

MASTER SERVICES AGREEMENT

CUSTOMER

Reference:

CONTENTS

1.	DEFINITIONS AND INTERPRETATION	3
2.	TERMS OF THIS AGREEMENT	5
3.	NDBS OBLIGATIONS.....	5
4.	CUSTOMER'S OBLIGATIONS	5
5.	FEES.....	6
6.	CONFIDENTIALITY	6
7.	DATA PROTECTION	7
8.	TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (TUPE)	7
9.	FORCE MAJEURE	7
10.	INTELLECTUAL PROPERTY	7
11.	LIMITATION OF LIABILITY	7
12.	TERMINATION AND CONSEQUENCES OF TERMINATION	8
13.	CHANGE CONTROL PROCESS	9
14.	DISPUTE RESOLUTION	9
15.	GENERAL	10
16.	SIGNATURES.....	12
17.	SCHEDULES	13

EFFECTIVE DATE: <DATE>

PARTIES:

<COMPANY> (Company Number **<Company Number>**) whose registered office is at **<Registered Address>** ("CUSTOMER");

And

NTT DATA BUSINESS SOLUTIONS LIMITED (Company No 03689001) whose registered office is at 12 Gough Square, London EC4A 3DW ("NDBS"),

each a "Party" and together the "Parties".

BACKGROUND:

- (A) NDBS is in the business of providing consultancy and other services.
- (B) CUSTOMER wishes NDBS to provide it with certain Services (defined below) and has agreed to provide the same in accordance with the terms and conditions set out in this Agreement.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply to this agreement:

Agreement	means this Master Services Agreement together with its annexes and schedules.
Confidential Information	means Information, including all Personal Data, which (however it is conveyed) is provided by the Disclosing Party pursuant to or in anticipation of this Agreement that relates to the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the disclosing Party.
Deliverables	means any software and non-software deliverables (including any New Software) as set out in the Order developed by NDBS for CUSTOMER under this Agreement.
Effective Date	means the date in the head section above. If no date is shown then it means the date of the last signature to this Agreement.
Fees	means the charges for the Services as set out in the Order.
Force Majeure	means any event outside the reasonable control of either Party preventing it from performing any of its obligations under this

	Agreement, including Act of God, fire, flood, lightning, war, revolution, loss of power, pandemic, cyberattack, act of terrorism, riot or civil commotion, but excluding lack of finance, strikes, lock-outs or other industrial action of the affected Party's own employees, failure or delay or any sub-contractor or supplier of the affected Party.
Good Industry Practice	means that degree of skill, diligence, and foresight which would reasonably and ordinarily be expected from a skilled operator in the relevant industry.
Intellectual Property Rights	means rights arising by virtue of copyright or in relation to trademarks (registered or unregistered), registered designs or patents and any other similar rights in any country and all rights in any trade secrets applicable thereto and the rights to any knowledge, know how or product (either in physical or electronic form), developed or learnt, as part of the provision of this Agreement
New Software	means the software developed by NDBS over the course of providing the Services.
Order	means the CUSTOMER's order for Services as may be subsequently agreed in writing between the Parties.
Pre-Contractual Statement	means any undertaking, promise, assurance, statement, representation (other than a fraudulent misrepresentation), warranty or understanding (whether in writing or not) of any person (whether Party to this Agreement or not) relating to this Agreement other than as expressly set out in this Agreement or any documents referred to in it.
Services	means such Services to be provided by NDBS to CUSTOMER as are set out in the Order.
Termination Date	means the date of termination of this Agreement
Working Day	means 7.5 hours within the UK hours 9am to 5pm Monday to Friday excluding UK bank holidays, excluding travel time.

1.1 References to the singular shall include the plural and vice versa.

1.2 Use of the words "includes" or "including" means without limitation.

- 1.3 In the event of a conflict between the terms and conditions of this Agreement and the terms and conditions of an Order that has been agreed in writing between the parties, the terms and conditions of that Order shall prevail.
- 1.4 The provisions of this Agreement shall apply to the exclusion of any other terms that the CUSTOMER seeks to impose or incorporate or which are implied by trade, custom, practice or course of dealing.

2. TERMS OF THIS AGREEMENT

- 2.1 This Agreement shall be effective from the Effective Date and shall continue in force for one year and thereafter remain in force until terminated pursuant to clause 13 or by either Party giving the other no less than three months' notice.

3. NDBS OBLIGATIONS

NDBS shall:

- 3.1 use reasonable endeavours to meet any performance dates agreed between the Parties in respect of the Services, but any such dates shall be estimates only unless expressly agreed otherwise;
- 3.2 provide the Services with reasonable skill and care;
- 3.3 have the right to make any changes to Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and NDBS shall notify the CUSTOMER in any such event;
- 3.4 work in accordance with all reasonable policies and procedures provided to it by the Customer from time to time; and
- 3.5 where the Services involve the development of New Software by NDBS, NDBS warrants that such New Software will perform substantially in compliance with its specification for 3 months from delivery
- 3.6 NDBS does not warrant that the use of any software (including New Software or third party software) will be uninterrupted or error-free.

4. CUSTOMER'S OBLIGATIONS

CUSTOMER shall, at its own cost, on the request of NDBS:

- 4.1 allow NDBS's employees, agents and contractors engaged in the provision of the Services access to its premises and make available reasonable office services and facilities (including computer facilities such as storage, computer consumables and data preparation facilities) as required for the performance of the Services;

- 4.2 obtain such licences, consents and permissions as are necessary for the performance of the Services by NDBS and ensure that any third party software required for the delivery of the Services is operating substantially in conformance with its published specification;
- 4.3 ensure its employees provide co-operation reasonably required by NDBS; and
- 4.4 promptly provide to NDBS such information and documents it may reasonably request.

5. FEES

- 5.1 NDBS shall invoice the CUSTOMER for the Fees in accordance with the frequency set out in the Order. All undisputed invoices shall be payable within 30 days of date of invoice.
- 5.2 Where the CUSTOMER disputes any invoice in good faith it shall give NDBS written notice of the amount disputed and the reason for the dispute within 30 days of the date of the relevant invoice, and the CUSTOMER shall pay any undisputed portion of the disputed invoice. The Parties shall seek to resolve the dispute promptly.
- 5.3 All Fees are exclusive of value added tax and any other applicable sales or withholding taxes which will be charged to CUSTOMER at the then current rate, unless otherwise indicated in the Order.
- 5.4 CUSTOMER shall pay to or reimburse NDBS (on production of such receipts, invoices and/or other evidence as may be available) all reasonable and proper expenses incurred in connection with the provision of the Services including but not limited to travel and accommodation expenses.
- 5.5 NDBS reserves the right to increase its Fees on each anniversary of the Effective Date by an amount no greater than the increase in the Consumer Prices Index (CPI) for the preceding 12 months.

6. CONFIDENTIALITY

The receiving Party agrees to treat Confidential Information as follows:

- 6.1 treat Confidential Information as confidential and keep it in secure in a way that is appropriate to the nature of the Confidential Information
- 6.2 not disclose the Confidential Information to any other person except as expressly set out in this Agreement or without obtaining the owner's prior written consent, unless required to do so by law;
- 6.3 not use Confidential Information in any way except for the purposes anticipated under this Agreement; and
- 6.4 immediately notify the disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of the Confidential Information.

7. DATA PROTECTION

In Each Party shall comply with the provisions of Schedule 1 (Data Protection).

8. TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (TUPE)

The CUSTOMER warrants to NDBS that no persons are intended to transfer to NDBS by virtue of the application of TUPE or otherwise as at the Effective Date. The CUSTOMER shall indemnify and keep indemnified NDBS against any and all employment liabilities it may suffer or incur in relation to the CUSTOMER's breach of this clause.

8.1 NDBS warrants to CUSTOMER that no persons are intended to transfer to CUSTOMER by virtue of the application of TUPE or otherwise as at the date of termination of this agreement. NDBS shall indemnify and keep indemnified CUSTOMER against any and all employment liabilities it may suffer or incur in relation to NDBS's breach of this clause.

9. FORCE MAJEURE

No Party shall in any circumstances be liable to the other for any loss of any kind whatsoever, including, but not limited to, any damages, whether directly or indirectly caused to or incurred by the other Party by reason of any failure or delay in the performance of its obligations under this Agreement which is due to a Force Majeure event. If such event subsists for a period of 30 days or more the other Party may, forthwith by notice to the affected Party, terminate this Agreement with immediate effect without any cost or liability whatsoever.

10. INTELLECTUAL PROPERTY

10.1 Unless expressly agreed otherwise in writing, Intellectual Property Rights arising out of or in connection with the Services (including in any Deliverables) shall be owned by NDBS.

10.2 To the extent NDBS owns the Intellectual Property rights in any Deliverables and use of such Deliverables necessary to make use of the Services, NDBS grants the CUSTOMER a perpetual, non-exclusive licence to use any Deliverables (including, for the avoidance of doubt, any software). Such licence will be subject to such terms as may be set out in the Order.

10.3 To the extent NDBS requires access to software that the Customer either owns or has a licence to use, the Customer hereby grants NDBS a non-exclusive licence to use the software for the purpose of providing the Services to the Customer.

11. LIMITATION OF LIABILITY

11.1 Except to the extent that such liability cannot be excluded by law (and excluding liability for loss or personal injury or for fraudulent misrepresentation), this clause 11 sets out the entire liability of the Parties to one another for breach of contract, tort (including negligence) or otherwise howsoever arising.

11.2 Neither Party shall be liable to the other for any

11.2.1 loss of revenue; or

11.2.2 loss of profits; or

11.2.3 loss of data; or

11.2.4 loss of the use of money; or

11.2.5 loss of anticipated savings; or

11.2.6 loss of business; or

11.2.7 loss of opportunity; or

11.2.8 loss of goodwill; or

11.2.9 loss of or unauthorised access to data; or

11.2.10 loss of reputation.

11.3 Neither party shall be liable for any indirect, special or consequential loss or damage howsoever caused.

11.4 Save as set out in Clause 11.1 above, either Party's total aggregate liability to the other or any person (whether for negligence or breach of contract or in any case whatsoever) shall in no event exceed the greater of £250,000 or 140% of the sums paid by the CUSTOMER to NDBS under this Agreement.

12. TERMINATION AND CONSEQUENCES OF TERMINATION

This Agreement may be terminated immediately by a Party giving written notice to the other if:

12.1 the other Party is in material breach which is either not capable of remedy; or if it is capable of remedy not remedied within 30 days of receipt of notice specifying the nature of the material breach;

12.2 the other Party ceases, or threatens to cease, carrying on business; or

12.3 the other Party becomes insolvent or, in the other Party's reasonable opinion, is likely to become insolvent.

12.4 Termination of this Agreement shall be without prejudice to the rights of either Party in respect of any prior breach. On termination all sums owing pursuant to this Agreement shall become due.

12.5 On termination of this Agreement, all associated Orders shall also terminate.

13. CHANGE CONTROL PROCESS

- 13.1 Unless otherwise provided herein, all proposed changes, additions or modifications by either Party to the services, including all proposals by service recipient for additional services (such changes, additions, modifications and additional services, collectively, “changes”) shall be subject to the formal change control process set forth in this Clause 13 (the “Change Control Process”). The Party seeking a change will document the proposed change in writing, deliver such writing to the other Party, and specify a desired implementation date. The Party receiving the proposal for a change shall evaluate.
- 13.2 No change shall be effective unless and until the Parties in their own discretion, mutually agree on the changes and reflect such agreed upon changes in writing on amended terms or an amended schedule which shall include the following information, as applicable:
- 13.2.1 the date and term of effectiveness of the changes,
 - 13.2.2 a description of the changes,
 - 13.2.3 the applicable charges, if any, for such changes, and
 - 13.2.4 any additional provisions applicable to the changes that are not otherwise set forth in this Agreement or that are exceptions to the provisions set forth in this Agreement.
- 13.3 Amended terms or an amended schedule reflecting changes made pursuant to this Clause 13 shall become effective only when executed in writing by both of the Parties.

14. DISPUTE RESOLUTION

- 14.1 The Parties must attempt in good faith to resolve any dispute, difference or question between them arising out of or in connection with this Agreement.
- 14.2 If a dispute, difference or question between the Parties, arising out of or in connection with this Agreement, cannot be resolved by direct negotiation between them, the Parties agree to endeavour to resolve the matter by mediation in accordance with the following conditions.
- 14.3 To initiate the mediation either Party shall give notice in writing to the other Party requesting mediation. The mediator shall be selected by agreement between the Parties, failing which agreement, within 15 days of one Party or both Parties requesting the appointment of a mediator, by the director of ACAS after consultation with the Parties. The mediation shall commence no later than 42 days after the selection of the mediator.
- 14.4 If there is any issue about the conduct of the mediation upon which the Parties cannot agree, then the mediator selected in accordance with condition 14.3 shall, at the request of either Party, decide that issue after consultation with the Parties.

- 14.5 Unless they agree otherwise, the Parties shall share equally the fees, costs and expenses relating to the mediation and each Party shall pay its own expenses of preparation for, and Participation and representation in, the mediation.
- 14.6 If the Parties are unable to resolve the dispute, difference or question within 28 days of the mediation commencing, and only if the Parties and the mediator agrees, the mediator may produce for the Parties a non-binding recommendation of terms of settlement. This will not attempt to anticipate what a Court might order but will set out what the mediator suggests are appropriate settlement terms in all the circumstances.
- 14.7 Any settlement agreement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or behalf of, both Parties. The mediator may assist the Parties in recording the outcome of the mediation.
- 14.8 Either Party may terminate the mediation at any time. In any event, the mediation shall terminate when:
- 14.8.1 a Party withdraws from the mediation
 - 14.8.2 the Parties resolve the dispute, difference or question
 - 14.8.3 a written agreement is concluded; or
 - 14.8.4 the mediator decides that continuing the mediation is unlikely to result in a settlement.

