

Terms and Conditions

The following standard Terms and Conditions apply to all Anywhere Platform engagements accepted by Polarisoft The Anywhere Company Limited (TAC). All work carried out is subject to these terms except where changes are expressly agreed in writing.

1. Definitions

- 1.1 **"Accepted Configuration"** configured software accepted as part of the acceptance process in clause 8.
- 1.2 **"Accepted Version"** a version of the Accepted Software which has been accepted by the Customer.
- 1.3 **"Agreement"** means the contract between TAC and the Customer for the provision of the Services incorporating these Terms and Conditions and related Statement of Works.
- 1.4 **"Applicable Law"** means all laws, rules and regulations.
- 1.5 **"Applicable Data Protection Law"** means all laws, rules and regulations which relate to data protection and as regulated by the European Union or re-enacted under the laws of England and Wales following the United Kingdom's exit from the European Union.
- 1.6 **"Authorised Individual"** means an individual agreed by TAC and Customer, with appropriate knowledge to interact with the TAC support team in raising support cases, and providing required information.
- 1.7 **"Availability"** means access to the Anywhere Platform Services as measured from TAC's monitoring software.
- 1.8 **"Bespoke Materials"** means bespoke materials developed by or on behalf of TAC specifically for the Customer and at the Customer's express direction.
- 1.9 **"Business Day"** means any day which is not a Saturday, Sunday or public holiday in the UK.
- 1.10 **"Confidential Information"** means any proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product or other business plans, products, operational information, services, customers, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information of either party and disclosed directly or indirectly by or on behalf of that party to the other party in any form or medium (material or otherwise), including without limitation in writing, orally or by drawings or inspection of parts or equipment.
- 1.11 **"Configuration"** means the supported adjustment or alteration of the Anywhere Platform Services via a configuration user interface, workbench, or configuration file. Configuration does not include programming or writing of bespoke computer code.
- 1.12 **"Consultancy Services"** means the consultancy services as described in a Statement of Work, together with such ancillary services as may be necessary to or intrinsically linked with performance of the services so described.
- 1.13 **"Core Supplier"** means HP, Amazon AWS, Oracle, Microsoft or any similar suppliers in relation to providing the Anywhere Platform Services.

- 1.14 **“Customer”** means a customer as identified in an SOW including any affiliate, associated or member of the customer’s group of companies.
- 1.15 **“Customer Content”** means any data, software, files, configuration or information provided by the Customer in connection with the use of the Anywhere Platform Services together with data generated by the Customer as a result of the use of the Anywhere Platform Services.
- 1.16 **“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 1998.
- 1.17 **“Force Majeure Event”** means an act or event beyond the reasonable control of a party as more particularly described in clause 16.
- 1.18 **“Intellectual Property”** means any intellectual property rights, including without limitation any trademarks, service marks, trade names, trade secrets, algorithms, know-how, business names, logos, copyrights, database rights, design rights, patent rights, domain names, trade secrets and rights of confidence, in all cases whether or not registered or registerable in any country, for the full term of such rights including any extension to or renewal of the term of such rights and including registrations and applications for registration of any of these and rights to apply for the same and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world, and in each case all goodwill in or attaching to same.
- 1.19 **“Normal Business Hours”**: 9.00 am to 5.00 pm local UK time, each Business Day.
- 1.20 **“Outage”** means 2 sequential failed monitoring events within 5 minutes.
- 1.21 **“Personal Data”** means personal data as defined under Applicable Data Protection Law.
- 1.22 **“Anywhere Platform Services”** means the provision of the Anywhere Platform solution comprising the delivery of software as a service as described in a Statement of Work together with such ancillary, as may be necessary to or intrinsically linked with performance of the services so described.
- 1.23 **“Response Times”** means the time until the first contact by TAC support in regard to a support case.
- 1.24 **“Services”** means all services provided by TAC to the Customer including Consultancy Services, Support and Anywhere Platform Services.
- 1.25 **“Support”** means assistance by the TAC support team to trouble shoot and resolve issues identified in support cases.
- 1.26 **“Statement of Work”** or **“SOW”** means the document(s) executed by the parties that describes Services which TAC agrees to perform for the Customer, the applicable fees, delivery date(s) and any milestones applicable thereto.
- 1.27 **“Terms and Conditions”** means the terms and conditions of supply of Services as set out in this document and any subsequent terms and conditions agreed in writing by TAC and the Customer.
- 1.28 **“3rd Party”** means any other supplier, entity or person, not covered in Core Suppliers.

