

FLAT ROCK TECHNOLOGY Standard Terms of Business

Client name: company legal name xxxxx

Client address: XX

**Project reference
Quotation number
(if applicable):**

We will ask you to indicate your agreement to these Terms of Business before we begin working with you by signing this document.

The main body of these Terms of Business contains the general provisions that apply to our services. Provisions relating to the particular services that we will provide to you are set out in the Schedules to the Terms of Business. The following Schedules, if indicated with an **[X]** will form part of the Agreement. For ease of reference we have only included the schedules indicated with a **[X]**.

- **Schedule 1 (Development Services)** [X]
- **Schedule 2 (Support Services)** [X]
- **Schedule 3 (Hosting Services)** [X]
- **Schedule 4 (Outsourcing Services)** []

[NB: for the avoidance of doubt, Schedules marked with [X], in boxes above, indicate that they form part of this Agreement]

1. Definitions and interpretation

1.1 In the Agreement:

“Agreement” means the agreement between the parties incorporating these Terms of Business, the Schedules and their Annexures, Appendices and any amendments to it from time to time;

"Application" means the web site(s), web application(s), mobile application(s), computer program(s), intranet application(s), extranet application(s) and/or database(s) that is/are the subject of the Agreement;

"Business Day" means any day (other than a Saturday or Sunday) when banks are generally open for normal business in London;

"Business Hours" means 09:00 to 17:00 London time on a Business Day;

“Bulgarian Business Day” means any day (other than a Saturday or Sunday) when banks are generally open for normal business in Bulgaria;

"Bulgarian Business Hours" means 09:00 to 18:00 Bulgarian time on a Bulgarian Business Day;

"Charges" means the amounts payable by the Client to FRT under the Agreement;

"Client" means the person, company or other entity specified above;

“Client Materials” means the materials and works (including video material, audio material, audio-visual material, textual material, websites, web applications, scripts, computer programs, software, data and databases) provided by the Client to FRT, whether provided directly or indirectly, under or in connection with the Agreement, excluding commercial communications;

"Confidential Information" means: (i) any information supplied by one party to the other party marked or described as "confidential", or reasonably understood to be confidential; and (ii) the financial terms of the Agreement;

"Content" means any content uploaded to the Application by the Client or its clients and partners;

"Data Protection Legislation" the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);

"Development Services" means the services which FRT will provide to the Client under and in accordance with Schedule 1 (if any);

"Effective Date" means the date when we receive the Client's signed version of this Agreement to the terms of the Agreement, providing such date is within the period of 30 days following the issue of the draft Agreement by us (and in the event that the Client does not provide a signed copy of this Agreement to us within that period, our offer to enter into the Agreement will lapse, and the Agreement will not come into force);

"Force Majeure Event" means any event which is beyond the reasonable control of the affected party (including failures of or problems with the internet or a part of the internet, failures of a party's internet service provider, hacker attacks, virus or other malicious software attacks or infections, domain name system issues, domain name server propagation, power failure, industrial disputes affecting any third party, governmental regulations, fires, floods, disasters, civil riots, terrorist attacks or wars);

"FRT" means Flat Rock Technology Ltd, a company incorporated in England (registration number 06461660) having its registered office at 5 St John's Lane, London EC1M 4BH; and its wholly owned subsidiary, Flat Rock Technology EOOD; and any other company in the Flat Rock Technology Ltd group and the terms "we", "us" and "our" will be understood to refer to FRT;

"Hosting Services" means the services which FRT will provide to the Client under and in accordance with Schedule 3 (if any);

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, know-how, confidential information, trade secrets, business names and domain names, trade-marks, service marks, trade names, patents, petty patents, utility models, design rights, semi-conductor topography rights, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off);

"Outsourcing Services" means the services which FRT will provide to the Client under and in accordance with Schedule 4 (if any);

"Personal Data" has the meaning given in the Data Protection Legislation;

"Services" means the services provided by FRT to the Client under the Agreement, which may include Development Services, Support Services, Hosting Services, and Outsourcing Services;

"Staff" means the employees of FRT or employees of third parties (sub-contractors) contracted by the FRT to perform the Services;

"Support Services" means the services which FRT will provide to the Client under and in accordance with Schedule 2 (if any);

"Third Party Works" means the works and materials comprised in the Application, the Intellectual Property Rights in which are owned (in whole or part) by a third party.

"UK Data Protection Legislation" all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426);

- 1.2 Headings do not affect the interpretation of the Agreement.
- 1.3 References to Clauses are references to the clauses of the Agreement; references to Schedules are references to the schedules to the Agreement; while references to Paragraphs and Annexures are references to paragraphs of and annexures to the Schedules.
- 1.4 In the event and to the extent only of any conflict between the body of the Agreement and the Schedules,

the Schedules will prevail; and in the event of any conflict between the Annexures and the Schedules or the body of the Agreement, the Annexures will prevail.

