

Service Terms

The following standard Terms and Conditions are between Polarisoft The Anywhere Company Limited, incorporated and registered in England and Wales with company number 05710565 and registered office at The Record Hall, 16 Baldwin's Gardens, London, EC1N 7RJ ("TAC") and the Client and set forth the terms applicable to the use and provision of TAC products and services.

1. Definitions

- 1.1 **"Agreement"** means the contract between TAC and the Customer for the provision of the Services incorporating these Terms and Conditions and related Service Orders.
- 1.2 **"Applicable Law"** means all laws, rules and regulations.
- 1.3 **"Applicable Data Protection Law"** means all laws, rules and regulations which relate to the United Kingdom Data Protection Act 2018, any subordinate legislation passed under that Act and any other applicable data protection legislation.
- 1.4 **"Availability"** means access to the Platform Services as measured from TAC's monitoring software.
- 1.5 **"Bespoke Materials"** means bespoke materials developed by or on behalf of TAC specifically for the Customer and at the Customer's express direction.
- 1.6 **"Business Day"** means any day which is not a Saturday, Sunday or public holiday in England and Wales.
- 1.7 **"Confidential Information"** means any proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product or other business plans, products, operational information, services, customers, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information of either party and disclosed directly or indirectly by or on behalf of that party to the other party in any form or medium (material or otherwise), including without limitation in writing, orally or by drawings or inspection of parts or equipment.
- 1.8 **"Configuration"** means the supported adjustment or alteration of the Platform Services via a configuration user interface, workbench, or configuration file. Configuration does not include programming or writing of bespoke computer code.
- 1.9 **"Consultancy Services"** means the consultancy services as described in a Service Order, together with such ancillary services as may be necessary to or intrinsically linked with performance of the services so described.
- 1.10 **"Core Supplier"** means Amazon AWS, Microsoft or any similar suppliers in relation to providing the Platform Services.
- 1.11 **"Customer"** or **"Client"** means a customer as identified in a SO including any affiliate, associated or member of the customer's group of companies.
- 1.12 **"Customer Content"** means any data, software, files, configuration or information provided by the Customer in connection with the use of the Services together with data generated by the Customer as a result of the use of the Services.

- 1.13 **“Customisation”** means the programming and writing of bespoke software and/or alteration of the software delivered as part of the Platform Services.
- 1.14 **“Force Majeure Event”** means an act or event beyond the reasonable control of a party as more particularly described in clause 14.
- 1.15 **“Intellectual Property”** means any intellectual property rights, including without limitation any trademarks, service marks, trade names, trade secrets, algorithms, know-how, business names, logos, copyrights, database rights, design rights, patent rights, domain names, trade secrets and rights of confidence, in all cases whether or not registered or registerable in any country, for the full term of such rights including any extension to or renewal of the term of such rights and including registrations and applications for registration of any of these and rights to apply for the same and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world, and in each case all goodwill in or attaching to same.
- 1.16 **“Normal Business Hours”**: 9.00 am to 5.00 pm local UK time, each Business Day.
- 1.17 **“Outage”** means 2 sequential failed monitoring events within 5 minutes.
- 1.18 **“Personal Data”** means personal data as defined under Applicable Data Protection Law.
- 1.19 **“Platform Services”** means the provision of software as a service as described in Service Order together with such ancillary, as may be necessary to or intrinsically linked with performance of the services so described.
- 1.20 **“Response Times”** means the time until the first contact by TAC support in regard to a support case.
- 1.21 **“Services”** means all services provided by TAC to the Customer including Consultancy Services, Support and Platform Services.
- 1.22 **“Service Description”** means a description of the scope of a Service provided by TAC and attached to a Service Order.
- 1.23 **“Support”** means assistance by the TAC support team to trouble shoot and resolve issues identified in support cases.
- 1.24 **“Service Order”** or **“SO”** means the document(s) executed by the parties that describes Services which TAC agrees to perform for the Customer, the applicable fees, service term, and any payment milestones applicable thereto.
- 1.25 **“Terms and Conditions”** means the terms and conditions of supply of Services as set out in this document and any subsequent terms and conditions agreed in writing by TAC and the Customer.

2. Term

- 2.1 This Agreement shall, subject to termination in accordance with clause 13, commence on the date of this Agreement and continue in operation in accordance with any SO or until the parties agree otherwise in writing.

3. Fees and Payments

- 3.1 All fees and expenses payable by the Customer in connection with the provision of the Services will be in accordance with the Service Description for an agreed Service Order.