2. Term

- 2.1 This agreement shall, subject to termination in accordance with clause 15, commence on the date of this Agreement and continue in operation in accordance with any SOW or until the parties agree otherwise in writing.

3. Fees and Payments

- 3.1 All fees and expenses payable by the Customer in connection with the provision of the Services will be in accordance with an agreed Statement of Work.
- 3.2 The Customer agrees to settle all payments for Services within thirty (30) days of the receipt of invoice.
- 3.3 The Customer will pay interest on all late payments at a rate of 4% per annum, calculated daily, above the base lending rate of Santander UK PLC.
- 3.4 Taxes, fees, expenses and disbursements are exclusive of any value added or other tax, which TAC may be required by local law to collect and the Customer will be liable for all such taxes.
- 3.5 TAC submits interim invoices in arrears on a monthly basis and a final invoice on completion of the Consultancy Services. Each invoice will be accompanied by details of the work undertaken together where appropriate with copies of receipts for expenses.
- 3.6 If this agreement or an SOW has been terminated early in relation to consultancy Services, then TAC reserves the right to charge the client fees on a time and materials basis for any period of time that such Consultancy Services have been available but un-utilised.

4. Services and Delivery

- 4.1 The Services are as described in each Statement of Work.
- 4.2 Any variation to the Services must be agreed by both TAC and the Customer in writing.
- 4.3 The Services shall be carried out at the place of work of TAC or Customer.
- 4.4 Dates given for the delivery of Services are estimates only and not guaranteed.
- 4.5 TAC shall perform the Services with reasonable skill and care and to a reasonable standard and in accordance with recognized codes of practice.
- 4.6 TAC agrees to notify the Customer of any significant changes to key personnel performing the Services.
- 4.7 The Services are provided subject to the maintenance and support provisions of Schedule 1.
- 4.8 TAC shall install and test third party equipment and/or systems where necessary or requested to do so by the Customer in connection with the Consultancy Services but shall in no case bear any responsibility to the Customer in relation to any such equipment and/or system.
- 4.9 TAC makes no warranty, express or implied, as to the Consultancy Services provided to the Customer.

- 4.10 TAC does not warrant that the Accepted Version of any software is error or bug free. It does agree that at its own cost it will fix and patch errors and bugs that form part of the Accepted Version of any software and have been notified to TAC within the first twelve (12) months of this agreement.

5. Customer Obligations

- 5.1 The Customer will at its own cost provide such assistance to TAC from time to time as TAC may reasonably require in order to perform any of its obligations to which these Terms and Conditions relate from time to time.
- 5.2 The Customer may only use the Anywhere Platform Services to store, retrieve, query, serve, and execute Customer Content that is owned, licensed or lawfully obtained by the Customer.
- 5.3 The Customer must comply with the current technical documentation applicable to the Anywhere Platform Services. In addition, if the Customer creates technology or interfaces that works with the Anywhere Platform Services, the Customer must comply with the current technical documentation applicable to that Anywhere Platform Service provided to it by TAC or the 3rd Party software supplier.
- 5.4 The Customer will provide information or other materials related to Customer Content (including copies of any client-side applications) as reasonably requested by TAC to verify the Customer's compliance with the Agreement. TAC may monitor the external interfaces (e.g., ports) of Customer Content to verify the Customer's compliance with the Agreement. The Customer will not block or interfere with TAC's monitoring, but the Customer may use encryption technology or firewalls to help keep the Customer Content confidential. The Customer will reasonably cooperate with TAC to identify the source of any problem with the Anywhere Platform Services that TAC reasonably believes may be attributable to Customer Content or any end user materials that the Customer controls.
- 5.5 The Customer shall not store, distribute or transmit any Virus, or any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities.
- 5.6 The Customer shall not:
- 5.6.1 attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of any software except to the extent expressly set out in this agreement or as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the parties; or
 - 5.6.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software, except as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the parties; or
 - 5.6.3 access all or any part any software in order to build a product or service which competes with the Services
 - 5.6.4 use any software or Services to provide services to third parties; or
 - 5.6.5 transfer, temporarily or permanently, any of its rights under this agreement, or