- 1.5 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.6 The ejusdem generis rule does not apply to the interpretation of the Agreement, and accordingly the interpretation of general words in the Agreement will not be restricted by words indicating a particular class or particular examples.

2. Services

- 2.1 In consideration for the payment of the Charges FRT:

- (a) will in all material respects provide to the Client the Services specified in the Schedules; and
- (b) may from time to time agree to attempt to register domain name(s) or attempt to obtain SSL certificate(s) on behalf of the Client in accordance with Clauses 3 and 4.

- 2.2 FRT may at any time with or without notice to the Client, upgrade, improve or correct any Services.

3. Domain names

- 3.1 Subject to the payment of the applicable Charges in advance, FRT will attempt to register domain names that the Client orders, but does not warrant that it will be able to do so.

- 3.2 Domain name orders and domain names will be subject to the following provisions:

- (a) Charges in respect of domain name registration will be as agreed between the parties, payable in advance or arrears at FRT's discretion, and non-refundable;
- (b) domain name registrations will be subject to periodic Charges and transfer Charges;
- (c) the Client warrants that the information submitted for the purposes of a domain name registration is current, accurate and complete, that it has the legal right to apply for and use the domain name, and that its use of the domain name will not infringe any third party's Intellectual Property Rights or other legal rights;
- (d) the Client undertakes to keep the information required for the purposes of a domain name registration up-to-date (which changes may be subject to additional Charges);
- (e) the Client acknowledges that certain information submitted for the purposes of a domain name registration will be published on the internet via "WHOIS" services;
- (f) FRT may reject in its sole discretion any request to register a particular domain name;
- (g) FRT will not offer any advice in relation to any actual or potential domain name dispute, and will have no liability in respect of the suspension or loss of a domain name by the Client as a result of any domain name arbitration procedure or court proceedings;
- (h) FRT will have no responsibility for Client's use or retention of a domain name once registered, and it will be the Client's responsibility to ensure that domain names are renewed and that applicable renewal charges are paid; and
- (i) the Client acknowledges that domain names will be subject to the rules and policies from time to time of the relevant registry or registration authority, and Client agrees to abide by all such rules and policies.

- 3.3 FRT hereby notifies the Client that the following third party terms (or any other that we notify to the Client from time to time) will apply to domain names, and the Client agrees to abide by the terms in accordance with the provisions of Clause 7:

<http://www.eurodns.com/documents/terms-and-conditions>

4. SSL certificates

- 4.1 Subject to the payment of the applicable Charges in advance, FRT will attempt to obtain SSL certificates that the Client orders, but does not warrant that it will be able to do so.
- 4.2 SSL certificate orders and SSL certificates will be subject to the following provisions:
- (a) Charges in respect of SSL certificates will be as agreed between the parties, payable in advance or arrears at FRT's discretion, and non-refundable;
 - (b) SSL certificates will be subject to periodic Charges;
 - (c) the Client warrants that the information submitted for the purposes of an SSL certificate is current, accurate and complete; and
 - (d) the Client undertakes to keep the information provided for the purposes of an SSL certificate up-to-date.
- 4.3 FRT will notify the Client of the applicable third party terms applying to SSL certificates, and the Client agrees to abide by those terms in accordance with the provisions of Clause 7.

5. Client responsibilities

- 5.1 The Client will:
- (a) provide FRT with co-operation;
 - (b) provide FRT with access to, and use of, all information, data and documentation; and
 - (c) be responsible for procuring any third party co-operation;
- reasonably required by FRT to enable the performance by FRT of its obligations under the Agreement.
- 5.2 The Client will immediately notify FRT in the event that it becomes aware of any unauthorised use of, or access to, the Services.
- 5.3 The Client must not use the Services for, or in connection with, any purpose or activity which is:
- (a) illegal or unlawful under any applicable law;
 - (b) breaches the Intellectual Property Rights or other legal rights of any person under any applicable law;
 - (c) gives rise to, or is liable to give rise to, a cause of action against any person under any applicable law; or
 - (d) may harm the interests or reputation of FRT or any third party provider of the Services.

