symatrix

Dated: **2024**

Contract number:

SYMATRIX LIMITED

and

[Customer]

MASTER SERVICES AGREEMENT

[for the   Project]

ORACLE | Service Partner

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MASTER SERVICE AGREEMENT

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MASTER SERVICE AGREEMENT

This Agreement is made on   2023

Between

1   **Symatrix Limited,** a company registered in England and Wales (No. 3926985) whose registered office is at 86 King Street, Manchester M2 4WQ (**"the Supplier"** or "**Symatrix")**; and

2   **[Customer],** a company registered in England and Wales (No. [   ]) whose registered office is at [   ] ("**the Customer"**).

It is agreed:

1. Definitions and Interpretation

   1.1.   In these terms and conditions the following words shall have the following meanings unless inconsistent with the context:-

"Acceptance"	means the date upon which the Acceptance Procedures have been completed, or the date upon which the deliverables have been accepted in accordance with Clause 8.6, as applicable;
"Acceptance Procedures"	means the tests (which may include User Acceptance Tests) that the Parties use to confirm that Acceptance has occurred in respect of the Services;
"Agreement"	means this Master Service Agreement and all Statements of Work agreed between the Parties incorporating these terms and conditions;
"Charges"	means the charges to be paid by the Customer to Symatrix for the provision of Services in accordance with Clause 5 as detailed in the relevant Statement of Work or annexed thereto;
"Cloud Services Agreement"	means an agreement between Oracle and the Customer whereby rights for the use of Oracle Cloud Services, provided as a service by Oracle, are granted to the Customer subject to the terms therein contained;
"Confidential Information"	means the terms of this Agreement and all sums payable under it or under any Statement of Work, all information in any form (whether or not marked or identified as confidential) in respect of the business of a Party including but not limited to know-how, technical, business, financial and development plans, forecasts, customer lists, strategies or other matters connected with the Services and any other information which a reasonable person would consider to be of a confidential nature whether disclosed directly or indirectly, orally or in writing and whether from the Customer or Symatrix but shall exclude the Excluded Information with effect from the date that it becomes Excluded Information;

"Consequential Loss"	means (i) consequential or indirect loss under English law; and (ii) loss and /or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in (i) and whether or not reasonably foreseeable;
"Contract"	means a contract formed between Symatrix and the Customer upon signature by the Customer of a Statement of Work incorporating these terms and conditions;
"Customer"	means the firm or company or any Group company to which Symatrix is providing the Services as set out in this Agreement;
"Customer Data"	means any data (including Personal Data relating to the staff of the Customer), documents, text, drawings, diagrams, images or sound (together with any database made up of any of those, embodied in any medium, that are supplied to Symatrix by or on behalf of the Customer, or which Symatrix is required to generate, process, store or transmit pursuant to this Agreement)
"Customer Materials"	means any materials, documents, data, software, reports or information of any kind and in any form whatsoever owned or licensed by the Customer and provided to Symatrix to enable Symatrix to provide the Services in accordance with this Agreement;
"Data Protection Agreement"	means the agreement between the Parties in the form set out in Appendix 1 concerning the Processing of Personal Data;
"Data Protection Laws"	means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the GDPR (as defined below); the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended;
"Disaster Recovery and Business Continuity Plan"	means the disaster recovery and business continuity plan referred to in Clause 19 as amended from time to time;
"Effective Date"	means the date of execution of this Agreement by both Parties;
"Excluded Information"	means information which (i) was or becomes publicly known through no default or breach of this Agreement by the receiving Party; or (ii) was or becomes lawfully known to the receiving Party without restriction from a source other than the disclosing Party who itself obtained it without any confidentiality obligation or which has been demonstrated by the receiving Party to the disclosing Party to have been independently developed by the receiving Party; or (iii) is approved for disclosure by the Party which has provided it without restriction in a document signed by a duly authorised officer of such Party; or (iv) to the extent that the receiving Party is compelled to disclose it by a court or competent

regulatory body (in which case the receiving Party shall give the Party which has disclosed the information prompt Written Notice of the relevant order);

"GDPR"	means the retained EU law version of the General Data Protection Regulation ((EU) 2016/679), 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;
"Force Majeure"	means any cause preventing a Party from performing any or all of its obligations under this Agreement which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable contemplation and/or control of the Party including, without limitation, strikes, lockouts or other industrial disputes, protest, act of God, war, or national emergency, an act of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fault or loss of electricity supply, fire, explosion, flood, storm or epidemic;
"Group"	means in relation to either Party that company and every other company which is for the time being a subsidiary or holding company (as defined in the Companies Act 2006) of the Customer or a subsidiary of such holding company;
"Intellectual Property Rights"	means all patents, designs, trademarks, copyright, database rights and the right to have confidential information kept confidential and all other intellectual property rights or forms of protection of a similar or equivalent nature and any application or right to apply for any of the foregoing.
"Oracle Cloud Services"	means the Software products owned, licensed and provided as a service by Oracle Corporation UK Limited ("**Oracle**"), the use of which is subject to an Oracle Cloud Services Agreement;
"Party"	means Symatrix or the Customer (as appropriate) and "Parties" shall be construed accordingly;
"Personal Data"	means the personal data (as defined in the GDPR) provided by the Customer to Symatrix from time to time or Processed by Symatrix in connection with the provision of the Services under this Agreement;
"Personnel"	means the suitably skilled and qualified individuals engaged by Symatrix and any replacements provided to perform the Services;
"Processing"	shall have the meaning as defined in the GDPR;
"Services"	means the services to be performed by Symatrix as set out in a Statement of Work and any other services that Symatrix might agree to provide to the Customer from time to time;

"Service Levels"	means the service levels defined or referred to in clause 7 and any applicable Service Level Agreement;
"Service Level Agreement"	means an agreement included in a Statement of Work specifying the qualitative and quantitative levels to which Services are to be performed and any agreed key performance indicators;
"Service Request" or "SR"	means a request for technical support submitted to Oracle by or on behalf of the Customer;
"Software"	means the Oracle Cloud Services software supplied or used by Symatrix in connection with the performance of the Services, the use of which is licensed to the Customer by Oracle under an Oracle Cloud Services Agreement;
"Statement of Work" or "SOW"	means a specification of Services agreed between the Parties, executed in accordance with clause 2.2 and incorporated as a schedule to this Agreement, setting out particular Services to be provided by Symatrix and incorporating the terms of this Agreement;
"Symatrix"	means Symatrix Limited whose registered office is at 86 King Street, Manchester M2 4WQ;
"Transfer Regulations"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced;
"User Acceptance Tests" or "UAT"	means the testing of deliverables by the Customer in accordance with procedures developed and agreed between the Parties during the course of performance of the Services;
"Warranty Period"	means the period following completion of the Services during which any defect in the Services or in a deliverable forming part of the Services which is caused by the default of Symatrix will be remedied without additional Charges to the Customer;
"Work Day"	means the provision of the Services by any one of Symatrix' Personnel to the Customer from 9:00am to 5:30pm on any weekday which is not a public holiday (subject to a minimum of 7.5 hours) after providing for breaks required by the Working Time Regulations and excluding travelling to and from the Customer's site;
"Written Notice"	means a notice in writing by one Party to the other sent in accordance with the provisions of clause 25.2.

2. **Formation of Contract**

   2.1.   This Agreement shall be formed, incorporating these terms and conditions, upon signature by the Parties.

2.2. The Parties shall agree from time to time upon Statements of Work setting out the specification of particular Services that Symatrix shall provide to the Customer under the terms of this Agreement; when agreed, each SOW shall be executed by a duly authorised representative of each Party and shall be incorporated in a schedule to this Agreement.