5.6.6 attempt to obtain, or assist third parties in obtaining, access to any, other than as provided under this clause; and

5.7 The Customer shall use reasonable endeavours to prevent any unauthorised access to, or use of any supplied software and notify TAC promptly of any such unauthorised access or use.

6. Additional Services

6.1 Additional services (including but not limited to creation of customised software) performed by TAC at the Customer's request that are not included in the Services will be chargeable at the applicable published service rates for the country where the service is performed.

7. Service Level Agreement

7.1 TAC will provide the Customer access to the Anywhere Platform Services on a twenty-four hour, seven days a week (24x7) basis at a rate of 99.9%.

7.2 The up time of the Anywhere Platform Services will be measured using monitoring software. Availability will be calculated on a quarterly basis and reported to the Customer by TAC.

7.3 TAC will not be responsible for, and excludes from up time calculations, unavailability:

7.3.1 caused by overall internet congestion, slowdown or unavailability;

7.3.2 caused by unavailability of generic internet services (e.g. DNS Servers) due to virus or hacker attacks, etc.;

7.3.3 caused by any Force Majeure Event;

7.3.4 that resulted from actions or inactions of Customer;

7.3.5 from scheduled or requested Maintenance.

7.4 Additional service levels are set out in Schedule 1.

8. Acceptance of Software

8.1 TAC will provide Anywhere Platform Services and its configuration as set out in any related SOW using the following process:

8.1.1 Configuration of Anywhere Platform Services will be configured in a development environment

8.1.2 The configuration will be promoted to a test environment for customer testing;

8.1.3 If testing is successful as agreed by the customer, TAC will promote the configuration to the production environment.

8.2 The configuration of the Anywhere Platform Services promoted to the production environment as agreed by The Customer is deemed the Accepted Configuration and accepted by the Customer.

8.3 The Accepted Version of the software will be maintained and supported as provided for in this agreement and any relevant SOW.

- 8.4 Any software that is created by either the Customer or TAC unless it is specified in an SOW will lie outside the terms of this agreement.

9. Confidentiality

- 9.1 In connection with the performance of obligations under a SOW (or otherwise as contemplated by the Agreement), each party may at any time, including without limitation prior to execution of the Agreement, receive Confidential Information from the other party.
- 9.2 TAC shall take reasonable steps to ensure that any third party to whom it has delegated work agrees to an appropriate confidentially undertaking (which, in any event, shall be in terms no less stringent than those set out in this Clause 9).
- 9.3 Each party shall use commercially reasonable efforts to safeguard Confidential Information of the other party and to prevent any unauthorised access, reproduction, disclosure, and/or use of any of such Confidential Information.
- 9.4 Each party may disclose Confidential Information only to those officers, directors, employees, agents and/or sub-contractors who need to know such information in order to carry out the Services in the associated SOW or as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.5 Each party shall not copy or reproduce any of the Confidential Information of the other party, except as necessary to perform its obligations in connection with this Agreement, a SOW (or otherwise as contemplated by the Agreement).
- 9.6 Each party shall promptly notify the other party in writing of any unauthorised use, access to or disclosure of Confidential Information of the said other party.
- 9.7 Each party shall promptly, on termination of a SOW to which these Terms and Conditions apply, return to the other party (or destroy, if so requested) any Confidential Information of the other party disclosed for the purposes of or in connection with the SOW concerned.
- 9.8 TAC shall have the right to identify the Customer as a relationship partner in promotional and marketing literature (material and otherwise) and on its website, both during the term of the relationship between the parties and thereafter for so long as the Customer remains a customer. The Customer shall have the right to make requests in writing regarding how such identification is to be effected from time to time and TAC shall be obliged to take into consideration any such request but shall not be obliged to comply with same.
- 9.9 The parties acknowledge that damages may not be an appropriate remedy for a breach of this clause and the affected party may require an injunction or similar remedy to enforce the terms of this agreement.