6. Client Materials

- 6.1 The Client warrants that the Client Materials and the use by FRT of the Client Materials in accordance with the terms of the Agreement will not:
- (a) infringe the Intellectual Property Rights or other legal rights of any person under any applicable law;
 - (b) infringe any applicable laws, regulations or codes of conduct;
 - (c) give rise to a cause of action against FRT or the Client or any other person in any jurisdiction;
 - (d) contain or constitute any virus, Trojan, worm, root kit, spyware, or any other harmful or malicious software, program, routine, application or technology;
 - (e) contain or constitute spam or bulk unsolicited commercial communications;

- (f) contain or constitute fraudulent, deceptive, threatening, abusive, harassing, menacing, hateful, discriminatory, inflammatory, harmful, gratuitous or pornographic material; and
- (g) breach any generally accepted standards of behaviour or material on the internet.

6.2 The Client grants to FRT a licence to copy, distribute, publish, translate, adapt and otherwise use the Client Materials and the Application insofar as necessary for FRT to perform its obligations and exercise its rights under the Agreement.

7. Third party terms

- 7.1 FRT will notify the Client of any terms and conditions entered into between FRT and any third party provider of Services, and the Client will not do any act which would (or would be likely to) lead to FRT being in breach of any such terms and conditions.
- 7.2 In order to utilise the Services, the Client may have to enter into terms and conditions with a third party provider of Services, and the Client will fully comply with any such terms and conditions.

8. Payments

- 8.1 FRT will issue invoices to the Client in accordance with the invoicing provisions in the Schedules.
- 8.2 The Client will pay each invoice issued by FRT under the Agreement within 5 days of the date of the invoice.
- 8.3 All Charges stated in or in relation to the Agreement are exclusive of VAT, unless the context requires otherwise.
- 8.4 FRT may invoice the Client at FRT's then-applicable standard time and materials rates for any additional services or expenses outside the scope of the Agreement provided or incurred by FRT with the agreement of the Client.
- 8.5 Charges must be paid by bank transfer (unless FRT agrees otherwise in writing).

9. Further warranties

- 9.1 Each of the parties warrants to the other that it has full power and authority to enter into and perform the Agreement.
- 9.2 FRT warrants that it will perform the Services with reasonable care and skill.
- 9.3 The Agreement sets out the full extent of FRT's obligations and liabilities in respect of the Services. Subject to Clause 11.1, all conditions, warranties or other terms concerning the Services which might otherwise be implied into the Agreement or any collateral contract (whether by statute or otherwise) are hereby expressly excluded.

10. Client indemnity

- 10.1 The Client will indemnify FRT against all damages, losses and expenses suffered or incurred by FRT (including legal expenses and any amounts paid by FRT in settlement of any legal action against FRT on the advice of FRT's legal advisers) and arising as a result of any breach of the provisions of Clauses 3.2, 4.2, 5, 6 or 7.
- 10.2 The indemnity in Clause 10.1 is subject to the following conditions:
 - (a) FRT promptly notifying the Client in writing of the action or claim;
 - (b) FRT making no admissions or settlements of the action or claim without the Client's prior written consent;
 - (c) FRT providing to the Client all information and assistance that the Client may reasonably require in relation to the action or claim; and
 - (d) FRT allowing the Client complete control over the litigation and settlement of the action or claim.

11. Limitations of liability

- 11.1 Nothing in the Agreement will operate to exclude or limit either party's liability for:
- (a) death or personal injury caused by its negligence;
 - (b) fraud; or
 - (c) any other liability which cannot be excluded or limited under applicable law.
- 11.2 Subject to Clause 11.1, each party's liability to the other party under or in connection with the Agreement or any collateral contract, whether in contract or tort (including negligence), misrepresentation or otherwise will be limited as follows:
- (a) neither party will be liable for any loss of profits, anticipated profits, revenues, failure to make anticipated savings, loss of or damage to data, cost of restoring data, loss of goodwill or business opportunity, or for any indirect, special or consequential loss or damage; and
 - (b) neither party will be liable for any losses arising out of a Force Majeure Event.
- 11.3 Subject to Clause 11.1, FRT's liability to the Client under or in connection with the Agreement or any collateral contract, whether in contract or tort (including negligence) will not, in respect of any single event or series of related events, exceed £1,000,000.

