



# Master Licence and Services Agreement

## INDEX

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CLAUSE	PAGE
1. Definitions and Interpretation.....	2
2. Structure of Contract and Service Contracts.....	7
3. Duration and Termination.....	7
4. Intellectual Property.....	8
5. Representatives.....	9
6. mhance Obligations and Services.....	9
7. Customer Obligations.....	9
8. Delays and Excusing Events.....	10
9. Change Control.....	11
10. Intellectual Property Rights.....	11
11. Charges, Invoicing and Payments.....	12
12. Regulatory Compliance.....	13
13. Limitation of Liability.....	14
14. Data Protection.....	15
15. Insurance.....	17
16. Confidential Information.....	18
17. Termination.....	18
18. Miscellaneous.....	19
19. Disputes.....	21
20. Governing Law.....	21

**THIS AGREEMENT** is made on [•]

**BETWEEN:**

**M-HANCE LIMITED** incorporated and registered in England and Wales with company number 01369937 whose registered office is at Suite 2E, Sovereign House, Stockport Road, Cheadle, SK8 2EA (**mhance**).

[**INSERT FULL COMPANY NAME**] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [INSERT REGISTERED OFFICE ADDRESS] (**Customer**).

**WHEREAS:**

mhance is a provider of technology solutions and services.

The Customer wishes to appoint mhance to provide technology solutions and services.

When the Customer requests services from mhance, and mhance is able to provide such services, the Parties will enter into a Service Contract which sets out the terms and conditions that govern the provision of the Services.

**NOW IT IS HEREBY AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1** In this MLSA, the following words and expressions have the following meaning unless the context otherwise requires:

<b>Applicable Laws</b>	means, in relation to a Party, all applicable laws, enactments, regulations, regulatory policies, binding industry codes, regulatory permits and regulatory licences which are in force from time to time during the term of this MLSA and each Service Contract and that apply to the performance of that Party's obligations pursuant to this MLSA and each Service Contract.
<b>Authorised User</b>	means an individual authorised by the Customer to use the Licensed Software and Third Party Software.
<b>Available Services</b>	means the services which mhance is willing to provide to the Customer (as notified by mhance to the Customer from time to time) and which include as at the date of this MLSA: (a) Software as a Service; (b) Software Licensing; (c) Support Services; (d) Hosting Services; (e) Cloud Services and (f) Consultancy Services.
<b>Business Day</b>	means a day other than a Saturday, Sunday or public holiday in England when banks are open for business.
<b>Change</b>	means a change to the scope of the Services, as defined in clause 9.1.
<b>Change Request</b>	is defined in clause 9.1.
<b>Charges</b>	means the charges calculated in accordance with Schedule 2 of the Service Contract payable by a Customer for the supply of the Services by mhance and any charges payable in accordance with clauses 14.4.6 and <b>Error! Reference source not found..</b>
<b>Confidential Information</b>	means:  a) the terms of this MLSA and each Service Contract;

	<ul style="list-style-type: none"> <li>b) any information which the disclosing Party expressly states is disclosed in confidence;</li> <li>c) any information which it is reasonable to believe is disclosed in confidence; and</li> <li>d) any information received by a Party from or otherwise made available to it by the other Party before or during the term of this MLSA and the term of each Service Contract and which relates to the business, assets, affairs, financial results, plans, operations, customers, supporters and suppliers of the other Party or a member of its Group or of any Third Party.</li> </ul>
<b>Consultancy Services</b>	are defined in the applicable Service Contract.
<b>Customer Representative</b>	means the individual identified as such in the Service Contract.
<b>Customer Materials</b>	means all materials, equipment and tools, drawings, specifications and data supplied or made available by the Customer to mhance in relation to the MLSA and/or a Service Contract.
<b>Data Protection Laws</b>	means any applicable laws and regulations relating to privacy or the use or processing of data relating to natural persons, including: (a) the 2018 Data Protection Act (the <b>DPA</b> ); (b) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (c) the General Data Protection Regulation (EU Regulation 2016/679) ( <b>GDPR</b> ); (d) at such time as the United Kingdom leaves the European Union and the GDPR no longer has direct effect in United Kingdom law, the GDPR as transposed into the national legislation of the United Kingdom by operation of section 3 of the European Union (Withdrawal) Act 2018 (" <b>UK GDPR</b> ") and (e) any laws or regulations ratifying, implementing, adopting, supplementing or replacing GDPR, UK GDPR or DPA and in each case as amended or replaced from time to time, together with any binding guidance and codes of practice issued from time to time by relevant supervisory authorities.
<b>Discovery</b>	means the initial phase of the Project Plan, during which the Parties shall, in addition to any other agreed activities (i) agree the Deliverables and (ii) work on a draft Project Plan for the remaining phases.
<b>Dispute Resolution Procedure</b>	means the procedure for the resolution of disputes specified in clause 19.
<b>Deliverables</b>	means the specific documents, configurations or computer programs developed by mhance for the Customer pursuant to a Service Contract, and either identified as deliverables in that Service Contract, the Project Plan or otherwise agreed in writing between the Parties during Discovery.
<b>DP Losses</b>	means claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses).
<b>Excusing Event</b>	<p>means the occurrence of any one or more of the following (whether at the same time or not):</p> <ul style="list-style-type: none"> <li>(a) a Third Party not under the direction or control of mhance preventing mhance from providing the Services;</li> </ul>

	<p>(b) a breach by the Customer of its obligations pursuant to this MLSA, including those set out in clause 7; or</p> <p>(c) mhance acting in accordance with the Customer's written instructions (other than an instruction set out in or which is consistent with the Project Plan).</p>
<b>Force Majeure Event</b>	any event beyond the reasonable control of a Party and which is not caused by its own fault or negligence, including, without limitation, acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding in the case of mhance any industrial dispute relating to mhance, mhance's personnel or any other failure in the mhance's supply chain and includes any change in Applicable Laws arising out of such event.
<b>Good Industry Practice</b>	means, at any time during the term of this MLSA or a Service Contract (as applicable), the exercise of reasonable skill, care, prudence, efficiency, foresight and timeliness which would at that time be expected from a suitably skilled, trained and experienced person providing services similar to the Services.
<b>Group</b>	means, in respect of a Party, that Party together with its parent undertaking and the subsidiary undertakings of its parent undertaking or a Party, its holding company, its subsidiaries, and the subsidiaries of that holding company.
<b>Initial Term</b>	means the initial duration of a Service Contract as set out in that Service Contract.
<b>Insolvency Event</b>	means in relation to a Party, the convening of a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if such Party is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of its business or assets or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for its winding or for the making of an administration order (otherwise than for the purpose of a solvent amalgamation or reconstruction) or such Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
<b>Intellectual Property Rights</b>	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, rights to business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>Licensed Software</b>	means the software identified as such in the applicable Service Contract.
<b>mhance Representative</b>	the individual identified as such in the Service Contract.
<b>mhance Materials</b>	all materials, equipment and tools, drawings, specifications and data supplied by mhance to the Customer in relation to the Services, excluding Deliverables.