- 3.2 The Customer agrees to settle all payments for Services within thirty (30) days of the receipt of invoice.
- 3.3 The Customer will pay interest on all late payments at a rate of 4% per annum, calculated daily, above the base lending rate of The Bank of England.
- 3.4 Taxes, fees, expenses and disbursements are exclusive of any value added or other tax, which TAC may be required by local law to collect and the Customer will be liable for all such taxes.
- 3.5 The Customer will pay any recharged fees TAC incurs for usage of for any procurement, finance, or fulfilment software or platforms required by the Customer for TAC to provide the service.
- 3.6 In relation to Platform Services:
 - 3.6.1 TAC submits invoices in advance for the agreed period of the Platform Service which shall be payable by the Customer immediately on receipt.
 - 3.6.2 If this Agreement or an SO has been terminated early in relation to the Platform Service, the funds paid by the Customer under clause 3.6.1 are non-refundable unless TAC states otherwise, entirely in its sole discretion, in writing.
- 3.7 In relation to Consultancy Services:
 - 3.7.1 TAC submits interim invoices in arrears on a monthly basis and a final invoice on completion of the Consultancy Services. Each invoice will be accompanied by details of the work undertaken together where appropriate with copies of receipts for expenses.
 - 3.7.2 If this Agreement or an SO has been terminated early in relation to Consultancy Services, then TAC reserves the right to charge the client fees on a time and materials basis for any period of time that such Consultancy Services have been available but un-utilised.

4. Services and Delivery

- 4.1 The Services are as described in each Service Description.
- 4.2 Any material variation to the Services must be agreed by both TAC and the Customer in writing.
- 4.3 The Services shall be carried out at the place of work of TAC or the Customer.
- 4.4 Dates given for the delivery of Services are estimates only and not guaranteed.
- 4.5 TAC shall perform the Services with reasonable professional skill and care and to a reasonable standard and in accordance with recognised codes of practice.
- 4.6 TAC agrees to notify the Customer of any significant changes to key personnel performing the Services, subject to agreement and provision of persons with equivalent skills/experience.
- 4.7 TAC makes no warranty, express or implied, as to the Consultancy Services provided to the Customer.

- 4.8 TAC does not warrant that the software is error or bug free. It does agree that at its own cost it will fix and patch errors and bugs that form part of any software and have been notified to TAC within the first twelve (12) months of this Agreement.

5. Customer Obligations

- 5.1 The Customer will at its own cost provide such assistance to TAC from time to time as TAC may reasonably require in order to perform any of its obligations to which these Terms and Conditions relate from time to time.
- 5.2 The Customer may only use the Platform Services to store, retrieve, query, serve, and execute Customer Content that is owned, licensed or lawfully obtained by the Customer.
- 5.3 The Customer must comply with the current technical documentation applicable to the Platform Services. In addition, if the Customer creates technology or interfaces that works with the Platform Services, the Customer must comply with the current technical documentation applicable to the Platform Services provided to it by TAC.
- 5.4 The Customer will provide information or other materials related to Customer Content (including copies of any client-side applications) as reasonably requested by TAC to verify the Customer's compliance with the Agreement. TAC may monitor the external interfaces (e.g., ports) of Customer Content to verify the Customer's compliance with the Agreement. The Customer will not block or interfere with TAC's monitoring, but the Customer may use encryption technology or firewalls to help keep the Customer Content confidential. The Customer will reasonably cooperate with TAC to identify the source of any problem with the Platform Services that TAC reasonably believes may be attributable to Customer Content or any end user materials that the Customer controls.
- 5.5 The Customer shall not store, distribute or transmit any Virus, or any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities.
- 5.6 The Customer shall not:
- 5.6.1 attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of any software except to the extent expressly set out in this Agreement or as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the parties; or
 - 5.6.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software, except as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the parties; or
 - 5.6.3 access all or any part any software in order to build a product or service which competes with the Services; or
 - 5.6.4 use any software or Services to provide services to third parties; or
 - 5.6.5 transfer, temporarily or permanently, any of its rights under this Agreement; or
 - 5.6.6 attempt to obtain, or assist third parties in obtaining, access to any, other than as provided under this clause.

- 5.7 The Customer shall use reasonable endeavours to prevent any unauthorised access to, or use of any supplied software and notify TAC promptly of any such unauthorised access or use.

6. Additional Services

- 6.1 Additional services (including but not limited to creation of customised software) performed by TAC at the Customer's request that are not included in the Services will be chargeable at the applicable published service rates for the country where the service is performed.

7. Confidentiality

- 7.1 In connection with the performance of obligations under a SO (or otherwise as contemplated by the Agreement), each party may at any time, including without limitation prior to execution of the Agreement, receive Confidential Information from the other party.
- 7.2 TAC shall take reasonable steps to ensure that any third party to whom it has delegated work agrees to an appropriate confidentially undertaking (which, in any event, shall be in terms no less stringent than those set out in this Clause 9).
- 7.3 Each party shall use commercially reasonable efforts to safeguard Confidential Information of the other party and to prevent any unauthorised access, reproduction, disclosure, and/or use of any of such Confidential Information.
- 7.4 Each party may disclose Confidential Information only to those officers, directors, employees, agents and/or sub-contractors who need to know such information in order to carry out the Services in the associated SO or as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 7.5 Each party shall not copy or reproduce any of the Confidential Information of the other party, except as necessary to perform its obligations in connection with this Agreement, a SO (or otherwise as contemplated by the Agreement).
- 7.6 Each party shall promptly notify the other party in writing of any unauthorised use, access to or disclosure of Confidential Information of the said other party.
- 7.7 Each party shall promptly, on termination of a SO to which these Terms and Conditions apply, return to the other party (or destroy, if so requested) any Confidential Information of the other party disclosed for the purposes of or in connection with the SO concerned.
- 7.8 TAC shall have the right to identify the Customer as a relationship partner in promotional and marketing literature (material and otherwise) and on its website, both during the term of the relationship between the parties and thereafter for so long as the Customer remains a customer. The Customer shall have the right to make requests in writing regarding how such identification is to be effected from time to time and TAC shall be obliged to take into consideration any such request but shall not be obliged to comply with same.
- 7.9 The parties acknowledge that damages may not be an appropriate remedy for a breach of this clause and the affected party may require an injunction or similar remedy to enforce the terms of this Agreement.