2.3. Each Statement of Work shall incorporate or be deemed to incorporate these terms and conditions, save as may be expressly varied in the Statement of Work. Neither Party shall have any rights or obligations in respect of any SOW, including the receipt of, or the provision of, the Services under it, unless and until each Party has executed the SOW in accordance with the requirements of clause 2.2

2.4. Each Contract constitutes the entire agreement of the Parties with respect to the supply of the Software and the provision of the Services by Symatrix described therein and supersedes all prior representations, statements, negotiations, agreements and contracts whether verbal or in writing; any reference in the Contract or elsewhere to the Customer's terms and conditions shall not have the effect of incorporating any such terms and conditions into the Contract.

2.5. If there is an inconsistency or conflict between any provisions of this Agreement and a Statement of Work, the terms of this Agreement shall apply save to the extent explicitly stated otherwise in the Statement of Work.

3. Duration and Termination

3.1. This Agreement shall commence on the Effective Date and shall remain in force until the conclusion of Services under all extant Statements of Work and thereafter until terminated by Written Notice given by one Party to the other, unless earlier terminated by either Party as provided under Clause 3.2 below.

3.2. Each Statement of Work shall continue for its full term unless early termination provisions are agreed between the Parties and expressly set out therein, but provided that either Party may terminate a Statement of Work forthwith on giving Written Notice to the other if:-

   a) the other Party commits a material breach of its obligations under the Contract which has not been remedied within thirty (30) days of the receipt by the other Party of Written Notice demanding remedy of the breach; or

   b) the other Party is deemed to be unable to pay its debts (within the meaning contained in clause 123 of the Insolvency Act 1986) or any Insolvency Event occurs with respect to that Party ("Insolvency Event" means that any step is taken under the Insolvency Act 1986, under any other legislation, or the Party's own constitution which would result in that Party's insolvency).

3.3. Upon termination of a Statement of Work:

   a) any undisputed sums owing to either Party under the terms of that Statement of Work shall become due and payable immediately upon presentation of an appropriate invoice;

   b) no advance payment of Charges shall be refunded unless otherwise expressly provided in the Statement of Work;

   c) no termination of a Statement of Work shall affect the continuation of any other extant Statement of Work except by express agreement between the Parties.

3.4. Any termination of this Agreement or a Statement of Work (howsoever occasioned) shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

4. Provision of the Software and Services

4.1. In respect of each agreed Statement of Work, Symatrix shall supply the Services to the Customer:

    a) in accordance with the terms and conditions of this Agreement; and

    b) in accordance with the terms of that SOW and any assumptions and dependencies set out therein.

4.2. Symatrix shall:

    a) if required under the terms of a Statement of Work, supply the Oracle Cloud Services subject to the terms contained in this Agreement and the Oracle Cloud Services Agreement;

    b) provide the Services in accordance with the terms of the Contract and will ensure that the Services will be provided with all reasonable care and skill and by suitably trained and qualified persons.

4.3. Each Statement of Work may include or incorporate by reference a statement of the assumptions under which Symatrix has based its Charges for the Services and the dependencies and Customer responsibilities upon which Symatrix will rely for the performance of the Services. Any deviation from these assumptions, or any default in the dependencies or in the performance of the Customer's responsibilities, that affects the timeframe for performance of the Services or requires Symatrix to incur additional costs in order to deliver the Services may require an extension of the timeframe or an increase in the Charges to be invoked pursuant to the change management procedure set out in the relevant Statement of Work.

4.4. Subject to the provisions of clause 4.3 above Symatrix shall use all reasonable endeavours to comply with any timetable specified in the Statement of Work. To the extent that Symatrix is unable to comply with the timetable Symatrix shall be granted a reasonable extension of time provided that the Customer is notified as soon as is reasonably practicable of the default and its impact on Symatrix' performance. Both Parties shall take such steps as may be reasonably expected in the circumstances to avoid or mitigate the effects of the default. Where the Customer agrees to Symatrix performing additional work that is required as a direct and necessary result of the Customer's default then such work will be chargeable in accordance with the rates specified in the Statement of Work (or at Symatrix' standard time and materials rates or such other rates as may be agreed between the Parties, in writing, from time to time).

4.5. Symatrix reserves the right to modify this Agreement and the Services to the extent necessary to ensure compliance with any regulatory or legislative requirement, but otherwise:

    a) any change to the terms and conditions of this Agreement shall be subject to the prior written consent of both Parties;

    b) all other variations to the Contract and the Services shall follow the change management procedure set out in the relevant Statement of Work.

5. Charges and Payment

5.1. In consideration of the provision of the Services by Symatrix the Customer shall pay to Symatrix the Charges plus Vat thereon as specified in the relevant Statement of Work.

5.2. The level of the Charges shall be reviewed annually and increased, with effect from each anniversary of the commencement date defined in the relevant Statement of Work (the "Annual Review Date"), by the greater of: (a) the increase in the Retail Prices Index published by the UK Office for National Statistics for the period of 12 months ending with the month prior to the date of Symatrix' invoice in respect of continuing Services after the Annual Review Date; or (b) two per cent (2%) per annum.

5.3.   Any service credits which may become due to the Customer shall be applied as a credit against Charges for subsequent Services.

5.4.   The Customer will pay all invoices in full within 30 days of the date of invoice or such other period as may be agreed between the Parties and set out in the SOW. If any sum payable by the Customer is not paid within ten (10) days after the due date then:

a)   the right to use Oracle Cloud Services supplied by Symatrix in connection with the Services shall be immediately suspended;

b)   Symatrix shall be entitled to suspend performance of the Services until such unpaid sum is paid and any relevant timescale for the performance of the Services shall be extended accordingly; and

c)   to the extent that the amount is not the subject of a reasonably substantiated dispute and without prejudice to Symatrix' other rights and remedies, Symatrix reserves the right to charge interest on such sum on a day to day basis (after as well as before any judgment) from the date or last date for payment thereof to the date of actual payment (both dates inclusive) at the rate of three per cent (3%) per annum over Barclays Bank plc. base rate (or such other London Clearing Bank as Symatrix may nominate) from time to time in force. Such interest shall be paid by the Customer on demand by Symatrix.

6.   Symatrix' Obligations

6.1.   Symatrix shall perform the Services:

a)   with reasonable care and skill consistent with generally accepted computer software industry standards; and

b)   in a manner determined by the application of its specialist skills (and accordingly the Customer shall have no right to exercise control over the manner in which Symatrix and its Personnel provide the Services).

6.2.   Symatrix shall perform the Services in accordance with all relevant legislation and regulations applicable to their performance and in accordance with any pertinent legislation and regulation applicable to the Customer's business which may be advised by the Customer in writing to Symatrix from time to time, but provided that all changes or additions required to the Services to comply with the provisions of this clause shall be subject to the change management procedure as set out in the relevant Statement of Work.

6.3.   Symatrix shall obtain and maintain all consents, licences, approvals, qualifications and permissions required from any competent authority to enable it to provide the Services in accordance with this Agreement.

7.   Service Levels

7.1.   Symatrix shall ensure that the Services are performed with all appropriate skill, care and diligence and in accordance with any required service levels set out in the Statement of Work but subject always to the assumptions and the proper and timely performance of the dependencies and all other Customer's obligations and responsibilities as set out in the relevant Statement of Work and any associated Service Level Agreements.

7.2.   Interruptions to the Services not expressly envisaged in the Statement of Work shall be made only with the prior agreement of the Customer when in Symatrix' reasonable opinion they are necessary to improve or maintain the Services and compliance with the said service levels.

7.3.   If at any time the Services are not supplied in accordance with the Statement of Work, Symatrix shall:

a) arrange all additional resources necessary to perform the Services in accordance with the Statement of Work as soon as possible and use all reasonable endeavours promptly to remedy and remove the cause of non-performance; and

b) promptly remedy any default or re-perform any non-conforming Services at the request of the Customer at no additional charge, save where the default or failure has arisen as a result of the act or omission or default of the Customer or of Oracle or of a third party and in such cases, Symatrix shall not be obliged to remedy any such defaults or re-perform any Services but in the event that Symatrix agrees to do so, the Customer will pay for such work at Symatrix' standard time and material charging rates as the same may be amended from time to time.