12. Term and termination

- 12.1 The Agreement will commence on the Effective Date and will continue indefinitely unless terminated in accordance with this Clause 12.
- 12.2 The Agreement will terminate automatically in the event that all Schedules are cancelled in accordance with their terms and the other terms of the Agreement.
- 12.3 Either party may terminate the Agreement immediately at any time by written notice to the other party if:
- (a) that other party commits any material breach of its obligations under the Agreement and: (i) that breach is irremediable; or (ii) that other party fails to remedy that breach within 30 days of receiving a notice requiring it to do so;
 - (b) that other party ceases to trade (either in whole, or as to any part or division involved in the performance of the Agreement);
 - (c) that other party becomes insolvent or unable to pay its debts within the meaning of the insolvency legislation applicable to that party;
 - (d) a person (including the holder of a charge or other security interest) is appointed to manage or take control of the whole or part of the business or assets of that other party, or notice of an intention to appoint such a person is given or documents relating to such an appointment are filed with any court;
 - (e) the ability of that other party's creditors to take any action to enforce their debts is suspended, restricted or prevented or some or all of that party's creditors accept, by agreement or pursuant to a court order, an amount of less than the sums owing to them in satisfaction of those sums;
 - (f) any process is initiated which could lead to that other party being dissolved and its assets being distributed to its creditors, shareholders or other contributors (other than for the purposes of solvent amalgamation or reconstruction); or
 - (g) that other party (being an individual) dies, becomes incapable of managing his or her own affairs by reason of mental or physical illness or incapacity, becomes a patient under any mental health legislation, or is the subject of a bankruptcy petition or order.
- 12.4 FRT may terminate the Agreement immediately at any time by written notice to the Client if the Client fails to make any payment of Charges by the due date for payment.

13. Consequences of termination

- 13.1 Termination of the Agreement will not affect the accrued rights of the parties under the Agreement as at the date of termination.
- 13.2 On and following termination of the Agreement all provisions of the Agreement will cease to have effect, except that:
- (a) Clauses 10, 11, 13, 15 and 18 will survive termination and have effect indefinitely; and
 - (b) any provisions of the Schedules expressed to survive termination will survive in accordance with their terms.
- 13.3 On termination of the Agreement under Clause 12.2 or on termination of the Agreement by the Client under Clause 12.3, the Client will be entitled to a refund of all Charges paid to FRT in respect of any Services which would have been provided after the date of effective termination of the Agreement (and will be released from any obligation to pay such Charges). The amount of such refund will be calculated by FRT using any reasonable methodology.
- 13.4 Save as provided in Clause 13.3, the Client will not be entitled to a refund of any Charges on termination of the Agreement, and will not be released from any obligation to pay Charges to FRT.
- 13.5 Subject to the Client paying all amounts owed to FRT in full and on time, FRT will within 30 days following the date of effective termination of the Agreement:
- (a) promptly provide to the Client or a person nominated by the Client a copy of all Client Materials held by or on behalf of FRT;
 - (b) delete all Client Materials from its systems and media; and
 - (c) provide such assistance as is reasonably requested by the Client to transfer the provision of the Services to another service provider, subject to payment of FRT's expenses reasonably incurred in relation to such assistance.

14. Force Majeure Events

- 14.1 Where a Force Majeure Event gives rise to a failure or delay in either party performing its obligations under the Agreement (other than obligations to make payment), those obligations will be suspended for the duration of the Force Majeure Event.
- 14.2 A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under the Agreement, will promptly notify the other.
- 14.3 The affected party will take reasonable steps to mitigate the effects of the Force Majeure Event.

15. Confidentiality

- 15.1 Each party will keep confidential the Confidential Information of the other party by using at least the same degree of care as it takes to protect its own confidential information of a similar nature, and in any event at least a reasonable degree of care.
- 15.2 Confidential Information may be disclosed by the receiving party to its employees, affiliates and professional advisers, provided that the relevant recipient is bound in writing to maintain the confidentiality of the Confidential Information received.
- 15.3 The obligations set out in this Clause 15 will not apply to Confidential Information that: (i) is or has become publicly known other than through breach of the Agreement; or (ii) was in the possession of the receiving party prior to disclosure by the other party; or (iii) was required to be disclosed by a law or governmental authority.

16. Data protection

- 16.1 The Client warrants that:

- (a) it has the legal right to disclose all Personal Data that it does in fact disclose to FRT under or in relation to the Agreement; and
- (b) the processing of that Personal Data by FRT for the purposes of and in accordance with the terms of the Agreement will not breach the Data Protection Legislation.

16.2 FRT warrants that, to the extent it processes any Personal Data on behalf of the Client:

- (a) it will act only on instructions from the Client unless otherwise required by Data Protection Legislation; and
- (b) it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, including encryption.

16.3 The parties acknowledge that the Personal Data may be transferred or stored outside the EEA or the country where the FRT is located in order to carry out the Services and FRT's other obligations under this agreement.

17. Notices

17.1 A notice given under the Agreement will be delivered personally, sent by recorded delivery, or sent by fax or email, to the relevant address, fax number or email address given at the start of the Agreement (or as notified by one party to the other in accordance with this Clause).

17.2 A notice is deemed to have been received:

- (a) if delivered personally, at the time of delivery;
- (b) in the case of recorded delivery, 48 hours from the time of posting; or
- (c) in the case of fax or email, at the time of transmission (providing the sender retains documentary evidence of the transmission);

providing that if deemed receipt under the previous paragraphs of this Clause is not within Business Hours then it shall be deemed received when Business Hours next start.