15. GENERAL

- 15.1 The CUSTOMER may not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under this Agreement, without NDBS's prior written consent.
- 15.2 No one other than a Party to this Agreement shall have any right to enforce any of its terms.
- 15.3 Each Party shall, during the term of this Agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such Party from the other Party and which relates to the other Party, unless that information is public knowledge or already known to such Party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such Party from a third Party. Each Party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.
- 15.4 Each Party agrees, to the extent they apply to this agreement, to comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including (without

limitation) the Bribery Act 2010 and with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force including the Modern Slavery Act 2015

- 15.5 This Agreement sets out the entire agreement between the Parties relating to its subject matter and overrides any prior correspondence or representations. All warranties and conditions not set out in this Agreement whether implied by statute or otherwise are excluded to the extent permitted by law.
- 15.6 In entering into this Agreement and any Orders associated with it, neither Party has relied on any Pre-Contractual Statement save to the extent that such statement or representation is included in this Agreement or other documents referred to by it.
- 15.7 Any variation to this Agreement must be in writing and signed by the authorised signatories of both Parties.
- 15.8 No failure or delay by a Party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.9 Both Parties agree that for the Term and for a period of one year after it has terminated, they will not, directly or indirectly, employ or contract for the services of any of the employees of the other Party at any time engaged in the performance of this Agreement without the prior written consent of the other Party.
- 15.10 If any provision of this Agreement is ruled to be invalid for any reason, that invalidity will not affect the rest of this Agreement which will remain valid and enforceable in all respects.
- 15.11 This Agreement is intended to be legally binding and shall be governed by and construed in accordance with the law of England and Wales. Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

16. SIGNATURES

Signed for and on behalf of: CUSTOMER	Signed for and on behalf of: NDBS
Signature :	Signature :
Name :	Name :
Title :	Title :
Date :	Date :

17. SCHEDULES

Schedule 1 – Data Protection

1. DEFINITIONS

Data Controller	has the meaning given to 'Data Controller', or 'Controller' as appropriate, in the Data Protection Laws.
Data Breach	means a "personal data breach" as defined in the Data Protection Laws, being a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
Data Processor	has the meaning given to 'Data Processor', or 'Processor' as appropriate, in the Data Protection Laws.
Data Protection Laws	means any and all laws, statutes, enactments, orders or regulations or other similar instruments of general application and any other rules, instruments or provisions in force from time to time relating to the processing of personal data and privacy applicable to the performance of this Agreement, including where applicable the Data Protection Act 2018, the Data Protection Bill, the Regulation of Investigatory Powers Act 2000, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) as amended or superseded and the EU GDPR (Regulation (EU) 2016/679) and the UK GDPR.
EU GDPR	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing directive 95/46/EC as updated, superseded or repealed from the time to time.
GDPR	means either the EU GDPR or UK GDPR, depending on which is applicable to the processing.
UK GDPR	means the EU GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, as updated or amended and including any subordinate or replacement legislation.

“Personal Data” has the meaning given in the Data Protection Laws.

2. COMPLIANCE WITH DATA PROTECTION LAWS

The Parties shall each comply with their respective obligations under the applicable Data Protection Laws.

3. DATA PROCESSING OBLIGATIONS

In respect of any Personal Data to be processed by a Party acting as Data Processor pursuant to this Agreement for which the other Party is Data Controller, the Data Processor shall:

- provide appropriate technical and organisational measures in such a manner as is designed to ensure the protection of the rights of the data subject and to ensure a level of security appropriate to the risk;

- not engage any sub-processor without the prior specific or general written authorisation of the Data Controller (and in the case of general written authorisation; the Data Processor shall inform the Data Controller of any intended changes concerning the addition or replacement of other processors, thereby giving the Data Controller the opportunity to object to such changes);

- ensure that any sub-processor that is engaged to process such Personal Data by the Data Processor is subject to data protection obligations that are similar to those applicable to the Data Processor under this Schedule;

- process that personal data only to perform its obligations under this Agreement or other documented instructions and for no other purpose save to the limited extent required by law;

- on termination of this Agreement, at the Data Controller's option either return or destroy the personal data (including all copies of it) immediately;

- ensure that all persons authorised to access the personal data are subject to obligations of confidentiality;

- make available to the Data Controller all information necessary to demonstrate compliance with the obligations laid out in Article 28 of GDPR and this Schedule and allow for and contribute to audits, including inspections, conducted by the Data Controller or another auditor mandated by the Data Controller; provided that, in respect of this provision the Data Processor shall immediately inform the Data Controller if, in its opinion, an instruction infringes Data Protection Laws;

- taking into account the nature of the processing, provide assistance to the Data Controller, insofar as possible, in connection with the fulfilment of the Data Controller's obligation to respond to requests for the exercise of data subjects' rights pursuant to Chapter III of the UK GDPR to the extent applicable. Such assistance to be chargeable at Data Processor's standard rates or rates agreed by the Parties from time-to-time;

provide the Data Controller with assistance in ensuring compliance with articles 32 to 36 (inclusive) of the GDPR (concerning security of processing, data breach notification, communication of a personal data breach to the data subject, data protection impact assessments, and prior consultation with supervisory authorities) to the extent applicable to the Data Controller, taking into account the nature of the processing and the information available to the Data Processor. Such assistance to be chargeable at Data Processor's standard rates or rates agreed by the Parties from time-to-time;

notify the Data Controller without undue delay (and in any event, within 24 hours of becoming aware of a security breach in respect of Personal Data that it processes on behalf of the Data Controller in writing if the Data Processor becomes aware of a Data Breach;

maintain a record of its processing activities in accordance with Article 30(1) of the GDPR; and

allow the Data Controller (or its appointed third Party auditor) to conduct an audit of compliance of this Schedule by the Data Processor pursuant to this Agreement (including by way of physical inspection) no more frequently than once per year during the term and on at least 10 days' notice to the Data Processor in advance (provided that the Data Processor shall be entitled to require that any third party auditor appointed to conduct such an audit enters into a confidentiality agreement with the Data Processor prior to such audit being conducted. Support for audits to be chargeable at Data Processor's standard rates or rates agreed by the Parties from time-to-time.

4. INTERNATIONAL DATA TRANSFERS

In respect of any Personal Data to be processed by a Party acting as Data Processor pursuant to this Agreement for which the other Party is Data Controller, the Data Processor shall not, save as set out below, transfer the Personal Data outside the territory comprising the UK and EEA or to an international organisation without first:

- a) ensuring appropriate levels of protection, including any appropriate safeguards if required, are in place for the Personal Data in accordance with the Data Protection Laws;
- b) notifying the Data Controller of the protections and adequate safeguards in clause a) above; and
- c) documenting and evidencing the protections and adequate safeguards in clause a) above and allowing the Data Controller access to any relevant documents and evidence.

5. DETAILS OF PROCESSING ACTIVITIES

The following table sets out the details of processing as required by Article 28 of GDPR:

Purposes for which the Personal Data shall be processed	Solely in connection with providing the Services under this Agreement.
Description of the categories of the data subjects	Customer's employees and subcontractors.
Description of the categories of Personal Data	The minimum required contact data and personal data contained in Customer's systems: employee name, business address, business phone number, business mobile number, business e-mail address, system login details and such other personal data as it required to provide the Services.
Description of transfers of Personal Data to a country outside of the UK	The following NTT Data organisations may process data as sub-processors. NTT DATA Business Solutions AG Königsbreede 1 33605 Bielefeld, Germany NTT DATA Business Solutions sp. z o.o. Business Garden Poznań ul. Pastelowa 8

	<p>PL-60-198 Poznań, Poland</p> <p>NTT DATA Business Solutions Holding B.V. Utopialaan 50 5232 CE 's-Hertogenbosch, Netherlands</p> <p>intelligence Outsourcing MSC Sdn Bhd (H.Q) c/o NTT MSC, Momiji (West) Building No. 43000 Persiaran APEC MY-63000 Cyberjaya, Selangor, Malaysia</p> <p>NTT DATA Business Solutions Pvt. Ltd. Plot no. 4, Softsol Tower - 2, 3rd floor, Software Units Layout Madhapur, Hi-Tech City Hyderabad - 500081, Telangana, India</p> <p>FH S.A. 100 SCN QD 04, Bloco B #1201 Brasilia, Distrito Federal 70714-900, Brazil</p> <p>NTT DATA Business Solutions Türkiye Nidakule Ataşehir Kuzey İş Merkezi, Barbaros Mah. Begonya Sok. No:3/A Ataşehir 34746 İstanbul, Turkey</p> <p>NTT DATA Business Solutions Inc. 10856 Reed Hartman Highway, Cincinnati, OH 45242, USA</p>
--	--