8. Customer's Obligations

8.1. If the Contract calls for the supply, configuration, testing or support of Oracle Cloud Services by Symatrix then the Customer shall enter into, comply with and maintain in full force and effect at the requisite level for the performance of the Services the Oracle Cloud Services Agreement and associated Oracle technical support agreement for the use and maintenance of the Oracle Cloud Services.

8.2. The Customer shall in a timely manner provide the personnel and other resources and otherwise comply with its obligations, responsibilities and any dependencies set out or referred to in the relevant Statement of Work or otherwise agreed between the Parties and shall generally provide such reasonable support and assistance as may be required in order to enable Symatrix to perform the Services including the effective management of relationships with third party service providers.

8.3. The Customer shall ensure that its staff engaged in association with the provision of the Services are suitably skilled, experienced and trained to allow them to perform their respective duties and receive the Services.

8.4. The Customer will provide Symatrix with such information as it may reasonably request concerning the Customer's operations and answers to queries, decisions and approvals which may be reasonably necessary for Symatrix to undertake the Services. The Customer shall be responsible for ensuring that such information and answers are accurate and complete.

8.5. The Customer shall not require Symatrix' Personnel to perform work outside the normal scope of the Services as detailed in the relevant Statement of Work or associated Service Level Agreement, nor outside Symatrix' normal working hours except with Symatrix' prior written agreement and subject to Symatrix' overtime rates at 150% of standard Charges.

8.6. Testing and Acceptance

a) The Customer shall in a timely manner perform User Acceptance Tests or such other requirements as may be required by Acceptance Procedures and shall promptly report to Symatrix in writing any defects disclosed which shall be dealt with under the terms of clause 7.3.b) above; on completion of the Acceptance Procedures, or if such User Acceptance Tests or other requirements are not completed within ten (10) business days (or such other period as may be agreed between the Parties) of delivery of such deliverables or if the deliverables are applied to a production environment or otherwise taken into use then the Customer shall be deemed to have accepted the deliverables and the Services as satisfactory for the Customer's purposes.

b) Where the relevant Statement of Work does not call for User Acceptance Tests or for control information to be supplied by the Customer as part of the Acceptance Procedures then on completion of the Acceptance Procedures all deliverables shall be accepted by the Customer as full and satisfactory performance of the Services by Symatrix.

c) The Customer shall in timely manner verify and confirm the accuracy of all computer output produced as part of the Services and shall advise Symatrix immediately of any

incomplete or inaccurate output in accordance with the reporting procedures set out in the appropriate Statement of Work.

9. Access and Audit

9.1. Where applicable and required to enable Symatrix to provide the Services, the Customer will allow Symatrix' authorised Personnel, after prior agreement, reasonable access to its premises, equipment and staff. The Customer shall provide such facilities and assistance (including but not limited to storage, working space, office accommodation, furniture and facilities, power supply and telephone and computer communication facilities) as may be necessary to enable Symatrix to carry out the Services effectively. Such facilities shall be of a standard and quality no lower than those afforded to the Customer's own staff and their provision shall cease on termination of this Agreement.

9.2. Symatrix shall ensure that its employees and sub-contractors:

   a) shall comply with lawful directions given by authorised personnel of the Customer relating to conduct on the premises;

   b) shall comply with the Customer's security and safety procedures which are brought to the attention of Symatrix from time to time;

   c) so far as practicable do not interfere with the carrying out by the Customer of its normal business operations.

9.3. Subject to the limit of liability in clause 12.3 below, Symatrix accepts liability for damage caused to the Customer's premises by the negligence of Symatrix' Personnel.

9.4. If the Services include ongoing managed services or bureau services, then on fifteen (15) business days' prior Written Notice and not more than once in any twelve (12) month period, and subject to the Customer's payment of Symatrix' reasonable charges calculated at Symatrix' standard time and materials rates or such other rates as may be agreed between the Parties, Symatrix shall allow for audit purposes Customer-authorised personnel, advisors, auditors and regulators reasonable access to its premises, equipment, staff and the Customer Data, and will provide such facilities and assistance (including but not limited to storage, working space, power supply and telephone facilities) as they shall reasonably require.

10. Software Licensing and Usage Rights

10.1. Customer's Licence:

   a) The Customer grants to Symatrix a licence to use its systems, software and Customer Materials during the term of this Agreement for the sole purpose of performing the Services and at all times in accordance with the Oracle Cloud Services Agreement and any licence, sub-licence or terms of use of any other software.

   b) Whilst Symatrix shall abide by and comply with Oracle's guidelines and best practice, Symatrix shall have no liability to the Customer or otherwise if the performance of the Services exceeds the rights granted or restrictions imposed under the terms of the relevant Oracle Cloud Services Agreement or the licence, sub-licence or terms of use of any other software.

10.2. **Oracle Cloud Services:** if the Contract calls for the supply of Oracle Cloud Services by Symatrix then the following terms shall apply:

   a) Oracle or its licensors retain all ownership and intellectual property rights in and to the Oracle Cloud Services, including Oracle programs and ancillary software, and derivative works thereof, and to anything developed or delivered by or on behalf of Oracle.

   b) Rights to use Oracle Cloud Services are granted to the Customer subject to the conditions and limitations set out in:

i) the Oracle Cloud Services Agreement between the Customer and Oracle; and

ii) the Software Licensing SOW attached to this Agreement.

c) The Customer assigns to Symatrix the rights set out in the Oracle Cloud Services Agreement as required for the provision of the Services subject to the limitations of time, scope and usage rights and all other terms and conditions set out or referred to therein.

11. Warranties

11.1. Symatrix warrants and undertakes to Customer that:

a) it has full right, power and authority to enter into and perform this Agreement;

b) it has the right, power and authority to grant to the Customer any licences and usage rights for Software set out in a Statement of Work which are to be granted under this Agreement;

c) it has and will continue to have all necessary rights, including all Intellectual Property Rights in and to any software (other than the Software), hardware and other materials of any kind used or made available by Symatrix which are necessary to perform the Services;

d) the provision of the Services by Symatrix under this Agreement shall not infringe the Intellectual Property Rights of any third party;

e) it will perform its obligations under this Agreement with due skill, care and diligence and in accordance with the Service Levels and other parameters specified in the relevant Statement of Work but does not warrant that the resultant implementation or the performance of the Services shall be error free.

11.2. The Warranty Period shall be ninety (90) days or such other period as may be agreed between the Parties and stipulated in a Statement of Work.

11.3. The Customer warrants and undertakes to Symatrix throughout the continuance of this Agreement that:

a) it has all necessary rights, title and authority to enter into this Agreement and the transactions contemplated hereunder;

b) it has and will comply with all applicable laws and other government statutory or regulatory requirements which may from time to time be applicable.

12. Liability and Insurance

12.1. The following provisions of this Clause set out the total liability of Symatrix in respect of any right or action arising out of or in connection with the performance of the Services.

12.2. Nothing in this Agreement shall limit or exclude either Party's liability for:

a) death or personal injury resulting from that Party's negligence;

b) fraud or fraudulent misrepresentation;

c) any other liability which may not by law be limited.

12.3. Symatrix' total liability in respect of:

a) direct loss of or damage to tangible property shall not exceed one million pounds (£1,000,000) per claim arising during the subsistence of this Agreement;

b) the negligent transmission of any computer virus shall not exceed one million pounds (£1,000,000) per claim arising during the subsistence of this Agreement.

12.4. The aggregate liability of Symatrix to the Customer in respect of all other loss or damage arising out of or in connection with this Agreement or any Statement of Work (other than as set out in Clauses 12.2 and 12.3 and subject to Clauses 12.5, 12.6 and 12.7), shall be limited to damages which shall not exceed one million pounds (£1,000,000) per claim arising during the subsistence of this Agreement.

