule" means a schedule attached to the Agreement;

"Services" means all the services provided or to be provided by the Provider to the Customer under the Agreement, including the Support Services;

"Statement of Services" means the document agreed between the parties that specify the identity of the Customer, and other matters relating to the Agreement;

"Support Services" means support and maintenance services provided or to be provided by the Provider to the Customer in accordance with Schedule [1];

"Term" means the term of the Agreement; and

"Upgrades" means new versions 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.

1.2 In the Agreement, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

1.3 The Clause headings do not affect the interpretation of the Agreement.

2. Agreement and Term

The Agreement will come into force on the Effective Date and will continue in force until [date], upon which it will terminate automatically, unless terminated earlier in accordance with Clause [14].

3. The Platform

3.1 The Provider will make available the Platform to the Customer by setting up an account for the Customer on the Platform, and providing to the Customer login details for that account within 3 Business Days following the Effective Date.

3.2 Subject to the limitations set out in Clause [3.3] and the prohibitions set out in Clause [3.4], the Provider hereby grants to the Customer a non-exclusive licence to use the Platform for the Permitted Purpose via the Application or via any standard web browser or via installed client in accordance with the Documentation during the Term.

3.3 The licence granted by the Provider to the Customer under Clause [3.2] is subject to the following limitations:

- (a) the Platform must not be used at any point in time by more than the number of concurrent users specified in the Statement of Services, providing that the Customer may add or remove concurrent user licences in accordance with the procedure set out therein;
- (b) the Platform may only be used by the employees, agents and sub-contractors of the Customer and:
 - (i) where the Customer is a company, the Customer's officers;
 - (ii) where the Customer is a partnership, the Customer's partners; and
 - (iii) where the Customer is a limited liability partnership, the Customer's members;
- (c) the Customer must comply at all times with the terms of the acceptable use policy set out in Schedule [3], and must ensure that all users of the Platform agree to and comply with the terms of that acceptable use policy.

3.4 Except to the extent mandated by applicable law or expressly permitted in the Agreement, the licence granted by the Provider to the Customer under this Clause [3] is subject to the following prohibitions:

- (a) the Customer must not sub-license its right to access and use the Platform or allow any unauthorised person to access or use the Platform;
- (b) the Customer must not frame or otherwise re-publish or re-distribute the Platform;
- (c) the Customer must not alter or adapt or edit the Platform.

3.5 For the avoidance of doubt, the Customer has no right to access the object code or source code of the Platform, either

during or after the Term.

3.6 All Intellectual Property Rights in the Platform shall, as between the parties, be the exclusive property of the Provider.

3.7 The Customer shall ensure that no unauthorised person will or could access the Platform using the Customer's account.

3.8 The Customer 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.

3.9 The Customer must not use the Platform:

- (a) in any way that is unlawful, illegal, fraudulent or harmful; or
- (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

4. The Application

4.1 The Provider will within [3] Business Days following the Effective Date make available to the Customer a copy or copies of the Application.

4.2 The use of the Application shall be subject to the following licensing terms:

- (a) the Customer may only use the Application for the Customer's business purposes;
- (b) the Customer must not:
 - (i) copy or reproduce Application or any part of the Application other than in accordance with the licence granted in this Clause [4];
 - (ii) sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Application or any part of the Application;
 - (iii) modify, alter, adapt, translate or edit, or create derivative works of, the Application or any part of the Application;
 - (iv) reverse engineer, decompile, disassemble the Application or any part of the Application (except as mandated by applicable law);
 - (v) use the Application other than in accordance with the Documentation; or
 - (vi) circumvent or remove or attempt to circumvent or remove the technological measures applied to the Application for the purposes of preventing unauthorised use.

4.3 All Intellectual Property Rights in the Application shall, as between the parties, be the exclusive property of the Provider.

4.4 The Customer shall be responsible for the security of the Customer's copies of the Application, and will use all reasonable endeavours to ensure that access to the Application is restricted to persons authorised to use it.

5. Support Services and Upgrades

5.1 During the Term the Provider will provide the Support Services to the Customer, and may apply Upgrades to the Platform, in accordance with the service level agreement set out in Schedule [1].

