

xtravirt

Framework Agreement

Consultancy and Managed Services

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1 Introduction

This Framework Agreement, in conjunction with any applicable terms, shall constitute the complete and exclusive agreement between Xtravirt Limited and Customer. In accepting a Customer Quotation, the Customer acknowledges that they have read and understand this agreement and all attachments hereto and agree to all terms and conditions stated herein.

2 Document conventions

2.1 Glossary of terms

In this Agreement unless the context otherwise requires:

Term	Description
Agreement	This Framework Agreement
Agreement Term	The term of this Framework Agreement during which Services may be defined and delivered
Change Management	Means the process for requesting, defining and agreeing changes to the terms of this Agreement or any Subsidiary Agreement(s)
Change Order	A document setting out the agreed terms of a change to the Services
Cloud Services	Means technology services provided by the Supplier on a Subscription basis utilising Supplier or third-party software components
Cloud Services Terms of Service	As published at https://xtravirt.com/downloads/eula/
Customer	Means the Customer of the Services as defined in the Subsidiary Agreement
Customer Content	Means any data, including Customer Data, all text, sound, video, or image files, and software (including machine images), or other information
Customer Data	All Customer Data including Corporate, Personal, and Sensitive Personal Data
Customer Quotation	A quote provided to the customer defining the terms under which an offer is made. A Customer Quotation may reference other Subsidiary Agreements
Customer Specific Instructions	Means Data Processing activities to be performed by the Supplier
Contract	Means an agreed Statement of Work or Service Framework Agreement between the Customer and Supplier for the provision of Services pursuant to this Agreement
Deliverable	Deliverables defined within a Subsidiary Agreement
Framework Agreement	Means the latest version of this document and it's appendices
Force Majeure Event	Means any event beyond the reasonable control of a party including acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction or any overriding emergency procedures, accident, fire, flood, storm and strikes or any industrial action by employees of any person other than the party relying on the Force Majeure Event
Group	Means any business or related business to either the Customer or Supplier
Intellectual Property	Means all patents, rights in a database, rights in a design, service marks, circuit lay out rights, rights in semi-conductor chip topography, trademarks, applications for any of the foregoing, copyright, design right, know-how, trade or business names, goodwill associated with the foregoing and any other similar rights or obligations whether or not registered or capable of registration in the UK or any other part of the world
Personal Data	Means Personal Data as defined under UK GDPR
Sensitive Personal Data	Means Sensitive Personal Data as defined under UK GDPR
Service Framework	Means all sections of this Framework Agreement, excluding Section 6 Terms & Conditions.
Service Term	Means the term for an individual Service delivered under the Framework Agreement as defined in Section 3.3 Pricing

Services	Means the services to be provided by Supplier to the Customer under the terms of this Framework Agreement
Service Schedule	Means the list of services included under the terms of this Framework Agreement
Statement(s) of Work	Means the required statement(s) of work setting out individual deliverables and activities that may be provided by Supplier to the Customer, as part of or in addition to, the Services included under this Framework Agreement.
Subscription	Mechanism under which technology services are provided and charged on a recurring rather than perpetual basis
Subsidiary Agreement	Means Service Schedule, Statement of Work or Customer Quotation
Supplier	Means Xtravirt Limited, on behalf of itself and its Affiliates
The Parties (also Parties)	Means collectively the Customer and Supplier
UK GDPR	"UK GDPR": means Regulation (EU) 2016/679 as incorporated into domestic UK law by the European Union (Withdrawal Agreement) Act 2020 and amended by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2020

3 Commercial framework

3.1 Agreement Commencement and Term

This Agreement shall commence on the date at which a Customer Quotation is issued to the Customer and continue in force until replaced or until the completion or expiry of Services provided under all Subsidiary Agreements, whichever is earlier. If the Customer does not enter into a Subsidiary Agreement, this Agreement shall terminate 90 days after the last Customer Quotation issue date

3.2 Service Term

The Service Term for each of the services offered under this Framework shall be as described in the applicable Subsidiary Agreement

3.3 Pricing

The pricing for Services delivered under this Framework Agreement is defined in the applicable Subsidiary Agreement

4 Services

4.1 Provision of Services

This Framework Agreement allows for the provision of the following Services by the Supplier to the Customer, each offered

- Managed Services as defined under a Service Schedule which will include, at a minimum, the following sections and be offered under a Customer Quotation
 - Service Description
 - Service Levels
- Consultancy Services as defined under a Statement of Work which will include, at a minimum, the following sections and be offered under a Customer Quotation
 - Deliverables
 - Customer Responsibilities
- Cloud Services as defined and offered under a Customer Quotation which shall be subject to Cloud Services Terms of Service
- Hardware, software and services as defined under a Customer Quotation which will include, at a minimum, the following sections
 - Deliverables
 - Term (where applicable)
 - Pricing

4.2 Delivery Location

Unless specified or agreed otherwise all Services will be delivered remotely

5 Terms and Conditions

5.1 The Agreement

This framework agreement ("Agreement") is made

Between:

- a) **Customer**
and
- b) **Xtravirt Limited** (known as Xtravirt) a company incorporated in England and Wales (registered no 05585938) whose registered office is at Riverbridge House, Guildford Rd, Fetcham, Leatherhead, KT22 9AD. **(Supplier)**

Whereas:

1. During the course of its business, Supplier enters into agreement with Customer so as to supply product(s)/service(s) to such Customer.
2. Customer requires assistance in supporting and maintaining its IT infrastructure and wishes to contract Supplier to deliver those support and consultancy services as detailed in Service Framework.
3. Supplier hereby agrees to undertake supply of those product(s)/service(s) for Customer (where requested by Customer via a Subsidiary Agreement), and therefore enters into this Agreement with Customer.

Now it is hereby agreed as follows:

- 5.1.1 The use of headings in this Agreement shall be for convenience only and shall not affect the interpretation of any part of this Agreement.
- 5.1.2 Reference to any statute or statutory provision are to that statute or statutory provision as from time to time amended extended or re-enacted whether before or after the date of this Agreement and any subordinate legislation made under it whether before or after the date of this Agreement except to the extent that any such amendment, extension or re-enactment made after the date of this Agreement would increase or alter the liability of any party to this Agreement; and
- 5.1.3 a noun in the singular includes the plural and vice versa.
- 5.1.4 Words or phrases, the definition of which are contained or referred to in the Companies Acts 1985 & 1989 or the Insolvency Act 1986 shall be construed as having the meanings thereby attributed to them (unless the context otherwise requires).
- 5.1.5 Words importing the singular shall include the plural and vice versa and words importing the masculine shall include the feminine and the neuter and vice versa.
- 5.1.6 The expression "person" and words importing "persons" shall include individuals, bodies' corporate or unincorporated, authorities and/or other legal entities.
- 5.1.7 Any phrase in this Agreement introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 5.1.8 Unless expressly stated to the contrary, the rights and remedies set out in this Agreement shall be cumulative and without prejudice to one another.
- 5.1.9 Any reference in this Agreement or any Contract to any act or statutory provision or subordinate legislation shall be construed as a reference to it as from time to time replaced, amended, consolidated or re-enacted (with or without modification) and includes all orders and instruments there under.
- 5.1.10 If there is any conflict, apparent conflict or ambiguity in or between any of the section of this Agreement set out below,

the sections shall be applied in the following increasing order of precedence with those numbered higher prevailing

1. this Framework Agreement (lowest precedence)
2. applicable Service Schedule
3. applicable Statement of Work
4. applicable Customer Quotation (highest precedence)

For the avoidance of doubt, the above order of precedence will supersede any conflicting or additional terms and conditions of any purchase order or other purchasing-related document issued by Customer

5.2 Provision of Services

- 5.2.1 The Customer may agree a Subsidiary Agreement with Supplier specifically relating to the provision of work. Such agreements shall be subject to the provisions of this Agreement.
- 5.2.2 Supplier agrees to provide the Services to the Customer in accordance with the agreements and the terms hereof, and together with and on such other (special) terms as are specifically drawn to its attention by the Customer and/or as are set out in this Agreement and in compliance in all respects with all statutory requirements and regulations relating to the supply of the Services.
- 5.2.3 Where a Subsidiary Agreement provides for the supply of Cloud Services, this provision shall be subject to the Cloud Services Terms of Service
- 5.2.4 Without prejudice or limitation to Supplier's undertakings under Section 5.2.2 or contained elsewhere in this Agreement, Supplier warrants that it (and its Staff) shall perform the Services (and fulfil all its obligation(s) hereunder) in good faith, performing the same to the highest professional and industry standards and to the best of its ability using appropriately qualified and trained Staff with that degree of skill care and diligence expected from professional skilled and experienced contractors engaged in similar services. In the event that the Customer reasonably and lawfully believes that any (or all) of Supplier's Staff are failing to comply with this Section 5.2.4, the Customer shall be entitled to request that Supplier replaces such failing Staff; and Supplier shall comply with such request as soon as reasonably possible.
- 5.2.5 In consideration of Supplier providing Services to the Customer in accordance with the terms of this Agreement, the Customer shall ensure that a Purchase Order has been raised to cover the costs of the Services as stated in the Subsidiary Agreement.