12.5. Neither Party shall have any liability to the other howsoever arising under or in connection with this Agreement in respect of:

a) any loss of profits, business, revenue, goodwill, contract, anticipated savings or earnings (whether direct, indirect or consequential); or

b) any loss of use or value of any data or equipment (including software), wasted management time, operation or other time (whether direct, indirect or consequential); or

c) any other type of indirect or Consequential Loss.

12.6. Symatrix shall not be liable for any losses or damages suffered by the Customer arising from the Customer's failure to make adequate provision for recovery of lost or corrupted data, files or programs.

12.7. Symatrix shall not be liable for any loss or damage incurred or sustained by the Customer in respect of the provision of the Services unless such loss or damage is caused by the negligence of Symatrix or its subcontractors.

12.8. Symatrix shall maintain with reputable insurers such policies of insurance as are necessary to cover the potential liabilities of Symatrix under or in connection with this Agreement.

12.9. Within five (5) business days of a request by the Customer, Symatrix shall provide evidence of the insurance which it is obliged to maintain under this Clause.

13. Intellectual Property

13.1. If the deliverables to be produced by Symatrix under a Statement of Work include software or other materials expressly produced at the behest of the Customer ("Developed Materials"), then the following terms shall apply:

a) Symatrix acknowledges and agrees that, unless otherwise set out in the Contract, the Developed Materials shall constitute "commissioned works" and ownership of the Intellectual Property Rights therein shall vest in the Customer;

b) Upon payment in full of the relevant Charges, Symatrix shall assign to the Customer all such rights in the Developed Materials and shall, upon the request and at the expense of the Customer, execute any instruments and do all things reasonably necessary in order to perfect the Customer's rights therein;

c) Nothing herein shall prevent Symatrix at any time from using for any purpose it thinks fit any program code, know-how or experience including programming tools, skill and techniques, gained or arising from the performance of the Services.

13.2. Subject to clause 13.1 above the Customer hereby acknowledges that all Intellectual Property Rights in any materials or working methods used or created by Symatrix in the course of providing the Services shall vest in Symatrix and that the Customer shall have no title or interest in any such Intellectual Property Rights unless otherwise agreed in writing by the owner thereof.

14. Confidentiality

14.1. Each Party will hold the other's Confidential Information in confidence at all times, will only use such information for the purpose of performing their obligations under the Agreement, and will:

a) not disclose, publish, divulge or release the same to any person except to those of its Personnel as are involved in the provision of the Services or the management of the Agreement (or any disputes arising under the Agreement);

b) not utilise, employ, exploit or in any manner whatsoever use the Confidential Information for any purpose whatsoever other than the performance of the Services without the prior written consent of the proprietor thereof, except as permitted by the Agreement;

c) restrict the dissemination of the Confidential Information to only those Personnel who are actively involved in activities for which use of the Confidential Information is authorised.

14.2. Confidential Information does not include:

a) information generally and lawfully available to the public at the time of disclosure by the proprietor of such Confidential Information;

b) information subsequently obtained or developed independently by either Party without reference to the Confidential Information;

c) information obtained from a third party who is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; and

d) information disclosed pursuant to a requirement or request by operation of law, regulation or court order

provided always that the onus shall rest with the recipient of the Confidential Information to establish that such information falls within such exclusions.

14.3. Each Party will ensure that those of its Personnel who are involved in the Services are made aware of the confidential nature of Confidential Information and are under obligations of confidentiality similar to the obligations in this clause.

14.4. The obligations of confidentiality given in this clause are severable from the rest of the Agreement and shall survive after the termination of the Agreement (for any reason) for five years.

14.5. It shall not be a breach of this clause:

a) to disclose Confidential Information which a Party is legally obliged to disclose provided that the legal obligation in question has not been brought about because of a wrongful act or omission of the Party from whom disclosure is demanded and that such Party (where permitted by law) informs the other Party prior to disclosure;

b) to use the name or logos or trade marks of a Party on any website or publicity material of the other Party unless that other Party on reasonable grounds makes objection in writing to the Party making such disclosure.

15. Customer Data

15.1. Symatrix shall:

a) not delete or remove any proprietary notices or other notices contained within or relating to the Customer Data;

b) not alter, store, copy, disclose or use the Customer Data, except as necessary for the performance of the requirements of a Statement of Work or as otherwise expressly authorized by the Contract in compliance with its provisions;

c) preserve, so far as possible, the integrity of the Customer Data and prevent any loss, disclosure, theft, manipulation or interception of the Customer Data in accordance with best industry practice but provided that the transfer of all Customer Data and other Customer Materials between the Customer and Symatrix shall take place at the Customer's risk;

d) to the extent required under the terms of a Statement of Work or any agreed Disaster Recovery and Business Continuity Plan make secure back-up copies of the Customer Data in accordance with the agreed requirements;

e) immediately notify the Customer if any of the Customer Data is lost, becomes corrupt, is damaged or is deleted accidentally.

15.2. The Customer hereby grants to Symatrix, for the period of performance of the Services, a non-exclusive licence to use the Customer Data solely for the purpose of, and to the extent necessary, to meet the requirements of the relevant Statement of Work; Symatrix shall not:

a) modify, amend, alter, remove, delete or enhance the Customer Data without the prior written consent of the Customer, or

b) make any copies of the Customer Data other than in accordance with the provisions of the Contract without the prior written permission of the Customer.

15.3. Symatrix shall maintain in effect an Information Security Management System (ISMS) compliant with ISO27001 accreditation, an up-to-date copy of which will be supplied to the Customer on request. In accordance with the ISMS, Symatrix shall take all precautions necessary to preserve the security and integrity of the Customer Data and to prevent any corruption or loss of the Customer Data.

16. Data Protection

16.1. The Parties apprehend that the Services may involve Processing of Personal Data (as defined in the GDPR) and accordingly shall enter into a Data Protection Agreement in the form attached in Appendix 1.

16.2. If and to the extent that Symatrix is required to undertake Processing of Personal Data, the Data Protection Laws shall apply to such Processing and the provisions of the Data Protection Agreement shall be incorporated into this Agreement.

17. Assignment and Sub-Contractors

17.1. Neither Party may assign or otherwise transfer any of its rights or obligations under this Agreement whether in whole or in part without the prior written consent of the other Party such consent not to be unreasonably withheld, conditioned or delayed, except and provided always that:

17.2. Symatrix may engage a subsidiary or a third party service provider identified in a Statement of Work to provide outsourced Services in accordance with the terms of this Agreement and the relevant Statement of Work. No change of any such third party service provider shall be implemented without the prior agreement of the Customer (which shall not be unreasonably refused).

17.3. Symatrix shall procure and ensure that its permitted sub-contractors:

a) enter into a confidentiality agreement in substantially the terms of the confidentiality provisions of this Agreement for the benefit of and enforceable by each Party;

b) comply with all reasonable rules and instructions specified by the Customer to Symatrix from time to time; and

c) are authorised, licensed, qualified, and approved to provide the sub-contracted Services as required by any competent authority or otherwise.

17.4. For the avoidance or doubt, Symatrix shall remain liable to the Customer in respect of any act, default or omission of its sub-contractors as if it were an act, default or omission of Symatrix.

17.5. The Customer shall be entitled to assign the benefits and obligations under this Agreement to any Group company of the Customer.

18. Dispute Resolution

18.1. It is the intention of the Parties to settle amicably by negotiation in good faith with a view to resolving all disagreements and differences of opinion on matters of performance, procedure management or otherwise arising out of this Agreement. Accordingly it is agreed that the following procedure shall be followed in relation to any matter of dispute between the Parties hereto concerning performance, procedure or management procedures.

18.2. All disputes or differences which shall arise between the Parties in respect of the construction or effect of this Agreement or the rights duties and liabilities of each Party under it or any matter or event connected or arising out of this Agreement ("a Relevant Event") shall be referred to each Party's authorised representative appointed in accordance with clause 25.1 below in the first instance.