18. General

18.1 FRT may assign or transfer any of its rights or obligations under the Agreement to any member of its group of companies from time to time, or to any successor to all or a substantial part of its business from time to time. Save as aforesaid, neither party may assign or transfer any of its rights or obligations under the Agreement, in whole or in part, without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

18.2 The Client will not, without FRT's prior written consent, either during the term of the Agreement or within 12 months after the date of effective termination of the Agreement engage, employ or otherwise solicit for employment any person who is an employee or contractor of FRT and has been involved in the supply of Services to the Client under the Agreement.

18.3 Subject to Clause 11.1:

- (a) the Agreement will constitute the entire agreement between the parties in relation to the subject matter of the Agreement, and will supersede all previous agreements in respect of that subject matter;
- (b) neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into the Agreement; and
- (c) neither party will have any liability other than pursuant to the express terms of the Agreement.

18.4 The Agreement is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, any other person. The right of the parties to terminate, rescind, or agree any amendment, variation, waiver or settlement under the Agreement is not subject to the consent of any person who is not a party to the Agreement.

- 18.5 A variation of the Agreement will be agreed in writing by or on behalf of both parties to the Agreement.
- 18.6 A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. No waiver will be implied by taking or failing to take any other action.
- 18.7 If any provision (or part of a provision) of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision will apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 18.8 FRT may sub-contract the performance of any or all of its obligations under the Agreement without the Client's consent, providing that FRT will remain liable in accordance with the terms of the Agreement for the performance of those obligations.
- 18.9 The Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England. Subject to the provisions of Schedule 1 (if applicable) the parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement.

AGREED AND ACCEPTED

Flat Rock Technology Limited
By:

Name: Chris Humby

Title: CFO

Date:

Client Legal Name
By:

Name:

Title:

Date:

Schedule 1 Development Services

1. Definitions

In this Schedule:

"Acceptance Criteria" has the meaning given to it in Paragraph 4.2;

"Defect" means a defect, error or bug having a material adverse effect on the appearance, operation or functionality of the Application excluding defect, error or bug which is caused by or arises as a result of:

- (a) an act or omission of the Client;
- (b) an act or omission of one of the Client's sub-contractors or agents;
- (c) any defect, error or bug in third party software; or
- (d) any other matter beyond the reasonable control of FRT;

"Logos" means logos or corporate identity materials created by FRT for the Client as part of the Development Services

"Project" means the project of developing the Application; and

"Acceptance Period", "Delivery Date", "Start Date" and "Timetable" have the meanings given to them in the Annex.

2. Term

2.1 This Schedule will come into force on the Start Date, and will continue in force until cancelled in accordance with Paragraph 2.2.

2.2 This Schedule will be automatically cancelled:

- (a) upon the later of: (i) the acceptance of the Application by the Client in accordance with Paragraph 4; and (ii) the payment of all Charges due to FRT under this Schedule by the Client; or
- (b) on the date of effective termination of the Agreement under Clause 12.3 or Clause 12.4.

3. Development Services

3.1 FRT will:

- (a) design, develop and deliver the Application;
- (b) incorporate the Client Materials into the Application (where applicable);
- (c) provide the Client with reasonable access to the Application during the Project;
- (d) keep the Client informed of the progress of the Project; and
- (e) liaise with the any design agency appointed by the Client or FRT to assist with the design of the Application.

3.2 FRT will use reasonable endeavours to perform the Services in accordance with the Timetable; however, FRT does not guarantee that the Timetable will be met.

4. Acceptance testing

4.1 FRT will use reasonable endeavours to make the Application available to the Client for acceptance testing on or before the Delivery Date.

4.2 During the Acceptance Period, the Client will carry out acceptance tests to determine:

- (a) whether the Application conforms in all material respects with the Annex (subject to any amendments agreed between the parties in writing); and
 - (b) whether the Application has any Defects;
- (the "**Acceptance Criteria**").

