

**Agreement for Software as a Service subscription(s)
and associated Services between
ABM Intelligence Limited**

(Trading Name Altia)

and

[Customer]

This Agreement is dated [DATE]

between

(1) **ABM INTELLIGENCE LIMITED**, (Trading Name Altia) a company incorporated and registered in England & Wales with company number 03319098 whose registered office is at Office Village, Unit 12 Castle Bridge Rd, Kirtley Dr, Nottingham NG7 1LD (the "**Supplier**"); and

(2) **[FULL COMPANY NAME]** incorporated and registered in England and Wales with company number **[NUMBER]** whose registered office is at **[REGISTERED OFFICE ADDRESS]** (the "**Customer**")

BACKGROUND

(A) The Supplier is the provider of software applications, platforms, and services which it makes available to subscribers via the internet as part of the Services (as defined below).

(B) The Customer wishes to use the Services in its operations.

(C) The Supplier has agreed to provide, and the Customer has agreed to take and pay for the Services subject to the terms and conditions of this Agreement.

1. Interpretation

1.1. In this Agreement the following words and expressions shall, unless the context requires otherwise, have the following meanings:

Agreement: this agreement including the Schedules.

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services (up to the number of Maximum Users).

Business Day: a day other than a Saturday, Sunday or a public or bank holiday in the United Kingdom.

Commencement Date: means last date of execution of this Agreement or (if different) the date stated in the Product Licence Schedule.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

Customer Data: the data inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Data Protection Legislation: means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of personal data to which a party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the GDPR.

EEA: means the European Economic Area.

Fees: means (i) the Software Access Fee; (ii) the Hosting Fee; and (iii) the Managed Service Fee; or any other fees payable by the Customer to the Supplier pursuant to clause 9.

GDPR: means the General Data Protection 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 on the free movement of such data, and repealing Directive 95/46/EC.

Hosting Fee: the annual fee identified in the Product Licence Statement from time to time and payable by the Customer to the Supplier for the Third-Party Host's Services

Initial Subscription Term: the initial period of this Agreement identified in Paragraph 1 of Schedule 1.

Intellectual Property Rights: all patents, copyrights, design rights, trademarks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world.

Maintenance Release(s): any update, upgrade release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version.

Managed Service Fee: means the fee identified in the Product Licence Statement from time to time and payable by the Customer to the Supplier pursuant to clause 9 in respect of the Support Services.

Maximum Users: the maximum number of Authorised Users that are authorised to and may use the Services at identified the Product Licence Statement from time to time.

New Version: any new version of the Software which from time to time is publicly marketed and offered for purchase by the Supplier in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product.

Normal Business Hours: 9.00 am to 5.00 pm local UK time, each Business Day.

Open-Source Software: open-source software as defined by the Open Source Initiative (<http://opensource.org>) or the Free Software Foundation (<http://www.fsf.org>).

Product Licence Statement: means the statement agreed between the Parties in writing in respect of the Customer's use of the Services and Fees payable each Year (and as the same may be updated, amended or added to in writing) and to accompany this Agreement, which shall set out details of the Initial Subscription Term, any Renewal Term, the Software Access Fee, the Managed Service Fee, the Hosting Fee, the number of Maximum Users and the Commencement Date of this Agreement together with any other specific terms and conditions agreed between the Parties in respect of the Services.

Schedule: the schedules annexed to and forming part of the Agreement.

Services: the services provided by the Supplier to the Customer under this Agreement, comprising: (i) remote access for Authorised Users to the Software hosted as part of the Third-Party Host's Services for up to the number of Maximum Users; and (ii) the Support Services; all as more particularly described in the Specification.

Software: the Supplier's software application (or specified modules of the same) including any component parts thereof together with any Third-Party Software all as provided by the Supplier as part of the Services as more particularly described in the Specification together with any Maintenance Release.

Software Access Fee: the annual fee calculated by reference to the number of Maximum Users identified each Year and identified in the Product Licence Statement from time to time and that the Customer shall pay to the Supplier pursuant to clause 9 to access the Software and the Services.