18.3. If they are unable to resolve the Relevant Event within 15 days of referral, or such further time as they may agree, or if the agreed solution is not implemented correctly, either Party may refer the Relevant Event to a meeting of a senior director of each Party for resolution.

18.4. If the Relevant Event is not resolved within 10 days of referral to this forum, or such further time as they may agree, then the Parties agree to resolve the dispute by an Alternative Dispute Resolution (ADR) Procedure using the services of the Centre for Dispute Resolution (CEDR) of 3-5 Norwich Street London EC4A 1EJ. If the dispute is not resolved by the ADR Procedure then the forum for the settling of outstanding disputes shall be the English courts.

18.5. For the avoidance of doubt, this Clause 18 shall not prevent either Party from seeking injunctive relief in the case of any breach or threatened breach by the other of any obligation of confidentiality or any infringement by the other of the first-named Party's Intellectual Property Rights.

19. Business Continuity

If a Disaster Recovery and Business Continuity Plan is specified as a requirement within the scope of any Statement of Work then the following terms shall apply:

19.1. Symatrix shall maintain or procure an adequate Disaster Recovery and Business Continuity Plan and shall implement or procure the implementation of the provisions of the Disaster Recovery and Business Continuity Plan at any time in accordance with its terms.

19.2. If and when reasonably required by the Customer Symatrix shall conduct tests of the Disaster Recovery and Business Continuity Plan and the Customer shall be entitled to participate in such tests at the Customer's discretion.

19.3. Symatrix shall ensure that the Customer has access to the Disaster Recovery site and access to Customer Data in the event that the Disaster Recovery and Business Continuity Plan is implemented, but provided that the Customer shall be responsible for all communications equipment necessary for effecting such access.

20. Termination Consequences

20.1. Upon termination of a Contract for any reason, Symatrix shall if requested by the Customer and at the Customer's expense (at Symatrix' standard charging rates) use reasonable endeavours to assist and co-operate with the Customer and to continue to provide the Services and perform its obligations so in order to effect so far as reasonably possible an orderly transition from provision of the Services by Symatrix to the provision of such or similar services by another Party.

20.2. On termination of the Contract, Symatrix shall procure that all books, records, information, documentation, data, and any other materials belonging to the Customer or delivered to Symatrix under the Contract including the Customer Materials and Customer Data shall be delivered to the Customer forthwith and Symatrix' Managing Director shall certify full compliance with this clause.

20.3. On written instruction from the Customer, Symatrix shall immediately and permanently erase or delete from its computer systems all electronic or magnetic copies of data relating to the Services and which are owned by the Customer or the Customer Group or any suppliers or licensors or at the Customer's direction destroy the same (and Symatrix' Managing Director shall certify to the Customer in writing that such destruction has taken place)

21. Relationship between the Parties

21.1. Symatrix shall act as principal in providing the Services and nothing in this Agreement shall create, or deemed to create, a partnership or joint venture or an employer and employee relationship between the Parties.

21.2. The Parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a Party to it; but provided that:

21.3. All covenants, representations, warranties and agreements of the Parties contained herein shall be binding upon and inure to the benefit of their respective heirs, executors, administrators, personal representatives, successors, and permitted designees.

22. Personnel

22.1. Symatrix shall engage suitably skilled and qualified persons of its own choosing from time to time to provide the Services and may replace any individual at its sole discretion, but provided that where Key Personnel are agreed and identified in a Statement of Work no changes shall be implemented without the prior agreement of the Customer (which shall not be unreasonably refused).

Transfer Regulations

22.2. If, on commencement of this Agreement or any Contract any contract of employment relating to any employee of the Customer or of an existing supplier of services similar to the Services is alleged to have effect as if originally made between Symatrix and that person (the "relevant person"), the following will apply:

a) Symatrix will within ten (10) business days of becoming aware of that effect or alleged effect notify the Customer;

b) Customer will use reasonable commercial efforts, within ten (10) business days of being so notified, to find suitable alternative employment for and make an offer of employment to the relevant person;

c) unless the offer is accepted and the Customer provides evidence to Symatrix that the offer has been accepted within fifteen (15) business days of the notification referred to under paragraph (a), Symatrix may terminate (or purport to terminate) the contract of employment of the relevant person.

d) The Customer will indemnify and keep indemnified Symatrix against all losses, damages and liabilities arising from or related to:

i). such termination (or purported termination) of employment;

ii). the costs of employing the relevant person from the date of transfer or alleged transfer to the date on which his or her employment terminates;

iii). any claim by the relevant person in respect of any fact or matter to the extent that such claim concerns or arises from employment with the Customer or the termination of that employment;

iv). any claim by the relevant person in respect of which Symatrix incurs liability as a result of the operation of the Transfer Regulations;

v). any claim relating to the failure by any person to comply with information and consultation obligations under the Transfer Regulations.

22.3. If, on termination of this Agreement or on a successor providing the Customer with services similar to the Services (or some of them) in succession to Symatrix, any contract of employment relating to any person engaged in providing the Services has effect or is alleged to have effect as if originally made between the Customer or the successor and that person (the "relevant person"), the following will apply:

   a) Customer will within ten (10) business days of becoming aware of that effect or alleged effect notify Symatrix;

   b) Symatrix will use reasonable commercial efforts, within ten (10) business days of being so notified, to find suitable alternative employment for and make an offer of employment to the relevant person;

   c) unless the offer is accepted and the Symatrix provides evidence to the Customer and any relevant successor that the offer has been accepted within fifteen (15) business days of the notification referred to under paragraph (a), the Customer or the successor (whichever may be the transferee for the purposes of the Transfer Regulations) may terminate (or purport to terminate) the contract of employment of the relevant person;

   d) Symatrix will indemnify and keep indemnified the Customer and any relevant successor against all losses, damages and liabilities arising from or related to:

      i). such termination (or purported termination) of employment;

      ii). the costs of employing the relevant person from the date of transfer or alleged transfer to the date on which his or her employment terminates;

      iii). any claim by the relevant person in respect of any fact or matter to the extent that such claim concerns or arises from employment with the Symatrix or the termination of that employment;

      iv). any claim by the relevant person in respect of which Customer or the successor incurs liability as a result of the operation of the Transfer Regulations;

      v). any claim relating to the failure by any person to comply with information and consultation obligations under the Transfer Regulations.

Non-solicitation

22.4. The Customer acknowledges that Symatrix has incurred significant costs in recruitment and training its Personnel to enable it to provide the Services; accordingly the Customer agrees that it will not solicit or approach in any way any of Symatrix' Personnel who is or has been in the previous six months involved in the provision of the Services with a view to offering them employment or to solicit services from them on their own account (whether for the Customer or another Party) during the period of provision of the Services and for a period of six (6) months after the termination or expiration of the Services save that nothing in this clause shall apply to the operation of the Transfer Regulations (as contemplated in this clause 22).

22.5. The Customer acknowledges that damages will not be an adequate remedy for Symatrix if the Customer breaches the provisions in clause 22.5 and that Symatrix will be entitled to seek injunctive relief and any other equitable remedies with respect to such breach.

22.6. If any Personnel of Symatrix leaves the employment of Symatrix as a result of a breach by the Customer of clause 22.4 above and commences employment with or provides services to the Customer, then the Customer shall pay to Symatrix a compensation fee representing the costs of recruitment and training of an alternative employee which shall amount to a sum equal to 50% of the higher of:-

   a) the fees paid to or the annual salary (including any benefits-in-kind, bonus payments, commissions and other emoluments) of the employee at the date that they ceased to be an employee of Symatrix; or

b)   the annual salary of the employee at the time they commence employment by the Customer;

c)   -and the Customer acknowledges that any such payment is by way of liquidated damages and is a reasonable and genuine pre-estimate of Symatrix' losses.

22.7.   For the avoidance of doubt, the placing of a general advert in newspapers, on websites (including either Party's website) or in trade publications available to the public shall not constitute a breach of clause 22.4.