8. Customer Content

- 8.1 The Customer shall own all rights, title and interest in and to all of the Customer Content that is not Personal Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of such Customer Content.

- 8.2 In the event of any loss or damage to Customer Content, the Customer's sole and exclusive remedy against TAC shall be for TAC to use reasonable commercial endeavours to restore the lost or damaged Customer Content from the latest back-up of such Customer Content maintained by TAC. TAC shall not be responsible for any loss, destruction, alteration or disclosure of Customer Content caused by any third party (except those third parties sub-contracted by TAC to perform services related to Customer Content).
- 8.3 Both parties will comply with all applicable requirements of the Applicable Data Protection Law.
- 8.4 The parties acknowledge that for the purposes of the Applicable Data Protection Law, the Customer is the data controller and TAC is the data processor (where Personal Data, Data Controller and Data Processor have the meanings as defined in the Applicable Data Protection Law).
- 8.5 The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to TAC for the duration and purposes of this Agreement.
- 8.6 TAC shall, in relation to any Personal Data processed in connection with the performance by TAC of its obligations under this Agreement:
- 8.6.1 process that Personal Data only on the written instructions of the Customer unless TAC is required by Applicable Data Protection Law. Where TAC is relying on Applicable Data Protection Law as the basis for processing Personal Data, TAC shall promptly notify the Customer of this before performing the processing required by the Applicable Data Protection Law unless prohibit by law;
 - 8.6.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - 8.6.3 not transfer any Personal Data outside of the European Economic Area and the United Kingdom unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - i) the Customer or TAC has provided appropriate safeguards in relation to the transfer;
 - ii) the data subject has enforceable rights and effective legal remedies;
 - iii) TAC complies with its obligations under the Applicable Data Protection Law by providing an adequate level of protection to any Personal Data that is transferred; and
 - iv) TAC complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

- 8.6.4 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Applicable Data Protection Law with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 8.6.5 notify the Customer without undue delay on becoming aware of a Personal Data breach;
 - 8.6.6 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by Applicable Data Protection Law to store the Personal Data; and
 - 8.6.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 10 and allow for audits by the Customer or the Customer's designated auditor.
- 8.7 The Customer consents to TAC appointing a Core Supplier as a third-party processor of Personal Data under this Agreement. TAC confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Customer and TAC, TAC shall remain fully liable for all acts or omissions of any third-party processor appointed by it.
- 8.8 Either party may, at any time on not less than 30 days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement).

9. Licencing and Ownership

- 9.1 TAC hereby grants to the Customer on and subject to the terms and conditions of this Agreement a non-exclusive, non-transferable licence to allow its authorised employees to access to Platform Services and to use the software solely for the Customer's business purposes.
- 9.2 Each party will retain all rights in and to all materials developed by or on behalf of such party prior to the date of the Agreement.
- 9.3 Contingent upon full payment being made by Customer to TAC as contemplated by this Agreement and unless and to the extent set out otherwise in any SO, all rights in Bespoke Materials shall vest in the Customer and TAC shall retain all rights in any materials developed by or on behalf of TAC during the term of the Agreement other than Bespoke Materials (including without limitation materials of a general or generic nature).
- 9.4 The Customer hereby grants to TAC a perpetual, royalty-free, worldwide licence to use the Bespoke Materials for its internal business purposes. TAC agrees that it shall not disclose to any third party, save to its agents and sub-contractors from time to time on a need to know basis and subject to appropriate confidentiality obligations details of any Bespoke Materials which may reasonably be considered to constitute commercially sensitive information.
- 9.5 In connection with delivering the Platform Services, TAC will be required to license products and obtain services from Core Suppliers and 3rd Parties. TAC shall license these products and obtain these services at its own cost and remain in compliance with the license and supply terms from those Core Suppliers and 3rd Parties. TAC will notify and consult with the Customer in the event of change in license or supply terms that impacts the Platform Services.

- 9.6 To the extent that warranties and other commitments are provided by Core Suppliers and 3rd Parties to TAC, it will act reasonably in enforcing the same and pass on the benefit of such warranties to the Customer to the extent that it is able.

10. Change Control

- 10.1 The Customer and TAC will meet as required to discuss matters relating to this Agreement. If either party wishes to change the scope of the Services it shall submit details of the requested change to the other in writing and agree any changes to a SO or a new SO as required.
- 10.2 If either party requests a change to the scope or execution of the Services, TAC shall, within a reasonable time, provide a written estimate to the Customer of:
- 10.2.1 the likely time required to implement the change;
 - 10.2.2 any variations to the Fees arising from the change;
 - 10.2.3 the likely effect of the change on an SO; and
 - 10.2.4 any other impact of the change on the terms of this Agreement.
- 10.3 If TAC requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it.
- 10.4 If the Customer wishes TAC to proceed with the change, TAC has no obligation to do so unless and until the parties have agreed in writing the necessary variations to its charges, the relevant SO and any other relevant terms of this Agreement to take account of the change.