Specification: means the specification of the Services as set out in Schedule 2.

Subscription Term: the period set out in Clause 13.

Support Services: the Supplier's standard support, update and maintenance services to be provided to the Customer in accordance with the Supplier's Support Services Policy.

Support Services Policy: the Supplier's policy for providing support in relation to the Services as set out within Schedule 3.

Third-Party Host's Services: the facilities and features available on the Third-Party Host's Platform including, for example, hosting, encryption features, databases, and authentication services (as the same shall all be provided to the Customer by the Supplier on a "pass through" basis).

Third-Party Host: the provider of the Third-Party Host's Services, identified in Paragraph 1 of Schedule 1.

Third-Party Host's Platform: identified in Paragraph 2 of Schedule 1.

Third-Party Host's Platform Terms of Use: the Third-Party Host's terms and conditions for the provision of the Third-Party Host's Services identified in Paragraph 3 of Schedule 1.

Third-Party Host's GDPR Compliance Statement: the Third-Party Host's statement relating to its compliance with the Data Protection Legislation identified in Paragraph 4 of Schedule 1.

Third-Party Licences: any licences relating to any Open-Source Software, including the general public licence (if applicable), and any proprietary third-party software licences.

Third-Party Software: any Open-Source Software relating to the Software and any proprietary third-party software accompanying or made available as part of the Software.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other

service or device; prevent, impair, or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Year: any period of twelve (12) months starting on the Commencement Date or any anniversary of the Commencement Date.

- 1.2. Clause, schedule, and paragraph headings shall not affect the interpretation of this agreement.
- 1.3. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) [and that person's legal and personal representatives, successors or permitted assigns].
- 1.4. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5. Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7. A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
- 1.8. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.9. A reference to writing or written includes faxes but not e-mail.
- 1.10. References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

2. Services

- 2.1. The Supplier hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sub-licences, to use the Services for the Subscription Term solely for the Customer's internal operations and not for the purpose of providing the Services to any Third-Party.
- 2.2. The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, 7 days a week, except for:
 - 2.2.1. planned maintenance - the Supplier shall notify the Customer in advance when the Services will be unavailable with regards to planned maintenance; and

2.2.2. unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least six (6) Normal Business Hours' notice in advance.

- 2.3. The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Supplier's standard Support Services during Normal Business Hours in accordance with the Supplier's Support Services Policy from time to time. The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time.

3. Hosting

- 3.1. The Software shall be hosted on the Third-Party Host's Platform. The Supplier shall be responsible for engaging the Third-Party Host to provide the Third-Party Host's Services. The Supplier shall make the Third-Party Host's Services available to the Customer on a "pass through basis" and shall have no responsibility for the Third-Party Host's Services or for any Customer Data hosted on the Third-Party Host's Platform. The Customer is solely responsible for the content of the Customer Data.

- 3.2. The Customer agrees that the Supplier shall be permitted to access the Third-Party Host's Platform in order to:

3.2.1. provide the Support Services;

3.2.2. make any Maintenance Release to the Software as may be required from time to time; and

3.2.3. manage the Services.

- 3.3. If the Third-Party Host terminates the Third-Party Host's Services to either or both the Supplier and/or the Customer at any time, the Supplier shall use best endeavours to find a suitable replacement Third-Party Host. If the Supplier is unable to find a suitable replacement Third-Party Host, then if the Services can no longer be delivered to the Customer because the Third-Party Host's Platform is unavailable, the Supplier shall be entitled to terminate this Agreement without liability to the Customer for any losses, damages, costs (including legal fees) and expenses incurred by the Customer occasioned by such termination.

4. Maintenance Releases

- 4.1. The Supplier will ensure that the Software is regularly updated with all Maintenance Releases as may be issued by the Supplier from time to time.
- 4.2. The Supplier shall be entitled at any time during the Subscription Term to carry out a Maintenance Release for the Services to be performed.

5. Customer's Use of the Services

- 5.1. The Customer shall only permit Authorised Users to access and use the Services or any Software. At no time shall the Customer permit the number of Authorised Users to exceed the number of Maximum Users.