23. Bribery, Corrupt Gifts and Payment of Commission

23.1.   Each Party shall comply in all respects throughout the term of this Agreement with the Bribery Act 2010 and in particular (without prejudice to the generality of the foregoing):

a)   each Party shall, and shall procure that its staff and subcontractors shall, neither offer or give or agree to give, nor request, agree to receive or accept, any gift or consideration or financial or other advantage of any kind which could act as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to this Agreement or any other contract between Symatrix and the Customer or any other body or person employed by or on behalf of the Customer or for showing or refraining from showing favour or disfavour to any person in relation to any such contract; and

b)   each Party shall maintain in force an appropriate anti-bribery policy in compliance with the guidance published by the Ministry of Justice under s9 of the Bribery Act 2010 so that it can demonstrate that it has adequate procedures in place which are designed to prevent individuals who perform services on its behalf from committing offences of bribery and if required product evidence thereof to the other Party.

23.2.   Each Party warrants to the other that it has not, nor have its staff or subcontractors, either paid or agreed to pay, or requested, agreed to receive or accepted, any commission, gift, consideration or financial or other advantage of any kind to or from any body or person in connection with this Agreement or any other contract between the Parties or to or from any other body or person employed by or on behalf of either Party.

23.3.   If either Party, its Staff or subcontractors or any person acting on its behalf, engages in conduct prohibited by Clause 23.1 above or commits any offence under the Bribery Act 2010, the other Party may:

a)   terminate this Agreement with immediate effect by giving notice in writing to the Party in default and recover from that Party the amount of any loss suffered by the terminating Party resulting from the termination or any such loss suffered by a subcontractor for which that Party is liable; or

b)   recover in full from the Party in default which shall indemnify the other Party and its subcontractors from and against any other costs, damages and legal fees sustained by that Party in consequence of any breach of this clause 23, whether or not this Agreement has been terminated.

24. Force Majeure

24.1.   Neither Party shall be liable for any delay or failure in performing any of its obligations under this Agreement to the extent that such delay or failure is caused by an event of Force Majeure affecting that Party. This clause shall only apply where the affected Party gives prompt Written Notice to the other Party of the circumstances causing the delay or failure. The affected Party shall proceed with their contractual obligations to the extent that they are not affected or impaired by event of Force Majeure, and shall use all reasonable endeavours to avoid or mitigate the effects of the circumstances.

24.2. If a Force Majeure event arises, then for so long as and to the extent that the Force Majeure event prevents Symatrix from providing the Services, no Charges and no other fees, charges or costs shall be due or payable from the Customer in respect of such Services.

24.3. If the Force Majeure event continues for more than thirty (30) calendar days, the Customer may terminate the relevant Statement of Work forthwith by Written Notice to Symatrix without any obligation to pay any fees, charges or costs other than any fees, charges or costs accruing prior to the Force Majeure event.

25. Communications and Notices

25.1. Each Party shall appoint a project manager or other authorised representative with the power to make binding decisions relating to this Agreement and the Services, (including but not limited to changes in the Services) and such representatives shall observe and comply with the change management procedure and any provisions for project governance set out in the relevant Statement of Work.

25.2. All Written Notices that are required to be given under this Agreement shall be effective only if sent for the attention of the Managing Director of the recipient Party at the addresses set out on page 1 of this Agreement (or to such alternative address as a Party may advise by Written Notice to the other) by recorded delivery letter or by hand and shall be deemed to have been received; (i) by first class post, 48 hours after the date of mailing; or (ii) by hand, the following business day.

26. Environment

Symatrix shall whilst performing the Services use working methods, equipment and consumables which reasonably minimise environmental damage.

27. Invalidity

If any provision of this Agreement is held to be invalid and/or unenforceable under any applicable statute or rule of law, it shall to that extent be deemed omitted and the validity and/or enforceability of the remaining provisions of this Agreement shall not be impaired or affected by that omission.

28. General

28.1. No failure or delay by a Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

28.2. The Parties shall use all reasonable endeavours to mitigate losses, damages and expenses that it may suffer or incur as a result of any breach by the other Party of its obligations under this Agreement or otherwise and in respect of which it desires to make recovery in whole or in part from the other Party.

28.3. Any dispute resolution or legal proceedings arising from this Agreement must be commenced within two years from the earlier of:

a) the date when the Party bringing the proceedings first becomes aware of the facts which give rise to the liability or alleged liability; or

b) the date when that Party ought reasonably to have become aware of the facts which give rise to the liability or alleged liability.

29. Law

This Agreement shall be governed by and constructed in accordance with English law and the Parties hereby submit to the jurisdiction of the English courts.

_____

The Parties confirm that they accept and shall be bound by the terms and conditions of this Master Service Agreement:

SIGNED for and on behalf of:	**SIGNED** for and on behalf of:
THE CUSTOMER	**SYMATRIX LIMITED**
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

Index to Appendices and Schedules

Attachment	Document	Subject	Included
Appendix 1	DPA	Data Protection Agreement	√
Schedule 1	SOW001		
Schedule 2			

APPENDIX 1

DATA PROTECTION AGREEMENT

THIS AGREEMENT is made the   day of

BETWEEN:

(1)   [**Customer**], a company registered in [Country] under number [Registration number], whose registered office is at [Customer's Registered Office] ("Customer" or "Data Controller") and

(2)   **Symatrix Limited** a company registered in England and Wales under number 03926985 whose registered office is at 86 King Street, Manchester M2 4WQ ("Symatrix" or "Data Processor")

WHEREAS:

(1)   Under a Master Service agreement between Symatrix and the Customer dated [date of MSA] ("the Service Agreement") Symatrix provides to the Customer the Services described in Schedule 1.

(2)   The provision of the Services by Symatrix involves the processing of Personal Data described in Schedule 2 by Symatrix as processor on behalf of the Customer as controller.

(3)   Article 28, paragraph 3 of the UK GDPR (as defined below) requires that a written agreement be put in place between the controller and any organisation which processes personal data on its behalf governing the processing of that data.

(4)   The Parties have agreed to enter into this Agreement to ensure compliance with Applicable Data Protection Laws (as defined below) including the said provisions of the UK GDPR in relation to all processing of the Personal Data by the Data Processor for the Data Controller.

(5)   The terms of this Agreement are to apply to all processing of Personal Data carried out for the Data Controller by the Data Processor and to all Personal Data held by the Data Processor in relation to all such processing; in that regard (but not further or otherwise) this Agreement varies and supersedes the Service Agreement and any and all other extant agreements between Symatrix and the Customer.

IT IS AGREED as follows:

1.   Definitions and Interpretation

        1.1   In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Applicable Laws"	means, to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom; and, to the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the Data Processor is subject;
"Applicable Data Protection Laws"	means, to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data; and, to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Data Processor is subject, which relates to the protection of personal data;
"controller", "processor", "processing", and "data subject"	shall have the meanings given to the terms "controller", "processor", "processing", and "data subject" respectively in Article 4 of Applicable Data Protection Laws;
"EU GDPR"	means the General Data Protection Regulation ((EU) 2016/679);
"ICO"	means the UK's supervisory authority, the Information Commissioner's Office;
"Personal Data"	means all such "personal data", as defined in Article 4 of the UK GDPR, as is, or is to be, processed by the Data Processor on behalf of the Data Controller, as described in Schedule 2;
"Services"	means those services and/or facilities described in Schedule 1 which are provided by the Data Processor to the Data Controller and which the Data Controller uses for the purposes described in Schedule 1;
"Sub-Processor"	means a sub-processor appointed by the Data Processor to process the Personal Data;
"Sub-Processing Agreement"	means an agreement between the Data Processor and a Sub-Processor governing the Personal Data processing carried out by the Sub-Processor, as described in Clause 10; and
"UK GDPR"	has the meaning given to it in the Data Protection Act 2018.