<p>The envisaged time limits for erasure of the different categories of Personal Data</p> <p>Please specify how long you think the Personal Data will be retained for, where possible.</p>	<p>Personal Data will be erased within six months of the completion of the Services, unless otherwise agreed with the Customer, or if retention is required by law.</p>
<p>General description of technical and organisational security measures</p> <p>Where possible, please describe the measures put in place under Article 32(1) GDPR.</p>	<p>All data held on NDBS laptops is permanently encrypted. Access to data held in NDBS networks is restricted to NDBS employees or subcontractors under the control of NDBS.</p>
<p>Authorised Sub-Processors</p> <p>List the sub-processors who will process Personal Data.</p>	<p>Subcontractors under the control of NDBS.</p>

SOFTWARE LICENCE AND SUPPORT AGREEMENT

CUSTOMER:

Reference:

CONTENTS

1.	AGREEMENT	3
2.	DEFINITIONS	4
3.	TERM AND TERMINATION	7
4.	PAYMENT OF CHARGES	8
5.	CONFIDENTIALITY	9
6.	TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (TUPE)	9
7.	FORCE MAJEURE	9
8.	LIMITATION OF LIABILITY	9
9.	INTELLECTUAL PROPERTY INDEMNITY	10
10.	COMPLIANCE WITH APPLICABLE LAWS	10
11.	DATA PROCESSING OBLIGATIONS	10
12.	GENERAL	10
13.	SIGNATURE BLOCK	12
14.	SCHEDULES	13

This Agreement is made between:

COMPANY REGISTERED NAME that has the following company number **Company Registration Number** and whose registered of is located at **Company Registered Address** (the “Customer”)

by

NTT DATA BUSINESS SOLUTIONS LIMITED that has the following company number 03689001 and whose registered of is located at 12 Gough Square, London EC4A 3DW, UK (“NDBS”),

each Party and together the Parties.

The CUSTOMER has agreed to appoint NDBS to provide the Software licensing and Support set out in this Agreement, on the terms below:

1. AGREEMENT

This Agreement consists of these terms and conditions and the following schedules:

- 1.1 Schedule 1 describes the Software, Support and any Cloud Services to be provided by NDBS together with charges payable by the CUSTOMER;
- 1.2 Schedule 2 sets out additional terms that apply to the Software;
- 1.3 Schedule 3 sets out additional terms that apply to the Support;
- 1.4 Schedule 4 sets out additional terms applying to the Software.

2. DEFINITIONS

For the purpose of this Agreement the following terms shall have the following meanings:

Add-on	means additional functionality created in the Software.
Affiliate	means any legal entity in which a party, directly or indirectly, holds more than fifty percent (50%) of the entity's shares or voting rights. Any legal entity will be considered an Affiliate as long as that interest is maintained.
Agreement	means these terms and conditions together with their associated schedules.
Authorised User	means any individual to whom the CUSTOMER grants access authorization to use the Cloud Services that is an employee, agent, contractor or representative of the CUSTOMER, the CUSTOMER's Affiliates, and/or Business Partners of the CUSTOMER's its Affiliates' Business Partners.
Business Partner	means a legal entity that requires use of the Software in connection with the CUSTOMER's and its Affiliates' internal business operations. These may include customers, distributors, service providers and/or Customers of the CUSTOMER.
Calendar Quarter	means the three-month period ending on March 31, June 30, September 30 and December 31 respectively in any given calendar year.
Charges	means the charges for the Software and Support. All charges shown exclude VAT.
Cloud Materials	mean any materials provided or developed by NDBS (independently or with the CUSTOMER's cooperation) in the course of performance under the Agreement, including in the delivery of any support. Cloud Materials do not include the the CUSTOMER Data or the Cloud Services or Documentation.
Cloud Services	means software operating in a cloud environment provided by NDBS or its partners.

Confidential Information	means Information, including all Personal Data, which (however it is conveyed) is provided by the Disclosing Party pursuant to or in anticipation of this Agreement that relates to the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the disclosing party.
CUSTOMER Data	means any content, materials, data and information that Authorised Users enter into the production system of a Cloud Services or that the CUSTOMER derives from its use of and stores in the Cloud Services.
Data Breach	means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
Data Controller	has the meaning given to 'Data Controller', or 'Controller' as appropriate, in the Data Protection Laws.
Data Processor	has the meaning given to 'Data Processor', or 'Processor' as appropriate, in the Data Protection Laws.
Data Protection Laws	means any and all laws, statutes, enactments, orders or regulations or other similar instruments of general application and any other rules, instruments or provisions in force from time to time relating to the processing of personal data and privacy applicable to the performance of this Agreement, including where applicable the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) as amended or superseded and the GDPR.
Documentation	means the current technical and functional documentation as well as any roles and responsibilities descriptions, if applicable, for the Cloud Services which is made available to the CUSTOMER with the Cloud Services.
Early Watch Alert	means an alert generated by an automatic monitoring service of essential administrative areas of the Software. An alert

	indicates a critical situation and gives solutions to improve performance and stability.
Effective Date	means the DATE or the date that NDBS receives and approves the CUSTOMER's signed acceptance of this Agreement.
GDPR	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing directive 95/46/EC as updated, superseded or repealed from the time to time.
Go-Live	means the point in time when the CUSTOMER starts to use the SOFTWARE as a Production System.
Initial Term	means INITIAL TERM . For the avoidance of doubt the Initial Term will end 31 December.
Intellectual Property Rights	means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.
Modification	means a change to the delivered source code or metadata of the Software or any other development that customises, enhances, or changes existing functionality of the Software including, but not limited to, the creation of any new application program interfaces alternative user interfaces or the extension of data structures.
On-Premise Software	means software installed in the CUSTOMER's computing environment or a third party's computing environment with the agreement of the CUSTOMER and NDBS, such agreement not to be unreasonably withheld.
Personal Data	has the meaning given in the Data Protection Laws.

Production System	means a live system used for running CUSTOMER's internal business operations in accordance with this Agreement, and where CUSTOMER's data is recorded.
Schedule an Expert Service	means a scheduled online support service with an appropriate expert to investigate and assist in resolving Software product issues.
Software	means the software to be provided by NDBS including software authored by a partner or another third party as described in Schedule 1 of this Agreement together with the appropriate Documentation and Cloud Services.
Support	means support services provided by NDBS including services procured by NDBS from a partner or another third party as described in Schedule 1 to this Agreement.
Technical Quality Check	means one or more manual or automatic service sessions provided remotely by NDBS.
Territory	means worldwide excluding countries appearing in the US Government list of embargoed countries.
Usage Metric	means the standard of measurement for determining the permitted use and calculating the fees due for a Cloud Services as set forth in an Order.
Working Day	means the period measured in UK hours 9am to 5pm Monday to Friday excluding UK bank holidays, excluding travel time.
Working Hour	means any 60 minute period in a Working Day.