10. Customer Content

- 10.1 The Customer shall own all rights, title and interest in and to all of the Customer Content that is not Personal Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of such Customer Content.
- 10.2 In the event of any loss or damage to Customer Content, the Customer's sole and exclusive remedy against TAC shall be for TAC to use reasonable commercial endeavours to restore the lost or damaged Customer Content from the latest back-up of such Customer Content maintained by TAC. TAC shall not be responsible for any loss, destruction, alteration or

disclosure of Customer Content caused by any third party (except those third parties sub-contracted by TAC to perform services related to Customer Content).

- 10.3 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 10.4 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and TAC is the data processor (where Personal Data, Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
- 10.5 The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to TAC for the duration and purposes of this agreement.
- 10.6 TAC shall, in relation to any Personal Data processed in connection with the performance by TAC of its obligations under this agreement:
 - 10.6.1 process that Personal Data only on the written instructions of the Customer unless TAC is required by Applicable Data Protection Law. Where TAC is relying on Applicable Data Protection Law as the basis for processing Personal Data, TAC shall promptly notify the Customer of this before performing the processing required by the Applicable Data Protection Law unless any Applicable Law prohibit TAC from so notifying the Customer;
 - 10.6.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - 10.6.3 not transfer any Personal Data outside of the European Economic Area and the United Kingdom unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - i) the Customer or TAC has provided appropriate safeguards in relation to the transfer;
 - ii) the data subject has enforceable rights and effective legal remedies;
 - iii) TAC complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - iv) TAC complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.

- 10.6.4 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 10.6.5 notify the Customer without undue delay on becoming aware of a Personal Data breach;
 - 10.6.6 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Data Protection Law to store the Personal Data; and
 - 10.6.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 10 and allow for audits by the Customer or the Customer's designated auditor.
- 10.7 The Customer consents to TAC appointing a Core Supplier as a third-party processor of Personal Data under this agreement. TAC confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Customer and TAC, TAC shall remain fully liable for all acts or omissions of any third-party processor appointed by it.
- 10.8 Either party may, at any time on not less than 30 days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

11. Licencing and Ownership

- 11.1 TAC hereby grants to the Customer on and subject to the terms and conditions of this agreement a non-exclusive, non-transferable licence to allow its Authorised Individuals to access to Anywhere Platform Services and to use the software solely for the Customer's business purposes;
- 11.2 Each party will retain all rights in and to all materials developed by or on behalf of such party prior to the date of the Agreement.
- 11.3 Contingent upon full payment being made by Customer to TAC as contemplated by this agreement and unless and to the extent set out otherwise in any SOW, all rights in Bespoke Materials shall vest in the Customer and TAC shall retain all rights in any materials developed by or on behalf of TAC during the term of the Agreement other than Bespoke Materials (including without limitation materials of a general or generic nature).
- 11.4 The Customer hereby grants to TAC a perpetual, royalty-free, worldwide licence to use the Bespoke Materials for its internal business purposes. TAC agrees that it shall not disclose to any third party, save to its agents and sub-contractors from time to time on a need to know basis and subject to appropriate confidentiality obligations details of any Bespoke Materials which may reasonably be considered to constitute commercially sensitive information.
- 11.5 The Customer hereby grants to TAC the right to use its data for the purposes of providing Anywhere Platform Support and billing. The Customer also grants to TAC the right to use its data in anonymised aggregate form for the purposes of product optimisation, marketing, and sharing usage trend information with TAC customers and prospects.