- 5.2. The Customer agrees to comply with the terms of the Third-Party Host's Terms of Use and its policies from time to time in respect of the Customer's use of the Third-Party Host's Services and any Customer Data stored and processed on the Third-Party Host's Platform.
- 5.3. The Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.
- 5.4. The Customer shall not:
 - 5.4.1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:
 - 5.4.1.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software or the Services in any form or media or by any means; or
 - 5.4.1.2. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or the Services; or
- 5.5. access all or any part of the Services in order to build a product or service which competes with the Services; or
 - 5.5.1. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software or the Services available to or accessible by any Third-Party except the Authorised Users; or
 - 5.5.2. attempt to obtain, or assist third parties in obtaining, access to the Software or the Services, other than as provided under this clause 5.
- 5.6. The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software or the Services and, in the event of becoming aware of any such unauthorised access or use, promptly notify the Supplier.
- 5.7. The rights provided under this Agreement are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.

6. **Customer Data**

- 6.1. The Customer shall own all right, title and interest in and to all the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of all such Customer Data.
- 6.2. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against the Supplier shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier. The Supplier shall not be responsible for any loss, destruction, alteration, or disclosure of Customer Data caused by any Third-Party.
- 6.3. Promptly, and in any event within 30 days of the date of termination or expiry of this

Agreement, as part of any exit strategy, the database table data containing all operational data will be exported into a flat file csv format. Documentation will also be provided to detail the data relationships of all exported tables on the date of expiry or termination of this Agreement. Thereafter the Supplier shall delete all Customer Data in its possession and shall not retain copies except where required to do so by any applicable law.

- 6.4. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove, or replace, a party's obligations or rights under the Data Protection Legislation.
- 6.5. In respect of any personal data to be processed by the Supplier under this Agreement, the parties agree that the Customer is the data controller, and the Supplier is the data processor (and the Third-Party Host is a sub-processor). The parties shall agree and record the following details relating to the Services in writing (and shall keep all such processing activities under appropriate periodic regular review):
 - 6.5.1. the subject matter of the processing;
 - 6.5.2. the duration of the processing;
 - 6.5.3. the nature and purpose of the processing;
 - 6.5.4. the types of personal data to be processed;
 - 6.5.5. the categories of data subject; and
 - 6.5.6. any plan for the return and destruction of the personal data once the processing is complete unless there is a requirement under applicable UK, EU, or Member State law to preserve that type of personal data.
- 6.6. The parties acknowledge that, where applicable:
 - 6.6.1. the Supplier will only process personal data in any Customer Data in accordance with any contract the Supplier enters into with the Customer and with the Customer's documented instructions;
 - 6.6.2. the Supplier has appropriate technical and organisational measures in place to protect personal information including, but not limited to, data protection, cyber security and encryption policies that is intended to comply with the Data Protection Legislation;
 - 6.6.3. the Supplier will keep the personal data confidential and secure, as required by the Data Protection Legislation, and will ensure that only authorised personnel access the personal data;

- 6.6.4. the Supplier will provide reasonable assistance to the Customer so that the Customer may fulfil its responsibilities to data subjects and their data rights as required;
 - 6.6.5. the Supplier will notify and assist the Customer with any personal data breaches that it may have so as to ensure that the Customer can comply with its obligations under the Data Protection Laws;
 - 6.6.6. the Supplier will delete or return all the Customer Data to the Customer at the expiry or termination of this Agreement or relevant part of it;
 - 6.6.7. the Supplier will make available and contribute information as required for the Customer to comply with obligations under the Data Protection Legislation; and
 - 6.6.8. the Supplier will comply with the Data Protection Legislation in so far as it applies to the processing activities that the Supplier undertakes on the Customer's behalf.
- 6.7. The Customer consents to the Supplier appointing the Third-Party Host as a third-party sub-processor of personal data under this Agreement. The Supplier confirms that it has entered or (as the case may be) will enter into a written agreement with the Third-Party Host on the Third-Party Host's Terms of Use which shall comply with all relevant requirements of the Data Protection Legislation.
 - 6.8. The Supplier will only process personal data outside the UK and/or EEA insofar as is compatible with the Third-Party Host's GDPR Compliance Statement.
 - 6.9. The Supplier will only process data in accordance with the NCSC 14 cloud principles as per the Supplier's Cloud Security Statement, see Schedule 4.

