Datatank

OPUS CASE MANAGEMENT

TERMS OF SERVICE

BETWEEN

DATATANK LIMITED

AND

[   ]

DATED [   ]

Datatank

1   Definitions

In these Terms and Conditions the following terms have the following meanings:

"Agreement"	means these Terms and Conditions, the Order and any other Datatank documentation that is expressly incorporated by reference by Datatank on the Order.
"Authorised Customer Contacts"	means Customer contacts authorised by the Customer to agree contractual and financial relating to the Services;
"Customer"	means [….]
"Customer Data"	means any data provided by the Customer or collated by Datatank in the provision of the Services or any data entered into the Opus Service by the Customer. Customer Data may include "Personal Data" as defined by Data Protection Legislation.
"Datatank"	means Datatank Limited, company registration number 04111483
"Data Protection Legislation"	means the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then any successor legislation to the GDPR or the Data Protection Act 2018.
"Electronic Communications"	means any transfer of signs, signals, text, images, sounds, data or intelligence of any nature transmitted in whole or part electronically received and/or transmitted through the Service.
"Fees"	means the Opus service charges payable by the Customer as stated in the Customer Order;
"Initial Subscription Period"	means 6 months from start date of Agreement.
"Opus Service"	means the Opus case management system provided by Datatank;
"Order"	means the Customer's Purchase Order in relation to the purchase of the Services by the Customer and accepted by Datatank
"Permitted Users"	means the permitted number of users which are enabled for login to the Opus Service, being individuals authorised by the Customer or on the Customer's behalf, including but not limited to the Customer's employees, agents, associates or contractors. For the avoidance of doubt a Permitted User must be one unique person; multiple people must not share user credentials.
"Service Documentation"	means any supporting documentation relating to the use of the Service made available to the Customer by Datatank from time to time, including help and documentation, user guides and videos, together with a knowledge base which can be accessed online at www.opuscm.com/community/kb.
"Services"	means the services Datatank shall provide including the online software applications owned and delivered as an on-demand service by Datatank (the "Datatank Service") in accordance with the Service Documentation any associated Technical Support detailed at Schedule 3.
"Site"	means the Opus website https://secure.opuscm.com/login or such other domain as Datatank may use to provide the Services and have already notified to the Customer at the time in question.
"Subscription Term"	means the term of the subscription for the services as set out in the Order.
"Technical Support"	means the provision of web and telephone assistance to Authorised Customer Contacts in relation to questions they may have or issues they are encountering with the Opus Service in accordance with Schedule II.
"User Subscriptions"	means the number of subscriptions purchased by the Customer as set out on the Order which entitles Permitted Users to access and use the Opus Service in accordance with this Agreement.

2 Agreement & Term

2.1 The Parties contract on the basis of these Terms and Conditions, the Order and the other documentation incorporated in the definition of "Agreement" which shall prevail over any inconsistent terms which the Customer shall seek to introduce on any other purchase order or any other communication for the purchase of the Services.

2.2 Datatank shall provide the Services and the Customer shall pay the Fees specified in the Opus Order Form.

2.3 This Agreement shall be effective from the Start Date on the Order and shall continue in full force and effect for Services for the Subscription Term. Thereafter this Agreement shall terminate in accordance with the provisions of Section 8 (Termination) unless the Customer places another Order with Datatank for a further period (the "Extended Term")

3 Terms of Service

3.1 Following Datatank's acceptance of the Order and subject to the terms and conditions set out in this Agreement, including any set out in the Order, Datatank grants the Customer, during the Subscription Term, the non-transferable, non-exclusive, worldwide right to allow the Permitted Users to use Datatank's Services solely for the Customer's own municipal operations.

3.2 The Customer may use the Opus Service during the Subscription Term provided the Customer has paid the Fees. The Customer may allow Permitted Users to use the Opus Service for the Customer's municipal operations and the Customer is responsible for their compliance with this Agreement in such use. To the extent that the Opus Service is specifically designed to allow all persons and bodies dealing with the Customer to interact with the Customer in the furtherance of the Customer's operations, such use is allowed under this Agreement.

3.3 Subject to the terms and conditions of this Agreement, Datatank will use its all reasonable efforts to provide the Opus Service for the Subscription Term in accordance with the agreed service levels in Schedule 1.

3.4 Datatank will use its best endeavours to provide Technical Support to the Customers' Authorised Customer Support Contacts in accordance with Schedule 2.

3.5 Datatank may at any time audit the number of Permitted Users on the Opus Service. If at any time provision of the Opus Service to the Customer compromises the security of the Opus Service generally as a result of, without limitation, hacking, denial of service attacks or other malicious activities originating from the Customer's network, Datatank may suspend all or part of the Opus Service immediately and until the problem has been resolved. In such an event, Datatank will promptly inform the Authorised Customer Contacts and work with the Customer to resolve such issues in order to reinstate the Opus Service at the earliest possible opportunity.

3.6 Datatank may modify, enhance, replace, or make additions to the Opus Service in any way whatsoever as Datatank may in its sole discretion decide as long as the quality of the service is not materially degraded. Opus Services are provided based on Datatank's policies for the services ordered, which are subject to change provided that notice of all such changes is given to the Customer immediately.

3.7 Subject to the Customer complying with its obligations of confidentiality and payment under this Agreement, Datatank hereby grants the Customer a non-exclusive licence to use, modify and adapt the Service Documentation solely for its own municipal use. The Customer hereby indemnifies and holds Datatank harmless from any direct and indirect liability arising from any modifications or adaptations to the Service Documentation carried out by, or on behalf of, the Customer or any use thereof.

4 Fees and Payment

4.1 Unless agreed otherwise in writing all Fees:

4.1.1. shall be invoiced annually in advance at the commencement of the Subscription Term;

4.1.2. payable to Datatank are due within the payment terms set out on the Order Form without deduction, set off or retention;

4.1.3. are exclusive of value added tax and all other similar taxes which may be applicable thereto (which shall be added to the Fees at the rate prevailing a t the date of the invoice);

5 Customer Obligations

5.1 The Customer undertakes that the maximum number of Permitted Users that it authorises to access and use the Opus Service shall not exceed the number of User Subscriptions it has purchased. If the Customer believes that it may be exceeding the number of Permitted Users it has an obligation to inform Datatank and a) reduce the

number of Permitted Users, or b) purchase additional User Subscriptions.

5.2 The Customer agrees not to use the Opus Service for any unlawful purpose and to indemnify and hold Datatank harmless against any and all losses, costs and expenses which Datatank may incur as a result of such unlawful activities.

5.3 The Customer agrees to provide accurate, current and complete information on the Customer's legal business name and address, together with the contact names, email addresses and phone numbers of the Authorised Customer Contacts.

5.4 The Customer agrees that they have not relied on the future availability of any functionality or software updates in entering into the payment obligations on the Order.

5.5 Customers must have an Internet connection and an Internet browser which supports JavaScript to access the service. The customer understands that an ADSL or other high speed Internet connection is required for proper performance of the service.

5.6 Unless specifically authorised in writing in advance by Datatank, the Customer may not rent, lease or timeshare the Opus Service or provide subscription services for the Opus Service or permit others so to do.

5.7 Any source code provided to the Customer by Datatank is subject to the terms of this Agreement. Any other use of the Opus Service by any person, business, corporation, government organisation or any other entity is strictly forbidden and is a violation of this Agreement.

6   Customer Data and Data Protection

6.1 Datatank, its Staff, representatives and agents, shall comply with the requirements of Data Protection Legislation in relation to the provision of the services and shall not knowingly or negligently place the Customer in breach, or potential breach, of such legislation

6.2 In accordance with the Data Protection Act (DPA) 2018 and The Data Protection (Charges and Information) Regulations 2018, Datatank shall ensure that they have notified the Information Commissioner's Office of their personal data processing activities. Datatank shall advise the Customer of its notification reference on the Public Register of Data Controllers.

6.3 Datatank shall only use information that is given or made available to it by the Customer in line with the requirements of the Data Protection Legislation for the provision of the services, in accordance with specific instructions, and for no other purpose whatsoever at any time.

6.4 Datatank shall ensure that personal information is not disclosed to any other party unless it has first consulted the Customer regarding the legality and mechanism of the disclosure and the Customer is satisfied that there is a legal or regulatory obligation to disclose the data, and that the disclosure mechanism is appropriate.

6.5 On termination of this Contract Datatank shall return all personal data or destroy or dispose of it in a secure manner and in accordance with any specific written instructions issued by the Customer.

6.6 Datatank shall give all reasonable assistance to the Customer necessary to enable the Customer to comply with its obligations under the Data Protection Legislation

6.7 Datatank shall comply with the Customer's security requirements and instructions, and shall have appropriate technical and organisation safeguards in place to meet the obligations imposed on the Customer by the Data Protection Legislation specifically as set out in Article 5 (f) of the GDPR.

6.8 Datatank shall have, or shall implement prior to receiving Council data, security procedures which satisfy the Customer that relevant standards are adhered to ensure Datatank's and the Customer's compliance with Data Protection Legislation requirements.

6.9 The Customer shall be entitled to establish its own processes for evaluating and monitoring the effectiveness of Datatank's data protection procedures and systems and shall be entitled to deduct the reasonable cost of maintaining such systems from sums due to Datatank. Datatank shall, upon reasonable notice, allow officers of the Customer to have reasonable rights of access to Datatank's premises, Staff and records for the purposes of monitoring Datatank's compliance with its security requirements, including its obligations under the Data Protection Legislation. .

6.10 Datatank shall take reasonable steps to ensure the reliability of its Staff that have access to the Customer's data, and shall ensure that its Staff receive training in data protection to ensure compliance. Datatank shall ensure that it, its Staff, representatives, agents and visitors will not access, read, listen to or in any way use Council Data

unless necessary in connection with the provision of the services.

6.11 Datatank shall ensure that Personal Data, as defined under the Data Protection Legislation, is not transferred to a country or territory outside the European Economic Area and that no other data is transferred to a country or territory outside the European Economic Area without the prior approval of the Customer.

6.12 Datatank shall immediately inform the Customer of any breach or potential breach of these terms.

6.13 In the event that Datatank fails to comply with these terms, the Customer reserves the right to terminate this Contract, in whole or in part, in writing with immediate effect. Datatank shall not be liable for any indirect or consequential losses caused to the Customer by its breach of this clause 15 (including damage to goodwill or loss of reputation

6.14 The amount of database storage i.e. of emails, electronic documents, images and application data is limited to 50Gbytes per organisation (not user). Additional storage capacity can be purchased at the price of 20p (pence) per GByte per month.

7 Suspension

7.1 Datatank reserves the right to suspend Customer's access to and use of the Opus Service for any accounts (a) for which payment is due but unpaid but only after Datatank has provided the Customer with two payment requests and at least thirty (30) days have passed since the transmission of the first payment request, or (b) for which the Customer has not placed an Order with Datatank for an Extended Term and has not notified Datatank of its desire to renew the Service by the End Date specified in the Order for the current Subscription Term.

7.2 The Customer agrees that Datatank may by giving reasonable written notice to the Customer's Service Lead – Revenue and Benefits suspend the Customer's access to the Opus Service if Datatank reasonably concludes that the Services are being used by the Customer to engage in illegal activities, or the Customer's use of the Services is causing immediate and material damage to Datatank. In the extraordinary event that Datatank suspends the Customer's access to the Services, Datatank will use all reasonable efforts to limit the suspension to the offending portion of the Services and work with the Customer to resolve issues causing suspension of the Services. Customer agrees that Datatank shall not be liable to Customer nor to any third party for any suspension of the Services under such circumstances as described in this section 7.2 unless it has failed to use such reasonable efforts.

8 Termination

8.1 In the absence of an Extended Term having been invoked by the Customer, this Agreement and the Customer's right to use the Services will terminate automatically at the end of the Subscription Term.

8.2 After the first six months of the Agreement, the Customer may terminate the Agreement at any time by giving one month's notice. Datatank will refund the Customer the licence fee pro-rata for the remainder of the unused subscription period.

8.3 This Agreement may be terminated by either party if the other party has a receiver or administrator appointed over any or all of its undertakings or assets or passes a resolution for winding up otherwise than for the purpose of a bona fide scheme of reconstruction (or a court competent jurisdiction makes an order to that effect), enters into a voluntary arrangement with creditors, becomes subject to an administration order or ceases to carry on in business.

8.4 Either party may immediately terminate this Agreement in the event the other party commits a material breach of any provision of this Agreement which is not cured within six weeks of written notice being given to that party by the non-breaching party. Such notice by the complaining party shall expressly state all of the reasons for the claimed breach in sufficient detail so as to provide the alleged breaching party a meaningful opportunity to cure such alleged breach and shall be sent to the alleged breaching party at the address shown in the Order unless a different address has subsequently been provided under Section 5.3. Notices given to the Customer shall be valid only if addressed to one or more of the Customer's Authorised Customer Contacts.

8.5 Upon termination or expiration of this Agreement the Customer shall have no rights to continue to use the Services. If this Agreement is terminated after the Initial Subscription Period by Customer for any reason other than a termination expressly permitted by this Agreement the Customer agrees that Datatank shall be entitled to all of the Fees due under this Agreement for the remainder of the subscription year. If this Agreement is terminated as a result of a breach on Datatank's part, Datatank shall refund the pro rata portion of any Subscription Fees paid by a Customer or by a Partner in respect of a Customer for the terminated portion of the Subscription Term.

8.6 Handling of Customer Data in the event of Termination: The Customer agrees and acknowledges that following termination in accordance with this Section 8,

    8.6.1. Datatank may immediately deactivate the Customer's account and that following a period of not less than ninety days (90) days shall be entitled to delete the Customer's account and all associated Customer Data, and

    8.6.2. during this 90 day period and upon the Customer's request, Datatank will grant the Customer limited access to the Opus Service for the sole purpose of permitting the Customer to retrieve Customer Data, provided that (if termination was by Datatank) the Customer has paid in full all amounts unpaid for Services plus related taxes and expenses. The Customer agrees and acknowledges that after the expiry of such 90 day period Datatank has no obligation to retain Customer Data and that Customer Data may be irretrievably deleted.

8.7 Provisions that survive termination or expiration are those relating to limitation of liability, payment, data protection and others which by their nature are intended to survive.

9 Intellectual Property Rights

9.1 Datatank or its licensors retain all ownership and intellectual property rights to the Services. Datatank retains all ownership and intellectual property rights to anything developed by Datatank and delivered to the Customer under this Agreement resulting from the Services.

9.2 Datatank shall own and be fully entitled to use in any way it deems fit any intellectual property skills, knowledge, experience, techniques, materials, concepts and know-how acquired, developed or used in performing the Services and any improvements made or developed during the course of delivering Services. Nothing herein shall be construed or give any effect to any transfer of right, title or interest in Datatank's intellectual property.

9.3 The word marks Opus and Datatank and the Datatank logo are the trademarks of Datatank Limited. The Datatank logo is copyright of Datatank Limited.

9.4 Third party technology that may be appropriate or necessary for use in the Opus Service is specified in the Service Documentation. Such third party technology is licensed to the Customer under the terms of any third party technology licence agreement specified in the Service Documentation and not under the terms of this Agreement.

9.5 Datatank acknowledges that all intellectual property rights in the Customer Data are and will remain the property of the Customer and Datatank shall have no rights in or to the Customer Data other than the licence to use them for the purposes in accordance with this Agreement.

10 Third Party Intellectual Property Rights

10.1 In the event that the Opus Service infringes any third party intellectual property rights, Datatank will defend and/or settle any third party claim, provided that the Customer:

    10.1.1. promptly on becoming aware of the same, notifies Datatank of any such claim in writing;

    10.1.2. gives Datatank the sole control of any such action or proceedings;

    10.1.3. fully co-operates with Datatank and provides such assistance as it may reasonably require to settle and/or defend such action or proceedings (at the cost of Datatank); and

    10.1.4. any award of costs and/or damages shall belong to Datatank (but this shall not lessen Datatank's liability to pay the Customer such compensation for interruption of Services as may be appropriate).

10.2 In the event that the Opus Service infringes any third party intellectual property rights, Datatank shall, firstly use all reasonable efforts to make the Opus Service available without infringing so far as Datatank is aware any third party intellectual property rights or if that is not possible terminate the Services on 30 days written notice to the Customer and refund any Subscription Fee paid in respect of the Service for the terminated portion of the Subscription Term (but this shall not lessen Datatank's liability to pay the Customer such compensation for interruption of the Services as may be appropriate .

10.3 The provisions of Section 10 above shall not apply to any infringement resulting from:

    10.3.1. the use of the Opus Service which does not comply with the uses permitted under this Agreement; or

    10.3.2. the combination of the Opus Service with any third party product and/or service or modification undertaken by the Customer without the prior written consent of Datatank.

11   Warranties, Disclaimers, and Exclusive Remedies

11.1   Datatank warrants that during the Subscription Term

11.1.1.   the Opus Service will achieve in all material respects the functionality described in the Service Documentation applicable to the Services purchased by the Customer, and

11.1.2.   such functionality will not be materially decreased during the Subscription Term.

11.2   Datatank does not warrant that the Opus Service will be error-free. The Customer's primary remedy for Datatank's breach of this warranty shall be that Datatank shall be required to use reasonable efforts to modify the Opus Service to achieve in all material respects the functionality described in the Service Documentation. If Datatank is unable to restore such functionality, Customer shall be entitled to terminate the Agreement and shall be entitled to a pro-rata refund of the Subscription Fees paid under the Agreement, for the terminated portion of the Subscription Term, plus such compensation for deficiencies in provision of the Services as may be appropriate.

11.3   Datatank warrants that during the Subscription Term the Opus Service will meet the service levels specified in the Service Level Agreement listed in Schedule I. In the event Datatank fails to achieve the applicable service level in any month, Customer will be entitled, as its immediate remedy, to a service credit in accordance with the terms set forth in Schedule I (but this shall not lessen Datatank's liability to pay the Customer other compensation for deficiencies in provision of the Services as may be appropriate). Customer agrees that Datatank's system logs and other records shall (in the absence of manifest error) be used to calculate service levels.

11.4   Datatank shall have no obligation with respect to any claim under the above warranties unless notified of such a claim within sixty (60) days of the first instance of the performance of the deficient Services. Such notice must be sent to sam@Datatank.co.uk.

11.5   Except as stated in this Condition 11, Datatank does not represent that the Customer's use of the Service will be secure, timely, error free or uninterrupted, or that the Services will meet Customer's requirements, or that errors in the Services or Service Documentation will be corrected. To the extent permitted by law, these warranties are exclusive and (except to the extent expressed elsewhere in this Condition 11 all other warranties or conditions or terms whether express or implied are expressly excluded, including warranties or conditions of merchantability, satisfactory quality, and fitness for a particular purpose. The Customer assumes all responsibility for determining whether the Service or the information generated thereby is accurate or sufficient for the Customer's purposes.

12   Limitations and Exclusions

12.1   Neither party excludes liability for death or personal injury to any person due to its negligence or the negligence of its employees or any other liability which cannot be lawfully excluded or limited.

12.2   For liability for physical damage to or loss of the other Party's tangible property as a result of default (whether in contract, tort or under any other cause of action), liability will be capped at £5,000,000 in respect of any one incident or series of connected incidents.

12.3   Datatank agrees to indemnify the Customer against all costs that the Customer incurs as a result of Datatank's failure to comply with the requirements of the Data Protection Legislation, except to the extent that the Customer has, by its or its employees' actions or default, been the cause of such failure.

12.4   In respect of any liability other than those falling within conditions 12.1, 12.2 and 12.3 above, Datatank's total liability arising out of or in connection with the Agreement (whether in contract, tort or under any other cause of action) shall not exceed in aggregate 200% of the total fees paid by the Client for the Services which gave rise to the claim during the preceding 12 months.

12.5   Neither Party shall in any circumstances be liable to the other whether in contract, tort (including negligence) or otherwise for:

12.5.1.   Any loss of profit, loss of contracts, loss of benefit, loss of production, loss of availability, loss of data, loss of anticipated savings, loss of reputation, loss of goodwill or loss of use suffered or incurred directly or indirectly by the other Party.

12.5.2.   Any consequential, indirect or special loss or damage howsoever arising and of whatsoever nature.

12.5.3.   Any punitive or exemplary damages

arising from a failure or unavailability of the Opus Service.

12.6 The express terms of this Agreement shall apply in place of all warranties, conditions, terms, representations, statements, undertakings and obligations whether expressed or implied by statute, common law, custom, usage or otherwise, all of which are excluded to the fullest extent permitted by law.

12.7 Nothing in this Agreement shall limit a Party's liability for fraud or fraudulent misrepresentation.

12.8 Nothing in this Condition 12 shall affect or limit the Customer's obligation to pay sums properly due under the Agreement.

13   Insurance

13.1 Without prejudice to the general indemnity given at Condition 12, Datatank shall take out and maintain the following insurance policies with a reputable insurance company to provide a level of cover sufficient for all risks which may be incurred by Datatank under this Agreement including death or personal injury, or loss of or damage to property for the duration of the Agreement-:

13.1.1. Employer's liability insurance of not less than £10,000,000 (ten million pounds) in respect of any one accident;

13.1.2. Public liability insurance to provide an indemnity of not less than £5,000,000 (five million pounds) in respect of any one claim or series of claims arising out of one incident.

13.1.3. Professional Indemnity insurance in respect of Datatank's Contractor's obligations to provide the Services with reasonable skill care and diligence in an amount of not less £2,000,000 for any one occurrence or a series of occurrences arising out of any one event arising under this Agreement.

13.2 Datatank shall ensure that their Employers liability, Public liability and Professional Indemnity insurance contain an "Indemnity to Principals" provision with regard the Customer for those risks and losses for which Datatank is liable under this Agreement.

13.3 Datatank shall ensure that no member of its Staff shall commit any act or omission which shall invalidate any insurance policy.

13.4 Any excess or deductibles under such insurance (referred to in Condition 13.1 and Condition 13.2) shall be the sole and exclusive responsibility of Datatank.

13.5 The terms of any insurance or the amount of cover shall not relieve Datatank of any liabilities arising under the Agreement.

14   Confidential Information

14.1 For the purposes of the Agreement "Confidential Information" means the terms of this Agreement including the pricing and other terms reflected in quotations and Orders, Customer Data, business processes, Datatank' technology and technological information, product designs, business and marketing plans and all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party") whether orally or in writing, that is clearly identified in writing or verbally at the time of disclosure as confidential.

14.2 Confidential Information shall not include information which is:

14.2.1. known publicly;

14.2.2. is generally known in the industry before disclosure;

14.2.3. has become known publicly, without fault of the Receiving Party, subsequent to disclosure by the Disclosing Party;

14.2.4. the Receiving Party becomes aware of from a third party not bound by non-disclosure obligations to the Disclosing Part and with the lawful right to disclose such information to the Receiving Party; or

14.2.5. is by its very nature intended to be reported upon by the Customer to other authorities and/or to the residents of its area or other claimants whose approach to the Customer promoted the use of the Services to elicit the information in question.

14.3 Receiving Party agrees:

14.3.1. to keep confidential all Confidential Information disclosed to it by the Disclosing Party;

14.3.2. not to use or disclose the Confidential Information of the Disclosing Party except to the extent necessary to perform its obligations or exercise rights under the Agreement, except with the Disclosing Party's prior written consent;

14.3.3. to protect the confidentiality thereof in the same manner as it protects the confidentiality of similar information and data of its own and to make Confidential Information available to authorised persons only an a "need to know" basis.

14.4 Either party may disclose Confidential Information on a need to know basis to its contractors and service providers who have executed written agreements with them to maintain such information in strict confidence and use it only to facilitate the performance of their services in connection with the performance of this Agreement. Notwithstanding the foregoing, this Section will not prohibit the disclosure of Confidential Information to the extent that such disclosure is permitted by law or order of a court or other governmental authority or regulation.

15 Linking to and from the Opus Service

15.1 The Customer may link to the Opus Service, provided the Customer does so in a way that is legal and does not damage our reputation, but the Customer must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.

15.2 The Customer must not establish a link from any website which is not owned by the Customer. The Opus Service must not be framed on any other site, nor may the Customer create a link to any part of the Opus Service other than the home page. Datatank reserves the right to withdraw linking permission without prior notice.

15.3 Where the Opus Service contains links to other sites and resources provided by third parties, these links are provided for the Customer's information only. Datatank has no control over the contents of those sites or resources, and accepts no responsibility for them or for any loss or damage that may arise from the Customer's use of them.

16 Publicity

16.1 The Customer and Datatank agree that each party may disclose that they share a business relationship and the Customer subscribes to the Opus Service. Further details of the business relationship shall not be disclosed without the express consent of both parties.

16.2 Datatank shall not be entitled to use the Customer's business logo in any of Datatank's marketing material without the express permission of the Customer.

17 Assignment

17.1 The Customer may not assign this Agreement or give or transfer the Subscription and/or the Services or an interest in them to another individual or entity, without prior written consent from Datatank, such consent not be reasonably withheld. Datatank may assign, subcontract or sublet its rights and interest in this Agreement on part thereof.

18 Third Party Rights

18.1 A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third P arties) Act, 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party that exists or is available apart from that Act.

19 Force Majeure

19.1 The obligations of each party under this Agreement shall be suspended during the period and to the extent that such party is prevented or hindered from complying with them by any cause beyond its reasonable control including events such as, but not limited to: strikes, lock-outs and labour disputes (other than by its own work force); acts of God; war; terrorism; riot; civil commotion; malicious damage; compliance with any new law or governmental order, regulation or direction; major accident; fire; flood; or storm.

20 Entire Agreement

20.1 Except where stated to the contrary in this Agreement, the Customer agrees that this Agreement and the information which is incorporated into this Agreement by written reference (including reference to information contained in a URL or referenced policy), together with the Order, are the complete agreement for the Services ordered by the Customer, and that this Agreement supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such Services. If any term of this Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with a term consistent with the purpose and intent of this Agreement. It is expressly agreed that the terms of this Agreement and any Order shall supersede the terms in any purchase order or other non-Datatank ordering document and no terms included in any such purchase order or other non-Datatank ordering document shall apply to the

Services ordered.

21   Jurisdiction

21.1   This Agreement shall be governed by and construed in accordance with the laws of England and Wales and each party hereby irrevocably submits to the exclusive jurisdiction of the Courts of England and Wales. Notwithstanding the foregoing nothing herein shall preclude either party from seeking injunctions from any court of competent jurisdiction in order to protect its intellectual property rights or Confidential Information.

Datatank

SCHEDULE 1 - SERVICE AVAILABILITY

Service Level Agreement

Datatank commits to provide 99.5% service availability for the Opus Service during each month of the service ("Service Availability Guarantee"). Service availability is defined as the Customer's ability to login to the Service and is measured by the availability of the login page.

Only Datatank's production systems will be measured against the service level agreement.

Service Credits

A Service Credit will be offered where the Opus Service is unavailable for more than 6 hours during a normal business day (between the hours of 9.00am and 17.30pm, Monday to Friday excluding Public Holidays).

Each Service Credit will be 20% of the monthly Opus Service charge.

The Service Credit may be used to offset future Opus Service costs.

Datatank

<div align="center">

SCHEDULE 2 – SUPPORT & MAINTENANCE

</div>

Technical Support

Datatank's Service Desk is available from 9.00am to 17.30pm during normal working days. It provides a 99.5% service availability. Support requests can be made via telephone or by email.

Following receipt of a support request, Datatank undertakes to resolve the customers query or issue within the time listed below.

Where there is a problem with the software, the resolution may be a temporary fix or workaround. A proper and permanent fix to the software may take a little longer as this will involve software change, regression testing and formal test before release of the fix into the live environment.

Support Procedures

A Support Case can be logged by any one of the Authorised Customer Support Contacts. They can contact Datatank Customer Support by email or by registering a support case at www.opuscm.com/support.

Datatank's current support contact details are: opus.support@datatank.co.uk.

The Customer should endeavour to provide as much information as possible relating to the case, including the name of the user experiencing the issue, date and time, and user screen, function or report.

Datatank reserves the right to email Authorised Customer Support Contacts with information about the Datatank service, such as upgrade notifications, service improvements or service incidents.

Support Levels

Level	Description	Working Hours	Out of Hours	Target Resolution
One	**Critical Priority:** A problem where the Opus service is unavailable or not functioning, or where there is a major feature failure or production data loss or corruption, or where there is a security breach which exposes customer data to third-parties.	Respond to all calls within 1 hour.	Respond to all calls within 1 hour.	As soon as possible but no later than within one Day of the call.
Two	**Urgent Priority:** A problem which seriously affects the customer's use of the Opus service for necessary business-level operations such that the customer's business is significantly disrupted. A workaround may exist but it is inconvenient or impractical.	Respond to all calls within 2 hours.	Respond to all calls within the next working day.	As soon as practicable but within two Normal Working Days or as otherwise agreed between Datatank and the Customer.
Three	**Normal Priority:** Medium-to-low business impact problem which causes partial non-critical functionality loss. A problem has been identified but the resolution is not critical to the service being provided. This kind of problem impairs some operations but allows the customer to continue to function.	Respond to all calls within same working day.	Respond to all calls within the next working day.	At the time of response or as soon as practicable thereafter or as otherwise agreed between Datatank and the Customer.
Four	**Minor Priority:** Minor impact. The customer has a minor loss of operational functionality caused by a minor feature or partial service failure. This may be a minor issue with limited loss or no loss of functionality or impact to the customer's operation or where there is an easy circumvention or avoidance by	Respond to all calls within three Normal Working Days.	Respond to all calls within three Normal Working Days.	At the time of response or as soon as practicable thereafter or as otherwise agreed between Datatank and the Customer.

	the end user; a convenient workaround exists.			
Five	**Low Priority:** Includes general usage questions, recommendations for future service enhancements or modifications, or where the service functionality does not match documented specifications or the customer would benefit from a new feature. There is no impact on the quality or performance of the customer production system.	Respond to all calls within five Normal Working Days.	Respond to all calls within five Normal Working Days.	At the time of response or as soon as practicable thereafter or as otherwise agreed between Datatank and the Customer

Routine Maintenance Periods

Routine Maintenance Periods are excluded from the Service Availability Guarantee. Maintenance of the Opus Service is required from time-to-time to ensure the continued reliability of the Service.

Datatank hereby provides notice that scheduled maintenance will occur every Sunday between 09:00 and 13:00 GMT. Additional maintenance periods may be scheduled from time to time and the Customer will be notified at least 24 hours in advance.

Datatank

Acceptance of Terms of Service as provided for by this Agreement

…………………………………………………

Name:

Date:

For and on behalf of:

……………………………………………………

Name:

Date:

For and on behalf of: Datatank Ltd