1.2 Unless the context otherwise requires, each reference in this Agreement to:

    1.2.1 "writing", and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

    1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

1.2.3 "this Agreement" is a reference to this Agreement and each of the Schedules as amended or supplemented at the relevant time;

1.2.4 a Schedule is a schedule to this Agreement; and

1.2.5 a Clause or paragraph is a reference to a Clause of this Agreement (other than the Schedules) or a paragraph of the relevant Schedule.

1.2.6 a "Party" or the "Parties" refer to the parties to this Agreement.

1.3 The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.

1.4 Words imparting the singular number shall include the plural and vice versa.

1.5 References to any gender shall include all other genders.

1.6 References to persons shall include corporations.

2. Scope and Application of this Agreement

2.1 The provisions of this Agreement shall apply to the processing of the Personal Data described in Schedule 2, carried out for the Data Controller by the Data Processor, and to all Personal Data held by the Data Processor in relation to all such processing whether such Personal Data is held at the date of this Agreement or received afterwards.

2.2 The provisions of this Agreement supersede any other arrangement, understanding, or agreement including, but not limited to, the Service Agreement made between the Parties at any time relating to the Personal Data.

2.3 This Agreement shall continue in full force and effect for so long as the Data Processor is processing Personal Data on behalf of the Data Controller, and thereafter as provided in Clause 9.

3. Provision of the Services and Processing Personal Data

3.1 The Data Processor shall carry out the Services, and shall process the Personal Data received from the Data Controller, only:

3.1.1 for the purposes of those Services and not for any other purpose;

3.1.2 to the extent and in such a manner as is necessary for those purposes; and

3.1.3 strictly in accordance with the express written authorisation and instructions of the Data Controller (which may be specific instructions or instructions of a general nature or as otherwise notified by the Data Controller to the Data Processor).

3.2 If the Services involve or consist of the supply, configuration and/or support of software for use by the Data Controller, then:

3.2.1 the Services provided by the Data Processor shall be performed so as not to cause a breach of Applicable Data Protection Laws; but otherwise

3.2.2 the use of such software by the Data Controller for the processing of Personal Data or otherwise shall be the responsibility of the Data Controller.

4.   Data Protection Compliance

4.1   All instructions given by the Data Controller to the Data Processor shall be made in writing and shall at all times be in compliance with Applicable Data Protection Laws. The Data Processor shall act only on such written instructions from the Data Controller unless the Data Processor is required by Applicable Laws to do otherwise. Where the Data Processor is relying on Applicable Laws as the basis for processing Personal Data, the Data Processor shall promptly notify the Data Controller of this before performing the processing required by Applicable Laws unless those Applicable Laws prohibit the Data Processor from so notifying the Data Controller on important grounds of public interest.

4.2   The Data Processor shall promptly comply with any request from the Data Controller requiring the Data Processor to amend, transfer, delete, or otherwise dispose of the Personal Data.

4.3   The Data Processor shall transfer all Personal Data to the Data Controller on the Data Controller's request in the formats, at the times, and in compliance with the Data Controller's written instructions.

4.4   Both Parties shall comply at all times with Applicable Data Protection Laws and shall not perform their obligations under this Agreement or any other agreement or arrangement between themselves in such way as to cause either Party to breach any of its applicable obligations under Applicable Data Protection Laws.

4.5   The Data Controller hereby warrants, represents, and undertakes that the Personal Data shall comply with Applicable Data Protection Laws in all respects including, but not limited to, its collection, holding, and processing.

4.6   The Data Processor agrees to comply with any reasonable measures required by the Data Controller to ensure that its obligations under this Agreement are satisfactorily performed in accordance with Applicable Data Protection Laws and any best practice guidance issued by the ICO.

4.7   The Data Processor shall provide all reasonable assistance (at the Data Controller's cost) to the Data Controller in complying with its obligations under Applicable Data Protection Laws with respect to the security of processing, the notification of personal data breaches, the conduct of data protection impact assessments, and in dealings with the ICO or other relevant supervisory authority or regulator.

4.8   When processing the Personal Data on behalf of the Data Controller, the Data Processor shall:

4.8.1   be permitted to transfer the Personal Data outside the United Kingdom ("UK") provided that the Data Processor shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Data Controller shall promptly comply with any reasonable request of the Data Processor, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer);

4.8.2   implement appropriate technical and organisational measures, as described in Schedule 3, and take all steps necessary to protect the Personal Data against

unauthorised or unlawful processing, accidental loss, destruction, damage, alteration, or disclosure. The Data Processor shall inform the Data Controller in advance of any changes to such measures;

4.8.3   if so requested by the Data Controller (and within the timescales required by the Data Controller) supply further details of the technical and organisational systems in place to safeguard the security of the Personal Data held and to prevent unauthorised access;

4.8.4   keep detailed records of all processing activities carried out on the Personal Data in accordance with the requirements of Article 30(2) of the UK GDPR;

4.8.5   make available to the Data Controller any and all such information as is reasonably required and necessary to demonstrate the Data Processor's compliance with Applicable Data Protection Laws;

4.8.6   on reasonable prior notice, submit to audits and inspections and provide the Data Controller with any information reasonably required in order to assess and verify compliance with the provisions of this Agreement and both Parties' compliance with the requirements of Applicable Data Protection Laws; and

4.8.7   inform the Data Controller immediately if it is asked to do anything that infringes Applicable Data Protection Laws.

5.   Data Subject Access, Complaints, and Breaches

5.1   The Data Processor shall, at the Data Controller's cost, assist the Data Controller in complying with its obligations under Applicable Data Protection Laws. In particular, the following shall apply to data subject access requests, complaints, and data breaches.

5.2   The Data Processor shall notify the Data Controller without undue delay if it receives:

5.2.1   a subject access request from a data subject; or

5.2.2   any other complaint or request relating to the processing of the Personal Data.

5.3   The Data Processor shall, at the Data Controller's cost, cooperate fully with the Data Controller and assist as required in relation to any subject access request, complaint, or other request, including by:

5.3.1   providing the Data Controller with full details of the complaint or request;

5.3.2   providing the necessary information and assistance in order to comply with a subject access request;

5.3.3   providing the Data Controller with any Personal Data it holds in relation to a data subject (within the timescales required by the Data Controller); and

5.3.4   providing the Data Controller with any other information requested by the Data Controller.

5.4   The Data Processor shall notify the Data Controller immediately if it becomes aware of any form of Personal Data breach, including any unauthorised or unlawful processing, loss of, damage to, or destruction of any of the Personal Data.

6.   Appointment of a Data Protection Officer

6.1   The Data Controller has appointed a Data Protection Officer in accordance with Article 37 of the UK GDPR, whose details are as follows: [insert name and contact details of Customer's Data Protection Officer].

6.2   Symatrix has appointed a Data Protection Officer in accordance with Article 37 of the UK GDPR, whose details are as follows: Gareth Rossington, Head of Finance, Tel: +44 (0)1372 860 740 | Fax: +44 (0)1372 35338.

7.   Liability and Indemnity

7.1   Subject always to the limits of liability set out in the Service Agreement, the Data Processor shall be liable for, and shall indemnify (and keep indemnified) the Data Controller in respect of any and all action, proceeding, liability, cost, claim, loss, expense (including reasonable legal fees and payments on a solicitor and client basis), or demand suffered or incurred by, awarded against, or agreed to be paid by, the Data Controller arising directly or in connection with the Data Processor's Personal Data processing activities that are subject to this Agreement:

7.1.1   only to the extent that the same results from the Data Processor's (or a Sub-Processor's) breach of this Agreement; and

7.1.2   not to the extent that the same is or are contributed to by any breach of this Agreement by the Data Controller.