<b>MLSA</b>	this master licence and services agreement together with its Schedule(s).
<b>MLSA Commencement Date</b>	[ ]
<b>MLSA Contract Year</b>	means a period of one calendar year, with the first MLSA Contract Year commencing on the MLSA Commencement Date and each subsequent MLSA Contract Year commencing on each anniversary of the MLSA Commencement Date.
<b>MLSA Term</b>	is defined in clause 3.1.
<b>Party</b>	means mhance or the Customer, as the case may be, and <b>Parties</b> shall mean both.
<b>Personal Data</b>	has the meaning given to that term in the GDPR (or UK GDPR as applicable).
<b>Project Plan</b>	means the plan (if any) setting out the estimated timetable and responsibilities for the provision of the Services by mhance in accordance with the Service Contract and agreed in writing between the Parties.
<b>Renewal Term</b>	means the extension of the duration of a Service Contract in accordance with the terms of the applicable Service Contract.
<b>Representatives</b>	means the Customer Representative and the mhance Representative.
<b>Services</b>	means the services described in the applicable Service Contract(s), and all activities specified in any Project Plan and including any Deliverables to be provided as part of such services.
<b>Service Contract</b>	means an agreement for the provision of Services by mhance to the Customer, which expressly incorporates the terms set out in Part 2 of this MLSA.
<b>Service Contract Commencement Date</b>	is set out in the applicable Service Contract.
<b>Third Party</b>	means a party which is not a Party.
<b>Third Party Software</b>	means the software identified as such in the applicable Service Contract.

- 1.1.1** any reference to a statute or statutory provision includes, unless the context otherwise requires, a reference to that statute or statutory provision as from time to time amended, consolidated, extended, re-enacted, or replaced and to all statutory instruments, orders, regulations or rules made pursuant to it;
- 1.1.2** references to the singular includes the plural and vice versa, references to any gender includes a reference to all genders and references to a person includes natural persons, firms, partnerships, bodies corporate, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not incorporated and whether or not having separate legal personality);
- 1.1.3** unless the context otherwise requires, references to any clause, sub-clause or schedule is to a clause, sub-clause or schedule of or to this MLSA;

- 1.1.4** if a period of time is specified and such period dates from a given day or the day of an act or event, it shall be calculated exclusive of that day;
- 1.1.5** all references to the Parties include their permitted successors and assigns;
- 1.1.6** any phrase introduced by the term “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and the words following any of those terms shall not limit the sense of the words preceding any of those terms;
- 1.1.7** Any reference to a document being “in the agreed form” means a document in a form agreed by the Parties in writing and initialled by, or on behalf of, each of them for the purpose of identification;
- 1.2** The index and headings in this MLSA are inserted for convenience only and shall not affect the construction or interpretation of this MLSA.
- 1.3** Each of the Schedules to this MLSA shall have effect as if set out in full in the body of this MLSA.
- 1.4** If there is any conflict between the provisions of the clauses of this MLSA and any provision in any Service Contract, then the provision in the Service Contract shall prevail to the extent required to resolve the conflict.

## PART 1 – MLSA TERMS

### 2. STRUCTURE OF CONTRACT AND SERVICE CONTRACTS

2.1 The terms in this Part 1 only apply to the MLSA.

2.2 This MLSA governs the overall relationship of the Parties in relation to the Services. All Services are purchased by the Customer and provided by mhance pursuant to the applicable Service Contract(s). Each Service Contract forms a separate contract.

2.3 The Customer shall be entitled from time to time to request in writing the provision of any or all of the Available Services from mhance.

2.4 Within 20 Business Days of receipt of a written request from the Customer in accordance with clause 2.3, mhance shall:

2.4.1 notify the Customer whether mhance is able to provide the requested Available Services or not; and/or

2.4.2 submit a draft Service Contract in relation to the specific requested Available Services to the Customer for its written approval.

2.5 It is a condition precedent for each Service Contract that it shall not enter into force unless the Service Contract has been signed by the authorised representatives of mhance and the Customer.

2.6 The Parties may from time to time agree in writing to amend any terms of this MLSA. In such cases unless otherwise agreed in writing by the Parties, any such amendments will be deemed to amend the terms of all of the then existing Service Contracts (and each Party will procure that, it takes all steps necessary and executes all documents as may be reasonably required to give effect to any such amendment to any Service Contract), subject only to:

2.6.1 any overriding and mandatory provisions of Applicable Law;

2.6.2 any further operational or commercial changes which are agreed in writing by the Parties; and

2.6.3 any agreement in writing to the contrary between the Parties.

2.7 The terms and conditions set out in this MLSA and the terms and conditions of each Service Contract shall (as applicable) prevail over any terms or conditions contained in any document presented by the Customer, including the Customer's purchase order, confirmation of order, or specification, or implied by law or trade custom.

2.8 The Customer's purchase order (if any) constitutes an offer by the Customer to purchase the Services specified in it on the terms set out in this MLSA and the relevant Service Contract. Accordingly, the execution and return of the acknowledgement copy of the purchase order form by mhance, or mhance's commencement or execution of work pursuant to the purchase order, shall establish a contract for the supply and purchase of those Services on the terms set out in this MLSA and the relevant Service Contract. Without prejudice to the foregoing, the Customer agrees that:

2.8.1 any standard terms and conditions (if any) attached to, enclosed with, or referred to in, the purchase order shall not govern the agreement between mhance and the Customer; and

2.8.2 the Customer does not intend to rely on any terms referred to in clause 2.8.1 and hereby waives its rights to do so.

