# YETI Hosting Subscription Contract

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| Customer | XXXXXX |
| Customer Contact | XXXXX |
| ISO 27001 Security Classification | Restricted – Named Third Party |



# YETI Hosting Subscription Contract

## Effective Date: TBC

## Parties:

1 **COGNISOFT LIMITED** (registered number 01870101) whose registered office is at 9 Corbets Tey Road, Upminster, Essex, United Kingdom, RM14 2AP. (hereinafter referred to as "CogniSoft") and

2 **XXX** (registered number xxx) whose registered address/ principle office is at [ADDRESS] (hereinafter referred to as (the "Licensee")

being each a "Party" and collectively the "Parties".

## CogniSoft Terms of Use

By signing this document, you agree to the following terms and conditions (this "Agreement") governing your use of CogniSoft's online service, including offline components (collectively, the "Service"). If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to into the same, in which case the terms "you" or "your" shall refer to such entity.

## Welcome

As part of the Service, CogniSoft will provide you with use of the Service, including a browser interface and data encryption, transmission, access and storage. Your registration for, or use of, the Service shall be deemed to be your agreement to abide by this Agreement including any materials available on the CogniSoft website incorporated by reference herein, including but not limited to CogniSoft's privacy and security policies. For reference, a Definitions section is included at the end of this Agreement along with our contact details for any clarifications.

The Service relates to the YETI software.

## 1. Privacy & Security; Disclosure

CogniSoft reserves the right to modify its privacy and security policies in its reasonable discretion from time to time. Note that because the Service is a hosted, online application, CogniSoft occasionally may need to notify all users of the Service (whether or not they have opted out of email notifications) of important announcements regarding the operation of the Service. As a paying customer of the Service, you agree that CogniSoft can disclose the fact that you are a paying customer and the edition of the Service that you are using.

## 2. Licence Grant & Restrictions

CogniSoft hereby grants to the Licensee and its Sub Contractors as named in Schedule 3, a non-exclusive non-transferable, worldwide right licence to use the Service solely for your own internal business purposes, subject to the terms and conditions of this Agreement and licensing conditions

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outlined in the Service Level Agreement. All rights not expressly granted to you are reserved by CogniSoft and its licensors.

CogniSoft hereby grants to the Licensee the right to purchase from it (and if so purchased, shall grant to the Licensee immediately) the right to grant additional sub-licences of the licence in respect of the Licence to use the Service at the CogniSoft published price list at the time of purchase.

You may not access the Service if you are a direct competitor of CogniSoft, except with CogniSoft's prior written consent. In addition, you may not access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

You shall not:-

(i) licence, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way;

(ii) modify or make derivative works based upon the Service or the Content;

(iii) create Internet "links" to the Service or "frame" or "mirror" any Content on any other server or wireless or Internet-based device; or

(iv) reverse engineer or access the Service in order to:-

  (a) build a competitive product or service,

  (b) build a product using similar ideas, features, functions or graphics of the Service, or

  (c) copy any ideas, features, functions or graphics of the Service.

You may use the Service only for your internal business purposes and shall not:-

(i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws;

(ii) send or store infringing, obscene, threatening, libellous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights;

(iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;

(iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or

(v) attempt to gain unauthorised access to the Service or its related systems or networks.

Should you have been granted any existing rights to the Software, contained in an agreement that precedes and outlives this Agreement (perpetual licences), the licensing conditions granted herein, will take precedence for the Licence Term under this Agreement. Upon termination of this Agreement, the Licensee will retain its perpetual licences and revert to its existing perpetual licensing terms where these are still valid. Where the prior agreement is no longer valid due to a substantive change in either the entities or products covered, upon termination of this Agreement the Customers will revert to the most recent, relevant perpetual licensing agreement and will need to agree to those terms to retain its perpetual licensing rights.

## 3. Your Responsibilities

You are responsible for all activity occurring under your User accounts and shall abide by all applicable local, national and foreign laws, treaties and regulations in connection with your use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. Your attention is drawn in particular to Schedule 1 – GDPR.

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You will:

(i) notify CogniSoft immediately of any unauthorised use of any password or account or any other known or suspected breach of security;

(ii) report to CogniSoft immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by you or your Users; and

(iii) not impersonate another Service user or provide false identity information to gain access to or use the Service.

## 4. Account Information and Data

CogniSoft does not own any data, information or material that you submit to the Service in the course of using the Service ("Customer Data"). You, not CogniSoft, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and CogniSoft shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data. In the event this Agreement is terminated, CogniSoft will make available to you a file of the Customer Data within thirty (30) days of termination if you so request at the time of termination, subject to additional charge. CogniSoft reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, your non-payment. Upon termination for cause, your right to access or use Customer Data immediately ceases, and CogniSoft shall have no obligation to maintain any Customer Data.

The Customer shall have sole responsibility for creating and maintaining user accounts within the software.

All Customer Data is held within Data Centres the UK and CogniSoft can confirm that no Customer Data will be stored outside of the UK.