- 4.3 If the Application meets the Acceptance Criteria, the Client will send to FRT a written notice during the Acceptance Period confirming acceptance of the Application.
- 4.4 If the Application does not meet the Acceptance Criteria:
 - (a) the Client will send to FRT a written notice during the Acceptance Period setting out in detail the respects in which the Application does not meet the Acceptance Criteria; and
 - (b) FRT will have a further remedial period (to be agreed between the parties acting reasonably but in no event less than 14 days) to modify the Application so that it meets the Acceptance Criteria.
- 4.5 If the Client does not give any notice to FRT under either Paragraph 4.3 or Paragraph 4.4 during the Acceptance Period, the Application will be deemed to have been accepted by the Client.
- 4.6 If the parties do not agree whether the Application meets the Acceptance Criteria, the matter may be referred by either party to expert determination in accordance with Paragraph 4.7.
- 4.7 Disputes referred to expert determination will be referred to a person agreed between the parties (or, in default of agreement within 21 days of notice from either party calling on the other party to so agree, to a person chosen on the application of either party by the President for the time being of the British Computer Society). Such person shall be appointed to act as an expert and not as an arbitrator and the decision of such person shall be final and binding. The costs of such expert shall be borne by the parties equally, unless the expert decides that one party has acted unreasonably, in which case the expert may determine that that party shall be required to pay all or an additional portion of the costs of the expert.

5. Application warranties

- 5.1 Subject to Paragraph 5.2, FRT warrants that the Application will continue to meet the Acceptance Criteria for a period of 3 months following the acceptance of the Application. If the Application does not meet the Acceptance Criteria during this period, FRT will, for no additional charge, carry out any work necessary in order to ensure that the Application complies with the Acceptance Criteria during this period.
- 5.2 The Client acknowledges that FRT:
 - (a) has designed the Application to work with the web browser and server technologies and other systems specified in the Annex, and FRT does not warrant that the Application will work with any other web browser or server technologies or other systems; and
 - (b) does not purport to provide any legal advice under the Agreement or in relation to the Application and FRT does not warrant that the Application will not give rise to any civil or criminal legal liability on the part of the Client or any other person.
- 5.3 FRT warrants that the Application (excluding the Client Materials and the Content of the Application), and the use by the Client of the Application (excluding the Client Materials and the Content of the Application) in accordance with the terms of the Agreement will not infringe the Intellectual Property Rights of any third party.
- 5.4 For the avoidance of doubt, should the Client introduce any third party and or makes any alterations whatsoever to the Application without in advance obtaining the express permission in writing of FRT, this will with immediate effect absolve FRT of any responsibility whatsoever for any warranty provisions under this Agreement. Moreover, the Client agrees to indemnify FRT against all costs and or actions resulting from a breach of this provision. Any subsequent remedial work will be charged at the current prevailing standard developer day rate.

6. IPR indemnity

- 6.1 FRT will indemnify the Client against all damages, losses and expenses suffered or incurred by the Client (including legal expenses and any amounts paid by the Client in settlement of any legal action against the Client on the advice of the Client's legal advisers) and arising as a result of any action or claim that the

Application (excluding the Client Materials and the Content of the Application) infringes the Intellectual Property Rights of a third party.

6.2 The indemnity in Paragraph 6.1 is subject to the following conditions:

- (a) the Client promptly notifying FRT in writing of the action or claim;
- (b) the Client making no admissions or settlements of the action or claim without FRT's prior written consent;
- (c) the Client providing to FRT all information and assistance that FRT may reasonably require in relation to the action or claim; and
- (d) the Client allowing FRT complete control over the litigation and settlement of the action or claim.

7. Intellectual Property Rights

7.1 Upon the payment by the Client of all amounts due to FRT under this Schedule, FRT will (and hereby does) assign to the Client with full title guarantee all present and future Intellectual Property Rights created under this Agreement (excluding rights in Third Party Works, identified as such and specifically agreed to by the Client, Client Materials and FRT's proprietary CMS). FRT hereby grants the Client a royalty free, non-exclusive, worldwide license to use the IPR in FRT's propriety CMS as part of the Application and for the Client or its authorised suppliers to amend or modify such propriety CMS as the Client determines and to use such proprietary CMS as part of any web site which is the same as or substantially similar to the Application

7.2 Nothing in this Agreement shall be taken to prevent FRT from using any expertise acquired or developed on the Application in the provision of services for other companies or on its own behalf.

8. Charges

8.1 FRT will issue invoices to the Client for the Charges on or after the dates for invoicing specified in the Annex.

8.2 The Charges outlined in the Annex exclude normal business expense, including but not limited to, travel, subsistence and any other reasonable third party expense arising directly from the execution of this Agreement for which, the Client is liable. Any business expense will be subject to prior approval from the Client, the authorisation of which will not be unreasonably withheld. For the avoidance of doubt, Charges exclude the following:

- a. Hardware
- b. Third party software
- c. Incremental work resulting from previous work performed by a third party

Annex to Schedule 1 Development Services

Application Specification

[Insert specification]

Start Date

[Insert details]

Timetable

[Insert details]

Delivery Date

[Insert details]

Acceptance Period

The period of [30] days beginning on the date that FRT makes the Application available to the Client for acceptance testing.