### 3. DURATION AND TERMINATION

3.1 Subject to clause 3.2, this MLSA comes into effect on the MLSA Commencement Date and shall expire after 5 MLSA Contract Years (**MLSA Term**).



**3.2** This MLSA may be terminated by either Party:

**3.2.1** by written notice from a Party if the other Party commits a material breach of this MLSA which is not capable of remedy or, in the case of a breach capable of being remedied, if such breach has not been fully remedied within 30 days of a written request to remedy the same; and

**3.2.2** by written notice from a Party if the other Party is subject to an Insolvency Event.

**3.3** Termination or expiry of this MLSA shall have no effect on any then current Service Contract, which shall continue in force in accordance with its terms and the terms set out in Part 2 of this MLSA shall continue to be incorporated by reference and apply to all then current Service Contracts for the remainder of their duration as if the termination or expiry of this MLSA had not occurred.

#### **4. INTELLECTUAL PROPERTY**

**4.1** The Parties do not intend that any Intellectual Property Rights transfer from, or are licensed by, one Party to the other as a result of entering into this MLSA.

## PART 2 – MLSA AND SERVICE CONTRACT TERMS

The terms and conditions set out in this Part 2 shall apply (i) to this MLSA, where reference to this MLSA is expressly made; and (ii) otherwise to each individual Service Contract where this Part 2 is expressly incorporated by reference.

### 5. REPRESENTATIVES

**5.1** The day to day management of matters/issues arising out of this MLSA and the Service Contracts shall be run by the Representatives, who are identified in the applicable Service Contract.

**5.2** The Customer may, acting reasonably, request that mhance shall replace the mhance Representative with another person, as long as the Customer can demonstrate that the then current mhance Representative is not suitably qualified to carry out that role and/or has not performed that role with reasonable skill, care and diligence. Such request must be made in writing and sent to [smt@mhance.com](mailto:smt@mhance.com).

### 6. MHANCE OBLIGATIONS AND SERVICES

**6.1** mhance shall:

**6.1.1** provide the Services in accordance with the terms and conditions of the Service Contract from the date specified in the Service Contract or, if no date is specified, from the Service Contract Commencement Date;

**6.1.2** provide the Services using Good Industry Practice and in accordance with Applicable Laws;

**6.1.3** ensure that all personnel used to provide the Services are suitably qualified, trained and experienced to provide the relevant Services and have been vetted by mhance in accordance with Applicable Laws; and

**6.1.4** subject to the terms of clause 8, mhance shall use reasonable endeavours to meet the performance dates specified in any Project Plan, but any such dates shall be estimates only and time shall not be of the essence in relation to any obligation of mhance, other than as agreed in writing.

**6.2** Where the Parties agree in writing that the Customer shall provide mhance with any access to its premises, facilities or systems in order for mhance to provide the Services, such access shall occur during the Customer's normal working hours and mhance shall ensure that it directs all of its personnel who will be accessing the Customer's premises, facilities or systems to:

**6.2.1** comply with the Customer's reasonable directions with regard to such access; and

**6.2.2** comply with any written policies or procedures governing the conduct or security of such access, where such policies or procedures have been made available to such personnel in advance of the relevant access required.

### 7. CUSTOMER OBLIGATIONS

**7.1** Without prejudice to any additional Customer obligations in a Service Contract, the Customer shall:

**7.1.1** subject to clause 11.4, pay all sums due to mhance under this MLSA or Service Contract by the applicable due date and without any deduction or set off;

**7.1.2** co-operate in all matters relating to this MLSA or a Service Contract (as applicable) with mhance;

**7.1.3** provide in a timely manner such information as mhance may reasonably request and use reasonable endeavours to ensure that all such information is accurate in all material respects;

- 7.1.4** ensure that it deploys adequate human resources to meet its obligations pursuant to a Project Plan and Service Contract;
- 7.1.5** make available such facilities as mhance shall reasonably require in order to discharge its obligations arising under the Services;
- 7.1.6** implement and enforce a policy prohibiting the use of any single User login by more than one person and notify mhance as soon as the Customer becomes aware of a breach of this policy;
- 7.1.7** ensure that its network and systems comply with any required specifications agreed between the Parties in writing, no later than the Service Contract Commencement Date or such other deadline agreed between the Parties in writing from time to time; and
- 7.1.8** be solely responsible for:
  - (a) procuring and maintaining its equipment, network connections and telecommunications links from the Customer's systems to any data centres; and
  - (b) all problems, conditions, delays delivery failures and all loss or damage arising from or relating to the Customer's equipment and/or the Customer's network connections or telecommunications links; and
- 7.1.9** acknowledge that the Licensed Software, the Third Party Software and the mhance Materials have not been developed to meet the individual requirements of the Customer.

## **8. DELAYS AND EXCUSING EVENTS**

- 8.1** To the extent that mhance's performance of its obligations is prevented or delayed by an Excusing Event, mhance shall give written notice to the Customer as soon as practicable, such notice to include available details of the Excusing Event and its potential or actual impact on the provision of the Services, as determined by mhance acting reasonably.
- 8.2** Provided written notification in accordance with clause 8.1 is given, the remaining terms of this clause 8.2 shall apply.
  - 8.2.1** The failure or delay by mhance to perform the relevant obligation shall not constitute a breach of the relevant term(s) of this MLSA or the Service Contract (as applicable) by mhance for the duration that such failure or delay arises as a result of the relevant Excusing Event. mhance shall use reasonable endeavours to mitigate the impact of the Excusing Event and its resulting failure or delay.
  - 8.2.2** The failure or delay shall not be taken into account when measuring the performance of the Services.
  - 8.2.3** In relation to any deadlines agreed between the Parties:
    - (a) mhance shall be entitled to a reasonable extension in time taking into account the impact of the applicable Excusing Event(s);
    - (b) the Project Plan and all relevant dates agreed under the Service Contract shall be updated accordingly;
    - (c) where the Parties are unable to agree what that reasonable extension should be the matter shall be dealt with in accordance with the Dispute Resolution Procedure; and
    - (d) in relation to the provision of all other Services not affected by the Excusing Event, mhance shall be entitled to payment pursuant to the applicable Service Contract.