- 11.6 In connection with delivering the Anywhere Platform Services, TAC will be required to license products and obtain services from Core Suppliers and 3rd Parties. TAC shall license these products and obtain these services at its own cost and remain in compliance with the license and supply terms from those Core Suppliers and 3rd Parties. TAC will notify and consult with the Customer in the event of change in license or supply terms that impacts the Anywhere Platform Services.
- 11.7 To the extent that warranties and other commitments are provided by Core Suppliers and 3rd Parties to TAC, it will act reasonably in enforcing the same and pass on the benefit of such warranties to the Customer to the extent that it is able.

12. Change Control

- 12.1 The Customer and TAC will meet as required to discuss matters relating to this agreement. If either party wishes to change the scope of the Services (including Customer requests for additional hosting services), it shall submit details of the requested change to the other in writing and agree any changes to a SOW or a new SOW as required.
- 12.2 If either party requests a change to the scope or execution of the Services, TAC shall, within a reasonable time, provide a written estimate to the Customer of:
 - 12.2.1 the likely time required to implement the change;
 - 12.2.2 any variations to the Fees arising from the change;
 - 12.2.3 the likely effect of the change on a SOW; and
 - 12.2.4 any other impact of the change on the terms of this agreement.
- 12.3 If TAC requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it.
- 12.4 If the Customer wishes TAC to proceed with the change, TAC has no obligation to do so unless and until the parties have agreed in writing the necessary variations to its charges, the relevant SOW and any other relevant terms of this agreement to take account of the change.

13. Limitation of Liability

- 13.1 This clause 13 sets out the entire financial liability of the parties for acts and omissions of its employees, agents and subcontractors under this agreement subject to any amending agreement or SOW:
 - 13.1.1 arising under or in connection with this agreement;
 - 13.1.2 in respect of any use made by the Customer of the Services, or any part of them; and
 - 13.1.3 in respect of any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this agreement.
- 13.2 Subject to Clause 13.4, TAC shall not be liable to the Customer whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill

and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss costs, damages, charges or expenses however arising under this agreement.

- 13.3 TAC's total aggregate liability in contract (including in respect of the indemnity at clause 14, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to £50,000 or the price paid for the Services during the 12 months preceding the date on which the claim arose whichever is the lower.
- 13.4 Neither party limits its liability hereunder to any person for any death or personal injury, fraud or fraudulent misrepresentation.
- 13.5 As an exclusive remedy, TAC will re-perform Support or Anywhere Platform Services not performed in accordance with an SOW. This states TAC's entire liability for Support or Anywhere Platform Service.

14. Indemnity

- 14.1 Each party agrees to defend, indemnify and hold harmless the other party in connection with any action, proceeding, claim, loss, liability, damage, judgement, cost or expense (including without limitation reasonable legal costs and expenses) which the other party may suffer as a result of any claim or allegation that its use of the first-named party's Intellectual Property in connection with the use or receipt of the Services infringes the intellectual property or other proprietary rights of any other person.

15. Termination

- 15.1 Either party may terminate this Agreement or any SOW (subject to the SOW providing otherwise) without cause on thirty (30) business days' written notice to the other party, provided that each party shall remain obliged to perform its obligations in relation to any SOW outstanding in whole or part as at the termination date (save as and to the extent in each case the parties may agree otherwise in writing). Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
 - 15.1.1 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 30 days after being notified in writing to make such payment;
 - 15.1.2 the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 15.1.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
 - 15.1.4 the other party commences negotiations with all or any class of 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 (being a company) 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;