## 5. Intellectual Property Ownership

CogniSoft alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the CogniSoft Technology, the Content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Service. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Service, the CogniSoft Technology or the Intellectual Property Rights owned by CogniSoft. The CogniSoft name, the CogniSoft logo, and the product names and logos associated with the Service are trademarks of CogniSoft or third parties, and no right or licence is granted to use them.

## 6. Third Party Interactions

During use of the Service, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of advertisers or sponsors showing their goods and/or services through the Service. Any such activity, and any terms, conditions, warranties or representations associated with such activity are solely between you and the applicable third party. CogniSoft and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion between you and any such third party. CogniSoft does not endorse any sites on the Internet that are linked through the Service. CogniSoft provides these links to you only as a matter of convenience, and in no event shall CogniSoft or its licensors be responsible for any content, products, or other materials on or available from such sites. CogniSoft provides the Service to you pursuant to

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the terms and conditions of this Agreement. You recognise, however, that certain third party providers of ancillary software, hardware or services may require your agreement to additional or different licence or other terms prior to your use of or access to such software, hardware or services.

## 7. Charges and Payment of Fees

You shall pay all fees or charges to your account in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable. The initial charges will be equal to the current number of total User Licences requested times the User Licence fee currently in effect. The Initial Term of this Agreement is two (2) years from the Go-Live date, thereafter this Agreement will renew annually and payments must be made annually in advance unless otherwise mutually agreed upon in a Purchase Order.

All payment obligations are non-cancellable and all amounts paid are non-refundable. You are responsible for paying for all User Licences ordered for the entire Licence Term (either Initial Term or renewal term), whether or not such User Licences are actively used. You must provide CogniSoft with approved Purchase Order information as a condition to signing up for the Service. An authorised Licence Administrator may add further User Licences by executing an additional written Purchase Order.

Added User Licences will be subject to the following:-

(i) added User Licences will be coterminous with the pre-existing Licence Term;

(ii) the licence fee for the added User Licences will be the then current, generally applicable licence fee; and

(iii) User Licences added in the middle of a billing month will be charged in full for that billing month

CogniSoft reserves the right to modify its fees and charges and to introduce new charges at any time, upon at least thirty (30) days prior notice to you, which notice may be provided by e-mail. All pricing terms are confidential, and you agree not to disclose them to any third party.

## 8. Excess Data Storage Fees

The maximum disk storage space provided to you at no additional charge is an aggregate of fifty (50) GB per instance of the Service. If the amount of disk storage required exceeds these limits, you will be charged the then-current storage fees. CogniSoft will use reasonable efforts to notify you when the average storage used reaches approximately 90% of the maximum. CogniSoft reserves the right to establish or modify its general practices and limits relating to storage of Customer Data.

## 9. Billing and Renewal

CogniSoft charges and collects in advance for use of the Service. CogniSoft will automatically renew and issue an invoice to you each year on the subsequent anniversary or as otherwise mutually agreed upon. The renewal charge will be equal to the then current number of total User licences times the licence fee in effect during the prior Licence Term, unless CogniSoft has given you at least thirty (30) days prior written notice of a fee increase, which shall be effective upon renewal and thereafter. Fees for other services will be charged on an as-quoted basis. CogniSoft's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties, excluding taxes based solely on CogniSoft's income.

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You agree to provide CogniSoft with complete and accurate billing and contact information. This information includes your legal name, street address, e-mail address, and name and telephone number of an authorised billing contact and Licence Administrator. You agree to update this information within thirty (30) days of any change to it. If the contact information you have provided is false or fraudulent, CogniSoft reserves the right to terminate your access to the Service in addition to any other legal remedies.

Unless CogniSoft in its discretion determines otherwise:-

(i) entities with headquarters and a majority of users resident in the United Kingdom will be billed in Pounds Sterling and subject to U.K. payment terms and pricing schemes ("U.K. Customers"); and

(ii) all other entities will be billed in Pounds Sterling and be subject to U.K. payment terms and pricing schemes at the discretion of CogniSoft ("Non-U.K. Customers").

If you believe your bill is incorrect, you must contact us in writing within fourteen (14) days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

CogniSoft's standard payment terms are strictly thirty (30) days from invoice, the customer shall ensure that CogniSoft receives payment against each invoice within thirty (30) days of the date of the invoice.

## 10. Non-Payment and Suspension

In addition to any other rights granted to CogniSoft herein, CogniSoft reserves the right to suspend or terminate this Agreement and your access to the Service if your account becomes delinquent (falls into arrears). Delinquent invoices (accounts in arrears) are subject to the interest rate under the Late Payment of Commercial Debts (Interest) Act 1998 which is the Bank of England base rate that applies during the period in which the debt falls due plus 8% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. You will continue to be charged for User licences during any period of suspension. If you or CogniSoft initiates termination of this Agreement, you will be obligated to pay the balance due on your account computed in accordance with the Charges and Payment of Fees section above. You agree that CogniSoft may bill you for such unpaid fees.