7. The Supplier's Obligations

- 7.1. The Supplier does not warrant that the use of the Services will be uninterrupted or error-free.
- 7.2. The Supplier does not warrant that the Services will provide 100% accurate results and the Customer acknowledges that the performance of the Services will vary dependant on the quality of the materials used with the Services. In addition, the Supplier shall not be responsible for the Customer's (or its Authorised Users') interpretation or use of the data resulting from use of the Services.
- 7.3. The Customer accepts responsibility for the selection of the Services to achieve its intended results and acknowledges that the Services has not been developed to meet the individual requirements of the Customer.
- 7.4. Any Third-Party Software provided by the Supplier may be used according to the Third-Party Licenses under which the relevant Third-Party Software is distributed but is provided on an "as is" basis.
- 7.5. All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

- 7.6. This Agreement shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling, or licensing documentation, software, products and/or services which are similar to those provided under this Agreement.

8. Customer's obligations

The Customer shall:

- 8.1. provide the Supplier with:
- 8.1.1. all necessary co-operation in relation to this Agreement; and
 - 8.1.2. all necessary access to such information as may be required by the Supplier;
- in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
- 8.2. without affecting its other obligations under this Agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement;
- 8.3. carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
- 8.4. ensure that the Authorised Users use the Services in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;
- 8.5. obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;
- 8.6. ensure that its network and systems comply with any relevant specifications provided by the Supplier from time to time; and
- 8.7. be, to the extent permitted by law and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Third-Party Host's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or otherwise caused by remote access or by the internet.

9. Charges and payment

- 9.1. The Customer shall pay to the Supplier the Fees plus any applicable Value Added Tax.

9.2. The Supplier shall be entitled to invoice the Customer for:

9.2.1. the first annual Software Access Fee; and

9.2.2. the first annual Managed Service Fee; and

9.2.3. the first annual Hosting Fee;

on or after the Commencement Date, and thereafter the Supplier shall be entitled to invoice the Customer for any subsequent Software Access Fee, Hosting Fee and/or Managed Service Fee at least 60 days prior to each anniversary of the Commencement Date and the Customer shall pay the same prior to the relevant anniversary of the Commencement Date, subject to clause 9.6.

9.3. If the Customer requests that the number of Maximum Users be increased in any Year, the Supplier shall be entitled to invoice the Customer for any increase in the Software Access Fee on a pro rata basis for the remainder of the Year.

9.4. The Supplier reserves the right, on each anniversary of the Commencement Date, to change the Software Access Fee, the Managed Services Fee and the Hosting Fee for the forthcoming Year and shall notify the Customer of any such changes by providing no less than 28 days written notice.

9.5. The Supplier reserves the right to increase the Hosting Fee if the Third-Party Host increases its fees for the Third-Party Hosting Services by more than ten per cent (10%) and shall notify the Customer of any such changes by providing no less than 28 days written notice.

9.6. Subject to clause 9.2, the Customer will pay the full amount invoiced to it by the Supplier within 30 days of the Supplier's invoice.

9.7. The Customer may not withhold payment of any amount due to the Supplier because of any set-off, counterclaim, abatement, or other similar deduction.

9.8. The Customer shall be responsible for the collection, remittance, and payment of any or all taxes, charges, levies, assessments, and other fees of any kind imposed by governmental or other authority in respect of the purchase, importation, sale, lease or use of the Services and/or the Services.

9.9. If the Customer fails to pay any amount payable by it under this Agreement the Supplier may charge the Customer interest on the overdue amount (payable by the Customer immediately on demand) from the due date up to the date of actual payment, after as well as before judgment, at the rate of 5% per annum above the base lending rate from time to time of The Royal Bank of Scotland plc. Such interest shall accrue on a daily basis and be compounded quarterly.