5.3 Change Management

- 5.3.1 A Change Order shall be raised when
- a) either party proposes changes to the scope or content of the Agreement, a Subsidiary Agreement or any document so referred to within such agreements,
 - b) the required scope of Services or Deliverables within a Subsidiary Agreement are directly or indirectly altered as a result of changes to the Customer environment

No proposed changes shall come into effect until a relevant Change Order has been signed by both parties.

5.4 Payment

- 5.4.1 Purchase orders should be sent to the Supplier's Accounts team using the email address accounts@xtravirt.com prior to commencement of the agreement.
- 5.4.2 All Fees payable in respect of the Services provided under this Agreement shall be invoiced by Supplier to Customer for the Charges at the intervals specified, or on the achievement of the Milestones indicated, in the Subsidiary Agreements.

If no intervals are specified, the Supplier shall invoice Customer at the end of each month for Works performed during that month.

- 5.4.3 All Fees and any other amounts due to Supplier under this Agreement do not include Value Added Tax or any similar sales tax which, if applicable, will be paid additionally by the Customer.
- 5.4.4 If Customer fails to make any undisputed payment to the Supplier under this Agreement by the due date then, without limiting the Supplier's remedies under Section 5.22 Termination, Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 5% a year above the Bank of England's base rate which is current at the date the payment became overdue.
- 5.4.5 If Customer disputes a payment in good faith, then the interest payable under Section 5.4.4 is only payable after the dispute is resolved on sums found or agreed to be due, from 7 days after the dispute is resolved until payment. Customer and Supplier shall negotiate in good faith to promptly resolve any disputed payment and Customer will make payment upon such resolution.

5.5 Confidentiality

- 5.5.1 Each party (hereafter the "Receiving Party") undertakes to keep secret and confidential, all the other party's information of a proprietary and confidential nature ("Confidential Information"), disclosed to it by that other party (hereafter the "Disclosing Party") pursuant to this Agreement and/or in connection with the provision of the Services.
- 5.5.2 Neither party shall use Disclosing Party's Confidential Information except for the purposes of this Agreement and/or the provision of the Services, and save as permitted by this Agreement, Receiving Party further undertakes not to disclose or otherwise divulge Disclosing Party's Confidential Information to any third party, save to any partner, employee, officer, director, or professional advisor ("Staff") of/to Receiving Party, or to any associated company of Receiving Party (including Staff thereof) and provided always such Staff and/or associated company reasonably require that Confidential Information (professional advisors and associated companies first having expressly agreed to be bound by materially similar terms of confidentiality as are contained herein, partners, employees, officers and/or directors (of Receiving Party) having first been made aware of the associated obligation(s) of confidentiality connected herewith).
- 5.5.3 Receiving Party further undertakes that, if requested in writing by Disclosing Party, it shall return (or if so requested destroy or delete) any Disclosing Party Confidential Information (and any copies of it in any form or media) or information generated using/from that Disclosing Party Confidential Information, in its possession or control (or in the possession or control of any of its respective associated companies); provided always that nothing in the aforementioned shall prohibit:
 - a) Receiving Party from retaining such Disclosing Party Confidential Information (but only for so long) as is reasonably necessary to fulfil any outstanding obligations to Disclosing Party (and whether under this Agreement and/or under the Contract);
 - b) Receiving Party, where such Receiving Party is the Customer from retaining and using Supplier's Confidential Information (but only for so long) as is reasonably necessary for the Customer to fulfil/perform/undertake/complete or use any of those Services previously provided/undertaken (or which should have been provided/undertaken) by Supplier to the Customer, following any termination of this Agreement;
 - c) Receiving Party from retaining one copy of all such Confidential Information in secure archive, only for further use, disclosure or review pursuant to relevant legal or regulatory proceedings.
- 5.5.4 The provisions of this Section 5.5 Confidentiality shall specifically not apply to any Confidential Information to/for which Disclosing Party has expressly consented to Receiving Party's disclosure of;

1. Any trivial, obvious or other information as is in the public domain at time of disclosure by Disclosing Party, or which subsequently enters the public domain, other than as a result of Receiving Party's breach of this Section 5.5 or any other obligations of confidentiality between the parties;
2. Information, which was (and can be shown to have been) lawfully known to Receiving Party before disclosure by Disclosing Party;
3. Inclusion of the Customer's brand within Supplier's marketing and promotional material related to the services being provided under these schedules
4. Information lawfully obtained from a third party, free from any associated restriction(s) as to further use or disclosure (but always specifically excluding from the Customer in context of Supplier's receipt of information from a third party);
5. Information which was/is (and can be shown to have been) independently developed by Receiving Party, free from any use, disclosure or exposure to, Disclosing Party's Confidential Information; and
6. Information required or ordered to be disclosed by any court, regulatory body or governmental agency of competent jurisdiction.

5.5.5 The terms of this Framework Agreement, the Subsidiary Agreement and other supplied documents shall be considered confidential.

5.5.6 The Customer agrees to support Supplier in the production of case study and appropriate Customer quotes relating to the provision of services under this agreement a minimum of once during the term of this agreement. The Customer shall retain the right to review and request changes to reflect accuracy and ensure compliance with the overall requirements of Schedule 5.5 of this agreement, however approval to support publication shall not unreasonably be refused

5.6 Customer Materials

5.6.1 Customer will be the sole and exclusive owner and, subject to the licence granted in 5.7.1, and retains all rights in the Customer's Pre-existing Materials including all modifications, enhancements and derivative works thereto.

5.7 Materials

5.7.1 Customer hereby grants to Supplier a non-exclusive royalty free licence to use the Deliverables that it owns to the extent necessary for the purposes of performing the Services in accordance with this Agreement.

5.7.2 Supplier will be the sole and exclusive owner and, subject to the licence granted in 5.7.1, retain all rights in all Supplier pre-existing materials including all modifications, enhancements and derivative works, to the extent that these cannot be severed from Supplier pre-existing materials, used by Supplier in connection with the provision of the Services and any work product that is created by Supplier that is not a Deliverable under a Statement of Work.

5.7.3 Supplier hereby grants to Customer an irrevocable, royalty free, worldwide, perpetual, non-exclusive licence to use, copy, modify, enhance, adapt and maintain Supplier pre-existing materials provided or used by Supplier in the course of performing the Services, to the extent necessary for Customer to receive and make use of the Services or the provision to Customer of equivalent services procured from a third party.

5.8 Intellectual property

5.8.1 Supplier warrants that it is entitled to use any Intellectual Property which may be used by it in connection with the provision of the Services.

5.8.2 Without prejudice or limitation to the aforesaid, to the extent that any third party software is used or required for support

services suggested by Supplier, and for which the Customer doesn't assume direct responsibility for procuring under/in accordance with the Services and Subsidiary Agreements, Supplier agrees to ensure that it has obtained all relevant licences of such third party software and/or where relevant (and further) that it will procure the Customer to enter into all relevant third party software licence(s) necessary

5.8.3 Supplier shall indemnify and keep Customer indemnified against all losses, damages, costs, claims or expenses suffered or incurred by Customer as a result or arising, directly or indirectly, out of any claim by a third party that proper use of any Deliverable or any Supplier pre-existing materials infringes that third party's Intellectual Property Rights ("IPR Claim") (whether or not such losses, damages, costs, claims or expenses were foreseeable at the date of this Agreement) except to the extent that such infringement arises from:

- (i) modification of the Deliverable by Customer or any person other than Supplier or anyone else authorised in writing by Supplier or use thereof in a manner not contemplated or permitted by this Agreement; or
- (ii) Customer's failure to use any replacements or modifications made available by and communicated in writing to Customer by Supplier where the use of such replacement or modification would avoid the IPR Claim.

5.8.4 If any Deliverable, or any portion thereof, becomes, or in Supplier's reasonable judgment, is likely to become the subject of an IPR Claim or if any such Deliverable or any portion thereof, is found by final, non-appealable order to be such an infringement or misappropriation, Supplier at its option and expense, shall have the right at its option and cost to

- (i) procure for Customer the continued use of such Deliverable where such continuing use is not contrary to any legal judgement or court order or in continuing infringement of the Intellectual Property Rights which are the subject matter of the IPR Claim, or
- (ii) replace, or modify such Deliverable provided that the replacement or modified Deliverable is capable of performing substantially the same function.

5.8.5 Customer shall:

- (i) promptly notify Supplier of any IPR Claim of which Customer is aware;
- (ii) not make any prejudicial admission or statement in relation to the IPR Claim;
- (iii) provide reasonable assistance and co-operation requested by Supplier in the defence and settlement of the IPR Claim; and
- (iv) allow Supplier primary control of the defence of the IPR Claim and related settlement negotiations.

5.8.6 To the extent that Supplier uses, furnishes or develops any of its own Intellectual Property or materials, in or by the provision of the Services and which is not passed to the Customer in accordance with the Contract, any Subsidiary Agreement, PO or other express agreement Supplier grants to the Customer a perpetual, royalty-free licence to use such Intellectual Property in relation to the Services.

5.9 Data Security

5.9.1 Supplier will maintain good and appropriate technical and organizational security measures to protect the security, integrity, confidentiality, and availability of Customer Data ("Security Measures"), and shall regularly review, maintain and update the Security Measures to comply with all applicable laws and regulations.

5.9.2 Supplier shall restrict access to Customer Data to those Authorized Persons who need such information to deliver the Services to Customer under the Agreement. Supplier shall not disclose Customer Data nor allow access to any third

party without Customer's prior written consent.