7.2   The Data Controller shall be liable for, and shall indemnify (and keep indemnified) the Data Processor in respect of any and all action, proceeding, liability, cost, claim, loss, expense (including reasonable legal fees and payments on a solicitor and client basis), or demand suffered or incurred by, awarded against, or agreed to be paid by, the Data Processor and any Sub-Processor arising directly or in connection with:

7.2.1   any non-compliance by the Data Controller with Applicable Data Protection Laws or other applicable legislation;

7.2.2   any Personal Data processing carried out by the Data Controller itself;

7.2.3   any Personal Data processing carried out by the Data Processor or Sub-Processor in accordance with instructions given by the Data Controller that infringe Applicable Data Protection Laws or other applicable legislation; or

7.2.4   any breach by the Data Controller of its obligations under this Agreement;

except to the extent that the Data Processor or Sub-Processor is liable under sub-Clause **Error! Reference source not found.**.

7.3   Nothing in this Agreement (and in particular, this Clause 7) shall relieve either Party of, or otherwise affect, the liability of either Party to any data subject, or for any other breach of that Party's direct obligations under Applicable Data Protection Laws. Furthermore, the Data Processor hereby acknowledges that it shall remain subject to the authority of the ICO and shall co-operate fully therewith, as required, and that failure to comply with its obligations as a data processor under Applicable Data Protection Laws may render it subject to the fines, penalties, and compensation requirements set out in Applicable Data Protection Laws.

8. Intellectual Property Rights

All copyright, database rights, and other intellectual property rights subsisting in the Personal Data (including but not limited to any updates, amendments, or adaptations to the Personal Data made by either the Data Controller or the Data Processor) shall belong to the Data Controller or to any other applicable third party from whom the Data Controller has obtained the Personal Data under licence (including, but not limited to, data subjects, where applicable). The Data Processor is licensed to use such Personal Data under such rights only for the purposes of the Services, and in accordance with this Agreement.

9. Confidentiality

9.1 The Data Processor shall keep the Personal Data in confidence, and in particular, unless the Data Controller has given written consent for the Data Processor to do so, the Data Processor shall not disclose any Personal Data supplied to the Data Processor by, for, or on behalf of, the Data Controller to any third party. The Data Processor shall not process or make any use of any Personal Data supplied to it by the Data Controller otherwise than in connection with the provision of the Services to the Data Controller.

9.2 The Data Processor shall ensure that all personnel who are to access and/or process any of the Personal Data are contractually obliged to keep the Personal Data confidential.

9.3 The obligations set out in in this Clause 9 shall continue for a period of two (2) years after the cessation of the provision of Services by the Data Processor to the Data Controller.

9.4 Nothing in this Agreement shall prevent either Party from complying with any requirement to disclose Personal Data where such disclosure is required by law. In such cases, the Party required to disclose shall notify the other Party of the disclosure requirements prior to disclosure, unless such notification is prohibited by law.

10. Appointment of Sub-Processors

10.1 The Data Controller hereby provides its prior, general authorisation for the Data Processor to appoint Sub-Processors to process the Personal Data provided that the Data Processor shall:

10.1.1 enter into a Sub-Processing Agreement with the Sub-Processor which shall impose upon the Sub-Processor the same obligations as are imposed upon the Data Processor by this Agreement and which shall permit both the Data Processor and the Data Controller to enforce those obligations;

10.1.2 ensure that the Sub-Processor complies fully with its obligations under the Sub-Processing Agreement and Applicable Data Protection Laws; and

10.1.3 inform the Data Controller of any intended changes concerning the addition or replacement of Sub-Processors, thereby giving the Data Controller the opportunity to object to such changes provided that if the Data Controller objects to the changes and cannot demonstrate, to the Data Processor's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Laws, the Data Controller shall indemnify the Data

Processor for any losses, damages, costs (including legal fees) and expenses suffered by the Data Processor in accommodating the objection.

10.2 In the event that a Sub-Processor fails to meet its obligations under any Sub-Processing Agreement, the Data Processor shall remain fully liable to the Data Controller for failing to meet its obligations under this Agreement.

10.3 Those Sub-Processors approved as at the commencement of this Agreement are as set out in Schedule 4.

11. Deletion and/or Disposal of Personal Data

11.1 The Data Processor shall, at the written request of the Data Controller, delete (or otherwise dispose of) the Personal Data or return it to the Data Controller in the format(s) reasonably requested by the Data Controller within a reasonable time after the earlier of the following:

11.1.1 the end of the provision of the Services; or

11.1.2 the processing of that Personal Data by the Data Processor is no longer required for the performance of the Data Processor's obligations under this Agreement or the Service Agreement.

11.2 Following the deletion, disposal, or return of the Personal Data under sub-Clause 11.1, the Data Processor shall delete (or otherwise dispose of) all further copies of the Personal Data that it holds, unless retention of such copies is required by law, in which case the Data Processor shall inform the Data Controller of such requirement(s) in writing.

12. Law and Jurisdiction

12.1 This Agreement shall be governed by, and construed in accordance with, the laws of England and Wales.

12.2 Any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

SIGNED for and on behalf of the Data Controller by:

[Name and title of Customer signatory]

_____
Authorised Signature

Date: _____

SIGNED for and on behalf of the Data Processor by:

[Name and title of Symatrix signatory]

_____

Authorised Signature

Date: _____

SCHEDULE 1

Services

[Description of Services provided by Symatrix to Customer].

SCHEDULE 2

Personal Data

Type of Personal Data	Category of Data Subject	Nature of Processing Carried Out	Purpose(s) of Processing	Duration of Processing

SCHEDULE 3

Technical and Organisational Data Protection Measures

The following are the technical and organisational data protection measures referred to in Clause 4:

1. The Data Processor shall ensure that, in respect of all Personal Data it receives from or processes on behalf of the Data Controller, it maintains security measures to a standard appropriate to:

   1.1 the harm that might result from unlawful or unauthorised processing or accidental loss, damage, or destruction of the Personal Data; and

   1.2 the nature of the Personal Data.

2. In particular, the Data Processor shall:

   2.1 have in place, and comply with, a security policy which:

      2.1.1 defines security needs based on a risk assessment;

      2.1.2 allocates responsibility for implementing the policy to a specific individual (such as the Data Processor's Data Protection Officer) or personnel;

      2.1.3 is provided to the Data Controller on or before the commencement of this Agreement;

      2.1.4 is disseminated to all relevant staff; and

      2.1.5 provides a mechanism for feedback and review.

   2.2 ensure that appropriate security safeguards and virus protection are in place to protect the hardware and software which is used in processing the Personal Data in accordance with best industry practice;

   2.3 prevent unauthorised access to the Personal Data;

   2.4 protect the Personal Data using pseudonymisation, where it is practical to do so;

   2.5 ensure that its storage of Personal Data conforms with best industry practice such that the media on which Personal Data is recorded (including paper records and records stored electronically) are stored in secure locations and access by personnel to Personal Data is strictly monitored and controlled;

   2.6 have secure methods in place for the transfer of Personal Data whether in physical form or electronic form;

   2.7 password protect all computers and other devices on which Personal Data is stored, ensuring that all passwords are secure and that passwords are not shared under any circumstances;

   2.8 take reasonable steps to ensure the reliability of personnel who have access to the Personal Data;

   2.9 have in place methods for detecting and dealing with breaches of security (including loss, damage, or destruction of Personal Data) including:

2.9.1   the ability to identify which individuals have worked with specific Personal Data;

2.9.2   having a proper procedure in place for investigating and remedying breaches of Applicable Data Protection Laws; and

2.9.3   notifying the Data Controller as soon as any such security breach occurs.

2.10   have a secure procedure for backing up all electronic Personal Data and storing back-ups separately from originals;

2.11   have a secure method of disposal of unwanted Personal Data including for back-ups, disks, print-outs, and redundant equipment; and

2.12   adopt such organisational, operational, and technological processes and procedures as are required to comply with the requirements of ISO/IEC 27001:2013, as appropriate to the Services provided to the Data Controller.

SCHEDULE 4

Symatrix Global IT Services Private Limited of Office # 320, Altrade Business Center 3rd Floor, Platina Building, M.G.Road, Near Sikandarpur Metro Station, Gurugram, Haryana 122001.