11. Limitation of Liability

- 11.1 This clause 11 sets out the entire financial liability of the parties for acts and omissions of its employees, agents and sub-contractors under this Agreement subject to any amending agreement or SO:
- 11.1.1 arising under or in connection with this Agreement;
 - 11.1.2 in respect of any use made by the Customer of the Services, or any part of them; and
 - 11.1.3 in respect of any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 11.2 Subject to clause 11.4, each party will not be liable to the other whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss costs, damages, charges or expenses however arising under this Agreement.
- 11.3 TAC's total aggregate liability in contract (including in respect of the indemnity at clause 12, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to a maximum of all charges

paid for the Services by the Client in the previous 12 month period preceding the date on which the claim arose.

- 11.4 Neither party limits its liability hereunder to any person for any death or personal injury, fraud or fraudulent misrepresentation.
- 11.5 Where the Services have not been performed in accordance with this Agreement, TAC may (at its election) compensate the Customer by repeating the relevant Services as an exclusive remedy in relation to loss suffered by the Customer and this clause states TAC's entire liability for the particular Services.

12. Indemnity

- 12.1 Each party agrees to defend, indemnify and hold harmless the other party in connection with any action, proceeding, claim, loss, liability, damage, judgement, cost or expense (including without limitation reasonable legal costs and expenses) which the other party may suffer as a result of any claim or allegation that its use of the first-named party's Intellectual Property in connection with the use or receipt of the Services infringes the intellectual property or other proprietary rights of any other person.

13. Termination

- 13.1 Either party may terminate this Agreement or any SO (subject to the SO providing otherwise) without cause on thirty (30) business days' written notice to the other party, provided that each party shall remain obliged to perform its obligations in relation to any SO outstanding in whole or part as at the termination date (save as and to the extent in each case the parties may agree otherwise in writing). Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
 - 13.1.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - 13.1.2 the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 13.1.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
 - 13.1.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 13.1.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- 13.1.6 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company);
- 13.1.7 the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 13.1.8 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 13.1.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- 13.1.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.1.3 to clause 13.1.9 (inclusive);
- 13.1.11 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

13.2 On termination of this Agreement for any reason:

- 13.2.1 fees for Platform Services or fixed-price Consultancy Services in any Service Order become immediately due, including future term fees;
- 13.2.2 time and materials Consultancy Services will cease to be delivered, and work to date will be invoiced;
- 13.2.3 all licences granted under this Agreement shall immediately terminate;
- 13.2.4 each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;
 - (a) TAC may destroy or otherwise dispose of any of the Customer Content in its possession unless TAC receives, no later than ten days after the effective date of the termination of this Agreement, a written request, for the delivery to the Customer of the then most recent back-up of the Customer Content. TAC shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by TAC in returning or disposing of Customer Content; and
- 13.2.5 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

14. Force Majeure

- 14.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, including, without limitation,

strikes, lock-outs or other industrial disputes (whether involving the workforce of TAC (or its Core Suppliers or any other party), failure of a utility service or transport or telecommunications network or the internet, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

- 14.2 In the above circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for six months, the party not affected may terminate this Agreement by giving 30 days' written notice to the other party.

15. Non Solicitation

- 15.1 The Customer agrees not to solicit, or make offers of employment to, or enter into consultant relationships with, any TAC employee involved, directly or indirectly, for one (1) year after the expiry of this Agreement without the prior written consent of TAC.

16. Notice

- 16.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by recorded delivery post to the other party at its address set out at the front of this Agreement, or such other address as may have been notified by that party for such purposes.
- 16.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

17. Assignment

- 17.1 The Customer shall not, without the prior written consent of TAC, assign, transfer, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 17.2 TAC may at any time assign, transfer, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under this Agreement.

18. No partnership or agency

- 18.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

19. General

- 19.1 This Agreement for the supply of Services by TAC to the Customer and shall supersede any other similar documentation or communication between parties. In the event of any inconsistency between the terms of document the hierarch of documents shall be:

19.1.1 the SO;

19.1.2 these Terms and Conditions; and

- 19.1.3 any policy or supplemental document to the above.
- 19.2 Any variation to these Terms and Conditions must be agreed in writing by both parties.
- 19.3 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 19.4 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 19.5 This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 19.6 If a court of competent jurisdiction holds any provision of this Agreement to be invalid, such invalidity shall not affect the validity of the remaining provisions of this Agreement, and the parties shall promptly agree to such revised form of the provision concerned as achieves so far as valid the same or similar effect.
- 19.7 This Agreement shall be governed by and interpreted in accordance with the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English courts.

Schedule 1: The Anywhere Platform SaaS Service

The Anywhere Platform SaaS Service("Platform Services") enables access to The Anywhere Companies software as a service platform.