- 8.2.4** mhance shall not be liable to the Customer for any resulting losses, to the extent such losses arise out of an Excusing Event and its impact on mhance's ability to comply with its obligations.
- 8.3** Without prejudice to the preceding terms of this clause 8, neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this MLSA or Service Contract (as applicable) arising from a Force Majeure Event, provided that the affected Party:
- 8.3.1** promptly notifies the other Party in writing of the cause of the delay or non-performance and the likely duration of the delay or non-performance;
  - 8.3.2** uses reasonable endeavours to limit or mitigate the effect of that delay or non-performance on the other Party; and
  - 8.3.3** In any such case, the performance of the affected Party's obligations, to the extent affected by the cause, shall be suspended during the period that the cause persists.
- 8.4** If a Force Majeure Event occurs and mhance has not materially restored Services within 72 hours, Customer shall not be required to pay, and mhance shall not be entitled to charge, for Services affected by that Force Majeure Event for the duration of the period commencing on the date the Force Majeure Event first affected the relevant Services(s) and ending on the date Services are materially restored.
- 8.5** To the extent that mhance's performance of its obligations pursuant to a Service Contract is prevented or delayed solely due to an act or omission of mhance, mhance shall give written notice to the Customer as soon as practicable, such notice to include available details of the delay and its potential or actual impact on the provision of the Services, as determined by mhance acting reasonably.
- 9. CHANGE CONTROL**
- 9.1** If either Party wishes to request a Change, it shall submit details of the requested Change to the other in writing (**Change Request**). A **"Change"** includes (i) any new or additional services not initially forming a part of the Services, (ii) any modification or enhancement introducing new functionality to the Services not envisaged in the applicable Service Contract, (iii) any sustained and material change in volume of the Services and (iv) any material change in the Services as a result of a change in Applicable Laws. A Change does not include any clarification of, or any detailed development or implementation of a high-level description of, the Services.
- 9.2** If mhance submits a Change Request, mhance must include the following details with the Change Request:
- 9.2.1** the likely time required to implement the Change;
  - 9.2.2** any variations to the Charges arising from the Change;
  - 9.2.3** the likely effect of the Change on any Project Plan; and
  - 9.2.4** any other impact of the Change on the terms of the relevant Service Contract.
- 9.3** If the Customer submits a Change Request, mhance shall provide the Customer with the information set out in clause 9.2, within 10 Business Days of receipt of the Change Request.
- 9.4** If the Customer wishes mhance to proceed with the Change on the basis of the information provided by mhance pursuant to clause 9.2 or clause 9.3, mhance has no obligation to do so unless and until the Parties have agreed in writing on the necessary variations to the Charges, the Project Plan and any other relevant terms of the applicable Service Contract to take account of the Change and such written variation has been signed on behalf of each Party.
- 10. INTELLECTUAL PROPERTY RIGHTS**
- 10.1** Unless expressly agreed in writing between the Parties:

- 10.1.1** no Intellectual Property Rights shall transfer from, or be licensed by, one Party to the other Party as a result of entering into the Service Contract; and
- 10.1.2** a Party shall not acquire any rights to use the other Party's Intellectual Property Rights, other than as expressly set out in a Service Contract.

## **11. CHARGES, INVOICING AND PAYMENTS**

- 11.1** The Customer shall pay mhanca the Charges. The Charges shall be paid in British Pounds Sterling, unless otherwise agreed in writing and in accordance with the payment schedule set out in the applicable Service Contract.
- 11.2** Each invoice shall include all reasonable supporting information to verify the accuracy of the invoice and mhanca shall invoice the Customer:
  - 11.2.1** on or before the Service Contract Commencement Date the Charges payable for the Licensed Software and for the Support Services for the Initial Term;
  - 11.2.2** subject to clause 2.1, at least 30 days prior to the expiry of the then current Initial Term or Renewal Term (as applicable), the Charges payable for the Licensed Software and for the Support Services in respect of the next Renewal Term; and
  - 11.2.3** monthly in arrears in respect of the Consultancy Services.
- 11.3** Unless otherwise agreed in writing, the Customer shall reimburse to mhanca, in addition to the Charges, all reasonable expenses necessarily incurred by mhanca's employees, subcontractors and agents in the course of providing the Services, including the cost of hotel, subsistence, travelling and any other ancillary expenses. mhanca shall submit its invoices for expenses to the Customer monthly in arrears.
- 11.4** The Customer shall pay each invoice submitted to it by mhanca within 30 days of receipt, to a bank account nominated in writing by mhanca. In the event that the Customer, acting reasonably, wishes to dispute the accuracy of an invoice, the Customer shall:
  - 11.4.1** notify mhanca in writing within ten (10) Business Days of receipt of the applicable invoice, such notice to state the reason(s) for the disputed amounts and any supporting documentation the Customer is able to provide; and
  - 11.4.2** pay the undisputed amount of the applicable invoice in accordance with the provisions of this clause 11.4.
- 11.5** mhanca shall respond to the Customer's notice pursuant to clause 11.4.1 within ten (10) Business Days of receipt of the notice, stating whether or not mhanca accepts the Customer's reasons for the dispute. If mhanca does, then mhanca shall supply with the response a replacement valid invoice. If mhanca does not, then the matter shall be dealt with in accordance with the Dispute Resolution Procedure.
- 11.6** All Charges are exclusive of value added tax chargeable for the time being ("**VAT**"). Where any taxable supply for VAT purposes is made under this Service Contract by mhanca to the Customer, the Customer shall, on receipt of a valid VAT invoice from mhanca, pay to mhanca such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 11.7** Subject to clause 11.4, if the Customer fails to make any payment due to mhanca under this Service Contract by the due date for payment, then, without limiting mhanca's remedies pursuant to the Service Contract or under Applicable Law, mhanca shall have the right to charge interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base rate from time to time. The Customer shall pay the interest together with the overdue amount.