10. **Confidentiality and Publicity**

10.1. Each party shall, for the Subscription Term and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other disclose to any Third-Party (except its professional advisors or as may be required by any law or any legal or regulatory

authority) any, information of a confidential nature (including, without limitation, the source code related to the Software or the Services, trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its affiliates, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such party from a Third-Party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

- 10.2. The terms of this Agreement are confidential and may not be disclosed by the Customer without the prior written consent of the Supplier.

11. **Limits of Liability**

- 11.1. Except as expressly stated in clause 11.2:

- 11.1.1. The Supplier shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, delict (including negligence) or otherwise howsoever, which fall within any of the following categories:
- 11.1.2. special damage even if the Supplier was aware of the circumstances in which such special damage could arise;
- 11.1.3. loss of profits;
- 11.1.4. loss of anticipated savings;
- 11.1.5. loss of business opportunity;
- 11.1.6. loss of goodwill;
- 11.1.7. loss or corruption of data including any Customer Data hosted by a Third Part Host;

provided that this clause 11.1 shall not prevent claims for loss of or damage to the Customer's tangible property that fall within the terms of clause 11.2 or any other claims for direct financial loss that are not excluded by any of categories 11.1.1 to 11.1.6 inclusive of this clause 11.1; and

- 11.2. the total liability of the Supplier, whether in contract, tort (including negligence) or otherwise and whether in connection with this Agreement or any collateral contract, shall in no circumstances exceed a sum equal to the Fee. The exclusions in clause 7.5 and clause 11.1 shall apply to the fullest extent permissible at law, but the Supplier does not exclude liability for:
- 11.2.1. death or personal injury caused by the negligence of the Supplier, its officers, employees, contractors or agents;

11.2.2. fraud or fraudulent misrepresentation; or

11.2.3. any other liability which may not be excluded by law.

11.3. All dates supplied by the Supplier for the delivery of the Services shall be treated as approximate only. The Supplier shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.

12. **Intellectual Property Rights**

12.1. The Customer acknowledges that all Intellectual Property Rights in the Software, the Services belong and shall belong to the Supplier (or its licensors), and the Customer shall have no rights in or to the Software or the Services other than the right to use it in accordance with the terms of this Agreement.

12.2. The Supplier undertakes at its own expense to defend the Customer or, at its option, settle any claim or action brought against the Customer alleging that the use of the Services (or any part thereof) in accordance with the terms of this Agreement infringes the Intellectual Property Rights of a Third-Party ("Claim") and shall be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by or awarded against the Customer as a result of or in connection with any such Claim. For the avoidance of doubt, clause 12.2 shall not apply where the Claim in question is attributable to use of the Services (or any part thereof) by the Customer other than in accordance with the terms of this Agreement, use of the Services in combination with any hardware or software not supplied or specified by the Supplier if the infringement would have been avoided by the use of the Services not so combined, or use of a non-current release of the Services.

12.3. If any Third-Party makes a Claim, or notifies an intention to make a Claim against the Customer, the Supplier's obligations under clause 12.2 are conditional on the Customer:

12.3.1. as soon as reasonably practicable, giving written notice of the Claim to The Supplier, specifying the nature of the Claim in reasonable detail;

12.3.2. not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Supplier (such consent not to be unreasonably conditioned, withheld or delayed);

12.3.3. giving the Supplier and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Customer, so as to enable the Supplier and its professional advisers to examine them and to take copies (at the Supplier's expense) for the purpose of assessing the Claim; and

12.3.4. subject to the Supplier providing security to the Customer to the Customer's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, taking such

action as the Supplier may reasonably request to avoid, dispute, compromise or defend the Claim.

12.4. If any Claim is made, or in the Supplier's reasonable opinion is likely to be made, against the Customer, the Supplier may at its sole option and expense:

12.4.1. procure for the Customer the right to continue using, developing, modifying or maintaining the Services (or any part thereof) in accordance with the terms of this Agreement;

12.4.2. modify the Services so that they cease to be infringing;

12.4.3. replace the Software with non-infringing software; or

12.4.4. terminate this Agreement immediately by notice in writing to the Customer and refund any of the Fee paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Services to the date of termination) and return all Software and all copies thereof,

provided that if the Supplier modifies or replaces the Services or Software, the Customer shall have the same rights in respect thereof as it would have had under those clauses had the references to the date of this Agreement been references to the date on which such modification or replacement was made.

12.5. Notwithstanding any other provision in this Agreement, clause 12.2 shall not apply to the extent that any claim or action referred to in that clause arises directly or indirectly through the possession, use, development, modification or maintenance of Third-Party Software incorporated into or made available as part of the Services or through the breach of any Third-Party Licence relating to any Third-Party Software so incorporated.

12.6. This clause 12 constitutes the Customer's exclusive remedy and the Supplier's only liability in respect of Claims and, for the avoidance of doubt, is subject to clause 11.1

13. **Duration and Termination**

13.1. This Agreement shall, unless otherwise terminated as provided in this clause 13, commence on the Commencement Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement shall be automatically renewed for successive periods of 12 months (each a "**Renewal Period**"), unless:

13.1.1. either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

13.1.2. otherwise terminated in accordance with the provisions of this Agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the "**Subscription Term**".

- 13.2. Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, either party may at any time terminate this Agreement with immediate effect by giving written notice to the other party if:
- 13.2.1. 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 14 days after being notified in writing to make such payment;
 - 13.2.2. the other party commits a material breach of any term of this Agreement (other than failure to pay any amounts due under this Agreement) and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 13.2.3. the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
 - 13.2.4. 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 (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or equivalent;
 - 13.2.5. 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 (where 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;
 - 13.2.6. 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;
 - 13.2.7. an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
 - 13.2.8. a charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 13.2.9. a person becomes entitled to appoint a receiver or administrative receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 13.2.10. the other party (being an individual) is the subject of a bankruptcy petition or order;

- 13.2.11. 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 its assets and such attachment or process is not discharged within 14 days;
 - 13.2.12. 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 13.2.4 to clause 13.2.10 (inclusive); or
 - 13.2.13. the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 13.3. Termination by either party in accordance with the rights contained in this clause 13 shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.
- 13.4. On termination of this Agreement for any reason:
- 13.4.1. the Customer shall cease to use the Services and all rights granted to the Customer under this Agreement shall cease;
 - 13.4.2. the Customer shall cease all activities authorised by this Agreement;
 - 13.4.3. the Customer shall immediately pay to the Supplier any sums due to the Supplier under this Agreement;
 - 13.4.4. the Customer shall immediately destroy or return to the Supplier (at the Supplier's option) all copies of the Software (or part thereof) then in its possession, custody or control and, in the case of destruction, certify to the Supplier that it has done so;
 - 13.4.5. the Supplier shall be entitled to make any Customer Data accessible via the Services only available on a "read only" basis" pending delivery to the Customer pursuant to Clause 6.3; and
 - 13.4.6. the Supplier shall, or shall procure that the Third-Party Host shall, make the Customer Data available to the Customer pursuant to Clause 6.3 and shall destroy or delete any copies it may have of the Customer Data (subject to applicable law).
- 13.5. Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement including clause 9, clause 10, clause 11 and clauses 13.3 to 13.5.

14. **Waiver**

- 14.1. No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No

single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

15. Remedies

- 15.1. Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

16. Entire Agreement

- 16.1. This Agreement including the Schedules and any other documents annexed to, linked in or identified as appendices to this Agreement or otherwise referred to herein contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.
- 16.2. Each party acknowledges that, in entering into this Agreement and the documents referred to in it, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement.
- 16.3. Nothing in this clause shall limit or exclude any liability for fraud.

17. Variation

- 17.1. No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. Severance

- 18.1. If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal, or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 18.2. If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable, and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

19. Third-Party Rights

- 19.1. Unless this Agreement expressly states otherwise, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 or any other applicable law to enforce any term of this Agreement unless specified herein.

20. No Partnership or Agency

- 20.1. 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.

21. Force Majeure

- 21.1. Neither party shall in any circumstances 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, and in such 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 3 months, the party not affected may terminate this Agreement by giving 14 days' written notice to the other party.

22. Assignment

- 22.1. The Supplier may at any time sub-contract, assign, novate, charge or deal in any other manner with any or all its rights and obligations under this Agreement, provided it gives written notice to the Customer.
- 22.2. The Customer may not at any time contract, assign, novate, charge or deal in any other manner with any or all its rights and obligations under this Agreement, except with the prior written consent of the Supplier.

23. Governing Law and Jurisdiction

- 23.1. This Agreement and any dispute or claim arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1

Third-Party Hosting Details

1. **Third-Party Host:** the provider of the Third-Party Host's Services, namely Microsoft UK.
2. **Third-Party Host's Platform:** Microsoft Azure (UK Data Centre).
3. **Third-Party Host's Platform Terms of Use:** the Third-Party Host's terms and conditions for the provision of the Third-Party Host's Services as made available at [*Microsoft Azure UK Terms*] as the same may be amended by the Third-Party Host from time to time.
4. **Third-Party Host's GDPR Compliance Statement:** the Third-Party Host's statement relating to its compliance with the Data Protection Legislation as made available at [*Microsoft Azure*] as the same may be replaced or amended from time to time.

Schedule 2

The Specification

[Specification as agreed in requirements document will be added at the time of contract signing]

Schedule 3

The Supplier's Support Services Policy

1. Availability

The Supplier uses the ITIL framework in support service, delivering consistent processes and service management to Customers. Several of the Supplier's staff have acquired ITIL accreditations in addition to the relevant security clearances. Access to the Altia frontline portal where incidents may be logged is accessible 24/7 with UK Support being available between 09:00 to 17:00 Monday to Friday on Business Days.

Access to the Services will be 24/7 dependent on the Services being operational. Where the Services are not operational this Support Services policy or SLA and the Supplier's Incident Management Policy will apply.

2. Service Level Agreement Categories

Any fault reported to the Supplier or found by the Supplier shall be classified as follows:

Category	Definition	SLA Target
A	Malfunction is one which renders the product inoperable such that a critical business or operational function cannot be met.	The Supplier's target shall be to correct such malfunctions or provide an "alternative solution" within 8 Support Hours from notification, during which time the Supplier will provide the Customer with an update on progress at such intervals as are agreed when the malfunction is notified.
B	Malfunction is one which renders a non-material function of the product inoperable.	The Supplier's target shall be to correct such malfunction(s) or provide an "alternative solution" within 42 ½ hours from notification.
C	Malfunction is one where a function of the product operates other than in accordance with the documentation.	The Supplier's target shall be to correct such malfunctions within 120 Support Days from notification, or at its discretion in a future Maintenance Release.
D	Malfunction is any other fault with the product of a minor or cosmetic nature.	The Supplier's target shall be to correct such software issues in a future Maintenance Release.

3. KPIs

On a monthly basis, the Supplier may provide a report in line with an agreed upon format including KPI data. This will include the number of new incidents/cases reported in the given period. How many have been resolved and how many remain open. These will be reviewed on an ongoing basis and discussed as part of the Services review meetings. Frequency to be

confirmed but it is envisaged these will be on a monthly basis during the early life of the Services and later reviewed to move to be on a quarterly basis if agreed by all parties.

4. Maintenance Windows

The Supplier's applications will evolve over time driven by the Supplier's Customer base and roadmaps on both the application and technology sides. When the Supplier introduces a new version of its applications and/or new or upgraded service, the Supplier will keep the Customer fully updated via email bulletins, user group meetings and the ongoing Account Review meetings which are held with the Customer's assigned Account Executive. Any new service or software enhancement is supported by detailed documentation e.g. release notes, technical release notes, and user guides. Where necessary, if the new service or enhancement requires training, then this will be offered by the Supplier. Where the Supplier provides any new or updated technical Services then again these will be communicated to the Customer via the various communication channels. The Customer will be notified of the availability of a new Software release or patch via a release bulletin and the upgrade of the Software will be managed under an agreed Change Management process.

5. Service Continuity/Disaster Recovery

It is the Supplier's understanding that a high availability instance of the Services is not required, as such the Customer would be happy to accept a short outage in the event of a critical system failure that cannot be resolved within an agreed period. In this event, the Services would be restored to the previous daily backup.

6. Backup and Restore

i. OS and Data Layer

The OS and Disks are supplied as Virtual Managed Servers. This is a fully managed service delivered by the Supplier and the Third-Party Host who support all aspects up to the Operating System and is the responsibility of the Supplier. This includes:

- Windows Patching
- Third-Party Software upgrades (e.g. Oracle Database and application server)
- Anti-Virus
- Backups

7. Databases

Database backups will be performed using Oracle's RMAN tool on an incremental basis and will be scheduled on a nightly frequency. These backups have a retention policy of 14 days.

8. Capacity Management

The capacity for the Services has been scoped based on current Customer requirements. As part of Agreement the Supplier shall monitor capacity for the Services and alert the Customer if capacity needs to be reviewed and perhaps increased. This may lead to additional costs.

9. Event Monitoring and Alerting

The Services are fully audited and the whole system will be monitored daily, and database triggers will be setup to monitor metrics to provide real time notification if metrics are exceeded. Application server error logs will also be reviewed daily, and connection polling will identify if the application/database server is down.

The Supplier will monitor the virtual machines and operating system as part of the Services and will escalate / share details with the Customer.

10. Security Patching

The Supplier will provide and apply patches to the Oracle database, application servers, and updates to the application, and will liaise with relevant Customer departments to schedule maintenance windows for performing this. The patching of the operating system is the Supplier's responsibility and will be delivered in collaboration with the Cloud Hosting partner.

11. Change Management

The Supplier will work with the Customer to incorporate a change management process that will deal with any upgrades and infrastructure software updates. Full contact details will be shared, and advance notice will be agreed between both parties before any planned maintenance is carried out. The Supplier will amend/augment internal procedures in order to fit as close as possible with the Customer's schedule and processes. The Customer shall provide appropriate process documents/guidelines for the Supplier to review and assess.

12. Release Management

The Supplier provide Maintenance Releases of the Software on an annual basis and the implementing of these releases will be done using the agreed change management process. Roadmaps regarding the development of the product are published regularly and can be requested at any time by the Customer.

13. Asset and Configuration Management

Any configuration changes which are required will be documented and recommendations provided for review by the Customer.

Any configuration changes to the application would be documented and recommendations provided to the Customer for review and agreement, and any required downtime agreed and scheduled with the Customer. Any changes made would be documented as an activity log in the Supplier's standard report and made available as an encrypted file via email to the Customer.

14. Incident Management

The Supplier's incident management process is clarified in the Categories section at Paragraph 2 above, and in the Supplier's Incident Management Policy as issued by the Supplier from time to time. All incidents will be dealt with from either of the Third-Party Host's data centres or the Supplier's control rooms. The Supplier's Incident Management Process, and Data Breach Process also cover these items.

If the time to resolve an urgent call exceeds the specified limit defined in the Paragraph 2 above or the circumstances relating to the issue change in terms of urgency or impact, the internal escalation procedure shall be invoked whereby an action plan is agreed with the Customer at management level. Typically, the escalation level is the Supplier's Service Desk Manager, the assigned Supplier Account Executive and a Director of the Supplier.

Schedule 4

The Supplier's Cloud Security Statement

[INCLUDE AS NEEDED]

As witnessed by the hands of the parties, this Agreement is signed for and on behalf of **ABM Intelligence Limited (T/A Altia)** by

..... (Signature of Director of ABM Intelligence Limited)

..... (Full name)

..... (Date of signing)

..... (Place of signing)

and signed for and on behalf of **[CUSTOMER]** by

..... (Signature of Director/Secretary/ Authorised Signatory)

..... (Full name)

..... (Date of signing)

..... (Place of signing)