5.2 The Provider may sub-contract the provision of any of the Support Services without obtaining the consent of the Customer.

6. Customer Materials

6.1 The Customer grants to the Provider during the Term a non-exclusive licence to store, copy and otherwise use the Customer Materials on the Platform for the purposes of operating the Platform, providing the Services, fulfilling its other obligations under the Agreement, and exercising its rights under the Agreement.

6.2 Subject to Clause [6.1], all Intellectual Property Rights in the Customer Materials will remain, as between the parties, the property of the Customer.

6.3 The Customer warrants and represents to the Provider that the Customer Materials, and their use by the Provider in accordance with the terms of the Agreement, will not:

- (a) breach any laws, statutes, regulations or legally-binding codes;
- (b) infringe any person's Intellectual Property Rights or other legal rights; or
- (c) give rise to any cause of action against the Provider or the Customer or any third party,

in each case in England and Wales and under English law.

6.4 Where the Provider reasonably suspects that there has been a breach by the Customer of the provisions of this Clause [6], the Provider may:

- (a) delete or amend the relevant Customer Materials; and/or
- (b) suspend any or all of the Services and/or the Customer's access to the Platform while it investigates the matter.

6.5 Any breach by the Customer of this Clause [6] will be deemed to be a material breach of the Agreement for the purposes of Clause [14].

7. Charges

7.1 The Provider will issue invoices for the Charges to the Customer in accordance with the provisions of Schedule [2].

7.2 The Customer will pay the Charges to the Provider within [30] days of the date of issue of an invoice issued in accordance

with Clause [7.1].

7.3 All Charges stated in or in relation to the Agreement are stated exclusive of VAT, unless the context requires otherwise. VAT will be payable by the Customer to the Provider in addition to the principal amounts.

7.4 Charges must be paid by bank transfer using such payment details as are notified by the Provider to the Customer from time to time.

7.5 If the Customer does not pay any amount properly due to the Provider under or in connection with the Agreement, the Provider may:

- (a) charge the Customer interest on the overdue amount at the rate of 4% per year above the base rate of Barclays Bank Plc from time to time (which interest will accrue daily and be compounded quarterly); or
- (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

7.6 The Provider may vary the Charges payable under Paragraphs 2 of Schedule [2] by giving to the Customer not less than 30 days' written notice of the variation.

7.7 The Provider may suspend access to the Platform and the provision of the Services if any amounts due to be paid by the Customer to the Provider under the Agreement are overdue by more than 30 days.

8. Change Control

8.1 The provisions of this Clause [8] apply to all Changes requested by a party.

8.2 Either party may request a Change at any time.

8.3 When requesting a Change, the requesting party will notify the other party and provide a CCN (which may be in the form specified in Schedule [4]). The CCN will set out (as a minimum):

- (a) details of the impact on the Services;
- (b) details of any additional resources expected to be required as a result of the Change; and
- (c) details of any variation to the Charges consequent upon the Change.

8.4 The other party will consider any proposed Change within the CCN Consideration Period.

8.5 Either party may:

- (a) accept or reject a CCN issued by the other party;
- (b) request further information concerning any aspect of a CCN issued by the other party; and/or
- (c) request amendments to a CCN issued by the other party.

8.6 Following agreement of a CCN, each party will confirm its agreement to the CCN by:

- (a) signing a copy of the CCN and sending the signed CCN to the other party; or
- (b) otherwise sending its written acceptance of the CCN to the other party.

8.7 Until a CCN recording a proposed Change has been signed or agreed in writing by each party, the proposed Change will not take effect.

9. Warranties

9.1 The Customer warrants and represents to the Provider that it has the legal right and authority to enter into and perform its obligations under the Agreement.