3. TERM AND TERMINATION

- 3.1 This Agreement and the licence granted under it will be deemed to commence on Effective Date and, unless terminated in accordance with the provisions of paragraph 10 below, continue for the Initial Term, and automatically renew thereafter for successive periods of one year unless and until terminated by either party with three months' written notice prior to the end of the Initial Term, or thereafter prior to the start of each calendar year unless we otherwise agree with you in writing.
- 3.2 From the Effective Date, in consideration of the payment of the Charges set out in Schedule 1 NDBS shall grant to the CUSTOMER a licence to use the Software (on the terms set out

in Schedule 2) and any supplementary terms (on the terms set out in Schedule 4) and shall provide the CUSTOMER with the Support in accordance with Schedule 3 of this Agreement.

3.3 The CUSTOMER may terminate this Agreement and the licences granted under this Agreement by written notice with immediate effect if NDBS ceases to be an authorised reseller of Software. Either of NDBS or the CUSTOMER may terminate this Agreement and the licences granted under this Agreement by written notice with immediate effect if:

3.3.1 the other becomes or is likely to become insolvent; or

3.3.2 the other appoints a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of its assets or revenue; or

3.3.3 the other materially breaches this Agreement; or

3.3.4 any sum payable under this Agreement is not paid within one month of the CUSTOMER's receipt of notice demanding payment, such notice being provided after the due date for payment in accordance with this Agreement has occurred; or

3.3.5 permitted to do so by any provision set out in Schedules 3, 4 or 5 of this Agreement.

3.4 In the event of termination of this Agreement for any reason, no fees shall be payable by the CUSTOMER in respect of any period beyond the effective date of termination (and NDBS shall refund any such fees paid in advance).

3.5 Termination of this Agreement for any reason shall be without prejudice to the rights and remedies of either of us which may have accrued up to termination.

3.6 Termination of Support alone by either of us shall not affect the CUSTOMER's rights to use the Software granted under this Agreement.

4. PAYMENT OF CHARGES

4.1 The Licence Fee and initial support fee are payable in advance on the Effective Date. The Support Charges shall be payable annually in advance for the period 1 January to 31 December in each year. In the event that the Effective Date is not 1 January of any year, then a prorated amount for the period from the Effective Date until 1 January of the following year shall be charged on the Effective Date.

4.1.1 NDBS reserves the right to increase the price of the maintenance services effective 1 January each year or on each anniversary of the commencement of this Agreement if this is the renewal date, by an amount announced by the relevant party from time-to-time.

4.1.2 NDBS reserves the right to increase the Charges for Cloud Services on each anniversary of the commencement of this Agreement by an amount no greater than the cumulative increase in the Consumer Prices Index (CPI) since the

commencement date of this Agreement or 3.3% calculated on a cumulative year-over-year basis since the commencement date of this Agreement, whichever is the greater.

4.2 NDBS shall invoice the CUSTOMER for fees as appropriate. All invoices shall be payable within 30 days of receipt of invoice by the CUSTOMER.

5. CONFIDENTIALITY

Each party shall, during the term of this Agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

6. TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (TUPE)

The parties agree and acknowledge that it is not intended that any persons are intended to transfer from one party to the other party by virtue of the application of TUPE or otherwise as at the Effective Date or at the date of termination of this Agreement.

7. FORCE MAJEURE

No party shall in any circumstances be liable to the other for any loss of any kind whatsoever, including, but not limited to, any damages, whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations under this Agreement which is due to an event outside the reasonable control of that party. If such event subsists for a period of 30 days or more the other party may, forthwith by notice to the affected party, terminate this Agreement with immediate effect without any cost or liability whatsoever.

8. LIMITATION OF LIABILITY

Except to the extent that such liability cannot be excluded by law (and excluding liability for loss or personal injury or for fraudulent misrepresentation), this clause 8 sets out the entire liability of the Parties to one another for breach of contract, tort (including negligence) or otherwise howsoever arising.

8.1 Save for the payment of the Charges due under this Agreement, neither party shall be liable to the other for any

8.1.1 loss of revenue; or

8.1.2 loss of profits; or

8.1.3 loss of the use of money; or

8.1.4 loss of anticipated savings; or

8.1.5 loss of business; or

- 8.1.6 loss of opportunity; or
 - 8.1.7 loss of goodwill; or
 - 8.1.8 loss of or unauthorised access to data; or
 - 8.1.9 loss of reputation; or
 - 8.1.10 for any indirect, special or consequential loss or damage howsoever caused.
- 8.2 Either party's total aggregate liability to the other or any person (whether for negligence or breach of contract or in any case whatsoever) shall in no event exceed the greater of £250,000 or 140% of the sums paid by the CUSTOMER to NDBS under this Agreement.
- 8.3 Should the customer require a higher level of liability this may be available at an additional cost.

9. INTELLECTUAL PROPERTY INDEMNITY

- 9.1 NDBS shall at all times during the term of this Agreement indemnify and keep the CUSTOMER indemnified, against all losses arising for a claim for infringement of a third party's Intellectual Property caused by the Software or services provided under this Agreement, providing that:
- 9.1.1 the Software has been used in accordance with the terms of this Agreement;
 - 9.1.2 the CUSTOMER has informed NDBS of a likely claim in a timely manner;
 - 9.1.3 the CUSTOMER has taken reasonable steps to mitigate any claim; and
 - 9.1.4 the CUSTOMER fully cooperates with NDBS in defending any claim.
- 9.2 At its sole discretion NDBS may either defend or settle any claim.

10. COMPLIANCE WITH APPLICABLE LAWS

Each party agrees, to the extent they apply to this agreement, to comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including (without limitation), all applicable Data Protection Laws, the Bribery Act 2010 and with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force including the Modern Slavery Act 2015.

11. DATA PROCESSING OBLIGATIONS

In respect of any Personal Data to be processed by a Party acting as Data Processor pursuant to this Agreement for which the other Party is Data Controller, the Parties shall act in accordance with Schedule 5.

12. GENERAL

- 12.1 This Agreement (which includes the schedules and any documents referred to in this Agreement) sets out the entire agreement between the Parties relating to its subject matter and overrides any prior correspondence or representations.

- 12.2 In entering into this Agreement and any Orders associated with it, neither party has relied on any Pre-Contractual Statement save to the extent that such statement or representation is included in this Agreement or other documents referred to by it.
- 12.3 Any variation to this Agreement must be in writing and signed by the authorised signatories of both parties.
- 12.4 No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 12.5 Both parties agree that for the Term and for a period of one year after it has terminated, they will not, directly or indirectly, employ or contract for the services of any of the employees of the other party at any time engaged in the performance of this Agreement without the prior written consent of the other party.
- 12.6 If any provision of this Agreement is ruled to be invalid for any reason, that invalidity will not affect the rest of this Agreement which will remain valid and enforceable in all respects. In the event of any conflict between any part of this Agreement these terms and conditions shall take precedence, followed by Schedules 1, 2, 3, 4 and 5 in that order.
- 12.7 If any provision of this Agreement is ruled to be invalid for any reason, that invalidity will not affect the rest of this Agreement which will remain valid and enforceable in all respects.
- 12.8 The pricing and terms in this Order are contingent on the CUSTOMER allowing NDBS to use its name and logo in its publicly accessible reference lists
- 12.9 This Agreement shall not be assigned by either party without the other's prior written consent.
- 12.10 This Agreement is intended to be legally binding and shall be subject to English law and the exclusive jurisdiction of the English courts.

13. SIGNATURE BLOCK

By signing below each party confirms its acceptance of the provisions of this Agreement.

Signed for and on behalf of: CUSTOMER	Signed for and on behalf of: NDBS
Signature:	Signature:
Name :	Name :
Title :	Title :
Date :	Date :

14. SCHEDULES

SCHEDULE 1
SOFTWARE , SUPPORT AND CHARGING

SOFTWARE:

The Software consists of the following:

On Premise Software:

List On Premise Software with Pricing

Cloud Services:

List Cloud Services (Software) with Pricing

SUPPORT:

SCHEDULE 2 SOFTWARE LICENCE AGREEMENT

1. SOFTWARE LICENCE

Subject to clause 9 below NDBS grants to CUSTOMER a non-exclusive, non-transferable, perpetual (except for subscription or Cloud Services licences, or if stated otherwise in schedule 1) licence to use the Software in the Territory solely for CUSTOMER's and its Affiliates' internal business operations, under the terms of this Agreement.

- 1.1 Each user of the software must be appropriately licensed.
- 1.2 CUSTOMER shall not:
 - 1.2.1 use the Software to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training) other than to Affiliates (subject to Clause 2 below);
 - 1.2.2 lease, loan, resell, sublicense or otherwise distribute the Software, other than distribution to Affiliates (subject Clause 2 below);
 - 1.2.3 distribute or publish any installation codes relates to the Software;
 - 1.2.4 use Software components other than those specifically identified in Schedule 1 of this Agreement, even if it is able to access other Software components.
- 1.3 Licensee may permit Business Partners to Use the Software only through screen access, solely in conjunction with Licensee's Use, and may not Use the Software to run any of Business Partners' business operations.
- 1.4 For Cloud Services the licence to use will be for the period granted under this Agreement unless terminated as permitted under this Agreement and limited by any metrics listed in Schedule 1.

2. USE OF SOFTWARE BY AFFILIATES

Affiliates may use the Software to run their internal business operations as permitted under Clause 1 Above, provided that:

- 2.1 CUSTOMER must ensure that Affiliate agrees in writing to comply with the terms of this Agreement;
- 2.2 a breach of the Agreement terms by Affiliate shall be considered a breach by CUSTOMER.
- 2.3 Affiliate does not have a separate licence for the software of the same type as the Software, unless otherwise agreed to in writing by the Parties.

3. USE OF SOFTWARE BY BUSINESS PARTNERS

Business Partners may use the Software solely to support the CUSTOMER and its Affiliates with the internal business operations.

4. USE OF SOFTWARE AND RIGHT TO AUDIT

4.1 CUSTOMER is solely responsible for maintaining the use of the Software in accordance with the terms of this Agreement and this includes ensuring that on users of the Software are have a valid licence. NDBS may audit CUSTOMER's use of the Software and CUSTOMER agrees to support the audit process at its cost by provided information reasonably requested by NDBS and:

4.1.1 for On-Premise Software NDBS shall be entitled to audit the use of the software annually and may require CUSTOMER to run software to support the audit process;

4.1.2 for Cloud Services NDBS shall measure its use from time-to-time and shall inform CUSTOMER of any breach of licensing under this Agreement.

4.2 In the event that the Software is found to breach the terms of licensing under this Agreement then CUSTOMER shall purchase the required additional licences to become compliant, either at the current list price for the Software or at a price agreed by the Parties.

5. ACCEPTABLE USE

Except to the extent that such rights cannot validly be waived by law the CUSTOMER may not:

5.1 disassemble, decompile, reverse-engineer, copy, translate or make derivative works from the Software;

5.2 use the Software to transmit any content that is unlawful or infringes any intellectual property rights; or

5.3 circumvent the normal operation of the software or endanger its security.

6. INTELLECTUAL PROPERTY RIGHTS

The Software and all title, rights and interest, especially, without limitation, any Intellectual Property Rights embodied therein are the sole and exclusive property of NDBS or its licensors, subject to any rights, title or interest expressly granted to Licensee in Clauses 1 to 3 and Add-ons herein.

7. MODIFICATIONS AND ADD-ONS

7.1 All Add-ons developed by NDBS (either independently or jointly with the CUSTOMER) and all rights associated therewith shall be the exclusive property of NDBS. Licensee agrees to execute those documents reasonably necessary to secure NDBS's rights in the foregoing Modifications and Add-ons.

7.2 All Add-ons developed by or on behalf of Licensee without NDBS's participation ("CUSTOMER Add-on"), and all rights associated therewith, shall be the exclusive property of Licensee subject to NDBS's rights in and to the Software.

7.2.1 CUSTOMER shall not commercialise, market, distribute, license, sublicense, transfer, assign or otherwise alienate any such CUSTOMER Add-ons. NDBS

retains the right to independently develop its own Modifications or Add-ons to the Software

7.2.2 CUSTOMER agrees not to take any action that would limit NDBS's sale, assignment, licensing or use of its own Software or Modifications or Add-ons thereto.

7.3 Any Modification developed by or on behalf of CUSTOMER without NDBS's participation or Licensee Add-on must not (and subject to other limitations set forth herein):

7.3.1 enable the bypassing or circumventing any of the restrictions set forth in this Agreement and/or provide Licensee with access to the Software for which CUSTOMER is not directly licensed;

7.3.2 unreasonably impair, degrade or reduce the performance or security of the Software;

7.3.3 render or provide any information concerning Software licence terms, or the Software itself.

7.4 CUSTOMER covenants, on behalf of itself and its successors and assigns, not to assert against NDBS or its affiliated companies, or their resellers, distributors, NDBSs, commercial partners and customers, any rights in any (i) CUSTOMER Add-ons or Modifications or (ii) other functionality of the Software accessed by such Licensee Add-ons or Modifications.

8. WARRANTY

8.1 NDBS warrants that the SOFTWARE shall conform substantially to its specifications for a period of six (6) months from the Effective Date, providing:

8.1.1 the Software is used in accordance with the terms of this Agreement

8.1.2 the non-conformance is not caused by an Add-On or Modification developed by the CUSTOMER without the participation of NDBS.

8.2 NDBS does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software will necessarily meet all of the CUSTOMER's business requirements.

9. REGULATORY MATTERS

The Software, Software Documentation and the Materials are subject to the export control laws of various countries, including without limit the laws of England, the United States and Germany. CUSTOMER shall not hand over the Software to governmental authorities for licensing considerations or other official approval without NDBS's prior written consent, and shall not export the Software, to countries or to natural or legal persons for which export bans apply according to the relevant export laws or use or allow the use of the Software in such countries or by such persons.

10. SYSTEM AVAILABILITY CLOUD SOFTWARE

SOFTWARE LICENCE AND SUPPORT AGREEMENT

- 10.1 NDBS warrants to maintain an average monthly availability at the level shown in Schedule 1 of this Agreement "Cloud Services Level".
- 10.2 CUSTOMER's sole and exclusive remedy for breach of the Cloud Services Level shall be the application of service credits as described in Schedule 1 of this Agreement.
- 10.3 In the event that Cloud Services is breached in four consecutive months then CUSTOMER may terminate the part of this Agreement applying to Cloud Services by providing NDBS with 30 days' written notice.

11. SUPPLIMENTARY TERMS

Any supplementary terms that apply to the use of the Software are set out in Schedule 4 of this Agreement.

SCHEDULE 3 SUPPORT AGREEMENT

1. SCOPE OF SUPPORT

NDBS, as the primary support provider for the CUSTOMER's Software will receive all requests for Support from the CUSTOMER but may, under NDBS's agreement with its subcontractors, subcontract the provision of support to the subcontractor for processing.

The following are included in Support:

- 1.1 new releases of the Software, as well as tools and procedures for upgrades;
- 1.2 support packages to correct errors in the software and to adapt existing functionality to changed legal and regulatory requirements;
- 1.3 technology updates to support third-party operating systems and databases;
- 1.4 where appropriate source code for applications;
- 1.5 tools and documents to support software upgrades and change management;
- 1.6 up to five days remote support services per calendar year to assist Licensee in evaluating new or changes capabilities in the Software;
- 1.7 obtain Software documentation via a portal;
- 1.8 up to four hours of Schedule an Expert Service, to be scheduled at a time agreed by the Parties; and
- 1.9 business process health checks at a reduced rate.

2. SUPPORT FOR ON-PREMISE SOFTWARE ONLY

- 2.1 NDBS will check for and identify potential conflicts between custom developments made by the CUSTOMER and updated versions of the Software. There may be two such checks per year and each check will be conducted for one custom development and the CUSTOMER must have provided to NDBS documentation in a form agreed with NDBS prior to any check being carried-out. Two categories of check are available:

- 2.1.1 custom modifications to Software; and
- 2.1.2 custom extensions to Software that employ user exits and/or services to separate the custom code from the Software.

- 2.2 solutions to monitor and improve the efficiency of the operation of the Software;
- 2.3 Technical Quality Checks prior to key events such as a Go-Live, an upgrade of the Software, or migration of the software (to a new technology platform for example). A maximum of one Technical Quality Check shall be provided in each calendar year and each check may be rescheduled by the CUSTOMER a maximum of three times;
- 2.4 an additional Technical Quality Checks in the event of a Priority One Incident; and

SOFTWARE LICENCE AND SUPPORT AGREEMENT

- 2.5 as appropriate, access to websites and online communities that provide information and guidance concerning the use and administration of the Software.

3. INCIDENTS

An "Incident" occurs when the Software fails to perform according to its specification and the CUSTOMER may report the Incident to NDBS for resolution.

- 3.1 Incidents shall be categorised as follows:

- 3.1.1 "Priority 1 Incident" means an Incident that has very serious consequences for normal business transactions and urgent, business critical work cannot be performed. This is generally caused by the following circumstances: complete system outage or malfunctions of central Software functions in the Production System.
- 3.1.2 "Priority 2 Incident" means an Incident that causes normal business transactions in a Production System to be seriously affected and results in necessary tasks not being performed. This is caused by incorrect or inoperable functions in the Software that are required to perform such transactions and/or tasks.
- 3.1.3 "Priority 3 Incident" means an Incident that causes a function required for daily business not to be available from time to time or not work as it should.
- 3.1.4 "Priority 4 Incident" means an Incident that causes a function not to be available from time to time or not work as it should. The function is not required for daily business.

4. SERVICE LEVELS AND CREDITS

- 4.1 The following levels of service "Service Levels" shall apply:

- 4.1.1 For Priority 1 Incidents each shall be addressed on a 7 x 24 hours basis for both response and resolution with tickets received outside of the working day being automatically forwarded to a partner if required. Within the working day NDBS shall respond to the CUSTOMER within 30 minutes of receiving notification of the incident in Solution Manager and shall provide either a solution, or work around, or action plan for resolution ("Corrective Action") within four hours;
- 4.1.2 For Priority 2 Incidents NDBS shall respond within four Working Hours;
- 4.1.3 For Priority 3 Incidents NDBS shall respond within eight Working Hours; and
- 4.1.4 For Priority 4 Incidents NDBS shall respond within sixteen Working Hours.
- 4.1.5 Time taken by the CUSTOMER to evaluate and apply any solutions, work arounds or action plans shall be excluded for the purposes of calculating the Service Levels.

- 4.2 Service level targets shall be as follows:

- 4.3 Should the CUSTOMER raise 20 or more Incidents in a Calendar Quarter, NDBS shall achieve the Service Levels in 4.1 above for 95% (Ninety-five percent) of the Incidents;
- 4.4 Service Levels are calculated based on performance provided on the previous 20 Incidents. A minimum of 20 incidents are required for the calculation of Service Credits.
- 4.5 NDBS shall not be liable in respect of the Service level targets in 4.2 above if:
 - 4.5.1 the CUSTOMER has been unable to provide direct access to its systems to enable the correction of the Incident;
 - 4.5.2 the CUSTOMER has been unable provide access to a contact person with sufficient training and experience to support NDBS in resolving Incidents;
 - 4.5.3 Incident has been caused by a custom application developed by or for the CUSTOMER (except such applications developed by NDBS), or a third party application not provided by NDBS.
- 4.6 Credits shall apply when Service Levels are not met as follows:
 - 4.6.1 failing to meet an average Service Level of 81% to 91%, 1% credit;
 - 4.6.2 failing to meet an average Service Level of 70% to 81%, 5% credit;
 - 4.6.3 failing to meet an average Service Level of 70%, 10% credit.
 - 4.6.4 Service Level credits shall be calculated on CUSTOMER request within one month of the alleged failure; each occurrence shall be investigated and a written response sent to the CUSTOMER showing the results of the investigation.
 - 4.6.5 Service Levels are calculated once per calendar quarter and any credit determined according to clauses 4.6.1 to 4.6.3 above, by multiplying the percentage credit and the quarterly Support fee.
 - 4.6.6 Each quarter's Service credit is applied as a credit to the following quarter's Support fees.
 - 4.6.7 Service credits are subject to subject to a maximum per calendar quarter of ten percent (10%) of Licensee's Support Fee for such calendar quarter.

5. TICKETING SYSTEM

- 5.1 The CUSTOMER may access remotely and use NDBS's ticketing system:
 - 5.1.1 for Incident management and change request management;
 - 5.1.2 to obtain Software updates;
 - 5.1.3 to generate an Early Watch Alert if this service is available.

6. CUSTOMER'S RESPONSIBILITIES

SOFTWARE LICENCE AND SUPPORT AGREEMENT

- 6.1 Provide and maintain remote access to installations of the Software to enable NDBS to provide Support at all times;
- 6.2 Use NDBS's ticketing system to raise support tickets for Incidents and to manage the Incident resolution process;
- 6.3 Ensure that appropriately skilled and knowledgeable people who speak English are accessible as required by NDBS to provide Support;
- 6.4 To act reasonably on any advice provided by NDBS in connection with the provision of Support;
- 6.5 To maintain and provide NDBS with any modifications to the Software made by CUSTOMER, as reasonably requested by NDBS in connection with the provision of Support;
- 6.6 To inform NDBS as soon as practically possible of any changes to its computing environment that may impact the provision of Support;
- 6.7 To ensure that identifiable personal and sensitive personal data is not present in any test, quality assurance or development instances of the Software that would be accessed by NDBS in connection with the provision of Support.

**SCHEDULE 4
SUPPLEMENTARY TERMS**

1. ON PREMISE SOFTWARE
2. CLOUD SERVICES

SCHEDULE 5 DATA PROTECTION

1. DEFINITIONS

Data Controller	has the meaning given to 'Data Controller', or 'Controller' as appropriate, in the Data Protection Laws.
Data Breach	means a "personal data breach" as defined in the Data Protection Laws, being a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
Data Processor	has the meaning given to 'Data Processor', or 'Processor' as appropriate, in the Data Protection Laws.
Data Protection Laws	means any and all laws, statutes, enactments, orders or regulations or other similar instruments of general application and any other rules, instruments or provisions in force from time to time relating to the processing of personal data and privacy applicable to the performance of this Agreement, including where applicable the Data Protection Act 2018, the Data Protection Bill, the Regulation of Investigatory Powers Act 2000, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) as amended or superseded and the EU GDPR (Regulation (EU) 2016/679) and the UK GDPR.
EU GDPR	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing directive 95/46/EC as updated, superseded or repealed from the time to time.
GDPR	means either the EU GDPR or UK GDPR, depending on which is applicable to the processing.
Personal Data	has the meaning given in the Data Protection Laws.
UK GDPR	means the EU GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications

	(Amendments etc) (EU Exit) Regulations 2019, as updated or amended and including any subordinate or replacement legislation.
--	--

2. COMPLIANCE WITH DATA PROTECTION LAWS

The Parties shall each comply with their respective obligations under the applicable Data Protection Laws.

3. DATA PROCESSING OBLIGATIONS

In respect of any Personal Data to be processed by a Party acting as Data Processor pursuant to this Agreement for which the other Party is Data Controller, the Data Processor shall:

provide appropriate technical and organisational measures in such a manner as is designed to ensure the protection of the rights of the data subject and to ensure a level of security appropriate to the risk;

not engage any sub-processor without the prior specific or general written authorisation of the Data Controller (and in the case of general written authorisation; the Data Processor shall inform the Data Controller of any intended changes concerning the addition or replacement of other processors, thereby giving the Data Controller the opportunity to object to such changes);

ensure that any sub-processor that is engaged to process such Personal Data by the Data Processor is subject to data protection obligations that are similar to those applicable to the Data Processor under this Schedule;

process that personal data only to perform its obligations under this Agreement or other documented instructions and for no other purpose save to the limited extent required by law;

on termination of this Agreement, at the Data Controller's option either return or destroy the personal data (including all copies of it) immediately;

ensure that all persons authorised to access the personal data are subject to obligations of confidentiality;

make available to the Data Controller all information necessary to demonstrate compliance with the obligations laid out in Article 28 of GDPR and this Schedule and allow for and contribute to audits, including inspections, conducted by the Data Controller or another auditor mandated by the Data Controller; provided that, in respect of this provision the Data Processor shall immediately inform the Data Controller if, in its opinion, an instruction infringes Data Protection Laws;

taking into account the nature of the processing, provide assistance to the Data Controller, insofar as possible, in connection with the fulfilment of the Data Controller's obligation to respond to requests for the exercise of data subjects' rights pursuant to Chapter III of the UK

GDPR to the extent applicable. Such assistance to be chargeable at Data Processor's standard rates or rates agreed by the Parties from time-to-time;

provide the Data Controller with assistance in ensuring compliance with articles 32 to 36 (inclusive) of the GDPR (concerning security of processing, data breach notification, communication of a personal data breach to the data subject, data protection impact assessments, and prior consultation with supervisory authorities) to the extent applicable to the Data Controller, taking into account the nature of the processing and the information available to the Data Processor. Such assistance to be chargeable at Data Processor's standard rates or rates agreed by the Parties from time-to-time;

notify the Data Controller without undue delay (and in any event, within 24 hours of becoming aware of a security breach in respect of Personal Data that it processes on behalf of the Data Controller in writing if the Data Processor becomes aware of a Data Breach;

maintain a record of its processing activities in accordance with Article 30(1) of the GDPR; and

allow the Data Controller (or its appointed third Party auditor) to conduct an audit of compliance of this Schedule by the Data Processor pursuant to this Agreement (including by way of physical inspection) no more frequently than once per year during the term and on at least 10 days' notice to the Data Processor in advance (provided that the Data Processor shall be entitled to require that any third party auditor appointed to conduct such an audit enters into a confidentiality agreement with the Data Processor prior to such audit being conducted. Support for audits to be chargeable at Data Processor's standard rates or rates agreed by the Parties from time-to-time.

4. INTERNATIONAL DATA TRANSFERS

In respect of any Personal Data to be processed by a Party acting as Data Processor pursuant to this Agreement for which the other Party is Data Controller, the Data Processor shall not, save as set out below, transfer the Personal Data outside the territory comprising the UK and EEA or to an international organisation without first:

- a) ensuring appropriate levels of protection, including any appropriate safeguards if required, are in place for the Personal Data in accordance with the Data Protection Laws;
- b) notifying the Data Controller of the protections and adequate safeguards in clause a) above; and
- c) documenting and evidencing the protections and adequate safeguards in clause a) above and allowing the Data Controller access to any relevant documents and evidence.

5. DETAILS OF PROCESSING ACTIVITIES

The following table sets out the details of processing as required by Article 28 of GDPR:

Purposes for which the Personal Data shall be processed	Solely in connection with providing the Services under this Agreement.
Description of the categories of the data subjects	Customer's employees and subcontractors.
Description of the categories of Personal Data	The minimum required contact data and personal data contained in Customer's systems: employee name, business address, business phone number, business mobile number, business e-mail address, system login details and such other personal data as it required to provide the Services.
Description of transfers of Personal Data to a country outside of the UK	<p>The following NTT Data organisations may process data as sub-processors.</p> <p>NTT DATA Business Solutions AG Königsbreede 1 33605 Bielefeld, Germany</p> <p>NTT DATA Business Solutions sp. z o.o. Business Garden Poznań ul. Pastelowa 8 PL-60-198 Poznań, Poland</p> <p>NTT DATA Business Solutions Holding B.V. Utopialaan 50 5232 CE 's-Hertogenbosch, Netherlands</p> <p>itelligence Outsourcing</p>

	<p>MSC Sdn Bhd (H.Q) c/o NTT MSC, Momiji (West) Building No. 43000 Persiaran APEC MY-63000 Cyberjaya, Selangor, Malaysia</p> <p>NTT DATA Business Solutions Pvt. Ltd. Plot no. 4, Softsol Tower - 2, 3rd floor, Software Units Layout Madhapur, Hi-Tech City Hyderabad - 500081, Telangana, India</p> <p>FH S.A. 100 SCN QD 04, Bloco B #1201 Brasilia, Distrito Federal 70714-900, Brazil</p> <p>NTT DATA Business Solutions Türkiye Nidakule Ataşehir Kuzey İş Merkezi, Barbaros Mah. Begonya Sok. No:3/A Ataşehir 34746 İstanbul, Turkey</p> <p>NTT DATA Business Solutions Inc. 10856 Reed Hartman Highway, Cincinnati, OH 45242, USA</p>
<p>The envisaged time limits for erasure of the different categories of Personal Data Please specify how long you think the Personal Data will be retained for, where possible.</p>	<p>Personal Data will be erased within six months of the completion of the Services, unless otherwise agreed with the Customer, or if retention is required by law.</p>
<p>General description of technical and organisational security measures Where possible, please describe the measures put in place under Article 32(1) GDPR.</p>	<p>All data held on NDBS laptops is permanently encrypted. Access to data held in NDBS networks is restricted to NDBS employees or subcontractors under the control of NDBS.</p>

Authorised Sub-Processors List the sub-processors who will process Personal Data.	Subcontractors under the control of NDBS.
---	---