- 11.8** In relation to payments disputed in accordance with clause 11.4, interest under clause 11.7 is payable only after the dispute is resolved, on sums found or agreed to be due, and the applicable interest shall accrue from the due date until payment.
- 11.9** All amounts due under a Service Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax if required by Applicable Laws).
- 11.10** Subject to clause 1.4, mhance has the right to increase the Charges by applying the following formula: (current Charges \* [% increase in CPI in the 12 months preceding the applicable date + 2%]), such increase to be implemented:
- 11.10.1** upon renewal of the Support Services, if the then current Initial term or Renewal Term does not exceed one year; or
  - 11.10.2** once every Contract Year where the then current Initial Term or Renewal Term for the Support Services are longer than one year; and
  - 11.10.3** once every Contract Year for the Consultancy Services, other than in the first Contract Year.

## **12. REGULATORY COMPLIANCE**

- 12.1** Each Party shall comply with Applicable Laws in the exercise of its rights and the compliance with its obligations pursuant to this MLSA and each Service Contract. Without prejudice to the generality of the foregoing:
- 12.1.1** Anti-Bribery Compliance: In performing its obligations under this MLSA and each Service Contract, mhance will:
    - (a) comply with all applicable anti-bribery and corruption laws, including the Bribery Act 2010 ("**Bribery Act**"); and
    - (b) provide such information, explanations, assistance and access to records and take such action as the Customer reasonably requires to verify compliance with this clause 12.1.1 within 60 days of any written request by the Customer to do so; and
  - 12.1.2** Eradicating Modern Slavery Compliance: In performing its obligations under this MLSA and each Service Contract, mhance will:
    - (a) comply with sections 1, 2 and 4 and (where applicable) 54 of the UK Modern Slavery Act 2015 ("**MSA**"); and
    - (b) provide such information, explanations, assistance and access to mhance's records as the Customer reasonably requires in order to verify compliance with this clause 12.1.2 within 60 days of any written request by the Customer to do so.
- 12.2** mhance shall:
- 12.2.1** maintain records of, and supporting documentation relating to the Services and the Charges;
  - 12.2.2** subject to at least 14 days' written notice in advance and once every calendar year during regular business hours, allow the Customer (or its professional advisers, subject to agreeing written confidentiality terms) to conduct an inspection and/or audit of its premises, operations, procedures, systems, personnel and relevant records, but only to the extent that these relate to the provision of the Services;
  - 12.2.3** co-operate and provide reasonable assistance in relation to any audit conducted in accordance with the terms of this clause 12.2; and

- 12.2.4** following any audit conducted in accordance with the terms of this clause 12.2, the Customer will discuss its observations with mhance and the Parties shall implement any preventative and/or corrective actions, which must be mutually agreed in accordance with clause 9.

### **13. LIMITATION OF LIABILITY**

- 13.1** Nothing in this MLSA or Service Contract excludes or limits either Party's liability for:

**13.1.1** death or personal injury caused by that Party's negligence, fraud (including fraudulent misrepresentation) and other losses which cannot be excluded by law;

**13.1.2** any wilful default or fraudulent act or omission; and/or

**13.1.3** any liability expressed to be unlimited in the applicable Service Contract.

- 13.2** Subject to clauses 13.1, 13.3 and 13.4, the total aggregate liability of each Party to the other Party shall be limited:

**13.2.1** for all liability arising under or in connection with this MLSA, including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise, to £10,000; and

**13.2.2** for all liability arising under or in connection with a Service Contract, including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise, to 100% of the Charges paid and payable by the Customer under that Service Contract.

- 13.3** In addition to the aggregate liability caps set out in clause 13.2, the aggregate liability of:

**13.3.1** mhance to the Customer arising under clause 14.8 shall be limited to 100% of the Charges paid and payable by the Customer under the applicable Service Contract; and

**13.3.2** the Customer to mhance arising under clause 14.7 shall be limited to 100% of the Charges paid and payable by the Customer under the applicable Service Contract.

- 13.4** Subject to clause 13.1, neither Party shall be liable to the other Party (whether in relation to a breach of contract, negligence, under any indemnity or otherwise) for any:

**13.4.1** special damages;

**13.4.2** consequential losses;

**13.4.3** consequential damages;

**13.4.4** indirect loss or damage;

**13.4.5** loss of business;

**13.4.6** loss of revenue;

**13.4.7** loss of profits;

**13.4.8** loss of anticipated savings; and/or

**13.4.9** loss of goodwill.

- 13.5** mhance shall not be liable for any DP Losses arising out of or related to an unauthorised disclosure (including a disclosure in breach of Data Protection Laws) of Personal Data to mhance by the Customer or by a User.

- 13.6** Nothing in this clause 13 shall in any way reduce or affect each Party's general duty to mitigate loss suffered by it.

**13.7** The Parties agree that they have negotiated this clause 13 and that it represents a fair and equitable position.

## **14. DATA PROTECTION**

**14.1** Each Party shall comply and shall procure that any of its staff involved in the activities under this MLSA and Service Contract (as applicable) shall comply with the provisions imposed on them by the Data Protection Laws. This clause 14 is supplemental to and does not relieve, remove or replace, a Party's obligations under the Data Protection Laws.

**14.2** Each Party shall maintain records of all its Personal Data processing operations relating to this MLSA and each Service Contract (as applicable) such that these records contain at least the minimum information required by the Data Protection Laws and each Party shall make such information available to an applicable regulator on request.

**14.3** The Parties acknowledge that for the purposes of the Data Protection Laws, the intention of the Parties is that the Customer is the controller and mhance is the processor. Schedule 5 of the Service Contract sets out details of the processing of Personal Data to be undertaken by mhance in connection with this MLSA and the Service Contract, the types of Personal Data, categories of Data Subjects, and nature and purposes of processing. Such processing shall take place throughout the duration of this MLSA or Service Contract (as applicable).

**14.4** To the extent that mhance processes any Personal Data on behalf of the Customer pursuant to this MLSA or Service Contract (as applicable), mhance shall:

**14.4.1** process such Personal Data only in accordance with the Customer's written instructions from time to time (including those set out in this MLSA or Service Contract (as applicable)) save for processing which mhance is required to do pursuant to any Applicable Law;

**14.4.2** take reasonable steps to ensure that:

- (a) access to such Personal Data is limited to its personnel who need to access it in order to meet mhance's obligations under this MLSA or Service Contract (as applicable);
- (b) in the case of access by its personnel, access to such Personal Data is limited to such part or parts of the Personal Data as is strictly necessary for performance of that member of personnel's own duties; and
- (c) any personnel who have access to such Personal Data are subject to binding obligations of confidentiality when processing such Personal Data;

**14.4.3** implement and maintain technical and organizational measures and procedures to ensure an appropriate level of security for such Personal Data, including protecting such Personal Data against the risks of accidental, unlawful or unauthorized destruction, loss, alteration, disclosure, dissemination or access;

**14.4.4** inform the Customer if any such Personal Data is (while within mhance's possession or control) subject to a personal data breach (as defined in Article 4 of GDPR or UK GDPR, as applicable) without undue delay after becoming aware;

**14.4.5** not disclose any such Personal Data to any Data Subject or to a Third Party other than at the written request of the Customer, in order to comply with a requirement of a regulator having authority over mhance, or as expressly provided for in this MLSA or Service Contract (as applicable);

**14.4.6** at the written request of the Customer, return or delete (subject to paying additional charges at the Customer's then applicable time and material rates in circumstances where the Customer can carry out these tasks itself) all such Personal Data on termination or expiry of this MLSA or Service Contract (as applicable), and not make any further use of such Personal Data (except



to the extent that Applicable Law or the Customer's administrative and regulatory requirements requires continued storage of any such Personal Data by mhance);

**14.4.7** provide to the Customer and any regulator (at the Customer's cost and at mhance's then time and material rates for any repeat requests) all records, information and assistance necessary to demonstrate or ensure compliance with the obligations in this clause 14.4;

**14.4.8** no more than once every calendar year and subject to mhance having the right to do so, permit the Customer or its representatives (at the Customer's cost at mhance's then time and material rates) to access any relevant premises, personnel or records of mhance on reasonable notice (but being no less than fifteen (15) Business Days) to audit and otherwise verify compliance with this clause 14.4, unless such audit is required by a regulator or in circumstances where mhance has reported a personal data breach in which case it can be carried out as necessary and with as much notice as the Customer is able reasonably to give;

**14.4.9** take such steps as are reasonably required to assist the Customer (at the Customer's cost at mhance's then time and material rates, for any onerous or repeat requests) to comply with the Customer's obligations under Articles 30 to 36 (inclusive) of the GDPR (or UK GDPR as applicable) as they relate to mhance's obligations under this MLSA or Service Contract (as applicable);

**14.4.10** notify the Customer within seven (7) Business Days if it receives a request from a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data; and

**14.4.11** provide the Customer with its reasonable co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data. mhance shall not charge for such requests unless such request is manifestly unjust or excessive, in which case mhance shall reserve the right to charge the Customer a reasonable administration fee; and

**14.4.12** not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained, not to be unreasonably withheld or delayed, and one of the following conditions has been fulfilled under the applicable Data Protection Laws:

- (a) the transfer is to a country or territory which provides an adequate level of protection;
- (b) the transfer is made subject to appropriate safeguards; or
- (c) a relevant derogation exists.

**14.5** If either Party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other Party or to either Party's compliance with the Data Protection Laws, it shall promptly notify the other Party and shall provide the other Party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.

**14.6** Where the Customer or an Authorised User transfers Personal Data to mhance, whether as part of the Service or otherwise, the Customer warrants to mhance that it has secured a lawful data processing ground, in accordance with and in compliance with applicable Data Protection Laws, to process such Personal Data and to share such Personal Data with mhance.

**14.7** The Customer hereby indemnifies mhance for any DP Losses incurred as a result of:

**14.7.1** a claim by a data subject whose Personal Data has been provided by or on behalf of the Customer to mhance pursuant to the Service Contract, that there is no lawful basis of processing that Personal Data in accordance with the terms of this MLSA or Service Contract (as applicable); and/or

- 14.7.2** a breach of a data subject's rights under Data Protection Laws, arising out of any written instructions provided by or on behalf of the Customer to mhance pursuant to this MLSA or Service Contract (as applicable) or otherwise relating to Personal Data; and/or
- 14.7.3** a breach by the Customer of its warranty in clause 14.6.
- 14.8** mhance hereby indemnifies the Customer for any DP Losses incurred solely as a result of a breach by mhance of its obligations pursuant to clause 14.
- 14.9** mhance may subcontract its processing of Personal Data on behalf of the Customer, for the sole purpose of providing a part of the Services or enabling mhance to provide the Services. mhance shall procure that any such sub-contractor enters into a written contract with mhance which contains obligations for the protection of Personal Data which are no less onerous than those set out in this clause 14. As between the Customer and mhance, mhance shall remain fully liable for all acts and omissions of any sub-contractor appointed by it pursuant to this clause 14.
- 14.10** mhance's current list of sub-contractors (**Current Sub-Contractors**) which are used to undertake processing of any Personal Data on behalf of the Customer will be provided to the Customer on written request. By entering into this MLSA, (or Service Contract, as applicable), the Customer approves the use of the Current Sub-Contractors. The rights afforded to the Customer in clauses 14.11, 14.12 and 14.12 shall not apply in relation to Current Sub-Contractors.
- 14.11** Following the date of this MLSA, mhance shall notify the Customer of its appointment of a new sub-contractor in respect of processing of Personal Data on behalf of the Customer (which is not a Current Sub-Contractor).
- 14.12** If the Customer wishes to object to mhance's use of such sub-contractor notified in accordance with clause 14.11:
- 14.12.1** Customer must notify mhance in writing within 10 Business Days of the notification from mhance pursuant to clause 14.11; and
- 14.12.2** Customer's objection to the relevant appointment must be on the basis that the relevant appointment would result in a breach of the Customer's ability to comply with its obligations under Data Protection Laws as a result of the relevant appointment.
- 14.13** If the Customer objects to any new sub-contractor in accordance with clause 14.12, mhance will use reasonable efforts to make available to the Customer an alternative solution or arrangement to avoid the processing by the relevant sub-contractor of any Personal Data provided by the Customer, provided that mhance shall be entitled to make a reasonable additional charge to cover the costs of implementing and operating the alternative solution or arrangement.
- 14.14** If mhance is unable to make available an alternative solution or arrangement within a reasonable period of time (which shall not exceed ninety (90) days) or if the Customer is unwilling to pay any charge by mhance to cover the costs of implementing and operating the alternative solution or arrangement, the Customer may, by written notice to mhance terminate the MLSA and all affected Service Contracts, in which case, the Customer shall be entitled to receive a pro rata refund of any prepaid fees and other applicable charges for the period following the effective date of termination.
- 15. INSURANCE**
- 15.1** mhance shall, for the duration of this MLSA and each Service Contract, maintain insurance policies which are sufficient to cover any losses which might arise out of mhance's obligations under this MLSA and each Service Contract.
- 15.2** mhance shall, upon the Customer's written request, provide the Customer adequate proof of its insurance cover required under this clause 15 at any time.

## **16. CONFIDENTIAL INFORMATION**

**16.1** Subject to clauses 16.2 and 16.3, each Party agrees that it shall:

- 16.1.1** keep any Confidential Information disclosed by the other Party strictly confidential;
- 16.1.2** not use (save as is necessary in order to perform its obligations and/or exercise its rights under this MLSA or a Service Contract) any Confidential Information for its own benefit;
- 16.1.3** not disclose any Confidential Information to any Third Party; and
- 16.1.4** ensure that no Third Party shall have access to it.

**16.2** Each Party shall be entitled to disclose Confidential Information to its employees, or to the employees of a member of its Group, to the extent that those employees have a genuine need to know the same to enable the Parties to perform their obligations or exercise their rights under this MLSA or a Service Contract, provided always such employees are informed of the confidential nature of the information and are aware of the obligations set out in this clause 16. A Party disclosing the Confidential Information to the employees of a member of its Group shall be liable for the acts and omissions of such employees as if those acts or omissions were the acts or omissions of that Party.

**16.3** The restrictions in clause 16.1 shall not apply to any Confidential Information which:

- 16.3.1** the recipient can prove is already known to it at the time of disclosure;
- 16.3.2** is public knowledge at the time of disclosure to the recipient or which subsequently becomes public knowledge through no fault of the recipient;
- 16.3.3** is subsequently disclosed to the recipient (other than subject to conditions of confidentiality and without any restriction on disclosure) by a Third Party which is itself not subject to any restriction on disclosure; or
- 16.3.4** is required to be disclosed as a matter of law or by the rules of a recognised stock exchange provided the recipient notifies the disclosing Party as soon as possible following any relevant demand or request for disclosure.

**16.4** Each Party shall, if so requested by the other Party following termination of this MLSA or a Service Contract (as applicable), deliver up to the other Party or destroy all documents and (save to the extent that the same shall have been incorporated into the formal records of that Party) other material in its possession or control which include or incorporate any confidential information of the other Party provided that each Party shall be entitled to retain one copy of all or any part of the other Party's Confidential Information which may be required to meet any requirements under Applicable Laws. For the avoidance of doubt, the obligation to deliver up or destroy Confidential Information shall not cover Confidential Information that is maintained on routine computer system backup tapes, disks or other backup storage devices. All such incorporated or retained confidential information shall remain subject to the obligations set out in the preceding provisions of this clause 16.

**16.5** The obligations in the preceding provisions of this clause 16 shall survive the expiry or termination of this MLSA and each Service Contract until, in respect of any particular item of Confidential Information, such time as that item of Confidential Information becomes public knowledge through no fault of the recipient.

## **17. TERMINATION**

**17.1** Without prejudice to any other rights and remedies it might have under the MLSA or a Service Contract, each Party shall have the right at any time to terminate this MLSA or the Service Contract (as applicable) by notice in writing to the other Party if:

- 17.1.1** the other Party is the subject of an Insolvency Event;

- 17.1.2** the other Party is in material breach of any of its obligations under this MLSA or the Service Contract (as applicable) and such breach is not capable of remedy or, if capable of remedy, such breach has not been remedied within thirty (30) days of a notice in writing requiring that it be remedied.
- 17.2** mhance may, in addition, terminate a Service Contract on notice in writing to the Customer if the Customer fails to pay an undisputed amount due under the Service Contract by its due date within 14 days following receipt of a written notice from mhance stating that the applicable amount is due and is unpaid.
- 17.3** Termination of this MLSA or Service Contract (as applicable) shall not terminate or affect any rights, obligations or liabilities of the Parties, which have accrued under this MLSA or Service Contract (as applicable) prior to the date of termination.
- 17.4** The following clauses shall survive termination of this MLSA or the Service Contract (as applicable) and shall continue with full force and effect 10, 12, 13, 14, 16, 17, 18.1, **Error! Reference source not found.**, 19 and 20.
- 18. MISCELLANEOUS**
- 18.1** Further Assurance: Each Party shall and shall, if applicable, procure that each member of its Group shall, at its own cost, promptly execute and deliver all such documents, and do all such things, as the other Party may from time to time reasonably require for the purpose of giving full effect to the provisions of this MLSA or Service Contract (as applicable) and to secure for the other Party the full benefit of the rights, powers and remedies conferred upon it under this MLSA or Service Contract (as applicable).
- 18.2** Entire Agreement:
- 18.2.1** This MLSA together with each Service Contract entered into pursuant to this MLSA sets out the entire agreement between the Parties relating to its subject matter and, save to the extent expressly set out in this MLSA or Service Contract (as applicable), supersede and extinguish any prior drafts, agreements, undertakings, representations, warranties, promises, assurances and arrangements of any nature whatsoever, whether or not in writing, relating thereto. Without prejudice to the foregoing, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.
- 18.2.2** Neither Party has entered into this MLSA or Service Contract (as applicable) in reliance upon, nor shall either Party have any claim or remedy in respect of, any statement, representation, warranty, undertaking, assurance, promise, understanding or other provision made by or on behalf of the other Party, any of its representatives or any other person which is not expressly set out in this MLSA or Service Contract (as applicable).
- 18.2.3** This clause 18.2 (Entire Agreement) shall not exclude any liability for or remedy in respect of fraud or fraudulent misrepresentation.
- 18.3** Waiver and Variation:
- 18.3.1** A failure or delay by a Party to exercise any right or remedy provided under this MLSA or Service Contract (as applicable) or by Applicable Laws, whether by conduct or otherwise, shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this MLSA or Service Contract (as applicable) or by Applicable Laws, whether by conduct or otherwise, shall preclude or restrict the further exercise of that or any other right or remedy.
- 18.3.2** A waiver of any right or remedy under this MLSA or Service Contract (as applicable) shall only be effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A Party that waives a right or remedy provided under this MLSA or Service Contract (as

applicable) or by Applicable Laws in relation to another Party does not affect its rights in relation to any other Party.

**18.3.3** No variation or amendment of this MLSA or Service Contract (as applicable) or Service Contract (as applicable) shall be valid unless it is in writing and duly executed by or on behalf of all of the Parties. Unless expressly agreed, no variation or amendment shall constitute a general waiver of any provision of this MLSA or Service Contract (as applicable), nor shall it affect any rights or obligations under or pursuant to this MLSA or Service Contract (as applicable) which have already accrued up to the date of variation or amendment and the rights and obligations under or pursuant to this MLSA or Service Contract (as applicable) shall remain in full force and effect except and only to the extent that they are varied or amended.

**18.4** Invalidity: Where any provision of this MLSA or Service Contract (as applicable) is or becomes illegal, invalid or unenforceable in any respect under the Applicable Laws of any jurisdiction then such provision shall be deemed to be severed from this MLSA or Service Contract (as applicable) and, if possible, replaced with a lawful provision which, as closely as possible, gives effect to the intention of the Parties and, where permissible, that shall not affect or impair the legality, validity or enforceability in that, or any other, jurisdiction of any other provision of this MLSA or Service Contract (as applicable).

**18.5** Assignment and Subcontracting:

**18.5.1** Subject to clause 18.5.2, neither Party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this MLSA or any Service Contract without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.

**18.5.2** mhance may, after having given prior written notice to the Customer:

- (a) assign its rights under this MLSA and any Service Contract to any person to which it transfers that part of its business to which this MLSA and any Service Contract relates, provided that the assignee undertakes in writing to the Customer to be bound by mhance's obligations under this MLSA and any Service Contract;
- (b) subcontract its contractual obligations, provided that it remains primarily liable to the Customer for any act or omission of a sub-contractor in respect of the sub-contracted services; or
- (c) assign or novate this MLSA and any Service Contract to a purchaser of the whole or substantially the whole of the business of mhance.

**18.6** No Partnership or Agency: Nothing in this MLSA or Service Contract (as applicable) 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, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

**18.7** Costs: Except as otherwise provided in this MLSA or Service Contract (as applicable), each Party shall bear its own costs arising out of or in connection with the preparation, negotiation and implementation of this MLSA or Service Contract (as applicable).

**18.8** Counterparts: This MLSA and each Service Contract may be executed in any number of counterparts. Each counterpart shall constitute an original of this MLSA or Service Contract (as applicable) but all the counterparts together shall constitute but one and the same instrument.

**18.9** Third Party Rights: A person who is not a Party to this MLSA or Service Contract (as applicable) may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

**18.10** Cumulative Remedies: Except as expressly provided in this MLSA or Service Contract (as applicable) the rights and remedies provided under this MLSA or Service Contract (as applicable) are in addition to, and not exclusive of, any of its rights or remedies provided by law.

**18.11** Notices:

**18.11.1** Any notices to be given under this MLSA or Service Contract (as applicable) shall either be delivered personally or sent by pre-paid post or email to the following addresses:

(a) the Customer: [redacted]; and

(b) mhance: sent by email to [contracts@mhance.com](mailto:contracts@mhance.com) (save for any notice relating to service of proceedings, which must be served to: Suite 2E, Sovereign House, Stockport Road, Cheadle, SK8 2EA, FAO Chief Executive Officer).

**18.11.2** A notice shall be deemed to have been served if delivered by hand to the other Party to the address specified above on signature of a delivery receipt or if delivered by pre-paid post to the other Party at the address specified above, on the second Business Day after posting or if by e-mail if sent by email, at the time sent unless returned undelivered.

## **19. DISPUTES**

**19.1** Any dispute relating to this MLSA or Service Contract (as applicable) shall be referred for resolution by either Party first to the Representatives for resolution. If the Representatives are unable to resolve the dispute within 10 Business Days after referral of the dispute to the Representatives, the dispute shall then be referred to the CEO (or equivalent position) of each Party for resolution.

**19.2** If the dispute cannot be resolved by the Representatives in accordance with clause 19.1 (**Initial DR Period**), the Parties agree that the applicable dispute shall be dealt with in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the Parties within 10 Business Days of expiry of the Initial DR Period, the mediator will be nominated by CEDR. To initiate the mediation a Party must give notice in writing (**ADR Notice**) to the other Party to the dispute, referring the dispute to mediation. A copy of the referral should be sent to CEDR.

**19.3** If there is any point on the logistical arrangements of the mediation, other than nomination of the mediator, upon which the Parties cannot agree within 10 Business Days from the date of the ADR Notice, where appropriate, in conjunction with the mediator, CEDR will be requested to decide that point for the Parties having consulted with them.

**19.4** Unless otherwise agreed, the mediation will start not later than 20 Business Days after the date of the ADR Notice. No Party may commence any court proceedings or arbitration proceedings in relation to any dispute arising out of this MLSA or a Service Contract until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other Party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

**19.5** This clause 19 is without prejudice to either Party's right to seek interim relief against the other Party (such as an injunction) through the English courts to protect its rights and interests, or to enforce the obligations of the other Party.

## **20. GOVERNING LAW**

**20.1** This MLSA and each Service Contract, together with any non-contractual obligations arising under them, shall be governed by, construed and interpreted in accordance with English law and the Parties hereby agree, for the purposes of this MLSA and each Service Contract only, and subject to the provisions of clause 19, to submit themselves and any claim or matter arising under or in connection with this MLSA and each Service Contract, together with any non-contractual obligations arising under them, to the exclusive jurisdiction of the English courts.

**THIS AGREEMENT** has been entered into on the date stated at the beginning of this MLSA.

Signed on behalf of m-hance Limited		Signed on behalf of [Customer]	
Name:		Name:	
Title:		Title:	