9.2 The Provider warrants and represents to the Customer:

- (a) that it has the legal right and authority to enter into and perform its obligations under the Agreement;
- (b) that it will perform its obligations under the Agreement with reasonable care and skill;
- (c) that the Platform will perform in accordance with the Documentation;
- (d) that the Platform will be hosted in accordance with the requirements set out in the Statement of Services, and will be available to the Customer in accordance with the uptime commitments given in Schedule [1];
- (e) the Platform (excluding for the avoidance of doubt the Customer Materials) will not:
 - (i) breach any laws, statutes, regulations or legally-binding codes;
 - (ii) infringe any person's Intellectual Property Rights or other legal rights; or
 - (iii) give rise to any cause of action against the Provider or the Customer or any third party,

in each case in England and Wales and under English law; and

9.3 The Customer acknowledges that:

- (a) complex software is never wholly free from defects, errors and bugs, and the Provider gives no warranty or representation that the Platform will be wholly free from such defects, errors and bugs;
- (b) the Provider does not warrant or represent that the Platform will be compatible with any application, program or software (other than the Application) not specifically identified as compatible in the Statement of Services ; and
- (c) the Provider will not and does not purport to provide any legal, taxation or accountancy advice under the Agreement or in relation to the Platform.

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

10. Indemnities

10.1 Subject to the Provider's compliance with Clause [10.2], the Customer will indemnify and will keep indemnified the Provider against all liabilities, damages, losses, costs and expenses (including legal expenses and amounts paid in settlement of any disputes) suffered or incurred by the Provider and arising as a result of any breach by the Customer of Clause [6.3] (a "**Customer Indemnity Event**").

10.2 The Provider will:

- (a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;
- (b) provide to the Customer reasonable assistance in relation to the Customer Indemnity Event;
- (c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements relating to the Customer Indemnity Event; and
- (d) not admit liability in connection with the Customer Indemnity Event or settle the Customer Indemnity Event without the prior written consent of the Customer.

10.3 Subject to the Customer's compliance with Clause [10.4], the Provider will indemnify and will keep indemnified the Customer against all liabilities, damages, losses, costs and expenses (including legal expenses and amounts paid [upon legal advice] in settlement of any disputes) suffered or incurred by the Customer and arising as a result of any breach by the Provider of Clause [9.2(e)] (a "**Provider Indemnity Event**").

10.4 The Customer will:

- (a) upon becoming aware of an actual or potential Provider Indemnity Event, notify the Provider;
- (b) provide to the Provider reasonable assistance in relation to the Provider Indemnity Event;
- (c) allow the Provider the exclusive conduct of all disputes, proceedings, negotiations and settlements relating to the Provider Indemnity Event; and
- (d) not admit liability in connection with the Provider Indemnity Event or settle the Provider Indemnity Event without the prior written consent of the Provider.

11. Limitations and Exclusions of Liability

11.1 Nothing in the Agreement will:

- (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
- (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
- (c) limit any liability of a party in any way that is not permitted under applicable law; or
- (d) exclude any liability of a party that may not be excluded under applicable law.

11.2 The limitations and exclusions of liability set out in this Clause [11] and elsewhere in the Agreement:

- (a) are subject to Clause [11.1];
- (b) govern all liabilities arising under the Agreement or any collateral contract or in relation to the subject matter of the Agreement or any collateral contract, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty; and

11.3 Neither party will be liable in respect of any loss of profits, income, revenue, use, production or anticipated savings.

11.4 Neither party will be liable for any loss of business, contracts or commercial opportunities.

11.5 Neither party will be liable for any loss of or damage to goodwill or reputation.

11.6 The Provider will not be liable in respect of any loss or corruption of any data, database or software.

11.7 The Provider will not be liable in respect of any special, indirect or consequential loss or damage.

11.8 The Provider will not be liable for any losses arising out of a Force Majeure Event.

12. Data Protection

12.1 The Customer warrants that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with the Agreement.

12.2 The Provider warrants that:

- (a) it will act only on instructions from the Customer in relation to the processing of any Personal Data performed by the Provider on behalf of the Customer; and
- (b) it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of Personal Data and against loss or corruption of Personal Data processed by the Provider on behalf of the Customer.

13. Confidentiality and Publicity

13.1 The Provider will:

- (a) keep confidential and not disclose the Customer Confidential Information to any person save as expressly permitted by this Clause [13];
- (b) protect the Customer Confidential 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

13.2 The Customer will:

- (a) keep confidential and not disclose the Provider Confidential Information to any person save as expressly permitted by this Clause [13];
- (b) protect the Provider Confidential 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.

13.3 Confidential Information of a party may be disclosed by the other party to that other party's officers, employees, agents, insurers and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information disclosed.