Charges

[Insert details]

Invoicing

[Insert details]

Schedule 2 Support Services

1. Definitions and interpretation

1.1 In this Schedule:

"Minimum Term" has the meaning given to it in the Annex;

"Notice Period" means the period of 30 days or such longer period as is specified in the Annex;

"Start Date" means the date specified as such in the Annex; and

"Upgrade" means an upgrade to or new version of the Application.

2. Term

2.1 This Schedule will come into force on the Start Date, and will continue in force indefinitely, unless cancelled in accordance with Paragraph 2.2.

2.2 This Schedule:

- (a) may be cancelled by either party giving to the other party written notice of cancellation, of at least the Notice Period, expiring on or after the end of the Minimum Term; or
- (b) will be automatically cancelled on the date of effective termination of the Agreement under Clause 12.3 or Clause 12.4.

3. Helpdesk

3.1 FRT will make an email and telephone based helpdesk available to the Client during the Business Hours.

3.2 FRT will use reasonable endeavours to ensure that a member of its support Staff can be reached by mobile phone outside Business Hours in the case of an emergency.

3.3 The Client must make all requests for Support Services through the helpdesk, and all such requests must include at least the following information:

- (a) the Client's name, and the relevant contact details for use by FRT in responding to the request;
- (b) as full an explanation as is reasonably possible of the issue giving rise to the request;
- (c) a "screen grab" or copy of any relevant error message or similar notice; and
- (d) any other information that the Client considers necessary to enable FRT to analyse the issue.

3.4 FRT will use reasonable endeavours to resolve issues raised by the Client promptly.

4. Upgrades

4.1 FRT will where the parties have agreed to the creation and installation of an Upgrade, create the Upgrade and apply the Upgrade to the Application (provided that any such agreement will be subject to the payment of additional Charges by the Client).

4.2 All Intellectual Property Rights in Upgrades (excluding Third Party Works and Client Materials) will be the property of FRT and, from the date of delivery of an Upgrade by FRT, FRT grants to the Client a non-exclusive worldwide licence under such Intellectual Property Rights to:

- (a) copy, store and use the Upgrade as part of the Application; and
- (b) adapt, edit and update the Upgrade as part of the Application;

subject always to the other terms of the Agreement.

4.3 The Client may sub-license the rights granted in Paragraph 4.2 only for the purposes, and subject to the

restrictions, contained or referred to in that Paragraph.

- 4.4 The Third Party Works (excluding Client Materials) incorporated into an Upgrade will be either:
- (a) supplied in accordance with the relevant licensor's standard terms for online use or on reasonable licence terms notified by FRT to the Client; or
 - (b) sub-licensed by FRT to the Client on reasonable terms notified by FRT to the Client.
- 4.5 Notwithstanding any other provision of the Agreement, the licences in this Paragraph 4 are subject to the payment by the Client of all amounts owing to FRT in full and on time. In the event that the Client owes any amount to FRT and fails to pay that amount to FRT within 14 days of receiving a notice:
- (a) requiring it to do so; and
 - (b) specifying that the licences will terminate if the amount repays unpaid,
- then FRT may immediately terminate the licences by giving written notice of termination to the Client
- 4.6 Upon and following the termination of this Schedule, Paragraphs 4.2 to 4.6 will continue in force (subject to Paragraph 4.5).

5. Charges and invoices

- 5.1 The Client will pay to FRT the Charges specified in the Annex, and FRT will invoice for those charges in accordance with the provisions of the Annex.
- 5.2 The Charges outlined in the Annex exclude normal business expense, including but not limited to, travel, subsistence and any other reasonable third party expense arising directly from the execution of this Agreement for which, the Client is liable. Any business expense will be subject to prior approval from the Client, the authorisation of which will not be unreasonably withheld or delayed. For the avoidance of doubt, Charges exclude the following:
- a. Hardware
 - b. Third party software
 - c. Incremental work resulting from previous work performed by a third party

Annex to Schedule 2 Support Services details

Start Date

[Insert details]

Minimum Term

[Insert details]

Notice Period

[Insert details]

Upgrades

[Insert details]

Charges

[Insert details]

Invoicing

[Insert details]

Schedule 3 Cloud Hosting Services

1. Definitions and interpretation

In this Schedule:

"Minimum Term", **"Resource Limits"** and **"Start Date"** have the meanings given to them in the Annex.

2. Term

2.1 This Schedule will come into force on the Start Date, and will continue in force indefinitely, unless cancelled in accordance with Paragraph 2.2.

2.2 This Schedule:

- (a) may be cancelled by either party giving to the other party written notice of cancellation, of at least the Notice Period, expiring on or after the end of the Minimum Term; or
- (b) will be automatically cancelled on the date of effective termination of the Agreement under Clause 12.3 or Clause 12.4.