- 15.1.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) 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;
 - 15.1.6 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company);
 - 15.1.7 the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 15.1.8 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;
 - 15.1.9 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 the other party's assets and such attachment or process is not discharged within 14 days;
 - 15.1.10 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 clause 15.1.3 to clause 15.1.9 (inclusive);
 - 15.1.11 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 15.2 On termination of this agreement for any reason:
- 15.2.1 all licences granted under this agreement shall immediately terminate;
 - 15.2.2 each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;
 - 15.2.3 TAC may destroy or otherwise dispose of any of the Customer Content in its possession unless TAC receives, no later than ten days after the effective date of the termination of this agreement, a written request, for the delivery to the Customer of the then most recent back-up of the Customer Content. TAC shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by TAC in returning or disposing of Customer Content; and
 - 15.2.4 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

16. Force Majeure

- 16.1 Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of TAC (or its Core

Suppliers or any other party), failure of a utility service or transport or telecommunications network or the internet, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

- 16.2 In the above circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for six months, the party not affected may terminate this agreement by giving 30 days' written notice to the other party.

17. Sub Contracting

- 17.1 TAC shall have the right to sub-contract performance of any of its obligations hereunder to any third party as it sees fit, provided that TAC shall at all times remain directly responsible to the Customer for such performance.

18. Non Solicitation

- 18.1 The Customer agrees not to solicit, or make offers of employment to, or enter into consultant relationships with, any TAC employee involved, directly or indirectly, for one (1) year after the expiry of this agreement without the prior written consent of TAC.

19. Notice

- 19.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by recorded delivery post to the other party at its address set out at the front of this agreement, or such other address as may have been notified by that party for such purposes.
- 19.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

20. Assignment

- 20.1 The Customer shall not, without the prior written consent of TAC, assign, transfer, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under this agreement.
- 20.2 TAC may at any time assign, transfer, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under this agreement.

21. No partnership or agency

- 21.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

22. General

- 22.1 This agreement for the supply of Services by TAC to the Customer and shall supersede any other similar documentation or communication between parties. In the event of any inconsistency between the terms of document the hierarch of documents shall be:
- 22.1.1 the SOW;
 - 22.1.2 these terms and conditions; and
 - 22.1.3 any policy or supplemental document to the above.
- 22.2 Any variation to these Terms and Conditions must be agreed in writing by both parties.
- 22.3 A waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 22.4 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.
- 22.5 This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- 22.6 If a court of competent jurisdiction holds any provision of this agreement to be invalid, such invalidity shall not affect the validity of the remaining provisions of this agreement and the parties shall promptly agree to such revised form of the provision concerned as achieves so far as valid the same or similar effect.
- 22.7 This agreement shall be governed by and interpreted in accordance with the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English courts.

Schedule 1 Maintenance and Support

1. Maintenance Events

- 1.1 Routine, planned maintenance of the hosting equipment, facility, software or other aspects of the hosting Services that may require interruption of the Services (**Maintenance Events**) shall, except for any emergency maintenance, not be performed during Normal Business Hours. TAC may interrupt the Services to perform emergency maintenance during the daily window of 10.00 pm to 2.00 am UK time. In addition, TAC may interrupt the hosting Services outside Normal Business Hours for unscheduled maintenance, provided that it has given the Customer at least three days' advance notice. Any Maintenance Events which occur during Normal Business Hours, and which were not requested or caused by the Customer, shall be considered downtime for the purpose of service availability measurement. TAC shall at all times endeavour to keep any service interruptions to a minimum.
- 1.2 TAC may determine, at its sole discretion, that providing appropriate service levels requires additional equipment and/or bandwidth and may install that equipment and/or bandwidth without approval from the Customer. TAC may increase the corresponding hosting Services fees (if applicable and as specified in the SOW in respect of any such installation).