13.4 The obligations set out in this Clause [13] shall not apply to:

- (a) Confidential Information that is publicly known (other than through a breach of an obligation of confidence);
- (b) Customer Confidential Information that is in possession of the Provider prior to disclosure by the Customer, and Provider Confidential Information that is in possession of the Customer prior to disclosure by the Provider;
- (c) Customer Confidential Information that is received by the Provider, and Provider Confidential Information that is received by the Customer, from an independent third party who has a right to disclose the relevant Confidential Information; or
- (d) Confidential Information that is required to be disclosed by law, or by a governmental authority, stock exchange or regulatory body, provided that the party subject to such disclosure requirement must where permitted by law give to the other party prompt written notice of the disclosure requirement.

13.5 Neither party will make any public disclosure relating to the Agreement (including press releases, public announcements and marketing materials) without the prior written consent of the other party.

14. Termination

14.1 Either party may terminate the Agreement immediately by giving written notice to the other party if the other party:

- (a) commits any breach of any term of the Agreement, and:
 - (i) the breach is not remediable; or
 - (ii) the breach is remediable, but the other party fails to remedy the breach within [30] days of receipt of a written notice requiring it to do so.

14.2 Either party may terminate the Agreement immediately by giving written notice to the other party if:

- (a) the other party:
 - (i) is dissolved;
 - (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or
- (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

14.3 The Customer may terminate the Agreement by giving at least 30 days' written notice of termination to the Provider after completion of the minimum term.

14.4 If the Provider stops or makes a good faith decision to stop operating the Platform generally, then the Provider may terminate the Agreement by giving at least 30 days' written notice of termination to the Customer.

14.5 Either party may terminate the Agreement by giving written notice of termination to the other party in the event that the parties cannot reasonably agree on any Change request made in accordance with Clause [8].

14.6 The Provider may terminate the Agreement immediately by giving written notice of termination to the Customer where the Customer fails to pay to the Provider any amount due to be paid under the Agreement by the due date.

15. Effects of Termination

15.1 Upon termination of the Agreement, all the provisions of the Agreement will cease to have effect, save that the following provisions of the Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 4.4, 7.5, 10, 11, 13.1 to 13.4, 15, and 18.

15.2 Termination of the Agreement will not affect either party's accrued liabilities and rights as at the date of termination.

15.3 Subject to Clause 15.4, within [30] days following the termination of the Agreement, the Provider will irrevocably delete from the Platform all Customer Confidential Information.

15.4 A party may retain any document (including any electronic document) containing the Confidential Information of the other party after the termination of the Agreement if:

- (a) that party is obliged to retain such document by any law or regulation or other rule enforceable against that party; or
- (b) the document in question is a letter, fax, email, order confirmation, invoice, receipt or similar document addressed to the party retaining the document.

16. Notices

16.1 Any notice given under the Agreement must be in writing (whether or not described as "written notice" in the Agreement) and must be sent by post, fax or email, for the attention of the relevant person, and to the relevant address, fax number or email address given as notified by one party to the other in accordance with this Clause.

The Provider:

Mr M. Williamson, Business Services Manager, SyntheSys Systems Engineers Ltd., St. Hilda's Business Centre, The Ropery, Whitby, North Yorkshire, YO22 4ET. Email: cloudbase@synthesys.co.uk. Fax: +44(0)1947 603301

The Customer:

The addressee, address, email and fax set out in the Statement of Services.

16.2 A notice will be deemed to have been received at the relevant time set out below (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below):

- (a) where the notice is sent by post, 48 hours after posting; and
- (b) where the notice is sent by fax or email, at the time of the transmission (providing the sending party retains written evidence of the transmission).

17. Force Majeure Event

17.1 Where a Force Majeure Event gives rise to a failure or delay in either party performing its obligations under the Agreement (other than obligations to make payment), those obligations will be suspended for the duration of the Force Majeure Event.

17.2 A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under the Agreement, will:

- (a) forthwith notify the other; and
- (b) will inform the other of the period for which it is estimated that such failure or delay will continue.

17.3 The affected party will take reasonable steps to mitigate the effects of the Force Majeure Event.

18. General

18.1 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.

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

18.3 Nothing in the Agreement will constitute a partnership, agency relationship or contract of employment between the parties.