3. Cloud Hosting Services

3.1 From the Start Date, FRT will facilitate hosting of the Application via MS Azure. Subject to Paragraphs 3.2 and 3.3. FRT will use reasonable endeavours to maintain the 24/7 availability of the Application.

3.2 FRT will provide the hosting services in accordance with the then current MS Azure terms and conditions and the MS Azures SLAs the links to the current versions of which (as at the date hereof) are provided in Clause 3.4.

The table below provides the MS Azure guaranteed availability per the SLAs in place at the time of signing the contract. The SLAs will always be in accordance with the then current MS Azure SLAs, links to the current versions of which are in the table and which for the avoidance of doubt may change from time to time.

No	Service type	SLA for Azure services - Guaranteed availability (%)	MS Azure reference link:
1	App Service	99.95%	https://azure.microsoft.com/en-us/support/legal/sla/app-service/v1_4/
2	Azure SQL Database	99.99%	https://azure.microsoft.com/en-us/support/legal/sla/mysql/v1_0/
3	Storage	99.99%	https://azure.microsoft.com/en-us/support/legal/sla/storage/v1_3/
4	Functions	99.95%	https://azure.microsoft.com/en-us/support/legal/sla/functions/v1_1/

Other Service types may be provided in the future which will be subject to the relevant MS Azure SLA.

If MS Azure performs below the guaranteed availability levels then Services credits are due in accordance with the terms of the SLA in the table above. FRT will pass through any Service Credits due to the Client.

3.3 Without prejudice to its other rights and remedies, FRT may at its sole discretion suspend the provision of the whole or any part of the Cloud Hosting Services on the occurrence of any of the following events:

- (a) issue by any competent authority of an order which is binding on FRT or a third party Hosting Services provider which affects the Cloud Hosting Services;
- (b) failure or deficiencies of any Client Materials including security breaches;
- (c) breach by the Client of the terms of this Agreement including, for the avoidance of doubt, the terms of this Schedule 3 and Annex 1 hereto.

and where FRT suspends provision of the Cloud Hosting Services in accordance with this Paragraph, it will

only recommence provision during Business Hours and will not recommence provision unless the Client has paid all relevant outstanding sums in clear funds together with any relevant reinstatement fee (as published from time to time by FRT or its third party service provider) and has accepted any revised payment terms requested by FRT.

In the event that FRT exercises any of its rights under Clause 3 of this schedule the Client shall have the right to implement an alternative hosting solution and to this extent FRT will provide reasonable endeavours to assist the Client with the hosting migration subject to FRT time spent on the migration being charged on a time and material basis at an agreed rate.

- 3.4 FRT hereby notifies the Client that the following third party terms (or any other that we notify to the Client from time to time) will apply to the Cloud Hosting Services, and the Client agrees to abide by the terms in accordance with the provisions in the terms:

<https://azure.microsoft.com/en-us/support/legal/subscription-agreement/?country=gb&language=en>

Azure SLA - <https://azure.microsoft.com/en-us/support/legal/sla/summary/>

4. Resource Limits (Not applicable for Azure cloud hosting)

5. Charges and invoices

- 5.1 The Client will pay to FRT the Charges specified in Annex 1 to Schedule 3, and FRT will invoice for those charges in accordance with the provisions of Annex 1.
- 5.2 The Charges outlined in Annex 1 exclude normal business expense, including but not limited to, travel, subsistence and any other reasonable third party expense arising directly from the execution of this Agreement for which, the Client is liable. Any business expense will be subject to prior approval from the Client, the authorisation of which will not be unreasonably withheld or delayed. For the avoidance of doubt, Charges exclude the following:
- a. Third party software
 - b. Incremental work resulting from previous work performed by a third party

6. Tolerances

- 6.1 FRT shall not be liable for any interruptions to the Services or outages arising directly or indirectly from:-
- a. interruptions to the flow of data to or from the internet;
 - b. changes, updates or repairs to the network or software which it uses as a platform to provide the Services subject to FRT striving to minimise the interruptions/outages that may be caused by such change;
 - c. the effects of the failure or interruption of services provided by third parties;
 - d. factors outside of FRT's reasonable control;
 - e. any actions or omissions of the Client (including, without limitation, breach of the Client's obligations set out in the agreement) or any third parties;
 - f. problems with the Client's equipment and/or third party equipment;
 - g. interruptions to the Services requested by the Client.

Annex to Schedule 3 Hosting Services details

Hosting Service

[Insert details]

Start Date

[Insert details]

Minimum Term

[Insert details]

Charges

[Insert details]

Invoicing

[Insert details]