2. Maintenance

- 2.1 Maintenance includes all regularly scheduled error corrections, software updates and those upgrades limited to improvements to features described in any SOW. Support for additional features developed by TAC, as requested by the Customer, may be purchased separately at TAC's current rates.
- 2.2 TAC shall maintain and update the software supplied as part of the SOW. Should the Customer determine that the Software includes a defect, the Customer may at any time file error reports. During maintenance periods, TAC may, at its discretion, upgrade versions, install error corrections and apply patches to the hosted systems. TAC shall use all reasonable endeavours to avoid unscheduled downtime for software maintenance.
- 2.3 TAC shall maintain technical support on the most current releases of the Accepted Software, and any version released in the past 18 months.
- 2.4 The sole resolution for some technical support issues may be to patch or upgrade the Accepted Software.
- 2.5 Where TAC has provided bespoke customisation of software in additional to the Accepted Software then unless otherwise specified in a SOW this will not be maintained.
- 2.6 Where the Customer has created their own customisation to any software this will not be maintained.

3. Technical support services

- 3.1 TAC shall provide the Customer with technical support services only to those elements of the Services that are specified in a SOW.
- 3.2 The Customer personnel named as Customer support representatives (**CSRs**) in any SOW shall be authorised to contact TAC for technical support services. TAC shall provide technical support services only to that specified set of CSRs. TAC shall provide TAC support engineers (**SSEs**) who are assigned to the Customer account. The SSEs shall handle support calls from the Customer's CSRs and shall maintain continuity of knowledge of the Customer account history. TAC shall use reasonable endeavours to provide continuity of SSEs.
- 3.3 TAC technical support shall accept e-mail and web form-based incident submittal from CSRs 24 hours a day seven days a week and via phone during UK and US business hours. TAC technical support call centre shall accept calls for English language telephone support during Normal Business Hours within Business Days. TAC shall use reasonable endeavours to process support requests, issue trouble ticket tracking numbers if necessary, determine the source of the problem and respond to the Customer. TAC technical support call centre shall respond to all support requests from CSRs with valid CINs within the time periods specified below, according to priority.
- 3.4 The named CSRs and TAC technical support shall jointly determine the priority of any defect, using one of following priorities:

Severity Level	Definition	Initial Response time	Target resolution time
Critical	Application is unavailable or unresponsive	30 minutes	1 hour
Urgent	Application is available, but normal business usage is unachievable	1 hour	4 hours
High	Impacts normal business usage, but work around exists	4 hours	3 Working Days
Normal	Not working as expected, but has only minor impact on normal business usage	12 hours	As agreed and prioritised
Low	Not working as expected, but has no impact on current usage	1 day	As agreed and prioritised

- 3.5 Service level calculations will be based on Initial Response Times. Target resolutions are not guaranteed as every technical issue is different. Target resolutions are used to support expectations for both the Customer and TAC.
- 3.6 If no progress has been made on a “Critical” or “Urgent” incident within the Target Resolution Time, the incident shall be escalated to a manager of TAC Technical Services. If the incident is not resolved, then after each successive increment of the Target Resolution Time (for example 1 Business Hours for a “Critical” incident, four Business Hours for an “Urgent” incident), the incident shall be escalated to a director of TAC Technical Services.

4. Optional Services

- 4.1 Optional Services are not required and may be opted out of by the Customer by changing their account settings or by raising a support ticket.
- 4.2 The cost of optional Services, if any will, will be listed in an associated Statement of Work or Sales Order. If a Customer opts out of an optional Service they forfeit their right to receive a benefit from the service regardless of payment.
- 4.3 The following optional Services use anonymised summary data (ASD).
- (a) Artificial Intelligence Analytics
 - (b) Industry Benchmarking
- 4.4 By using the Services that use ASD, the customer authorises The Anywhere Company to create and maintain ASD from their data.
- 4.5 The following optional Services use a file based content delivery network (CDN)
- (a) Customer bespoke training courses uploaded to The Anywhere Platform training portal.
 - (b) Customer configured tutorial videos within their environment.
- 4.6 The Services that use the CDN allow the customer to upload training videos that may contain Bespoke Deliverables or Customer owned IP. The CDN replicates the storage of those files into geographies outside of the agreed storage geography. The Customer agrees to indemnify The Anywhere Company for the Customers use of the optional Services with respect to data protection law.