18.4 The Agreement may not be varied except in accordance with Clause [8].

18.5 Neither party will, without the other party's prior written consent, either during the term of the Agreement or within 6 months after the date of effective termination of the Agreement, engage, employ or otherwise solicit for employment any employee, agent or contractor of the other party who has been involved in the performance of the Agreement.

18.06 The Agreement will be governed by and construed in accordance with the laws of England and Wales; and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

Schedule 1 - Service Level Agreement

1. Introduction

1.1 In this Schedule:

"**New Functionality**" means new functionality that is introduced to the Platform by an Upgrade; and

1.2 References in this Schedule to Paragraphs are to the paragraphs of this Schedule, unless otherwise stated.

2. Helpdesk

2.1 The Provider will make available, during Business Hours, a telephone and email helpdesk facility for the purposes of:

- (a) assisting the Customer with the proper use of the Platform; and
- (b) determining the causes of errors and fixing errors in the Platform.

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

3. Response and Resolution Times

3.1 The Provider will:

- (a) use all reasonable endeavours to respond to requests for Support Services made through the helpdesk; and
- (b) use all reasonable endeavours to resolve issues raised by the Customer,

in accordance with the following response time matrix.

Severity	Examples	Response Time	
Critical	The system is down	Within 2 business hours	
Serious	The program is usable but is severely limited	Within 4 business hours	
Moderate	The program is usable with less significant features.	Within 7 business hours	
Minor	Minimal business impact	Within 14 business hours	

3.2 The Provider will determine, acting reasonably, into which severity category an issue raised through the Support Services falls.

3.3 All Support Services will be provided remotely unless expressly agreed otherwise by the Provider.

4. Limits on Support Services

4.1 The Provider shall have no obligation under the Agreement to provide Support Services in respect of any fault or error caused by:

- (a) the improper use of the Platform; or
- (b) the use of the Platform otherwise than in accordance with the Documentation.

5. Upgrades

5.1 The Customer acknowledges that from time to time during the Term the Provider may apply Upgrades to the Platform, and that such Upgrades may, subject to Paragraph [5.2], result in changes the appearance and/or functionality of the Platform.

5.2 The Provider will give to the Customer at least 30 days' prior written notice of the application of any Upgrade to the Platform. Such notice shall include details of the specific changes to the functionality of the Platform resulting from the application of the Upgrade.

6. Uptime Commitment

6.1 The Provider shall use all reasonable endeavours to ensure that the Platform is available 99% of the time during each calendar month, subject to Paragraph [8].

7. Back-up and Restoration

7.1 The Provider will provide the option to make back-ups of the Customer Materials stored on the Platform on a daily basis, and will retain such back-ups for one calendar month.

7.3 In the event of the loss of, or corruption of, Customer Materials stored on the Platform being notified by the Customer to the Provider under Paragraph [2], the Provider shall if so directed by the Customer use reasonable endeavours promptly to restore the Customer Materials from the most recent available back-up copy.

8. Scheduled Maintenance

8.1 The Provider may suspend access to the Platform in order to carry out scheduled maintenance, such maintenance to be carried out outside Business Hours.

8.2 The Provider must give to the Customer at least 14 days' written notice of scheduled maintenance, including full details of the expected Platform downtime.

8.3 Platform downtime during scheduled maintenance carried out by the Provider in accordance with this Paragraph [8] shall not be counted as downtime for the purposes of Paragraph [6].

Schedule 2 - Charges

1. Introduction

- 1.1 The Charges under the Agreement will consist of the following:
- (a) access Charges, in respect of access to and use of the Platform;

2. Charges

The Charge will be *[amount]* plus VAT per calendar month, which shall be invoiced by the Provider on the effective date or at any time following the effective date and monthly thereafter until the agreement is terminated

Schedule 3 - Acceptable Use Policy

1 This Policy

This Acceptable Use Policy (the “**Policy**”) sets out the rules governing the use of our web services (the “**Service**”) and any content that you may submit to the Service (“**Content**”).

By using the Service, you agree to the rules set out in this Policy.

2 General Restrictions

You must not use the Service in any way that causes, or may cause, damage to the Service or impairment of the availability or accessibility of the Service, or any of the areas of, or services on, the Service.