- 5.9.3 At all times during which Supplier or any Authorised Person has access to or retains Customer Data, Supplier shall, and shall cause each Authorized Person to, comply with this Agreement, all applicable laws and regulations, and, to the extent they are applicable, industry standards that apply to the protection of specific classes of personally identifiable information. Supplier shall ensure that all Authorized Persons complete adequate and appropriate privacy and data security training prior to having access to Customer Data.
- 5.9.4 Supplier shall promptly correct, amend, delete, return, encrypt and/or destroy any Customer Data in any manner that Customer reasonably requests. If applicable law or regulation prevents Supplier from returning or destroying Customer Data, Supplier shall maintain the security and confidentiality of the Customer Data in accordance with this Agreement and refrain from Processing it any further, unless required by applicable law or regulation. Supplier shall not retain Customer Data beyond the expiration or termination of the Agreement. Supplier shall promptly delete Customer Data as soon as it is no longer required in accordance with Supplier's retention policies. Upon Customer's request, Supplier will promptly certify in writing that it has returned or destroyed all Customer Data.

5.10 Data Processing

Data Processing applies when Supplier processes Personal Data on behalf of Customer.

- 5.10.1 The Parties agree that it is the Customer's responsibility to identify possible Data Processing activities that are required from the Supplier to provide services under this Agreement
- 5.10.2 Where Data Processing is required in order to provide Services under the Agreement, the Customer shall issue the Supplier with Customer Specific Instructions. In this context, Customer is the "controller" and Supplier is the "processor" as defined under GDPR General Data Protection Regulation 2016/679.
- 5.10.3 Customer Specific Instructions shall include the information required under Schedule 6 Appendix A: Data Processing Template
- 5.10.4 Should the Supplier identify possible Data Processing activities which are not included within agreed Customer Specific Instructions, the Supplier shall notify the Customer.

Following notification:

- 5.10.4.1 The Parties will review the activities, and should it be identified that activities are considered Data Processing, the Parties shall, within 30 days, either
 - a) Agree Customer Specific Instructions for the identified activities, or
 - b) Agree modifications to the Services provided by the Supplier such that Data Processing is not being carried out
- 5.10.4.2 The Supplier shall perform the identified activities in accordance with the requirements of a Data Processor for a period of 30 days or until the Parties have reached agreement, whichever is the sooner.
- 5.10.4.3 Should agreement not be reached within 30 days, the Supplier may, at its sole discretion,
 - a) suspend performance of the activities
 - b) perform the identified activities in accordance with the requirements of a Data Processor until agreement has been reached.
- 5.10.5 Supplier shall process Personal Data only to the extent necessary to provide Services under the Agreement and in accordance with Customer's instructions, or as otherwise permitted by or necessary to comply with applicable laws or regulations.

- 5.10.6 Where Customer authorises Supplier to use subcontractors to Process Customer Data, Supplier shall ensure that its agreement with these subcontractors contains contractual obligations with respect to data protection that are no less stringent than the terms contained in this Agreement. Upon written request, Supplier shall make available to Customer a current list of such subcontractors and provide a summary of Supplier's written agreement with these subcontractors. Supplier shall remain at all times responsible for its subcontractor's compliance with this Agreement.
- 5.10.7 Supplier shall cooperate with Customer in dealing with inquiries, complaints and requests from data subjects, other data controllers, supervisory authorities and courts in connection with the Processing of Customer Data.
- 5.10.8 If Supplier receives a request from a third party in connection with any government investigation or court proceeding, then Supplier shall not disclose such information, immediately notify Customer in writing of such request, and fully cooperate with Customer if Customer wishes to limit, challenge or protect against such disclosure, to the extent permitted by applicable law or regulation.
- 5.10.9 Supplier shall indemnify and keep Customer indemnified against all losses, damages, costs, claims or expenses suffered or incurred by Customer as a result or arising, directly or indirectly, out of any claim relating to Data Processing and the processing of Personal Data (whether or not such losses, damages, costs, claims or expenses were foreseeable at the date of this Agreement) except to the extent that such infringement arises from:
 - a) Supplier performance of Data Processing activities that have been agreed between the parties and documented within Customer Specific Instructions under the terms of this Schedule 5.10 Data Processing and Schedule 6 Appendix A: Data Processing Template

5.11 Information Management & Security Notification

- 5.11.1 Supplier shall maintain records in accordance with ISO 27001 or similar
- 5.11.2 Each party shall be responsible for the effective performance of their security obligations and shall at all times provide a level of security which:
 - a) is in accordance with the Law and this Contract;
 - b) as a minimum demonstrates Good Industry Practice;
- 5.11.3 In the event of a Security Incident, each of the Parties shall,
 - a) Take all necessary actions to minimise the extent of actual or potential harm caused by any Breach of Security;
 - b) remedy such Breach of Security to the extent possible and protect the integrity of the Parties and their systems and services, and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
 - c) reasonably cooperate with the other Party to investigate and resolve the Security Incident,
 - d) Investigate methods to prevent an equivalent breach in the future exploiting the same cause failure; and
 - e) to the extent permitted by applicable law or regulation, notify the Other Party of the Security Incident Dispute Escalation
- 5.11.4 In the event of any dispute(s), disagreement(s) and/or difference(s) ("Dispute") between The Parties, in connection with this Agreement, and/or provision of the Services, The Parties hereby agree to meet to discuss in good faith that Dispute, such dispute resolution negotiations being escalated to each parties' respective "sponsoring director" in the event that a mutually satisfactory resolution cannot/has not previously been reached.
- 5.11.5 Where any Dispute cannot be settled by negotiation within twenty-one (21) days after either Party has made a written offer to the other Party to negotiate a settlement to such Dispute, the parties shall, before resorting to court proceedings, attempt to resolve the Dispute by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

5.12 Liability

- 5.12.1 Supplier (or any of their constituent members) shall not be liable to the Customer for any direct, indirect, consequential or special loss as a result of instructions or requests provided to Customer or other parties contracted to the Customer
- 5.12.2 Neither the Customer or Supplier (or any of their constituent members) shall be liable to the other for:
- 5.12.3 any indirect, consequential or special loss; or
- a) loss of profit, loss of revenue, loss of anticipated savings or loss of goodwill or (except in respect of the cost of reconstituting data to the last back up that the Customer Party ought to have made) loss of data,
 - b) in each case, regardless of whether the first named party knew or had reason to know of the possibility of the loss, injury, or damage in question.
- 5.12.4 Without prejudice to the exclusions referred to in Clause 5.12.2, except as provided for in Clause 5.12.5, the Customer's aggregate liability to Supplier, and Supplier's liability to the Customer, in each case whether based on an action or claim in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise arising out of or in relation to this Framework Agreement will not exceed 100% of total Fees paid for the individual Services most closely associated with the event or series of related events that gave rise to the liability during the 12 month period immediately preceding the date of such event (or the date of the last in a series of related events).
- 5.12.5 The limits on liability set out in Clause 5.12 Liability shall not apply in respect of:
- a) any liability for fraud or fraudulent misrepresentation by a party, its employees or agents;
 - b) any liability for death or personal injury to any person caused by its negligence;
 - c) wilful default by Supplier;
 - d) any breach of any obligations or conditions implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or
 - e) any other liability to the extent which it cannot be lawfully excluded.

5.13 Force Majeure

- 5.13.1 If either party is prevented from performing any of its obligations under this Agreement (the "Affected Party") by a Force Majeure Event, then:
- 5.13.1.1 to the extent that the Affected Party's obligations under this Agreement are prevented (and save to the extent that the Affected Party could reasonably have avoided such circumstances by exercising the level of diligence that could reasonably have been expected of it (having exercised Good Industry Practice) in each case to avoid or mitigate the Force Majeure event), its obligations shall be suspended for so long as the Force Majeure Event continues and to the extent that the Affected Party is so prevented;
 - 5.13.1.2 as soon as reasonably possible after commencement of the Force Majeure Event the Affected Party shall notify the other party in writing of the occurrence of the Force Majeure Event, the date of commencement of the Force Majeure Event and the effects of the Force Majeure Event on its ability to perform its obligations under this Agreement;
 - 5.13.1.3 the Affected Party shall use all reasonable efforts to mitigate the effects of the Force Majeure Event upon the performance of its obligations under this Agreement; and
 - 5.13.1.4 as soon as reasonably possible after the cessation of the Force Majeure Event the Affected Party shall notify the other party in writing of the cessation of the Force Majeure Event and shall resume performance of its obligations under this Agreement.

- 5.13.2 If the Force Majeure Event continues for more than 28 successive days after the commencement of the Force Majeure Event the party not seeking to rely on the suspension of its obligations as a result of the Force Majeure Event may terminate this Agreement by giving not less than 28 days' notice in writing to the Affected Party.
- 5.13.3 If the event of Force Majeure results in the suspension of all or any part of the Services, then Customer shall not be obliged to pay the relevant Fees for the suspended Services until such time as the event of Force Majeure shall have ceased to have effect and Services recommenced.