Scope of Services

The Platform Services are provide as a cloud hosted software solution, client support, and multi-level subscription access. The following deliverables are provided as part of the service.

- PPMAnywhere software cloud environments include all related infrastructure and related systems monitoring and management software.
- Each customer is provisioned with a Production and Sandpit environment.
- User Access Subscription model that allows multiple levels of access: Administrator, Advanced, Team, and View and Approve.
- Content Subscription model that allows for configuration templates to be added to the customer environment to provide a starting point.
- Access to the support portal to raise request for service, identify defects, and request platform enhancements. Access to the Support Portal is provided 24/7 365. Telephone support is provided during UK Normal Business Hours.
- Access to the training portal for end users and administers to take on-line courses on how to use the platform and configure it. Some training courses require training credits at additional cost.
- Additional environments and subscriptions can be obtained at additional cost.

User Subscription Type and Functionality

The Platform Services are provided using a subscription model. Each end user requires an access subscription and one or more content subscriptions.

Access Subscriptions

Access Subscriptions are incremental, each containing the capabilities of the subscriptions listed below it in the table as well as the functionality described.

Type	Details
Administrator	Provides access for an administrator to configure the solution on an ongoing basis. Additional certification is required for configuration features to be unlocked.
Advanced User	Covers the ability to own, manage, author and analyse information throughout a content template. This typically covers items like KPIs, Business Objectives, Risks, Policies, Portfolio, Project, Programmes, Financials, and Resource Management. This coverage is intended for managers who need full function access including generation of reports and dashboards.
Team Member	Provides collaboration functions for your team. This includes participating in processes, workflow, notes, comments, tasks, document management, and creating individual dashboards. Includes timesheet functions.
View & Approve	Covers the ability to view role-based dashboards and reports for visibility into business trends, status, and deliverables to help execute decisions quickly. Approve form and workflow steps to record key business decisions. View and Approve subscriptions are purchased in quantities of 50.
Portal Access	Allows users to initiate common business process via portal and interact with the processes they have initiated. This is commonly used for creating ideas in a front door pipeline or initiation of service requests.

Content Subscriptions

Each content subscription provides access to templates and pre-configured content to support a specific business usage. The alignment of content subscription features and access subscriptions is detailed in the Subscription Functionality Matrix. Content subscription are charged on a per 50 user basis. It is subject to change periodically with both additions and minor adjustments to access levels.

Flex Usage

Clients may allocate subscriptions beyond the quantities they purchased in a Service Order at additional cost(Flex Usage). Flex Usage is calculated as the maximum allocated subscriptions for any given day in a calendar month less the purchased quantity. Flex Usage for Access Subscriptions is charged per user at 1/12 the list price per month; if the Flex Usage pushes total users beyond the purchased usage band for a Content Subscription or View & Approved pack the Client is charged for 1/12 of the delta between the

current purchased band and the list price of the new band per month. For longer term usage, it may be more cost effective for the client to take on additional remaining term subscriptions.

Additional Remaining Term Subscriptions

Clients may add up to a 10% additional quantity of users subscriptions co-terminating with the end of their contract term for additional cost. When purchasing additional subscriptions they will be pro-rated by day for the remainder of the current service term. If the additional subscriptions pushes total users beyond the purchased per 50 user band for a Content Subscription or View & Approved the client will be charged the delta between the current band and the required level. If the Client would like to add more than 10% quantity it may be advantageous to discuss a cut and rewrite of the Service Order for a longer term.

Subscription Management

Client system administrators are responsible for managing the allocation of subscriptions to individual users. Each user who is in the system requires an account with a valid email. End users are able to manage much of their own accounts, but not their subscriptions, these are managed centrally. Only active users count towards Subscription and Flex Usage calculations.

Automatic Renewal

The Client must provide at least 30 notice prior to the end of their Service Term of their intention not to renew their services. Should the Client fail to provide notice, the Services automatically renew for a 1 year term at the list price.

Annual Cost Increase

List rates for subscriptions increase annually on the 1st of January in line with the Bank of England inflation rate for the previous year. Any reference to list pricing should take into account this adjustment.

Scope of Support

PPMAnywhere Support covers development and production issues for Platform Services, along with other key environment stack components.

- "How to" questions about the platform and features
- Best practices to successfully integrate, deploy and manage a configuration
- Resolution of Platform Service operational and performance issues
- Troubleshooting operational or systemic problems with TAC staff
- Problems detected by TAC health checks

Support does not include:

- Code development or Configuration of the Platform Software
- Customised software created by either TAC or the Customer
- Administration tasks (i.e. maintenance of Users)
- Altering your content

From the Support Portal you can:

- Open a case online with Support, via email (web support), or phone
- Send us further information, by adding additional correspondence to your existing case
- Check on the status of your open cases
- Track any telephone or online correspondence between yourself and our Support team

Named Support Contacts

We encourage you to restrict submission of support cases to a select group of individuals within your organisation; this allows communication between TAC and your team to be controlled.

Response Times

Our first-contact response times are based on your chosen severity level for each case. We're committed to providing a response within the timeframes shown in the table below.

Severity Level	Definition	Response Time	Target Resolution Time*
Critical	Application is unavailable or unresponsive	30 minutes	1 hour
Urgent	Application is available, but normal business usage is unachievable.	1 hour	4 hours
High	Impacts normal business usage but work around exists.	4 hours	24 hours
Normal	Not working as expected but has only minor impact on normal business usage.	12 hours	As agreed and prioritised
Low	Not working as expected but has no impact on current usage.	24 Hours	As agreed and prioritised

*Target resolution times are guidelines only. The customer can review progress via the Customer Support portal. For Critical cases TAC will update Customer on an hourly basis by phone or email. If no progress has been made on a "Critical" or "Urgent" incident within the Target Resolution Time, the incident shall be automatically escalated to the management of TAC.

Resolved Cases

Once we've responded to your case, we'll work with you to identify and resolve your problem quickly and efficiently. We consider cases resolved if:

1. Your problem is fixed.
2. The source of the problem lies within third party software. (In which case, we'll continue to work with the third party on resolution, if required.)
3. You don't respond to a query or request from us for five (5) consecutive working days.

For recurring issues, you may choose to re-open the case later.

Management Business Reviews

Your Client Success Manager will be responsible for helping evaluate your infrastructure performance. The Account Manager will conduct regular performance reviews, participate in requested meetings, and collaborate on new launches to ensure readiness. On a monthly basis, they will provide a report to detail Customer usage, up-time, maintenance and changes requested.

Monitoring and Uptime

All Platform Services are provided using high availability infrastructure and are constantly monitored digitally.

- TAC provides the Customer access to the Platform Services on a twenty-four hour, seven days a week (24x7) basis at an Availability rate of 99.9%.
- Up time of the Platform Services is measured using monitoring software.
- Availability is calculated on a quarterly basis and reported to the Customer by TAC.
- TAC excludes from up time calculations, unavailability:
 - caused by overall internet congestion, slowdown or unavailability;
 - caused by unavailability of generic internet services (e.g. DNS Servers) due to virus or hacker attacks, etc;
 - caused by any Force Majeure Event;
 - that resulted from actions or inactions of Customer;
 - from scheduled or requested Maintenance.

Maintenance

The following guidelines for maintenance are used:

- TAC periodically provides updates to the Platform Services. Maintenance includes all regularly scheduled error corrections, software updates and improvements to features described in any SO.
- Routine, planned maintenance of the hosting equipment, facility, software or other aspects of the hosting Services that may require interruption of the Platform Services.
- Except for any emergency maintenance, maintenance events will not be performed during

Normal Business Hours.

- Any maintenance events which occur during Normal Business Hours, and which were not requested or caused by the Customer, shall be considered downtime for the purpose of service availability measurement. TAC shall at all times endeavour to keep any service interruptions to a minimum.
- TAC provides the Platform Services as a single and consistent version to all customers; application of patches and upgrades are mandatory.
- TAC will provide the customer notice at least ten (10) days prior to the application of a patch or upgrade.
- As patches become available customers are notified of a final date to which their environment will be upgraded. Customers may request an available upgrade to be applied earlier than the final date.
- Patches to the Platform Services may provide additional features to which the customer may need to purchase a Subscription to use or access.
- Patches will be deployed using a structured process starting with non-production environments prior to being applied to a production environment.
- Customer is responsible for conducting user acceptance testing on any patch before it is applied to production.
- The sole resolution for some technical support issues may be to patch or hotfix the Platform Services.
- Where TAC has provided bespoke Customisation of software in additional to the Platform Services then unless otherwise specified in a SO this will not be maintained.
- Where the Customer has created their own Customisation to any software this will not be maintained.

Configuration & Acceptance

TAC will provide Platform Services and its Configuration as set out in any related SO using the following process:

- Configuration of Platform Services will be configured in a non-production environment and made available for the client to validate.
- Post validation as agreed by the customer, TAC will promote the Configuration to the production environment.
- The Configuration of the Platform Services promoted to the production environment as agreed by the Customer is deemed as accepted by the Customer.
- Any Configuration on behalf of the client is warranted to be compatible with the version of Platform Services available at the time of the acceptance.
- TAC endeavors to maintain configuration capabilities over long periods of time, however as the platform is developed new capabilities are released, and some are retired. Therefore no warranty, is given that a Configuration will continue to be compatible with later versions of Platform Services and in certain cases the Customer accepts that the only practical method of fixing a previously accepted Configuration be an updated Configuration at the Clients cost.

Technical Compliance

TAC will provide Clients with documentation demonstrating compliance with statutory and non-statutory governance frameworks like ISO27001, and Data Protection frameworks. Should the Client require assistance in production or compilation of additional documentation to meet their internal compliance requirements, TAC can provide that support under consultancy rates.

Benchmarking

TAC provides benchmarking data within its Platform Services that allow for organisations to plan and compare performance against industry metrics and averages.

1. TAC provides benchmarking data based on anonymised summary meta data. TAC does not track exactly which organisations meta data has been used in the creation of the benchmark and makes no representations on the applicability of the benchmark for the Client.
2. The Client grants TAC the right to use its data to create meta data in anonymised aggregate form for the purposes of benchmarking, product optimisation, marketing, and sharing usage trend information with TAC customers and prospects.

Education Services

The Platform Services provide access to education materials, trainings and additional services. Most of these services are provided via the online Training Portal.

- The educational materials cover both industry practice and platform usage in various format including documentation, video training, quizzes, assessments, and interactive training exercise.
- TAC endeavors to maintain educational materials to reflect changes and improvements in the current patches and releases of platform, however does not warrant training material accuracy or completeness.
- Some training are provided cost free, and some training materials and courses are provided through our training credit system. Credits need to be purchased, but can be transferred between any individual within the Client. Once a credit has been spent, it cannot be used again.
- Clients are responsible to designate a training administrator, who will allocate training credits when requested by their end users. Requests that have not be rejected by a training administrator will be automatically applied to that end user after 7 days.
- The Training Portal can optionally be used by the Client to host bespoke trainings created by the Client.
 - Though there is currently no limit, TAC reserves the right to put limitations on size or volume of trainings hosted on the platform in the future.
 - The Training Portal uses a content delivery network(CDN) for uploaded training videos. Should the customer use this function to host their Bespoke Materials or Customer owned IP. The CDN replicates the storage of those files into geographies outside of the agreed storage geography. The Customer agrees to indemnify TAC for the Customer's use of these features with respect to data protection law.

Schedule 2: UK Consultancy Services

Time and materials Consultancy Services ("T&M Consulting") are people based professional services provided to the Client by the TAC consulting team.

Scope of Services

Consultancy Services are provided on time and materials bases at the direction of the Client. The following guidelines are used in delivering consultancy services.

- Prior to beginning any billable work the Client and a representative TAC Professional Services team will meet to agree the scope and deliverable to be done by TAC Consultants. This scope should be documented and agreed by both parties.
- At the end of each week the TAC Consultant responsible for the work being performed for the Client will provide the Client with a Status Report detailing time and fees incurred during that week.
- Any document that details the scope of work to be done by TAC is meant to convey a common understanding of the work to be done. Timelines and effort estimates provided by TAC Consultants are based on the information we have at the time of estimation. They are estimates only, the end effort may be more or less than the original estimate.
- The minimum increment for T&M Consulting is 1 day.
- Billing for T&M Consulting is in arrears, the Client is billed for work actually delivered, regardless if the days estimated on any document or Service Order is more or less than those actually delivered.
- T&M Consulting is provided both on and off-site from the Client and TAC premises.
- Unless otherwise agreed in writing, TAC uses block booking for consultants to work on Clients in continuous working days. If the client changes timelines or moves meetings that impact the block booking, the Client is responsible to pay for all of the days between the original end of the block booking and the new.
- As TAC Consultants work at the direction of the Client, if the Client instructs the TAC Consultant to work on items not identified in an estimate, proposal, Service Order or other document that conveys understanding of scope, the Client is still responsible for paying for the Consultants time, and it may require additional days to complete the original scope.
- TAC will try to provide the Client with consultants of the appropriate grade to provide a quality deliverable and experience to the customer. In the event the Client requests a specific consultant or TAC does not have the appropriate grade available at the time requested, a consultant of another grade may be substituted with agreement of the Client.
- TAC Consultants will always be billed to the Client at their grade, even when doing work originally estimated for another grade.

- Unless otherwise agreed in a Service Order, travel to and from a Client Premises that is outside of the M25 is billable to the customer.

Published Consulting Day Rates for the UK

For all work performed outside of otherwise agreed rates the following rate card will be used.

Role/Grade	Standard Day Rate
Principal Consultant	£1,700
Solution Architect	£1,425
Senior Consultant	£1,250
Technical Consultant	£1,100
Analyst	£750

Schedule 3: Managed Services

Managed Service ("Managed Services") are people based professional services provided to the Client by the TAC managed services team.

Scope of Services

Managed Services are provided both automatically and on-demand at the request of the Client. Services are provided through a combination of on-site and off-site support. The scope of each services is defined in the following table.

Service	Scope
Business Support	This is an enhancement to the standard platform support. It provides built-in facilities for not only named representatives but all end users to raise usage specific questions: Helps end users improve maturity and data quality by providing them with 'how to' support and assisting them in overcoming specific challenges they have. Business support channels are phone, email, and via the Support Portal.
Compliance and QA	Chasing Data: Our PMO analysts will chase project status reports and timesheets on a weekly basis, to ensure you have the highest quality and accurate project, programme, portfolio and financial data available for your reports. Quality Assurance of Data: Our analysts quality assure the information provided by your project managers and identify missing or incorrect information. Provides independent validation of your data.
Data Administration	TAC team to provide support for the management of new, change and leaving users of the PPMAnywhere system.
Training Service	Scheduled On-Site or remote Training: Classroom training provided by experienced consultants using real world examples, reinforced by practical hands-on exercises. Designed to fast-track your learning and provide relevant business context.
Changes & Enhancements Programme – Monthly	Changes and Enhancements Programme – Keeping the platform configuration in line with its evolving business needs is vital in maximising business value. Monthly release are focused on Minor Changes and governed by a rigid estimating and points based prioritisation process.
Changes & Enhancements Programme – Quarterly	Changes and Enhancements Programme – Similar to the monthly service, but intended for organisation with a higher volume or more complex technical need. It is also governed by a rigid estimating and points based prioritisation process, but with a higher points capacity.
Full Managed Technical Service	This service bundles Business Support, Data Administration, Monthly and Quarterly Changes and Enhancements.

- **TAC Service Manager** - Each Client will be designated a TAC staff member as their Service Manager. The Service Manager is the single point to organise the provision and delivery of Managed Services.
- **On-Demand Services** – Business Support, Data Administration and Training Services are provided on demand based and initiated through our online service portal.
- **Automatic Services** – Compliance, Monthly and Quarterly Changes & Enhancements are provided on a fixed schedule. Automatic Services are provided on a use-it-or-loose-it basis. The Client must submit changes and provide required feedback before cut-off dates for a given cycle to receive the service. No credits or refunds are given for Managed Services not rendered.
- **Fixed Process & Timelines** - Managed services delivered by TAC to the Client are provided at a substantial discount compared to Consulting Services. In order to provide those services both TAC and the Client must act timely, follow the digitised processes provided and keep their activities to the scope and type of services provided.
- **Changes and Enhancements**
 - **Request** – All requests for changes and enhancements must be submitted via the online portal.
 - **Estimations** – The TAC Service Manager will work with internal subject matter experts to assess each request and assign a scoring based on complexity to deliver. This complexity may include both technical and non-technical complexity. Estimates cover analysis, design, configuration, data load, testing, Client validation and business changes support.
 - **Releases** – Monthly and Quarterly Services are provided as Releases for the respective timeframe. A Release is a collection of changes and enhancements to be delivered in its respective timeframe.
 - **Volume** – Release will be given a max capacity, Max capacity will be listed in the Service Order.
 - **Prioritisation** – Each Release will be given a fixed date prioritisation meeting (ie, first week of the month or quarter) to be arranged by the TAC Service Manager with the Client to prioritise changes and enhancements. The client can request changes for that month or quarter based on the sum of the estimation scores up to the max capacity for the release. If the Client wants to exceed the max capacity for a given cycle, it may be arranged through their service manager at additional cost.
 - **Feedback** – Most changes will require input from the Client to complete, a final feedback date for each cycle of changes will be provided to the Client by the TAC Service Manager. If the Client fails to provide the feedback before the final feedback date, the change or enhancement will be removed from the release.
- **Roadmap** – The TAC Service Manager will define a roadmap with the Client of changes and enhancements that would help meet their on-going needs. This will provide a backlog of items to deliver if the Client is waiting on internal feedback

Lightning PMO Services

Lightning PMO Service ("LPMO Services") bundles access to The Anywhere Company software as a service platform, the PPMAnywhere Content Subscription, and people-based services to support a Client's PMO.

Scope of Services

The LPMO Services are provided both automatically and on-demand at the request of the Client. Services are provided through a combination of on-site and off-site support. The following deliverables are provided as part of the service.

Service	Scope
TAC Service Manager	As defined for all Managed Services.
The Anywhere Platform	Access to The Anywhere Platform is provided for the number of users defined in the Service Order. The Platform is pre-loaded with the PPMAnywhere Content Subscription.
Managed Services	Business Support, Compliance and QA, Data Administration, Changes & Enhancements Programme – Monthly, Changes & Enhancements Programme – Quarterly
On-site Support	As agreed between the Client and the TAC Service Manager, some services will be provided on-site. This is typically between 1 and 3 days per month. Disbursement for travel and expenses are not included in the LPMO subscription cost, and are invoiced quarterly and payable by the Client.

Schedule 4: Client Reference Programme

The Anywhere Company Client Reference Programme("Reference Programme") provides a framework for The Anywhere Company to work with Clients to promote shared innovation and best practice to enhance the reputations of both organisations and the individuals involved.

Scope of Services

The Reference Programme provides the Client and The Anywhere Company with opportunities to celebrate shared success. By featuring the Client's innovative approach to removing barriers to business success we are able to promote both their organisation and TAC. By participating in the Reference Programme the client agrees to participate at TACs request as follows.

- **Case Study** – Together TAC and the Client will create a case study document to be used for marketing and training purposes that highlights the Client's success in usage of TAP.
- **Reference Calls** – On occasion, TAC may ask the client to participate in a reference call with a prospective clients. The Client agrees to participate up to 12 time per year.
- **Speaking Events** – Opportunities for the client to speak individually or jointly with TAC about their experiences will periodically be available. The Client agrees to participate up to 4 times per year.
- **Roundtables and Forums** – Attendance and participation in roundtables and forums help Clients interact with their peers.
- **Press Release** – If requested by TAC the Client agrees to issuing a joint press release about their experience with TAP. The Client will have editorial direction into the release.
- **Website and Social Media** – The Client grants TAC the right to identify them as a customer and use their logo on the website and other marketing materials.
- **Discount** - The Anywhere Company provides a substantial discount to organisations participating in the reference programme, should the Client become unable or unwilling to fulfill their obligations under the Reference Programme, the Client agrees to pay TAC the amount of the discount they received.