CogniSoft reserves the right to impose a reconnection fee in the event you are suspended and thereafter request access to the Service. You agree and acknowledge that CogniSoft has no obligation to retain Customer Data and that such Customer Data may be irretrievably deleted if your account is thirty (30) days or more delinquent. The Customer may request an extract of data in accordance with the terms of Clause 11 below, subject to CogniSoft receiving payment of any costs in full, prior to an extract being provided.

## 11. Termination upon Expiration/Reduction in Number of Licences

Upon the expiration of the Initial Term, this Agreement will automatically renew for successive renewal terms of one year, at CogniSoft's then current fees. Either Party may terminate this Agreement or reduce the number of User Licences, effective only upon the expiration of the then current Licence Term, by notifying the other Party in writing at least ninety (90) business days prior to the date of the invoice for the following term. In the event this Agreement is terminated (other than by reason of

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your breach), CogniSoft will make available to you a file of the Customer Data within thirty (30) days of termination if you so request at the time of termination. This file will be provided in a non-proprietary format and the preparation of this file will be subject to additional cost, to be determined at the time on a case by case basis. You agree and acknowledge that CogniSoft has no obligation to retain the Customer Data, and may delete such Customer Data, more than thirty (30) days after termination.

## 12. Termination for Cause

Any breach of your payment obligations or unauthorised use of the CogniSoft Technology or Service will be deemed a material breach of this Agreement. CogniSoft, in its sole discretion, may terminate your password, account or use of the Service if you breach or otherwise fail to comply with this Agreement. You agree and acknowledge that CogniSoft has no obligation to retain the Customer Data, and may delete such Customer Data, if you have materially breached this Agreement, including but not limited to failure to pay outstanding fees, and such breach has not been cured within thirty (30) days of notice of such breach.

## 13. Representations & Warranties

Each Party represents and warrants that it has the legal power and authority to enter into this Agreement. CogniSoft represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially in accordance with the online CogniSoft help documentation under normal use and circumstances. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Service and that your billing information is correct.

## 14. Mutual Indemnification

You shall indemnify and hold CogniSoft, its licensors and each such Party's parent organisations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including legal fees and costs) arising out of or in connection with:-

(i) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a third party;

(ii) a claim, which if true, would constitute a violation by you of your representations and warranties; or

(iii) a claim arising from the breach by you or your Users of this Agreement, provided in any such case that CogniSoft:-

  (a) gives written notice of the claim promptly to you;

  (b) gives you sole control of the defence and settlement of the claim (provided that you may not settle or defend any claim unless you unconditionally release CogniSoft of all liability and such settlement does not affect CogniSoft's business or Service);

  (c) provides to you all available information and assistance; and

  (d) has not compromised or settled such claim.

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CogniSoft shall indemnify and hold you and your parent organisations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including legal fees and costs) arising out of or in connection with:-

(i) a claim alleging that the Service directly infringes a copyright, a patent issued as of the Effective Date, or a trademark of a third party;

(ii) a claim, which if true, would constitute a violation by CogniSoft of its representations or warranties; or

(iii) a claim arising from breach of this Agreement by CogniSoft; provided that you:-

  (a) promptly give written notice of the claim to CogniSoft;

  (b) give CogniSoft sole control of the defence and settlement of the claim (provided that CogniSoft may not settle or defend any claim unless it unconditionally releases you of all liability);

  (c) provide to CogniSoft all available information and assistance; and

  (d) have not compromised or settled such claim. CogniSoft shall have no indemnification obligation,

and you shall indemnify CogniSoft pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Service with any of your products, service, hardware or business process(s).

## 15. Disclaimer of Warranties

Notwithstanding CogniSoft's reasonable endeavours in all these respects, CogniSoft and its licensors make no representation, warranty, or guaranty as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the Service or any content. Other than where specific and expressed commitment has been given to meet requirements and expectations CogniSoft and its licensors do not represent or warrant that:-

(i) the use of the Service will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data;

(ii) the Service will meet your requirements or expectations;

(iii) any stored data will be accurate or reliable;

(iv) the quality of any products, services, information, or other material purchased or obtained by you through the service will meet your requirements or expectations;

(v) errors or defects will be corrected outside of the standard Service Level Agreement; or

(vi) the service or the server(s) that make the Service available are free of viruses or other harmful components.

The Service and all content is provided to you strictly on an "as is" basis. All conditions, representations and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third party rights, are hereby disclaimed to the maximum extent permitted by applicable law by CogniSoft and its licensors.

## 16. Confidentiality

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1.1 Each of the parties hereto undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the entering into of this Agreement save that which is:

1.1.1 trivial or obvious;

1.1.2 already in its possession other than as a result of a breach of this clause; or

1.1.3 in the public domain other than as a result of a breach of this clause.

1.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of clause 14.1 above by its employees, agents and sub-contractors.

## 17. Internet Delays

CogniSoft's services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. CogniSoft is not responsible for any delays, delivery failures, or other damage resulting from such problems.

## 18. Limitation of Liability

In no event shall either Party's aggregate liability exceed the amounts actually paid by and/or due from you in the twelve (12) month period immediately preceding the event giving rise to such claim. In no event shall either Party and/or its licensors be liable to anyone for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with the Service, including but not limited to the use or inability to use the Service, or for any content obtained from or through the Service, any interruption, inaccuracy, error or omission, regardless of cause in the content, even if the Party from which damages are being sought or such Party's licensors have been previously advised of the possibility of such damages.

## 19. Local Laws and Export Control

CogniSoft and its licensors make no representation that the Service is appropriate or available for use in other locations. If you use the Service from outside the United Kingdom, you are solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. Any diversion of the Content contrary to United Kingdom law is prohibited. None of the Content, nor any information acquired through the use of the Service, is or will be used for nuclear activities, chemical or biological weapons, or missile projects, unless specifically authorised by the British Government or appropriate European body for such purposes.

## 20. Notice

CogniSoft may give notice by means of a general notice on the Service, electronic mail to your e-mail address on record in CogniSoft's account information, or by written communication sent by first class mail or pre-paid post to your address on record in CogniSoft's account information. Such notice shall be deemed to have been given upon the expiration of forty eight (48) hours after mailing or

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posting (if sent by first class mail or pre-paid post) or twelve (12) hours after sending (if sent by email). You may give notice to CogniSoft (such notice shall be deemed given when received by CogniSoft) at any time by any of the following:-

(i) letter sent by confirmed facsimile to CogniSoft at the following fax number +44 161 777 2909; or

(ii) letter delivered by nationally recognised overnight delivery service or first class postage prepaid mail to CogniSoft at the following address CogniSoft Limited, Stafford Court, 145 Washway Road, Sale, Manchester. M33 7PE. Addressed to the attention of: Finance Manager.

## 21. Modification to Terms

CogniSoft reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time, effective upon posting of an updated version of this Agreement on the Service. CogniSoft will notify all customers via email when a new revision is posted. You are responsible for regularly reviewing this Agreement. Continued use of the Service after any such changes shall constitute your consent to such changes.

## 22. Assignment; Change in Control

This Agreement may not be assigned by either Party without the prior written approval of the other Party but may be assigned without your consent by CogniSoft to:-

(i) a parent or subsidiary,

(ii) an acquirer of assets, or

(iii) a successor by merger.

Any purported assignment in violation of this section shall be void.

## 23. Waiver and Severance

In the event that any of the provisions contained in this Agreement shall become or shall be determined or declared by any court of competent jurisdiction or any other competent authority to be invalid or unenforceable to any extent such provision shall to that extent be severed from the body of this Agreement and such unenforceability or inability to enforce shall in no way impair or affect any other provisions of this Agreement all of which shall remain in full force and effect and shall continue to be valid and enforceable to the fullest extent permissible by law.

Failure by either Party at any time to enforce any part of this Agreement, or to require performance by the other Party of any provisions of this Agreement, shall not be construed as a waiver of any such provision, and shall not affect the validity of this Agreement or the right of that Party to enforce the provision in accordance with its terms. No forbearance indulgence or relaxation on the part of either Party or of any person acting on its behalf shown or granted to the other Party in respect of its obligations under this Agreement shall in any way affect restrict or diminish the rights and powers of that Party under this Agreement or operate as or be deemed a waiver of any breach of contract.

## 24. Law

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This Agreement shall be governed by and construed in accordance with English law and the Parties hereto agree to submit to the exclusive jurisdiction of the English courts.

For the avoidance of doubt it is specifically hereby provided that the provisions of the Contracts (Rights of Third Parties) Act 1999 and any subordinate legislation made thereunder shall not apply to this Agreement and no person other than the Parties to this Agreement shall have any rights under it nor shall it be enforceable by any person other than the Parties to it.

## 25. Definitions

As used in this Agreement and in any Purchase Orders now or hereafter associated herewith:-

"Agreement" means these online terms of use, any Purchase Orders and any materials available on the CogniSoft website specifically incorporated by reference herein, as such materials, including the terms of this Agreement, may be updated by CogniSoft from time to time in its sole discretion;

"CogniSoft" means collectively CogniSoft Limited, having its principal place of business at The Theatre Building, Carrington Business Park, Manchester Road, Carrington, Greater Manchester, M31 4QW;

"CogniSoft Technology" means all of CogniSoft's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to you by CogniSoft in providing the Service;

"Content" means the audio and visual information, documents, software, products and services contained or made available to you in the course of using the Service;

"Customer Data" means any data, information or material provided or submitted by you to the Service in the course of using the Service;

"Effective Date" means the date the terms of this Agreement come into effect;

"Go-Live Date" means the date the date you begin using the Service, detailed in Schedule 2;

Initial Term" means the initial period during which you are obligated to pay for the Service

"Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

"Licence Administrator(s)" means those Users designated by you who are authorised to purchase licences by executing written Purchase Orders and to create User accounts and otherwise administer your use of the Service;

"Licence Term(s)" means the period(s) during which a specified number of Users are licenced to use the Service pursuant to the Purchase Order(s);

"Purchase Order(s)" means the form evidencing the initial subscription for the Service and any subsequent order forms submitted online or in written form, specifying, among other things, the number of licences and other services contracted for, the applicable fees, the billing period, and other charges as agreed to between the parties, each such Order Form to be incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Order Form, the terms of this Agreement shall prevail);

"Service(s)" means the specific edition of CogniSoft's online database application, reporting, or other services identified during the ordering process, developed, operated, and maintained by CogniSoft, accessible via http://www.cognisoft.com or another designated web site or IP address, or ancillary

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online or offline products and services provided to you by CogniSoft, to which you are being granted access under this Agreement, including the CogniSoft Technology and the Content; and

"User(s)" means your employees, representatives, consultants, contractors or agents who are authorised to use the Service and have been supplied user identifications and passwords by you (or by CogniSoft at your request).

## Signatures

Duly authorised representatives of CogniSoft and the Customer have signed below to confirm their intention to be bound by the terms and conditions of this Agreement and this Schedule.

On behalf of the CogniSoft Limited

Authorised Signature:

Print Name: Emma Cook

Date:

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On behalf of [ORGANISATION NAME]

Authorised Signature:

Print Name:

Date:

## Questions or Additional Information:

If you have questions regarding this Agreement or wish to obtain additional information, please send an e-mail to info@cognisoft.co.uk.

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# Schedule 1 – UK GDPR

## Introduction

This agreement defines how CogniSoft and Customer will need to meet their obligations under the UK GDPR legislation. This Schedule 1 is supplemental to all terms and conditions in this Agreement and the operative terms set out below will be effective for all Customers from 25th May 2018.

## Operative Terms

## 1. Definitions

In this Schedule 1, the following words and expressions have the following meanings:-

"Schedule 1" means this document;

"Applicable Law" means the laws of England and Wales (and EU regulations from time to time applicable, whilst the United Kingdom remains a member of the European Union or subsequently under the terms of the European Union (Withdrawal) Bill;

"CogniSoft" means CogniSoft Limited (company number 1870101) whose registered office is at Stafford Court, 145 Washway Road, Sale, Cheshire, England, M33 7PE;

"Clause" means a clause of this Schedule 1;

"Controller" has the meaning set out in the Data Protection Legislation;

"Customer" means the contracting party set out in the signature block at the end of this Schedule 1;

"Data Loss Event" means any event that results, or may result, in unauthorised access to Personal Data held by CogniSoft under this Schedule 1, and/or actual or potential loss and/or destruction of Personal Data, including any Personal Data Breach;

"Data Protection Clause" means the Clause numbered 3 in this Schedule 1;

"Data Protection Legislation" means all applicable privacy or data protection laws and regulations (as amended, consolidated or re-enacted from time to time) which relate to the protection of individuals with regards to the processing of personal data to which a party is subject, including the Date Protection Act 2018 (as may be superseded) and GDPR (on and from 25 May 2018) for as long as any of the above incorporated into Applicable Law together with any grievance and/or codes of practice issued from time to time by the Information Commissioner;

"Data Subject" has the meaning set out in the Data Protection Legislation;

"Data Subject Access Request" means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;

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"Agreement" means the main terms and conditions of which this Schedule forms a part;

"Parties" means CogniSoft and the Customer (or either of them as applicable);

"Processor" has the meaning set out in the Data Protection Legislation;

"Security Measures" means appropriate technical and organisational measures which are set out in the service description (or other relevant documentation available) for the relevant products or services provided by the Processor;

"Sub-Processor" means any third party appointed to process Personal Data on behalf of CogniSoft related to the Original Agreement.

(i) the singular includes the plural and vice versa, and words importing one gender include all genders.

(ii) Clause headings are for ease of reference only.

(iii) Schedule 1 forms part of the Agreement for all purposes.

## 2. Precedence of Schedule 1

(i) Notwithstanding any provisions in the Agreement relating to the protection of individuals with regards to the processing of Personal Data, such provisions will be superseded in their entirety and replaced by the following new Data Protection Clause.

(ii) Notwithstanding anything to the contrary set out in the Agreement, to the extent that there is any duplication or conflict between definitions or clauses used in the Original Agreement and this Schedule 1, the definitions and clauses set out in this Schedule 1 will apply and take precedence.

## 3. New Data Protection Clause

(i) The following new Data Protection Clause will be inserted into the Original Agreement as follows:-

DP.1 The parties acknowledge that for the purposes of Data Protection Legislation, the Customer may be Controller, Processor or both. CogniSoft are Processors.

DP.2 CogniSoft shall notify the Customer immediately if it considers that any of the Customers instructions infringe the Data Protection Legislation.

DP.3 CogniSoft shall provide reasonable assistance to the Customer in relation to compliance with the Data Protection Legislation.

DP.4 CogniSoft shall, in relation to any Personal Data processed in connection with its obligations to the Customer:-

(i) process that Personal Data only in accordance with the Schedule below, unless CogniSoft is require to do otherwise by Applicable Law. If it is so required CogniSoft shall

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promptly notify the Customer before processing the Personal Data unless prohibited by Applicable law;

(ii) ensure that it has Security Measures in place (available on request) and the Customer confirms that such Security Measures are appropriate to protect against a Data Loss Event having taken into account the:

a. nature of the Personal Data to be protected;
b. harm that might result from a Data Loss Event;
c. state of technology development; and
d. cost of implementing any additional measures

(iii) In relation to the clauses above, the Controller is responsible (as between the Parties and to Data Subjects and supervisory authorities) for:

a. ensuring that an appropriate legal condition is in place to enable the processing of the Data Subject's Personal Data by the processor;
b. ensuring the Security Measures meet the GDPR standard of appropriateness;
c. claims or complaints resulting from CogniSoft's actions to the extent that such actions directly result from instructions received from the Customer.

In relation to DP.4 (ii)a the Parties acknowledge that the Processor may not be in a position to assess what measures are appropriate to the Controller's Personal Data (since the data is collected and processed for the purposes of the Controller's and not the Processor's business). The Controller may select chargeable services for additional security measures which excess the standard security measures provided by the Processor.

(iv) ensure that:

a. CogniSoft personnel do not process Personal Data except in accordance with this Clause DP (and in particular Clause 4 below);
b. it takes all reasonable steps to ensure the reliability and integrity of CogniSoft or third-party personnel who have access to the Personal Data and ensure that they:-
    i. are aware of and comply with CogniSoft's duties under this clause;
    ii. are subject to appropriate confidentiality undertakings with CogniSoft or any Sub-processor;
    iii. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted under this Schedule 1; and
    iv. have undergone adequate training in the use, care, protection and handling of Personal Data; and

(v) not transfer Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:-

a. the Customer or CogniSoft has provided appropriate safeguards in relation to the transfer (in accordance with GDPR Article 46) as determined by the Customer;
b. the Data Subject has enforceable rights and effective legal remedies;
c. CogniSoft complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses all reasonable endeavors to assist the Customer in meeting its obligations); and
d. CogniSoft complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

Subject always to the Customer accepting that:

e. it is technically possible for hosted systems to be accessed by the Customer from outside the UK;

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f. the Customer is responsible for providing Data Subjects with appropriate privacy notices in relation to any access by the Customer or licensed third parties to such hosted systems outside the UK; and
g. the Customer is liable for any complaints or claims by Data Subjects or third parties resulting from such access.

(vi) at the written directions of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination unless CogniSoft is required by Applicable Law to retain the Personal Data, subject to the relevant charges.

DP.5 CogniSoft contract with Sub-Processors in the delivery of its products or services. By accepting this agreement, Customer accepts that the published Sub-Processors may process any Personal Data related to this Schedule 1

CogniSoft confirms that it will provide:

(i) a list of current Sub-Processors who may process any Personal Data related to this Schedule 1, which will be maintained and available to customers on request by emailing info@cognisoft.co.uk

(ii) confirmation there is a written agreement with the Sub-Processor which give effect to the terms set out in this Data Protection Clause such that they apply to the Sub-Processor

(iii) such information regarding the Sub-Processor as the Customer may subsequently reasonably require.

DP.6 CogniSoft may contract with new Sub-Processors in the delivery of its products or services. Before allowing any new Sub-Processor to process any Personal Data related to this Schedule 1, CogniSoft must give the Customer:

(i) at least 30 calendar days' notice in writing of the intended Sub-Processor and processing;

(ii) confirmation that there is a written agreement with the Sub-Processor which give effect to the terms set out in this Data Protection Clause such that they apply to the Sub-Processor;

(iii) such information regarding the Sub-Processor as the Customer may subsequently reasonably require

DP.7 Subject to Clause DP.4, CogniSoft shall notify the Customer within a reasonable time period if it:-

(i) receives a Data Subject Access request (or purported Data Subject Access request) relevant to the Customer;

(ii) receives a request to rectify, block or erase any Personal Data relevant to the Customer;

(iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

(iv) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data, relevant to the Customer processed under this Schedule 1;

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(v) receives a request from any third party relevant to the Customer for disclosure of Personal Data where compliance with such request is required or purported to be required by Applicable Law; or

(vi) becomes aware of a Data Loss Event relevant to the Customer

DP.8 CogniSoft's obligation to notify under Clause DP6 shall include the provision of further information to the Customer in phases, as details become available.

DP.9 Taking into account the nature of the processing, CogniSoft shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause DP6 (within the timescales agreed between the parties) including by promptly providing:-

(i) the Customer with full details and copies of the complaint, communication or request;

(ii) such assistance as is reasonably re quested by the Customer to enable the Customer to comply with Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

(iii) the Customer, as its request, with any Personal Data it holds in relation to Data Subject;

(iv) assistance as requested by the Customer following any Data Loss Event;

(v) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.

DP.10 CogniSoft shall maintain complete and accurate records and information to demonstrate its compliance with Article 30 of GDPR.

DP.11 CogniSoft shall allow audits of its security measures and data processing activities by the Customer or the Customer's designated auditor at reasonable times and on reasonable notice.

DP.12 For the avoidance of doubt, notwithstanding anything to the contrary in the Original Agreement, each Party accepts liability for loss of Personal Data to the extent that the loss of Personal Data is caused by:-

(i) a material breach by such party of their data processing obligations under Applicable Law;

(ii) a failure by such Party to provide the Security Measures that it was contractually committed to provide in relation to such Personal Data.

DP 13 In no event shall either Party's aggregate liability exceed the amounts actually paid by and/or due from you in the twelve (12) month period immediately preceding the event giving rise to such claim. In no event shall either Party be liable to anyone for any indirect, punitive, special, exemplary, incidental, consequential or other damages relating to the loss of data.

DP 14 Where any loss of data results in a breach ruling from the ICO and a fine is levied to any of the Parties, CogniSoft will only accept liability where the ruling declares CogniSoft as at fault

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## 4. Nature of Processing

CogniSoft shall comply with any further written instructions of the Customer with respect to processing by CogniSoft. Any such further instruction shall be incorporated into this Schedule.

| Description | Details |
|---|---|
| Subject matter of the processing | The services purchased by the Controller, as detailed in the Order Form, including but not limited to:-<br><br>1. Hosting Services<br>2. Professional Services<br>3. Software Support Services<br>4. Software Development<br>5. IT and Administrative Operations<br>6. Managed Services/IT Outsourcing Services |
| Duration of the processing | The term set out for the provision of the relevant software and/or services as stated in the Order Form |
| Nature and Purpose of the processing | Nature of Processing:-<br><br>1. Storage<br>2. Recording<br>3. Consultation<br>4. Remote Access<br>5. Collection<br><br>Purposes of Processing:-<br><br>1. Hosting – Cloud and platform<br>2. Software Support Services<br>3. Bespoke software development<br>4. Project Management<br>5. Training & Consultancy<br>6. Payroll Services<br>7. IT Services<br>8. Managed Services/IT Outsourcing Services<br>9. Migration services<br>10. Other professional services |
| Type of Personal Data | This varies from customer to customer, but depending on the products and services purchased may include both personal data and special category data as defined in the GDPR. |
| Categories of Data Subject | This varies from customer to customer. The Customer will maintain a list of categories of data subjects appropriate to their use of the software or services. |

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| | |
|---|---|
| Plan for return and destruction of the data once the processing is complete unless requirement under union or member state law to preserve that type of data | Data will be returned to the Customer in a machine readable format on request prior to termination at the cost of the Customer, unless agreed otherwise in the Original Agreement or to the extent it is required to be retained under the Applicable Law. |

# Schedule 2

## Licensing and Renewals

### Go-Live & Renewal Date

TBC

### Licences

The Licensee is granted access to the Service for  concurrent Users

CogniSoft will monitor usage and may levy additional charges for excessive usage.

User Licences:

- Concurrent user licence (i.e. the 'original YETI' licence)
- Per registered Participant to the Participant Self Service Portal

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# Schedule 3

## Costs

All costs in relation to the Service are detailed in the costs table below.

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# Schedule 5

## Service Level Agreement

### Section One: Service Level Agreement

This document represents an agreement between CogniSoft Ltd and [Organisation Name] (the "Customer") for the provision of the software support services (the "Services") identified in Section Three for the CogniSoft software outlined in Section Three.

### Section Two: Software

This Service Level Agreement covers services provided in relation to the CogniSoft software licensed under software licence reference (to be advised) (the Software).

### Section Three: The Services

The Services can be accessed by any of the following means:

| | |
|---|---|
| Online | http://support.cognisoft.co.uk |
| Email | support@cognisoft.co.uk |
| Telephone | 0161 777 2901 |

In order to use the online support, you will require a username and password.

### Helpdesk Hours

During working time, CogniSoft guarantee to man the helpdesk during the following hours:

| | |
|---|---|
| Mon-Thurs | 09:00 to 17:30 |
| Fri | 09:00 to 16:00 |

Bank holidays, the period between Christmas and New Year and staff development days (anticipated at one per year) are considered non-working time.

Arrangements can be made for helpdesk support to be available outside the standard hours but no further guarantee is made under this Service Level Agreement.

The above hours of work are subject to change but there will be no material effect on the level of service provided and reasonable notice will be provided.

### CogniSoft Response

Whenever an incident is raised, a job will be created in CogniSoft Response, CogniSoft's online support tracking system. Jobs raised online are automatically inserted into the Response database, job raised by email or telephone will be logged in Response by the CogniSoft support team.

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## Target Service Levels

The table below outlines the definitions of the priority levels assigned by the CogniSoft support team:

| Priority Level | Definition |
|---|---|
| 1 | The Incident is preventing the Customer from using the Software in its entirety or facilities in the Software that help to protect the safety of the User are not working properly. |
| 2 | The Incident is causing the Customer persistent or major difficulties in using the Software. |
| 3 | The Incident is causing minor difficulties for the Customer in using the Software. |

CogniSoft undertakes to meet the following service levels for 95% of all calls received:

| Priority | Respond | Update | Resolve |
|---|---|---|---|
| 1 | Immediate | 2 Hourly | 8 Hours |
| 2 | 2 Hours | Daily | 24 Hours |
| 3 | 4 Hours | 2 days | 5 Days |

For the avoidance of doubt, enhancements or modifications to the functionality of the Software are outside of the scope of this Service Level Agreement CogniSoft is not committed under this Service Level Agreement to provide any such changes and reserves the right to make a fair and reasonable charge for any such changes.

## Definitions

| Action | Definition |
|---|---|
| Incident | An Incident is any event which is not part of the standard operation of a service and which causes, or may cause and interruption to, or a reduction in the quality of that service. |
| Respond | Time within which investigation will begin and necessary personnel will be engaged. |
| Update | Frequency of updates of progress to the Customer. |
| Resolve | Time within which the incident will be resolved either by applying a fix or providing the customer with a workaround that enables them to continue working. |
| Times | All times are based on working hours/days. |
| Problem | A Problem is the unknown underlying cause if one or more Incidents |

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## Raising Incidents

In order to ensure a prompt response, issues should be raised in accordance with the following table:

| Priority | Methods of Raising Issues |
|---|---|
| 1 | Telephone. The Customer shall ensure that the CogniSoft representative agrees that the issue is assigned Priority 1 status. |
| 2 | Telephone |
| 3 | Email or Online |

## Incidents Requiring Assistance from the Customer

The Customer acknowledges that in order to meet the specified service levels, CogniSoft will require ongoing assistance from the Customer. When a request for information or assistance is issued to the Customer, the status of the job in Response will be changed to 'With Customer'. Once the information or assistance has been received, the CogniSoft support team will change the status accordingly.

Any Incident that has a 'With Customer' status will have the elapsed time measurement suspended ("clock stopped") until such time as the Customer responds with the information requested.

## Transfer to Development

Where a Fix has been provided in the form of a workaround, but the software requires additional software development in order for it to work as intended, the Incident will become a Problem and the status in Response will be changed to 'In Development'. In the case of Problems arising from Priority 1 Incidents, CogniSoft shall release a Fix in within a patch to the current version of the Software which shall be issued within a reasonable timeframe as agreed with the Customer.

In the case of Problems arising from Priority 2 and Priority 3 Incidents, CogniSoft shall provide a Fix in the next scheduled release, so long as the cut-off date for new requirements for developments being notified for that release has not been passed. If the cut-off date has already lapsed for that release CogniSoft shall include it in the list of requirements for the following release.

The cut-off date for the development window shall be deemed to be eight (8) working weeks before the Software is issued for customer testing.

## Issues Beyond CogniSoft's Reasonable Control

In some cases, problems may be caused by factors outside of CogniSoft's reasonable control such as the hardware and other software used by the Customer. Such issues are beyond the scope of this Service Level Agreement and the commitments made by CogniSoft hereunder.

CogniSoft undertakes to provide support to the resolution of issues of this nature but reserves the right to make a fair and reasonable charge in the event that the issue can be attributed to factors beyond its reasonable control.

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## Customer Responsibilities

The Customer undertakes to ensure the following:

- The Customer shall provide an internal helpdesk throughout office hours to provide first-line support to its users. This helpdesk shall be the only point of contact with the CogniSoft support team.
- The Customer shall ensure that its representatives are adequately trained and skilled in the use of the Software, the equipment used to host the Software and the applications that are used in conjunction with the Software.
- Representatives of the Customer and its key contractors shall provide all assistance reasonably required by CogniSoft to resolve its issues.
- The Customer shall test for any defects in The Software that have the potential to present Priority 1 or 2 issues during its testing of new releases.
- The customers shall ensure that our web servers are not used for the hosting or communication of, reference to or linking to any of the following:
  - nudity, pornography, anything of a sexual, lewd, or obscene nature;
  - violations of any copyright or any other right of any third party;
  - threatening, abusive, harassing, defamatory statements;
  - promotion of illegal activities (hacking, cracking, etc);
  - information or software containing or about any kind of virus;
  - hate speech or hate propaganda;
  - the collection of personal information for illegal purposes; and
  - content deemed by us at our sole discretion to be harmful to us;
  - banned or unapproved scripts are never run on the database; and
  - Users do not attempt to circumnavigate any of the system controls.
  - Users do not attempt to circumnavigate any of the system controls

In accordance with the Worker Protection (Amendment of Equality Act 2010) Act 2024, CogniSoft Ltd is committed to providing a safe and respectful environment for both our employees and customers. We have a zero-tolerance policy for sexual harassment and bullying. We reserve the right to refuse service or terminate support to any customer or customer representative who engages in unacceptable conduct, including but not limited to: verbal abuse, threats, discrimination, sexual harassment, or bullying, as outlined in the Act.

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## Term of the Agreement

This Agreement shall be considered effective as soon as the Customer uses the Services covered by the Agreement (the "Go-Live Date").

| |
|---|
| Go-Live Date: |

The Agreement shall be renewed annually unless terminated with three (3) months advance notice by the Customer following the end of this Agreement.

Fees for subsequent years shall be increased by 20% of the value of any additional software added to this Agreement and to reflect any changes in costs encountered by CogniSoft in providing the support services.

Increases in the costs of delivering the Service may result in a review of the fees charged under this Agreement. Any such increases in fees will be capped so as not to exceed 5% annually.

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