5.14 Insurance

- 5.14.1 Supplier undertakes throughout the Term of the Agreement and any Contract and for a period of three years thereafter with a reputable insurer or insurers to maintain, at its own cost, adequate public liability insurance and professional indemnity insurance which are adequate to meet its potential liabilities under this Agreement.
- 5.14.2 Supplier will ensure that Subcontractors either maintain equivalent insurance coverages to those specified in Clause 5.14 or are covered by Supplier's insurance coverages specified in Clause 5.14

5.15 Assignment and Subcontracting

- 5.15.1 Supplier may assign, novate or transfer this Agreement and any Subsidiary Agreement to an Affiliate of Supplier which has (i) a financial standing; and (ii) an operational capability to perform the Services, which is not less than that of Supplier.
- 5.15.2 Supplier shall be entitled to use a Subcontractor to perform a material part of the Services or a material part of a Subsidiary Agreement without the prior written consent of Customer. Where Supplier subcontracts any of its obligations under this Agreement, Supplier shall be liable for the acts and omissions of the Subcontractor and such acts and omissions shall be deemed to be those of Supplier.

5.16 General

- 5.16.1 Under the terms of this Agreement unless otherwise defined, it is the Customers responsibility to:
 - 5.16.1.1 Monitor, configure, manage and maintain the platforms covered by this agreement.
 - 5.16.1.2 Manage and maintain dependant hardware for the platforms covered by this agreement.
 - 5.16.1.3 Administer and support applications which are deployed within the environment covered by this agreement.
 - 5.16.1.4 Ensure that they have the skills necessary to fulfil this responsibility.
 - 5.16.1.5 This should be carried out in line with good IT practices to minimise service impacting events and information security and data integrity risks.
 - 5.16.1.6 Identify and record incidents and escalations to Supplier in line with the services outlined within this agreement.
 - 5.16.1.7 Provide appropriate systems access should it be required for Supplier to provide effective resolution.
- 5.16.2 In the event that operational maintenance has not been carried out, the Customer acknowledges that Supplier may not be able to respond in line with the deliverables and targets set out in the defined Subsidiary Agreement. In line with common practice, application of patches and upgrades may be required prior to or part of Supplier delivery

- 5.16.3 The Customer may request the Supplier to provide additional Services under this Framework Agreement
- 5.16.4 The invalidity or unenforceability of any term, right or provision of or arising pursuant to this Agreement and/or under the Contract shall in no way affect the validity or enforceability of the remaining terms, rights or provisions, such invalid or unenforceable provision(s) (to the extent permitted by applicable law), being deemed severed from the remainder, so long as this Agreement continues to express, without material change, the parties' original intention(s) and/or the Customer continues to be bound under the Contract (and in relation to the Services).
- 5.16.5 Save as expressly provided for herein, this Agreement does not create any rights in any other person(s) (and/or entities) that are not a party hereto, for the purposes of The Contracts (Rights of Third Parties) Act 1999.
- 5.16.6 During the Term, Supplier shall comply with all statutory and other (binding) rules and regulations applicable in the UK to Supplier's performance of its obligations under this Agreement, any Subsidiary Agreement the performance of the Services, and/or applicable to the Contract as relevant to Supplier (and including any (binding) relevant European legislation).
- 5.16.7 This Agreement and Subsidiary Agreements shall comply with: (i) applicable law; and (ii) such policies, processes and procedures (including but not limited to those relating to security, anti-bribery and anti-corruption, data protection, data privacy and health and safety) as may be notified to it in writing by Supplier or Customer from time to time. This includes compliance with the Supplier's Business Ethics Policy and the Modern Slavery Act. 2015 and/or where applicable equivalent provisions of local law and the United Nations Global Compact;
- 5.16.8 Supplier agrees that, in the course of performing the Services hereunder, none of the Supplier's, its directors, officers or employees will offer, pay, promise to pay or authorise the payment or transfer, directly or indirectly, of anything of value, including but not limited to cash, checks, wire transfers, tangible and intangible gifts, favours and services, to any government official, including officials (or anyone acting in the capacity of an official) of any governmental department, agency or instrumentality (including government controlled commercial enterprises) or any other person while knowing or having a reasonable belief that all or some portion will be used for the purpose of influencing any act or decision of any government official.
- 5.16.9 Supplier shall and shall ensure, that any person (including any employee, agent, Subcontractor or Affiliate) who performs services for or on behalf of Customer under this Agreement complies with, and does not through their acts or omissions put Customer in breach of, the Bribery Act 2010.
- 5.16.10 The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.
- 5.16.11 No provision of this Agreement creates a partnership or employer/employee relationship between the parties or makes a party the agent of the other party for any purpose. Neither party nor any of its respective affiliates, officers, directors, or employees, is an agent of the other for any purpose has any authority or power to bind, to contract in the name of, or to create a liability for the other party in any way or for any purpose.
- 5.16.12 Execution. Neither this Agreement, nor any variation or modifications of it, nor any Subsidiary Agreement will be binding on the Parties hereto or those set out in the Subsidiary Agreement unless it has been signed on behalf of each of the Parties thereto by one of its duly authorised representatives. This Agreement, amendments thereto and each Subsidiary Agreement may be executed in multiple counterparts, each of which will be deemed an original and all of which will constitute together one Agreement. A counterpart delivered to either of the Parties hereto by electronic means such as pdf and email, will be deemed an original equivalent in all respects to a manually executed counterpart, pending the parties exchanging original executed documents.
- 5.16.13 Where relevant, should Supplier be required to perform Services (or any part thereof) upon the Customer premises, Supplier shall observe (and procure that its Staff observe) all reasonable safety and security and other policies and

protocols of the Customer, provided (first) brought to its attention.

5.17 Severability

- 5.17.1 In the event that any provision or part of this Agreement is held to be invalid or unenforceable, such provision or part will be deemed to have been severed from the Agreement, while the remainder of the Agreement will remain in full force and effect.

5.18 Third Party Rights

- 5.18.1 No person who is not a party to this Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. Nothing in this Agreement shall confer or purport to confer on any other third party any benefit or the right to enforce any term of this Agreement.

5.19 Personnel

- 5.19.1 Supplier shall ensure that it provides an adequate number of suitably qualified, skilled and experienced Personnel and shall ensure that they provide the Services and perform their obligations under this Agreement will all due care and skill.
- 5.19.2 The parties acknowledge and agree that as between the parties, neither the Transfer of Undertakings (Protection of Employment) Regulations 2006 nor the Acquired Rights Directive 77/187 (or any subsequent legislation in relation to the same) shall apply on the date of this Agreement nor on the Effective Date or during the Term or on termination of this Agreement.
- 5.19.3 The Parties agree that
- (i) all the Customer's employees shall remain in the employment of their current employer notwithstanding the entry into force of this Agreement and
 - (ii) all Supplier's employees shall remain in the employment of Supplier at the end of the Term and following termination of this Agreement and the parties hereby agree to indemnify and hold each other harmless against any against any action, claim, demand, proceedings, award or judgment that may be made or raised by their respective employees in relation to any alleged transfer of employment resulting from the reason or in connection with the commencement or termination of this Agreement including without limitation any claim for unfair dismissal, wrongful dismissal, breach of contract, unlawful deduction from wages, redundancy, discrimination, personal injury, a protective award or a claim or demand of any other nature.
- 5.19.4 Neither party shall (and each party shall procure that no other company within its respective Group shall), solicit or approach in any way, any of the other party's employees connected with provision or receipt of the Services or managing the parties' relationship hereunder, with a view to offering such employees employment or to solicit services from them on their own account (whether for themselves or for another party) during the Term and for the period of six (6) months after the termination or expiry of this Agreement.
- 5.19.5 If any employee of a party to this Agreement leaves the employment of that party as a result of a breach by the other party of Section 5.19.4 (the "Poaching Party"), and thereafter (and always within a further period of six (6) months) that leaving employee commences employment with, or provides services to that Poaching Party (or third party as was "introduced" by that Poaching Party), that Poaching Party shall pay (by way of liquidated damages, but in full and final settlement of any claim in connection herewith) the party losing or having lost their employee (and not being in breach), fifty (50) percent of the gross annual salary (including any benefits in kind, bonus payments, commissions and other emoluments) of that relevant leaving employee, as applied at the date that he ceased to be an employee of the party not

in breach. Such sum is hereby acknowledged by the parties to be a reasonable and genuine pre-estimate of the loss that will be suffered by the party not in breach, and reflects inter alia, the cost of recruiting and training a replacement employee.

- 5.19.6 In the context of any actual or threatened breach by either party of all or any part of the provision(s) of the above Section 5.19.4, it is expressly acknowledged by the parties that damages would not be an adequate remedy, and accordingly either party shall be entitled to seek an injunction, interim order or similar equitable relief, to restrain, prevent or avoid same.

5.20 Notices

- 5.20.1 Any notice or other communication which is required to be given to the other party in connection with this Agreement, shall be addressed to that relevant party's company secretary at their registered office, or to such other person and/or address as that relevant party shall have previously specified in writing to the party wishing to give notice. Any such notice may be delivered by hand, or by express courier service, service fee prepaid, or by facsimile transmission, or by email. All notices shall be deemed received
- (i) if given by hand, immediately,
 - (ii) if given by express courier service, three days after dispatch or
 - (iii) if given by facsimile transmission or email, immediately upon transmission.

5.21 Law and Jurisdiction

- 5.21.1 This Agreement, together with any Disputes (and in relation to Disputes connected to the Contract, save where the Contract specifically requires otherwise), shall be governed by and construed in accordance with the laws of England and Wales
- 5.21.2 Save for the Dispute Escalation Procedure under Section e) Dispute Escalation (and which the parties agree to first follow) the parties hereby agree to submit any and all claim(s), action(s), dispute(s) or similar between them, to the exclusive jurisdiction of the Courts of England and Wales.
- 5.21.3 If any part of this Agreement is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from the Agreement as much as required and rendered ineffective as far as possible without affecting the rest of the Agreement, whether it is valid or enforceable.
- 5.21.4 Supplier shall promptly notify Customer of any changes in Applicable Law which have a material impact on Supplier's provision of the Services.
- 5.21.5 Supplier will with Customer's approval, conform the Services to any changes in applicable law or regulation. The conforming of any Services to any changes in Applicable Law shall be dealt with using Change Management.

5.22 Termination

- 5.22.1 Termination of the Framework Agreement.
- 5.22.1.1 Either party may terminate this Agreement forthwith by written notice to the other effective from the date of service of such notice if the other party:
- a) becomes insolvent, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or
 - b) becomes subject to control of a trustee, receiver, or similar authority, or to any bankruptcy or insolvency proceeding.

- c) if there is a breach by the other party of any provision of the Agreement which expressly entitles the party not in breach to terminate the Agreement.

5.22.1.2 Without prejudice to its other rights or remedies contained in this Agreement (including any other express rights of termination), Customer may terminate this Agreement in whole or in part any time by giving not less than 20 business days' notice in writing to Supplier

5.22.1.3 On termination under 5.22.1.1 or 5.22.1.2 shall also terminate all Subsidiary Agreements

5.22.1.4 On termination under 5.22.1.1 by Customer, Customer shall be entitled to a refund or credit for the terminated Services proportional to the remaining term of the Agreement and any active Subsidiary Agreement

5.22.1.5 On termination under 5.22.1.1 by Supplier or 5.22.1.2 by Customer

1. Customer shall not be entitled to a refund or credit of any monies paid under the Service Schedule
2. Supplier will be due an amount equal to the total fees chargeable under the Agreement or any Subsidiary Agreement, less monies already paid to the Supplier

5.22.2 Termination of a Service Schedule (in whole or in part).

5.22.2.1 Either party may terminate a Service Schedule forthwith by written notice to the other effective from the date of service of such notice if there is a material or persistent breach by the other party of any other term of the Contract, which is not remediable, or if it is remediable has not been remedied within 30 days of the service of written notice to the defaulting party specifying the breach and requiring it to be remedied.

5.22.2.2 On termination under 5.22.2.1 by Supplier for breach by Customer, Customer shall not be entitled to a refund or credit of any monies paid under the Service Schedule

5.22.2.3 On termination under 5.22.2.1 by Customer for breach by Supplier, Customer shall be entitled to a refund or credit for the terminated Services proportional to the remaining term of the Service Schedule

5.22.2.4 Customer may terminate a Service Schedule in the event of proposed increase to Service Cost following investigation and implementation of actions under the application of a Fair Use Policy

5.22.2.5 On termination under 5.22.2.4 by Customer, Customer shall not be entitled to a refund or credit of any monies paid under the Service Schedule

5.22.3 Termination of a Statement of Work (in whole or in part).

5.22.3.1 Either party may terminate a Statement of Work in accordance with the Postponement, Suspension, and Termination clauses as specified in the Terms and Conditions in the applicable Statement of Work

5.22.4 Termination of Cloud Services

5.22.4.1 Cloud Services may be Terminated as permitted under the Cloud Services Terms of Services

5.22.5 Termination of a Customer Quotation

5.22.5.1 On Termination of a Customer Quotation by Customer,

1. Customer shall not be entitled to a refund or credit of any monies paid under the Customer Quotation
2. Customer shall be liable for payment of all costs under the Customer Quotation for which the Supplier remains liable including but not limited to costs for receipt or restocking of Hardware

5.23 Obligations

5.23.1 Following the termination of the Agreement neither party shall have any further rights or obligations in relation to the other party other than those stated in this Clause

5.23.2 All other clauses will survive the termination of this agreement.

5.24 Entire Agreement and Priority

5.24.1 This Framework Agreement, together with its Subsidiary Agreements, shall constitute the entire agreement between the Parties as concerning the contracting by the Customer to Supplier, of provision of the Services. To the fullest extent permitted by law, and save always in the context of any fraudulent mis-representation(s), it supersedes any prior agreements, arrangements, representations and/or understandings between the Parties as to the provision of those (relevant) contracted services.

5.24.2 In the event of any inconsistency or conflict between any term of the Framework Agreement, the Subsidiary Agreements and/or any other written instructions from the Customer to Supplier, the order of priority shall be the Framework Agreement, then the Service Schedules then the Subsidiary Agreement, and finally any other written instructions from the Customer to Supplier.

5.24.3 No amendment, variation or waiver of this Framework Agreement shall be considered valid unless in writing and duly executed by or on behalf of all of the Parties to it. No variation shall unless expressly stated constitute a general waiver of any provision of this Framework Agreement nor shall it affect any rights or obligations under this Framework Agreement which have already accrued up to the date of variation, and the rights and obligations of the Parties under this Framework Agreement shall remain in full force and effect, except and only to the extent that they are so varied

5.24.4 The Agreement is in English, and the English language version governs any conflict with a translation into any other language.

6 Appendix A: Data Processing Template

6.1 Customer Specific Instructions

Where required under a Subsidiary Agreement, the Customer shall complete the following template (or equivalent) confirming the agreed Data Processing activities that the Supplier shall carry out in relation to the processing of Personal Data pursuant to the specific Subsidiary Agreement.

Where appropriate, the Customer may choose to capture Customer Specific Instructions for an individual Subsidiary Agreement in more than one template

Once agreed, this document represents the Customer Specific Instructions and shall be included as an attachment to the Subsidiary Agreement

Issue	Details
Subsidiary Agreement under which specific instructions are to be applied to Services provided	[Name or reference of Subsidiary Agreement]
Subject matter of the processing	[A high level, short description of what the processing is about i.e. the type of services being provided e.g. payroll administration]
Commencement Date of the processing	[Commencement date – may be provided as a specific date or referral to Subsidiary Agreement commencement date]
Duration of the processing	[Length of time processing will be permitted for]
Nature of processing	[Describe the type of processing being undertaken (e.g. data transfer, data storage etc) and its purpose(s)]
Purpose of processing	[Why is the processing required]
Types of Personal Data	[Name, email address, date of birth, address, phone number etc.]
Categories of Personal Data	[who is subject to the processing]

7 Appendix B: Xtravirt Cloud Services Agreement

7.1 Introduction

By using an Xtravirt Cloud Service, a Customer agrees to be bound by these Terms of Service between the Customer and Xtravirt (Supplier). If the Customer does not agree to these Terms of Service, the Customer must not use the Cloud Service.

Capitalized terms used in these Terms of Service are defined throughout these Terms of Service and in Section 3 Glossary of Terms

Section references in this document are to the provisions of these Terms of Service. The Terms of Service take effect when the Cloud Service is activated, made available or when you first use the Cloud Service, whichever is earlier, and will remain in effect during the relevant Subscription Term or until terminated as specified

Terms of Service applicable to a specific Cloud Service or implementation of a Cloud Service may be defined within Appendix A: Provider Specific Terms or within a Service Schedule or Customer Quotation

7.2 Scope

7.2.1 Cloud Services, Services and Subscriptions are as defined in Section 3 Glossary of Terms

7.2.2 A Cloud Service may include Supplier provided Services and named Services provided by a named Provider

7.2.3 Services and subscriptions provided by the Customer which may be integrated with the Cloud Service are not subject to the terms of this agreement

7.2.4 Supplier responsibility to the Customer for provision and management of the Cloud Services is as described within the applicable Services Schedule or Customer Quotation

7.3 Use of Cloud Services.

7.3.1 The Customer must use the Cloud Service in accordance with the following in increasing order of precedence

- a) these Terms of Service
- b) Service Schedule or Customer Quotation under which the Cloud Service is provided
- c) Provider Terms of Service where Cloud Service includes a named Provider Service or Subscription

7.4 Commencement and Service Term

7.4.1 The Service Term and commencement date for each of Services offered shall be as described in the Service Schedule or Customer Quotation

7.4.2 The Service Term will automatically be renewed unless written notification is received by Supplier thirty (30) days prior to the end of the Service Term and will renew for a further 12 months

7.4.3 Unless otherwise defined on a Service Schedule or Customer Quotation, renewed or additional Services will commence on the date of purchase or renewal

7.5 Monitoring

7.5.1 Supplier and/or Provider may monitor and collect configuration, performance, and usage data relating to Customer use of the Cloud Service:

- a) to facilitate delivery of the Cloud Service such as
 - (i) tracking entitlements
 - (ii) providing support,
 - (iii) monitoring the performance, integrity, and stability of the Cloud Service's infrastructure, and
 - (iv) preventing or addressing service or technical issues);
- and
- b) to improve Supplier's (and the Providers) products and services, and Customer experience.

7.5.2 The Customer must not interfere with that monitoring. Supplier will not access Customer Data except as necessary to provide the Cloud Service, or pursuant to Section 2.6 Required Disclosures.

7.6 Modifications

7.6.1 Supplier and/or Provider may from time to time:

- a) modify the functionality and/or make-up of a Cloud Service, Service and/or Subscription
- b) modify any part of the Terms of Service, including any Service Level Agreement, or
- c) cease providing any Cloud Service, Service and/or Subscription

7.6.2 For modifications to Supplier provided Services

7.6.2.1 Any Supplier modifications will become effective in no less than 30 days after the date Supplier notifies the Customer of those changes or modifications (except for new features or functionality of a Cloud Service, which may take effect immediately).

7.6.2.2 The Customer's continued use of the Cloud Service after the effective date of any change will be deemed acceptance of the modified Cloud Service or terms

7.6.2.3 If the Customer elects to terminate the Agreement because of a material, detrimental change to the Cloud Service, the Customer must notify Supplier not later than 30 days after the date of notice issued under **2.5.2.1.**

7.6.2.4 the Customer terminates the Agreement pursuant to Section 2.5.2.3, the termination will be effective as of:

- a) the date Supplier receives the Customer's notice of termination; or
- b) any later date specified in the Customer's notice, provided that the effective termination date must not be more than 90 days after the date on which Supplier receives the Customer's notice, unless Supplier and Customer agree to some longer period.

7.6.2.5 The Customer will be responsible for all fees incurred prior to the effective date of any termination pursuant to Section 2.5.2.3.

7.6.2.6 Termination, as provided in Section 2.5.2.3, is the Customer's sole and exclusive remedy if Supplier makes a material, detrimental change to the Cloud Service.

7.6.3 For modifications to Provider provided Services

7.6.3.1 The Customer shall be subject to the applicable Provider Terms and Conditions

7.7 Required Disclosures.

7.7.1 If Supplier is required by a subpoena, court order, agency action, or any other legal or regulatory requirement to disclose any Customer Data, we will provide you with notice and a copy of the demand as soon as practicable, unless we are

prohibited from doing so pursuant to applicable law. If you request, we will, at your expense, take reasonable steps to contest any required disclosure. Supplier will limit the scope of any disclosure to only the information Supplier is required to disclose.

7.8 Security Measures

- 7.8.1 The Customer is solely responsible for ensuring that the Cloud Service and its security is appropriate for Customer Data and Customer intended use.
- 7.8.2 The Customer is responsible for taking and maintaining appropriate steps to protect the confidentiality, integrity, and security of Customer Data. Those steps include
 - a) controlling access provided to Users
 - b) configuring the Cloud Service appropriately
 - c) ensuring the security of Customer Content while it is in transit to and from the Cloud Service
 - d) using encryption technology to protect Customer Data
 - e) backing up Customer Data
- 7.8.3 The Customer is responsible for providing any necessary notices to users of the service and obtaining any legally required consents from Users regarding their use of the Cloud Service.

7.9 Data Ownership and Data Protection

- 7.9.1 The Customer remains the legal owner of all Customer Data held within or transmitted through the Cloud Service
- 7.9.2 It is the Customer's responsibility to ensure that the Cloud Service meets any applicable legislative or regulatory requirements for the protection of Customer Data prior to the upload of any data governed by such requirements
- 7.9.3 Transfer of Customer Data to the Customer on termination shall be carried out under the terms of 2.14 Notice and Termination

7.10 Acceptable Use

- 7.10.1 The Customer must not:
 - a) resell or sublicense the Cloud Service; or
 - b) use the Cloud Service
 - (i) in a way prohibited by law or that would cause Customer, Supplier and/or Provider to be out of compliance with applicable law
 - (ii) to violate any rights of others
 - (iii) to try to gain unauthorized access to, test the vulnerability of, or disrupt the Cloud Service or any other service, device, data, account, or network
 - (iv) to distribute spam or malware
 - (v) in a way that could harm the Cloud Service or impair anyone else's use of it
 - (vi) in a way intended to work around the Cloud Service's technical limitations, recurring fees calculation or usage limits, or
 - (vii) for High Risk Activities.
- 7.10.2 Customer must not upload into the Cloud Service any Content that:
 - a) may create a risk of harm or any other loss or damage to any person or property;
 - b) may constitute or contribute to a crime or a tort;

- c) includes any data that is illegal, unlawful, harmful, pornographic, defamatory, infringing, or invasive of personal privacy or publicity rights;
- d) contains any data that Customer does not have a right to upload into the Cloud Service;

7.10.3 The Customer acknowledges that uploading Customer Content to the Cloud Service does not constitute a disclosure of such Customer Content to Supplier and, accordingly, Section 2.21 Confidential Information does not apply to such Customer Content.

7.10.4 The Customer may notify Supplier if the Customer believes that their copyrighted work has been copied and is accessible on the Cloud Service in a way that constitutes copyright infringement. The Customer should include the following information within the notification:

- a) a description of the copyrighted work that the Customer claims has been infringed and a description of the infringing activity; the location of the material that the Customer claims is infringing, such as the URL where it is posted;
- b) the customer's name, address, telephone number, and email address;
- c) a statement by the Customer that they have a good faith belief that the disputed use of the material is not authorized by the copyright owner, its agent, or the law;
- d) a Customer statement under penalty of perjury that the information in the Customer's notice of infringement concern is accurate, and that the Customer is the copyright owner or are authorized to act on the copyright owner's behalf; and
- e) a Customer's electronic or physical signature, as the copyright owner or as the person authorized to act on the copyright owner's behalf.

7.11 Intellectual Property

7.11.1 Supplier, its affiliates and Providers own all right, title, and interest in and to the Cloud Services and any related software, including all improvements, enhancements, modifications, and derivative works of them, and all Intellectual Property Rights in all of them. This includes any information collected and analysed about the use of the Cloud Service pursuant to Section 2.4 Monitoring

7.11.2 The Customer's rights to use the Cloud Service are limited to those expressly granted in the Terms of Service and any Subsidiary Agreement under which it is provided.

7.11.3 No other rights are implied with respect to the Cloud Service, any related Supplier or affiliate or Provider Services or Software, or any related Intellectual Property Rights.

7.11.4 The Customer retains all right, title and interest in and to Customer Content and all Intellectual Property Rights in Customer Content.

7.11.5 Supplier's rights to access and use Customer Content are limited to those expressly granted in the Agreement and these Terms of Service.

7.12 Charges

7.12.1 Unless the Parties agree otherwise or defined within applicable Provider Terms of Service, charges the Customer incurs for using Cloud Services will be governed by the applicable price list at the time of provisioning

7.12.2 The Customer must pay all charges incurred for the Customer's use of the Cloud Service.

7.12.3 Charges may consist of both a committed amount as well as additional amounts, including but not limited to charges for add-on features that the Customer orders or enables, as well as charges the Customer incurs based on actual usage of

the Cloud Service (which may be metered charges, or “overage” charges for use in excess of any committed use).

- 7.12.4 The Customer must establish a method of payment to cover charges in accordance with the agreed terms under which is it provided
- 7.12.5 Supplier may not require a purchase order to invoice the Customer for charges.
- 7.12.6 Payment terms are in accordance with the terms of the Service Schedule, Customer Quotation or applicable Provider Terms of Service

7.13 Provisioning

- 7.13.1 All Cloud Services are subject to the terms of the Terms of Service and are binding from the time of provisioning regardless of the mechanism under which they were provisioned (which may be through the completion of a Subsidiary Agreement, self-service provisioning, metered or a defined by the terms of a service description.
- 7.13.2 All Cloud Services are non-refundable and non-cancellable except as expressly provided in these Terms of Service. Any refunds to which Customer is entitled under these Terms of Service will be remitted

7.14 2.13 Temporary Suspension

- 7.14.1 Supplier may, at it's option, suspend the Customer's use of any Cloud Service if:
 - a) the Customer is in breach of the Agreement or these Terms of Service (other than payment) and does not cure that breach within 10 days after Supplier notifies the Customer of that breach
 - b) any payment is not received when due
 - c) Supplier believes that the Customer's use of the Cloud Service poses a security risk to the Cloud Service or to other users of the Cloud Service
 - d) Supplier suspects fraud or abuse.
- 7.14.2 Supplier will give the Customer notice before suspending the Customer's use of the Cloud Service if permitted by law or unless Supplier reasonably determines that providing notice presents a risk of harm to the Cloud Service, to other users of the Cloud Service, or to any person or property, in which case Supplier will notify the Customer as soon as feasible or permitted.
- 7.14.3 Supplier will suspend Customer access only to the Cloud Service that is the subject of the issue giving rise to the suspension.
- 7.14.4 Supplier will promptly reinstate Customer access to the Cloud Service once Supplier has determined that the issue causing the suspension has been resolved.
- 7.14.5 The Customer will remain responsible for all fees incurred before and during any suspension and following reinstatement of services.
- 7.14.6 The Customer will not be entitled to any service credits under any applicable Service Level Agreement that the Customer might have otherwise accrued during any suspension.

7.15 Notice and Termination (Supplier provided Services)

- 7.15.1 The Customer has the right to use the Cloud Service during the applicable Service Term. The Customer may stop using a Cloud Service at any time but will remain liable for all fees and charges otherwise due during the applicable Service

Term.

- 7.15.2 Unless otherwise defined, the Customer must provide a minimum of 30 day's notice of their intention to not renew the Service Term for the Offboarding process to apply.

Where such notice is provided,

- (i) the terms of 2.17 Offboarding shall apply
- otherwise
- (ii) the Supplier shall apply reasonable efforts to support the Customer in exiting the Cloud Service

7.15.3 Termination for Cause

- 7.15.3.1 Supplier may, at their option, terminate the Agreement effective immediately upon written notice to the Customer

- (i) under terms defined in the Framework Agreement
- (ii) to comply with applicable law.

- 7.15.3.2 Either of the Parties may terminate the Agreement effective immediately upon written notice to the other party if that party

- (i) commits a material breach of the Agreement that cannot be cured
- (ii) terminates or suspends its business.

- 7.15.4 If Customer terminates the Agreement pursuant to Section 2.14.3.2, Supplier will refund any prepaid fees for Supplier provided Services prorated as of the effective date of the termination.

- 7.15.5 Either of the Parties may terminate the Agreement effective immediately upon sending the other party notice if that party:

- a) becomes insolvent, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or
- b) becomes subject to control of a trustee, receiver, or similar authority, or to any bankruptcy or insolvency proceeding.

- 7.15.6 Upon the effective date of termination of the Agreement for any reason:

- 7.15.6.1 the Customer must stop using the Cloud Service, and

- 7.15.6.2 the Customer must return or, if Supplier requests, destroy, any Confidential Information of Supplier, it's affiliates and Providers in Customer possession or under Customer control (other than information that must be retained pursuant to law).

- 7.15.6.3 Deletion of any Content remaining in the Cloud Service will occur.

- 7.15.6.4 The Customer is responsible for ensuring that they have necessary copies of all Customer Content prior to the effective date of any termination.

- 7.15.6.5 Any provision that, by its nature and context is intended to survive termination or expiration of the Agreement, will survive.

- 7.15.6.6 Terms applicable to the protection of data, including but not limited to data processing will also survive any termination or expiration of the Agreement.

- 7.15.7 Except to the extent that either of the Parties is permitted to terminate the Agreement pursuant to Section 2.5

Modifications , Section 2.14.3 Termination for Cause, or Section 2.19 Indemnification, any termination of the Agreement will not entitle the Customer to any refunds, credits, or exchanges, and the Customer will be liable for all fees incurred as of the effective termination date.

- 7.15.8 If Supplier terminates the Agreement prior to expiration of a Subscription Term pursuant to Section 2.14.3 Termination for Cause, the Customer will be liable for all fees due with respect to the Cloud Service for the remainder of the then-current Subscription Term.

7.16 2.15 Notice and Termination (Provider provided Services)

- 7.16.1 Customer shall be subject to the applicable Provider Terms of Service
- 7.16.2 The Customer has the right to use the Cloud Service during the applicable Service Term. The Customer may stop using a Cloud Service at any time but will remain liable for all fees and charges otherwise due during the applicable Service Term.
- 7.16.3 Unless otherwise defined, the Customer must provide a minimum of 30 days' notice to the Supplier of their intention to not renew the Service Term for the Offboarding process to apply.
 - Where such notice is provided,
 - (i) the terms of 2.17 Offboarding shall apply otherwise
 - (ii) the Supplier shall apply reasonable efforts to support the Customer in exiting the Cloud Service

7.17 Support

- 7.17.1 Support from the Supplier for the Cloud Service shall be as described in the applicable Service Schedule or Customer Quotation
- 7.17.2 Support from the Provider for Provider provided Services shall be as defined in the Provider Terms of Service.

7.18 Offboarding

Offboarding defines a set of activities to support the controlled transition of the Customer following the notice of intent to terminate or not renew a Cloud Service. The actions available may be limited by the nature of the Cloud Service or by applicable Provider Terms.

Following notice of termination under 2.14.2 (i) or 2.15.3 (i) the following shall apply

- 7.18.1 Unless otherwise limited by the Service Schedule or Customer Quotation and where the Provider offers such ability, the Customer may request for the Services to be transferred to a different Supplier or to the responsibility of the Customer. Should the Customer wish to request such a transfer the following shall apply
 - The Parties shall
 - 7.18.1.1 follow any applicable Provider specific terms defined under Appendix A
 - 7.18.1.2 work together to agree a timeline and actions for the transfer of ownership of the Services, ensuring that it completes prior to the effective date of termination
 - 7.18.1.3 agree any additional activities to be carried out beyond those defined in this clause 2.17.1 that may be chargeable to the Customer

- 7.18.1.4 agree the format and method for the creation and/or transfer of applicable credentials to enable the Customer and/or new supplier to take ownership and responsibility for the operation of the Services
- 7.18.1.5 agree that all applicable Supplier service levels and support shall terminate at the point where the Customer and/or new supplier are provided with credentials that offer control of the Services. The Supplier shall provide assistance to the Customer on the basis of reasonable efforts from this point to the effective date of termination

The Customer shall

- 7.18.1.6 ensure that sufficient notice is provided to the Supplier for the required actions to take place (note that this may be more time that provided for by the terms of 2.14 Notice and Termination)
- 7.18.1.7 define whether the Services are to be transferred to another supplier or to the Customer and shall ensure that such transfer is supported under the terms of the Provider
- 7.18.1.8 complete all necessary contractual arrangements with the new supplier and/or the Provider to enable the transfer to complete
- 7.18.1.9 ensure that all configuration requirements and dependencies that must be met by the new supplier or the Customer themselves are met in a timely manner in order to complete all necessary activities for the transfer to complete in advance of the effective date of termination

The Supplier shall

- 7.18.1.10 complete all necessary contractual arrangements with the new supplier and/or the Provider to enable the transfer to complete
- 7.18.1.11 provide the agreed credentials in the agreed format to the Customer and/or new supplier
- 7.18.1.12 remove all forms of Supplier (also encompasses those defined as non-Customer) accounts, methods of access and integration to other Supplier services at the earlier of agreed date(s) and the effective date of termination

- 7.18.2 Where the Customer does not request a transfer of the Services, the Cloud Service will terminate on the effective date of termination.

The Parties shall

- 7.18.2.1 follow any applicable Provider specific terms defined under Appendix A
- 7.18.2.2 work together to agree a schedule for customer exit and the termination of the Services, in the absence of which, all Services shall be terminated on the effective date of termination
- 7.18.2.3 agree any additional activities to be carried out beyond those defined in this clause 2.17.2 that may be chargeable to the Customer

The Customer shall

- 7.18.2.4 ensure that they have removed and/or copied all necessary or required Customer Content from the Cloud Service prior to the effective date of termination
- 7.18.2.5 acknowledge that, unless otherwise agreed between the Parties and confirmed by the Customer as suitable, there is no ability to access any Customer Content following the effective date of termination
- 7.18.2.6 ensure that any sensitive Customer Content has been deleted by the Customer prior to the effective date of

termination.

The Supplier shall

7.18.2.7 terminate the Services on the agreed date or the effective date of termination if no date has been agreed in alignment with the Providers guidelines for the termination of Services.

7.18.2.8 remove all Supplier-managed Customer integration to the Services.

7.19 Warranties

7.19.1 Limited Warranty

Supplier warrants that the Cloud Service will perform in accordance with the applicable Supplier, affiliate or Provider Service Level Agreement, if any, during the Subscription Term, provided that the Cloud Service has at all times been used in accordance with the Agreement. If Supplier fails to meet this limited warranty, the Customer's sole and exclusive remedy for that failure is as specified in the Service Level Agreement.

7.19.2 Disclaimer

OTHER THAN THE LIMITED WARRANTY SET FORTH IN SECTION 2.18.1, TO THE MAXIMUM EXTENT PERMITTED BY LAW, SUPPLIER, FOR ITSELF AND ON BEHALF OF IT'S PROVIDERS, DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, RELATING TO THE CLOUD SERVICE AND TO ALL MATERIALS OR SERVICES PROVIDED TO THE CUSTOMER UNDER THE AGREEMENT, INCLUDING ANY THIRD-PARTY CONTENT. SUPPLIER AND IT'S PROVIDERS DO NOT WARRANT THAT THE CLOUD SERVICE WILL BE UNINTERRUPTED OR FREE FROM DEFECTS OR ERRORS, OR THAT THE CLOUD SERVICE WILL MEET (OR IS DESIGNED TO MEET) THE CUSTOMER'S BUSINESS REQUIREMENTS.

7.20 Indemnification

7.20.1 Indemnification by Customer.

7.20.1.1 Subject to the remainder of this Section 2.19,

Customer will

- a) defend Supplier against any Third-Party Claim; and
- b) indemnify Supplier from all fines, damages, and other costs finally awarded by a court of competent jurisdiction or a government agency or agreed to in settlement with respect to a Third-Party Claim.

Supplier will:

- a) provide Customer with notice of any Third-Party Claim within a reasonable period after learning of the claim (provided that any delay in providing the notice will relieve Customer of their indemnification obligations only to the extent that the delay prejudices Customer), and
- b) reasonably cooperate in response to Customer requests for assistance.

7.20.1.2 Customer will have sole control over the defence of any Third-Party Claim.

7.20.1.3 Customer may not, without Supplier prior written consent, which will not be unreasonably withheld, conditioned, or delayed, settle any Third-Party Claim if that settlement obligates Supplier to admit any liability or to pay any unreimbursed amounts to the claimant, or would affect any Cloud Service or our business practices or policies.

7.20.2 Indemnification by Supplier

7.20.2.1 Subject to the remainder of this Section 2.19.2, Supplier will:

- a) defend Customer against any Infringement Claim; and
- b) indemnify Customer from all fines, damages, and costs finally awarded against Customer by a court of competent jurisdiction or a government agency or agreed to in settlement with regard to any Infringement Claim.

The foregoing obligations are applicable only if Customer:

- (i) provides Supplier with notice of any Infringement Claim within a reasonable period after learning of the claim (provided that any delay in providing the notice will relieve Supplier of their indemnification obligations only to the extent that the delay prejudices Supplier);
- (ii) allow Supplier sole control over the defence of the Infringement Claim; and
- (iii) reasonably cooperate in response to our requests for assistance with regard to the Infringement Claim. Supplier will not, without Customer prior written consent, which will not be unreasonably withheld, conditioned, or delayed, enter into any settlement of any Infringement Claim that obligates Customer to admit any liability or to pay any unreimbursed amounts to the claimant.

7.20.2.2 If the Cloud Service becomes or in Supplier's opinion is likely to become the subject of an Infringement Claim, Supplier, its affiliates or Providers will at their option and expense:

- a) procure the rights necessary for Customer to keep using the Cloud Service; or
- b) modify or replace the Cloud Service to make it non-infringing without materially reducing its functionality; or
- c) terminate the Agreement and refund any prepaid fees, prorated for the remaining portion of the then-current Subscription Term.

7.20.2.3 Supplier has no obligation under this Section 2.19.2 or otherwise with respect to any Infringement Claim based on:

- a) combination of the Cloud Service with other products or content, including any of Customer Content and/or any Third-Party Content;
- b) any claim that relates to open-source software or freeware technology or any derivative or other adaptation thereof that is not embedded by into the software or Cloud Service; or
- c) any Cloud Service provided on a no-charge basis.

7.20.2.4 This Section 2.19.2 comprises Customer sole and exclusive remedy and Supplier's entire liability for any Infringement Claims.

7.21 Limitation of Liability for Cloud Services

7.21.1 Disclaimer

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL SUPPLIER BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE OF THE CLOUD SERVICE, OR LOSS OF CONTENT FOR ANY REASON INCLUDING POWER OUTAGES, SYSTEM FAILURES, OR OTHER INTERRUPTIONS (SUBJECT TO OUR OBLIGATIONS UNDER THE APPLICABLE SERVICE LEVEL AGREEMENT), LOSS OF REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE. THIS LIMITATION WILL APPLY REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE FOREGOING LIMITATION MAY NOT APPLY.

7.21.2 Cap on Monetary Liability

SUPPLIER'S LIABILITY FOR ANY CLAIM UNDER THE AGREEMENT WILL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL FEES PAID OR PAYABLE TO SUPPLIER FOR THE CUSTOMER'S USE OF THE PARTICULAR CLOUD SERVICE GIVING RISE TO THE CLAIM IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. THE LIMITATION OF LIABILITY IN THIS SECTION 11.2 WILL NOT APPLY TO (i) SUPPLIER'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 10.2.1 OF THESE TERMS OF SERVICE OR (ii) ANY LIABILITY WHICH MAY NOT BE EXCLUDED BY LAW.

7.21.3 Further Limitations.

7.21.3.1 Supplier's Providers have no liability of any kind under the Agreement. The Customer may not bring a claim directly against any of them under the Agreement. Supplier's liability with respect to any Third-Party Content used or made available as part of a Cloud Service is subject to this Section 11.

7.21.3.2 The Customer may not bring a claim under the Agreement more than eighteen (18) months after the cause of action arises.

7.21.4 Injunctive Relief.

7.21.4.1 Nothing in the Terms of Service limits either party's ability to seek equitable relief.

7.22 Confidential Information

7.22.1 Protection.

7.22.1.1 The Parties may use Confidential Information of the other party (the "discloser") disclosed to it in connection with the Agreement solely to exercise its rights and perform its obligations under the Agreement or as otherwise permitted by the Agreement.

7.22.1.2 The Parties will each use reasonable care to protect that Confidential Information in the same manner as we each protect our own Confidential Information of a similar nature, but in any event with not less than reasonable care.

7.22.1.3 The recipient may disclose the discloser's Confidential Information only to the recipient's employees, or to third parties, who have a need to know the Confidential Information for purposes of the Agreement, and who are under a duty of confidentiality no less restrictive than as specified in this Section 12.

7.22.1.4 The recipient may also disclose the discloser's Confidential Information in accordance with the procedures set forth in Section 2.6 Required Disclosures.

7.22.2 Exceptions.

- 7.22.2.1 The recipient's obligations under Section 2.21.1 with respect to any of the discloser's Confidential Information will terminate if the recipient can show by written records that the information:
- a) was, at the time of disclosure by the discloser, already rightfully known to the recipient without any obligation of confidentiality;
 - b) was disclosed to the recipient by a third party who had the right to make the disclosure without any confidentiality restrictions;
 - c) at the time of disclosure is, or through no fault of the recipient has become, generally available to the public; or
 - d) was independently developed by the recipient without access to or use of the discloser's Confidential Information.

7.23 Glossary of Terms: Cloud Services Agreement

In these Terms of Service unless the context otherwise requires:

Term	Description
Agreement Term	The term during which Services may be defined and delivered
Cloud Service	An offering comprising one or more Services provided by the Supplier and/or Providers as defined within a Service Schedule or Customer Quotation and which are offered to the Customer by the Supplier.
Content	Means all content including but not limited to data, configuration information, services and scripts that is held within or part of the provisioning of the Cloud Service
Contract	Means an agreed Statement of Work or Service Framework Agreement between the Customer and Supplier for the provision of Services pursuant to these Terms of Service
Customer	Means the customer of the Cloud Service as per the Service Schedule, Customer Quotation or other agreement under which it has been supplied
Customer Content	Includes all customer-related information held or captured on the Cloud Service including but not limited to Customer Data, configuration information, user account information, permissions, services and applications
Customer Data	All Customer Data including Corporate, Personal, and Sensitive Personal Data
Customer Quotation	A quotation provided to the customer from which products or services may be procured
Framework Agreement	Means a signed Supplier Framework Agreement document under which these terms of this Service Schedule are agreed and delivered
Force Majeure Event	Means any event beyond the reasonable control of a party including acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction or any overriding emergency procedures, accident, fire, flood, storm and strikes or any industrial action by employees of any person other than the party relying on the Force Majeure Event
Group	Means any business or related business to either the Customer or Supplier
Intellectual Property	Means all patents, rights in a database, rights in a design, service marks, circuit lay out rights, rights in semi-conductor chip topography, trademarks, applications for any of the foregoing, copyright, design right, know-how, trade or business names, goodwill associated with the foregoing and any other similar rights or obligations whether or not registered or capable of registration in the UK or any other part of the world
Personal Data	Means Personal Data as defined under GDPR General Data Protection Regulation 2016/679
Provider	The ultimate provider of one or more components which comprise the Cloud Service offered by the Supplier
Provider Terms of Service	Means the applicable terms of service, contractual terms, licensing terms, end user licensing agreements and other such requirements as defined and published by the Provider for the use of a Service
Sensitive Personal Data	Means Sensitive Personal Data as defined under GDPR General Data Protection Regulation 2016/679
Service Term	Means the term for an individual Service delivered under this Service Schedule as defined in Section 3.3 Pricing
Services	Means the operational services, Subscriptions and/or licenses to be provided by Supplier and/or Provider(s) to the Customer as described under the applicable Service Schedule or Customer Quotation
Subscription	A license or right to use commonly associated with software and applications which may be hosted in cloud, third party or Customer environments and is subject to defined commitment, usage and payment terms as described under the applicable Service Schedule or Customer Quotation

Subsidiary Agreement(s)	A license or right to use commonly associated with software and applications which may be hosted in cloud, third party or Customer environments and is subject to defined commitment, usage and payment terms as described under the applicable Service Schedule or Customer Quotation
Supplier	Means Xtravirt Limited a company incorporated in England and Wales (registered no 05585938) whose registered office is at Riverbridge House, Guildford Rd, Fetcham, Leatherhead, KT22 9AD, operating on behalf of itself and its Affiliates and Providers in providing Cloud Services
Terms of Service	Means all sections of this document
The Parties	Means collectively the Customer and Supplier

7.24 Cloud Service - Provider Specific Terms: Amazon Web Service (AWS)

7.24.1 AWS Accounts

The Supplier shall create a dedicated AWS organisation account for each Customer for the delivery of the Services and ensure that this account is isolated from, and not shared with, other customers.

7.24.2 Third Party Software

Third party software managed by the Supplier on behalf of the Customer shall be deployed into an AWS account dedicated for the use of the Customer

7.24.3 Transfer of Account (from Supplier to Customer / new Supplier)

Where the Supplier owns the root account credentials for the Customer AWS environment, this may be requested to be transferred under the **terms of 2.17.1**. The Supplier will execute the Consent to Assignment process to transfer the root account to the Customer and/or Supplier as agreed.

7.24.4 Transfer of Account (from Customer / prior Supplier to Customer)

Where a Customer is transferring a root AWS account to the Supplier, the Supplier shall work with the Customer to ensure that the Consent to Assignment is completed. The Customer is responsible for arranging the completion of any actions that this process may require to be taken by a Customer's prior supplier

Where a Customer is transferring non-root AWS accounts to the Supplier, the Supplier will configure a management account and issue invites to the current organisation for the transfer to be initiated.