You must not use the Service:

- (a) in any way that is unlawful, illegal, fraudulent or harmful; or
- (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

3 Unlawful and Illegal Material

You must not use the Service to store, host, copy, distribute, display, publish, transmit or send Content that is illegal or unlawful, or that will or may infringe a third party's legal rights, or that could give rise to legal action whether against you or us or a third party (in each case in any jurisdiction and under any applicable law).

Content (and its publication on the Service) must not:

- (a) be libellous or maliciously false;
- (b) be obscene or indecent;
- (c) infringe any copyright, moral rights, database rights, trade mark rights, design rights, rights in passing off, or other intellectual property rights;
- (d) infringe any rights of confidence, rights of privacy, or rights under data protection legislation;
- (e) constitute negligent advice or contain any negligent statement;
- (f) constitute an incitement to commit a crime;
- (g) be in contempt of any court, or in breach of any court order;
- (h) be in breach of racial or religious hatred or discrimination legislation;
- (i) be blasphemous;
- (j) be in breach of official secrets legislation; or
- (k) be in breach of any contractual obligation owed to any person.

You must not submit any Content that is or has ever been the subject of any threatened or actual legal proceedings or other similar complaint.

4 Graphic Material

Content must not depict violence in an explicit, graphic or gratuitous manner.

Content must not be pornographic or sexually explicit, or consist of or include explicit, graphic or gratuitous material of a sexual nature.

5 Harmful Software

You must not use the Service to promote or distribute any viruses, Trojans, worms, root kits, spyware, [adware] or any other harmful software, programs, routines, applications or technologies.

You must not use the Service to promote or distribute any software, programs, routines, applications or technologies that will or may negatively affect the performance of a computer or introduce significant security risks to a computer.

6 Negligent Advice

Content must not consist of or contain any instructions, advice or other information that may be acted upon and could, if acted upon, cause:

- (a) illness, injury or death; or
- (b) any other loss or damage.]

7 Marketing and Spam

Content must not constitute spam.

You must not use the Service to transmit or send unsolicited commercial communications.

You must not use the Service to market, distribute or post chain letters, ponzi schemes, pyramid schemes, matrix programs, "get rich quick" schemes or similar schemes, programs or materials.

8 Gambling

You must not use the Service for any purpose related to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.]

Schedule 4.-Form of CCN

Title of Change:	
CCN number:	
Change proposed by:	
Date of issue of CCN:	
Date of CCN expiry:	
Summary details of proposed Change:	

1. Detailed description of Change.

2. Details of the impact on the timetable for the provision of the Services.

3. Details of any additional resources expected to be required as a result of the Change.

4. Details of any variation to the Charges consequent upon the Change.

5. Any other consequences of, or matters relating to, the Change.

Statement of Services

Customer

The Customer is *[company name]*, a company incorporated in [England and Wales] (registration number *[number]*) having its registered office at *[address]*.

Customer notices

[Insert addressee, address, fax and if relevant email address]

Minimum Term

The Minimum Term shall be the period of 30 days following the Effective Date.

Platform specification

[Insert description of the Platform.]

The Platform will be designed to interface with the following systems, applications, programs and software:

[insert details].

The Platform will comply with the following standards:

[insert details].

The Platform will be hosted at a facility meeting the following requirements:

[insert details].

The Platform will be protected using the following security systems and technologies:

[insert details].

Licensing

Named users:

[insert]]

The Customer may add [or delete] named user licences by *[method]*.

Number of concurrent users:

[insert]

The Customer may add [or delete] concurrent user licences by submitting a CCN (Schedule 4).

Where the Customer adds additional user licences, the Customer will be liable for additional access Charges under Schedule [2].

Where the Customer deletes user licences, the access Charges under Schedule [2] shall be reduced.

Representatives

Customer Representatives:

[Names, job titles and contact details]

Provider Representatives:

[Names, job titles and contact details]

The parties have indicated their acceptance of the terms of the Agreement by signing below.	
SIGNED by <i>[name of signatory]</i> duly authorised for and on behalf of the Provider Date:	SIGNED by <i>[name of signatory]</i> duly authorised for and on behalf of the Customer Date: