

QuickThink Cloud Limited Managed Services Terms and Conditions

These are the terms and conditions of QuickThink Cloud Limited, a company incorporated in England and Wales (registration number 08783872) with its registered office at Kestrel Court, Harbour Road, Portishead, Bristol, BS20 7AN ("**QTC**").

These terms and conditions set out the basis upon which QTC will provide services to the company, firm or person identified as the customer in the Proposal (the "**Customer**"). QTC will ask for the Customer's express consent to these terms and conditions before QTC begins working with the Customer.

Please read these terms and conditions carefully, and if you have any questions about these terms and conditions, please contact QTC.

1. Definitions and interpretation

1.1 In the Agreement:

"Acceptable Use Policies" means the acceptable use policies of QTC's infrastructure services providers, as identified (as at the date of the Agreement) in the Proposal;

"Additional Services" means any services that QTC provides or agrees to provide to the Customer that are outside the scope of those services specified in the Proposal;

"Agreement" means a managed services agreement between the parties incorporating:

- (a) a Proposal agreed between the parties;
- (b) these terms and conditions; and
- (c) the SLA,

together with any amendments to the Agreement from time to time;

"Agresso Software" means the Unit4 Agresso ERP suite produced and maintained by Unit4 NV;

"Business Day" means any weekday, other than a bank or public holiday in England;

"Business Hours" means between 07:00 and 19:00 GMT/BST on a Business Day;

"Charges" means all amounts payable by the Customer to QTC under or in relation to the Agreement;

"Confidential Information" means the Customer Confidential Information and QTC Confidential Information;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and "**Controlled**" will be construed accordingly);

"Customer Confidential Information" means:

(a) any information disclosed (whether disclosed in writing, orally or otherwise) by the Customer to QTC during the Term that at the time of disclosure: (i) is marked as "confidential", (ii) is described by the Customer as "confidential", or (iii) should be reasonably understood by QTC to be confidential; and

(b) the Customer Data;

"Customer Data" means all data that is stored on or processed by a Server and:

(a) has been uploaded or copied, or otherwise added, to the Server; or

(b) has been generated by the Server as a consequence of action taken,

by or at the instigation of the Customer, any person acting on behalf of the Customer or any person using the Customer's account(s), but excluding data stored in the Window Active Directory of the Software Platform (such as Customer account data);

"Customer Licensed Software" means those third party software programs and packages in respect of which the Proposal specifies the Customer must obtain a licence (excluding the Agresso Software);

"Data Protection Legislation" means all privacy laws applicable to the Customer Data which is processed under or in connection with this Agreement, including the Privacy and Electronic Communications (EC Directive) Regulations 2003 (or equivalent local regulations) the General Data Protection Regulation of the European Union (Regulation (EU) 2016/679) (the "GDPR"), the Data Protection Act 2018 and any secondary legislation in any country clarifying or enacting permitted derogations from the same, together with all codes of practice and other guidance on the foregoing issued by any relevant Data Protection Authority, all as amended from time to time and terms defined in the Data Protection Legislation shall bear the same meaning in this Agreement save where expressly defined otherwise;

"Effective Date" means the date of signature of the Proposal by the second of the parties to sign;

"Effective Term" means number of years after the date of signature of the Proposal the Customer has committed to;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or problems with the internet or any public telecommunications network, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Hosted Service" means the hosting of the Software Platform and Customer Data by QTC, and the provision of the Agresso Software to the Customer by means of the Software Platform;

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

"Maintenance Services" means maintenance services in relation the Agresso Software, the Software Platform and/or the Server provided or to be provided by QTC to the Customer under the Agreement;

"Managed System" means the system comprising the Servers, the Software Platform and the Agresso Software;

"Personal Data" means personal data as defined in the Data Protection Legislation which is included in the Customer Data and processed by QTC in accordance with clause 14 below ;

"Proposal" means a proposal document issued by QTC and signed or otherwise agreed by each of the parties specifying the particulars of the Agreement, together with a service scope document issued by QTC to the Customer;

"QTC Confidential Information" means:

- (a) any information disclosed (whether disclosed in writing, orally or otherwise) by QTC to the Customer during the Term that at the time of disclosure: (i) is marked as "confidential", (ii) is described by QTC as "confidential", or (iii) should be reasonably understood by the Customer to be confidential; and
- (b) the terms of the Agreement, including for the avoidance of doubt all financial terms and the provisions of the Proposal and the SLA;

"QTC Indemnity Event" has the meaning given to it in Clause 11.6;

"Related Entity" means a company, firm or individual that Controls, is Controlled by, or is under common Control with the relevant company, firm or individual;

"Resource Limits" means the limits on the resources utilised by the Hosted Service, as set out in the Proposal, which may be varied by the mutual agreement of the parties from time to time;

"Server" means a physical or virtual server hosting one or more elements of the Software Platform or Agresso Software, controlled by QTC and used for the provision of the Hosted Service, including web servers, application servers, database servers and testing servers;

"Services" means the services provided or to be provided under the Agreement, as specified in the Proposal and the SLA, which may include the Set-up Services, Hosted Service, Maintenance Services, Support Services and Additional Services;

"Set-up Services" means the set-up of the operating systems of the Servers, and the installation and configuration of the Software Platform and the Agresso Software on the Servers, enabling the provision of the Hosted Service;

"SLA" means the service level agreement provided by QTC to the Customer and relating to the Services;

"Software Platform" means the software platform designed by QTC to enable the provision of the Agresso Software as a cloud service incorporating and utilising a range of third party software applications and services;

"Subcontractor" means any third party to which QTC subcontracts any obligations under the Agreement;

"Support Services" means any support services relating to the Managed System (and, if the Proposal so specifies, the thin client software used to access the Agresso Software) provided or to be provided by QTC to the Customer under the Agreement; and

"Term" means the term of the Agreement.

1.2 In the Agreement, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

1.3 The Clause headings do not affect the interpretation of the Agreement.

1.4 In the Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

2. Agreement and Services

2.1 The Agreement will come into force on the Effective Date and will continue in force indefinitely, unless and until terminated in accordance with Clause 15.

2.2 QTC shall provide the Services to the Customer during the Term.

2.3 The Services shall be provided in accordance with the Proposal and the SLA.

3. Set-up Services

QTC shall provide the Set-up Services to the Customer in accordance with the timetable set out in the Proposal.

4. Hosted Service

4.1 This Clause 4 shall govern the Hosted Service to be provided to the Customer under the Agreement.

4.2 QTC will make available for the exclusive use of the Customer the Servers specified in the Proposal, and will ensure that those Servers meet the requirements of the Proposal.

4.3 QTC hereby grants to the Customer:

- (a) the right to use the Software Platform via the internet for the purposes of accessing and using the Agresso Software; and
- (b) administration rights in relation to each Server, restricted in such manner as the parties may agree or, absent any agreement, as QTC may determine.

4.4 The Customer acknowledges that any changes made to a Server, the Software Platform or the Agresso Software by the Customer shall be at the Customer's sole risk.

- 4.5 The Customer must not configure, or allow any other person to configure, any Server, the Software Platform or the Agresso Software in any way contrary to any guidelines on configuration made available by QTC to the Customer from time to time.
- 4.6 For the avoidance of doubt, hardware used to provide the Hosted Service will remain the property of QTC and/or its Subcontractors at all times.
- 4.7 Unless QTC expressly agrees otherwise in writing, QTC shall have the right to access and audit any Server at any time for the purpose of monitoring the Customer's compliance with the terms of the Agreement. Following receipt of a written request from QTC, the Customer shall promptly facilitate and enable such access and audit (including providing such login details as may be required to enable such access and audit).
- 4.8 The Customer's utilisation of resources through the Hosted Service must not exceed the Resource Limits.
- 4.9 The Customer acknowledges that QTC may use technical measures to prevent the Customer exceeding the Resource Limits.
- 4.10 If the Customer's utilisation of the Hosted Service exceeds the Resource Limits in such a way as to have a material negative effect upon:
- (a) the operation of QTC's computers, systems, networks and/or services; or
 - (b) the ability of any other of QTC's customers to use those computers, systems, networks and/or services,
- then QTC may suspend access to the Hosted Service or any element thereof, with or without notice to the Customer, and may impose additional restrictions on the Customer's use of the Hosted Service.
- 4.11 Without prejudice to QTC's rights under Clause 4.10, if the Customer's utilisation of the Hosted Service exceeds or threatens to exceed the Resource Limits, the parties will endeavour to agree a variation to the Agreement. If the parties cannot agree such a variation within a reasonable period (being not more than 30 days) following notice from QTC to the Customer requesting such variation, and resource utilisation continues to exceed those limits, the Customer will be deemed to be in material breach of the Agreement.
- 4.12 Subject to Clause 5.3, QTC will maintain Hosted Service availability at the levels specified in the SLA, and in the event that the Hosted Service fails to meet those availability levels, QTC may grant to the Customer service credits in accordance with the provisions of the SLA.
- 4.13 QTC will make such back-ups of Customer Data, Software Platform configuration, Agresso Software configuration and Server configuration as may be specified in the Proposal and the SLA; and QTC will implement such disaster recovery systems as may be specified in the Proposal and the SLA.

5. Maintenance Services

- 5.1 This Clause 5 shall govern the Maintenance Services to be provided to the Customer under the Agreement.

5.2 QTC shall apply updates and upgrades to, and shall optimise the performance of:

- (a) the Agresso Software;
- (b) the Software Platform; and
- (c) each Server,

during the scheduled Maintenance Services window specified in the SLA, providing that updates and upgrades may also be applied at any time agreed between the parties.

5.3 Access to the Agresso Software and other services may be unavailable or intermittently available during the provision of updates, upgrades and other scheduled and emergency Maintenance Services. Unavailability or intermittent availability of the Hosted Service as a result of scheduled or emergency Maintenance Services under this Clause 5 shall not constitute unavailability for the purposes of the availability commitments in the SLA.

5.4 Notwithstanding the other provisions of this Clause 5, QTC reserves the right:

- (a) to install or uninstall software on any Server; and
- (b) to apply updates, upgrades and patches to any software installed on any Server,

in each case with or without notice, where it is reasonably necessary to do so to ensure the security and/or integrity of the Managed System.

5.5 QTC will provide the Maintenance Services in accordance with the service levels specified in the SLA.

6. Support Services

6.1 This Clause 6 shall govern the Support Services to be provided to the Customer under the Agreement.

6.2 QTC will make available to the Customer a helpdesk facility for the purpose of (inter alia) providing support to the Customer in relation to the Managed System.

6.3 The Customer may access the helpdesk using the access details specified in the Handover Document.

6.4 The Customer must make all requests for Support Services through the helpdesk.

6.5 The helpdesk will be available during those hours specified in the SLA.

6.6 QTC shall respond to and resolve requests for Support Services made through the helpdesk in accordance with the response and resolution timetables specified in the SLA.

6.7 QTC will provide the Support Services in accordance with the service levels specified in the SLA.

7. Additional Services

7.1 The parties may agree from time to time that QTC shall provide Additional Services

to the Customer.

- 7.2 Unless the parties agree otherwise in writing, Additional Services will form part of the Services under the Agreement, and accordingly shall be subject to these terms and conditions.
- 7.3 Unless the parties have agreed otherwise in writing, the Customer will:
- (a) pay to QTC Charges in respect of Additional Service at QTC's standard time-based charging rates; and
 - (b) reimburse QTC for transport, accommodation and subsistence expenses reasonably incurred by QTC in the provision the Additional Services.

8. Customer obligations

- 8.1 The Customer shall be responsible for obtaining, at its own cost:
- (a) a licence for the Agresso Software that permits QTC to host the Agresso Software and use the Agresso Software in accordance with the terms of the Agreement; and
 - (b) licences for any Customer Licensed Software that permit the use of the Customer Licensed Software as anticipated by the Agreement.
- 8.2 The Customer must maintain the licences referred to in Clause 8.1 during the entirety of the Term, and if the Customer fails to do so, this shall be deemed to be a material breach of the Agreement.
- 8.3 The Customer must provide to QTC written evidence of the licences referred to in Clause 8.1 and their maintenance in accordance with Clause 8.2 promptly following receipt of a written request from QTC for the Customer to do so.
- 8.4 The Customer shall provide QTC with:
- (a) all co-operation, information and documentation; and
 - (b) all access to the software, computers, servers, networks, systems and premises of the Customer,
- reasonably required for the provision of the Services.
- 8.5 The Customer must ensure that any passwords relating to the Services are non-obvious and not likely to be susceptible to standard password cracking techniques. It is the Customer's responsibility to keep such passwords confidential and secure, and to change such passwords on a regular basis. The Customer will notify QTC immediately if it becomes aware that a password relating to the Services is or may have been compromised or misused.
- 8.6 Except to the extent that the Agreement expressly provides otherwise:
- (a) the Services are provided to the Customer only; and
 - (b) the Customer must not resell or otherwise provide or make available the Services to any third party.
- 8.7 The Customer must comply with the terms of the Acceptable Use Policies, and must

ensure that all persons using the Services under the authority of the Customer or by means of the Customer's account(s) comply with the terms of the Acceptable Use Policies. QTC shall notify the Customer of any changes to the Acceptable Use Policies promptly following the publication of any such change.

9. Charges and payments

- 9.1 QTC shall issue invoices for the Charges to the Customer in accordance with the provisions of the Proposal.
- 9.2 All Charges stated in or in relation to the Agreement are stated exclusive of VAT, unless the context requires otherwise.
- 9.3 QTC may vary the Charges on and from any anniversary of the Effective Date by giving to the Customer not less than 30 days' written notice of the variation, providing that no such variation will result in the relevant element of the Charges increasing during the Term by more than the percentage increase, during the same period, in the Retail Prices Index (all items) published by the UK Office for National Statistics.
- 9.4 The Customer will pay Charges to QTC in cleared funds within 45 days following the date of issue of an invoice for the relevant Charges.
- 9.5 Charges must be paid by bank transfer or any other method authorised by QTC (using such payment details as are notified by QTC to the Customer from time to time).
- 9.6 If the Customer does not pay any amount properly due to QTC under or in connection with the Agreement, QTC may:
 - (a) charge the Customer interest on the overdue amount at the rate of 4% per year above the UK base rate of Barclays Bank Plc from time to time (which interest will accrue daily and be compounded at the end of each calendar month); or
 - (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 9.7 QTC shall have the right to set off any amount owed by the Customer to QTC against any amount owed by QTC to the Customer, in each case whether the amount is owed:
 - (a) under the Agreement or any other contract; or
 - (b) as a result of any liability arising out of the Agreement or any other contract,and QTC may exercise its right under this Clause 9.7 by giving written notice of such exercise to the Customer.
- 9.8 If the Customer fails to pay to QTC any amount owed under the Agreement by the due date, then QTC may send to the Customer a demand for payment; and if the Customer does not pay the overdue amount within 30 days following the issue of the demand, QTC may notify the Customer of their intention to terminate the Agreement and prepare to return all of the data and systems hosted by QTC back to the Customer. The Customer shall have a further 30 days to make arrangements to receive the data and systems, failing which QTC may suspend, withhold and/or render inaccessible any or all of the Services and/or the Customer's accounts

relating to the Services until such time as payment is received, without prejudice to QTC's other rights under the Agreement.

10. Intellectual Property Rights

10.1 Save as expressly provided in the Agreement:

- (a) all Intellectual Property Rights in: (i) the Software Platform, the Services and any improvements to the Software Platform and Services; and (ii) any works and materials produced by or on behalf of QTC in the course of the provision of the Services, are and shall remain, between the parties, the exclusive property of QTC; and
- (b) the Customer shall have no right or licence to exercise or exploit such Intellectual Property Rights.

10.2 The Customer hereby grants to QTC the right to store, copy, transmit and otherwise use the Customer Data for the purposes of performing its obligations, and exercising its rights, under the Agreement.

10.3 Subject to Clause 10.2, all Intellectual Property Rights in the Customer Data are and shall remain, between the parties, the exclusive property of the Customer.

10.4 QTC must not sell the Customer Data; and QTC must not provide the Customer Data to any third party except as contemplated by the Agreement or with the express written consent of the Customer.

11. Warranties and indemnity

11.1 The Customer warrants to QTC that:

- (a) it has the legal right and authority to enter into and perform its obligations under the Agreement; and
- (b) the use by QTC of the Customer Data in accordance with the terms of the Agreement will not infringe any third party Intellectual Property Rights.

11.2 QTC warrants to the Customer that:

- (a) it has the legal right and authority to enter into and perform its obligations under the Agreement;
- (b) it will perform its obligations under the Agreement with reasonable care and skill;
- (c) the use by the Customer of the Software Platform in accordance with the terms of the Agreement will not infringe any third party Intellectual Property Rights; and
- (d) it shall use reasonable care in the appointment of third party internet service providers, telecommunications providers, utility providers and other infrastructure providers whose service may affect the performance of its obligations under this Agreement.

11.3 QTC shall use all reasonable measures and procedures to secure the operating systems, servers and connections to those servers in line with industry intrusion prevention good practice. If QTC is providing the Hosted Service, QTC shall use all

reasonable technological measures and procedures to secure the Software Platform. The Customer acknowledges that the Servers and the Software Platform may from time to time be subject to attacks by hackers, denial of service attacks and/or malicious software attacks or infections. QTC does not warrant or represent that the Servers or the Software Platform will never be subject to a security breach. Subject to Clause 12.1 and providing that QTC complies with the requirements of this Clause 11.3, QTC shall not be liable to the Customer in respect of any loss or damage arising out of any hacker attacks, denial of service attacks or malicious software attacks or infections.

- 11.4 The Customer acknowledges that the Agresso Software will be supplied and licensed to the Customer by a third party, and accordingly QTC gives no warranties or representations in relation to the Agresso Software. Subject to Clause 12.1, QTC shall not be liable to the Customer in respect of any loss or damage arising out of any defect with the Agresso Software, any security issue with the Agresso Software or any incompatibility of the Agresso Software with any software or systems not specified as compatible in the Agreement.
- 11.5 All of the parties' warranties and representations in respect of the subject matter of the Agreement are expressly set out in the terms of the Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.
- 11.6 QTC shall indemnify and shall keep indemnified the Customer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Customer and arising directly or indirectly as a result of any breach by QTC of Clause 11.2(c) (a "**QTC Indemnity Event**").
- 11.7 The Customer must:
 - (a) upon becoming aware of an actual or potential Consultant Indemnity Event, notify QTC;
 - (b) provide to QTC all such assistance as may be reasonably requested by QTC in relation to QTC Indemnity Event;
 - (c) allow QTC the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to QTC Indemnity Event; and
 - (d) not admit liability to any third party in connection with QTC Indemnity Event or settle any disputes or proceedings involving a third party and relating to QTC Indemnity Event without the prior written consent of QTC,

and QTC's obligation to indemnify the Customer under Clause 11.6 shall not apply unless the Customer complies with the requirements of this Clause 11.7.

12. Limitations and exclusions of liability

- 12.1 Nothing in the Agreement will:
 - (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
 - (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;

- (c) limit any liability of a party in any way that is not permitted under applicable law; or
 - (d) exclude any liability of a party that may not be excluded under applicable law.
- 12.2 The limitations and exclusions of liability set out in this Clause 12 and elsewhere in the Agreement:
 - (a) are subject to Clause 12.1; and
 - (b) govern all liabilities arising under the Agreement or in relation to the subject matter of the Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty (save that Clauses 12.3 to 12.8 do not affect any liability of QTC under the indemnity in Clause 11.6).
- 12.3 Neither party will be liable to the other party in respect of any loss of profits or anticipated savings.
- 12.4 QTC will not be liable to the Customer for any loss of business, contracts or commercial opportunities.
- 12.5 QTC will not be liable to the Customer for any loss of or damage to goodwill or reputation.
- 12.6 QTC will not be liable to the Customer for any losses arising out of a Force Majeure Event.
- 12.7 QTC will not be liable to the Customer in respect of any special, indirect or consequential loss or damage.
- 12.8 Providing that QTC complies with Clause 11.2(c) and without affecting QTC's obligations in relation to the availability of the Hosted Service, QTC shall not be liable to the Customer in respect of any loss or damage arising from any failure or interruption of service provided by a third party internet service provider, telecommunications provider, utility provider or other infrastructure provider.
- 12.9 QTC's liability to the Customer in relation to any event or series of related events will not exceed the greater of:
 - (a) GBP 50,000; and
 - (b) an amount equal to the total paid and payable Charges during the period of 12 months preceding the commencement of the event or events.
- 12.10 QTC's aggregate liability to the Customer under the Agreement will not exceed GBP 250,000.

13. Confidentiality

- 13.1 QTC will:
 - (a) keep confidential and not disclose the Customer Confidential Information to any person save as expressly permitted by this Clause 13; and

- (b) protect the Customer Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least reasonable skill and care.

13.2 The Customer will:

- (a) keep confidential and not disclose the QTC Confidential Information to any person save as expressly permitted by this Clause 13; and
- (b) protect the QTC Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least reasonable skill and care.

13.3 Confidential Information of a party may be disclosed by the other party to that other party's officers, employees, agents, subcontractors, insurers and professional advisers, provided that the recipient is bound in writing, or by a professional obligation, to maintain the confidentiality of the Confidential Information disclosed.

13.4 The obligations set out in this Clause 13 shall not apply to:

- (a) Confidential Information that is publicly known (other than through a breach of an obligation of confidence);
- (b) Customer Confidential Information that is in possession of QTC prior to disclosure by the Customer, and QTC Confidential Information that is in possession of the Customer prior to disclosure by QTC; or
- (c) Customer Confidential Information that is received by QTC, and QTC Confidential Information that is received by the Customer, from an independent third party who has a right to disclose the relevant Confidential Information.

13.5 The restrictions set out in this Clause 13 shall not prevent any disclosure of Confidential Information that is required by law, or by a governmental authority, stock exchange or regulatory body, provided that the party subject to such disclosure requirement gives to the other party prompt written notice of the disclosure requirement, where permitted by law to do so.

14. Data protection

14.1 In respect of the parties' rights and obligations under this Agreement regarding the Personal Data the parties agree that the Customer is the Data Controller and that QTC is a Data Processor (such terms as defined in the Data Protection Legislation) and both parties agree that they will perform their respective obligations under this Agreement in accordance with the Data Protection Legislation. Without prejudice to the forgoing, the Customer warrants that it has the legal right to process and have processed any Personal Data that it requires QTC to process in the process of providing the Services and that the performance by QTC of the Services in accordance with this Agreement will not breach Data Protection Legislation.

14.2 QTC warrants that it shall use reasonable endeavours to procure that any Subcontractors shall:

- i. Only process the Personal Data in order to provide the Services and then only in accordance with this Agreement and with instructions received from

- the Customer;
 - ii. Promptly and fully cooperate with and assist the Customer in relation to any reasonable request for cooperation and/or assistance and/or information relating to its processing of the Personal Data
 - iii. Ensure that the Personal Data shall only be accessible by QTC's Personnel to the extent they need to know or require access for the purposes of properly performing their duties in relation to the Services and who, where relevant, understand the confidentiality of such Personal Data (and who are contractually bound to maintain its confidentiality) and in particular QTC and any Subcontractors shall take adequate precautions to ensure that Personal Data is not used, accessed or processed in a manner incompatible with these purposes;
 - iv. to use reasonable care to ensure that it does not cause the Customer to be in breach of any part of the Data Protection Legislation whether by reason of an act or omission by it or them, or by any of its or their directors, officers staff, employees or any Subcontractors;
 - v. Not allow any third parties to access the Personal Data except to the extent that it obtains the prior written consent of the Customer to appoint a Third Party in order to assist it in delivering the Services and PROVIDED ALWAYS that the following conditions shall apply to such consent and after such consent is given;
 - a) Such Subcontractors shall not be entitled to subcontract further in whole or in part or to allow any third party access to the Personal Data;
 - b) Their appointment is otherwise on the same basis and terms as in this clause 14;
 - c) QTC shall procure compliance by the Third Party with these terms and shall be responsible for the acts and omissions of such Subcontractors.
- 14.3 QTC undertakes on a continuing basis that it shall and shall procure that the Subcontractors shall;
- i. Put in place and maintain appropriate technical and organisational measures against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access to Personal Data; and
 - ii. Take reasonable steps to ensure the reliability of its/their personnel who have access to Personal Data and to ensure they are aware of QTC's or Third Party's (as appropriate) obligations in relation to Personal Data.
- 14.4 QTC warrants that it shall and shall use reasonable endeavours to procure that any Subcontractors shall fully comply at all times with the Data Protection Legislation in respect of QTC's and/or the Subcontractors' Processing of the Data (to the extent that the Data Protection Legislation applies to QTC and/or the Subcontractors who acknowledge that they are Processing the Data as Data Processors) and in particular shall ensure all data inputted or recorded is accurate and up to date (to the extent within Supplier/Third Party control) and only retained in accordance with the Customer's data retention policy.
- 14.5 The parties agree that any transfer of Personal Data by QTC outside the EEA shall take place only in accordance with the Data Protection Legislation and as agreed in advance with the Customer.

15. Termination

- 15.1 Either party may terminate the Agreement by giving at least 30 days' written notice to the other party before the Effective Term has been reached. If no notice is given by either party the contract will continue for a further 12 months with pricing updated to reflect the latest QTC price book.

- 15.2 Either party may terminate the Agreement immediately by giving written notice to the other party if the other party:
- (a) commits any material breach of any term of the Agreement, and: (i) the breach is not remediable; or (ii) the breach is remediable, but the other party fails to remedy the breach within 30 days of receipt of a written notice requiring it to do so; or
 - (b) persistently breaches the terms of the Agreement.
- 15.3 QTC may terminate the Agreement immediately by giving written notice to the Customer if the Customer:
- (a) fails to pay any amount due to be paid to QTC under the Agreement by the due date; and
 - (b) does not remedy such failure within 14 days following the date of issue of a written notice by QTC to the Customer requiring the Customer to do so.
- 15.4 Either party may terminate the Agreement immediately by giving written notice to the other party if:
- (a) the other party: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting, or makes or proposes to make any arrangement or composition, with its creditors;
 - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party; or
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up.

16. Effects of termination

- 16.1 Termination of the Agreement will not affect either party's accrued rights (including accrued rights to issue invoices and rights to be paid) as at the date of termination.
- 16.2 Subject to Clause 16.1, upon termination all the provisions of the Agreement will cease to have effect, save that:
- (a) the following provisions of the Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 1, 9.6, 9.7, 10.2, 11.3, 11.4, 11.5, 12, 13, 14, 16, 17 and 19; and
 - (b) the provisions of the SLA and the Proposal expressed to survive and continue to have effect will do so (in accordance with their terms or otherwise indefinitely).
- 16.3 If the Agreement is terminated by QTC under Clause 15.1 or by the Customer under Clause 15.2 or 15.4 (but not in any other case) the Customer will:
- (a) be entitled to a refund of any Charges paid by the Customer to QTC in respect of any Services which were to be performed after the date of effective termination; and

- (b) be released from any obligation to pay any Charges otherwise payable by the Customer to QTC in respect of any Services which were to be performed after the date of effective termination,

such amount or amounts to be calculated by QTC, using any reasonable methodology.

- 16.4 Save as provided in Clause 16.3, the Customer will not be entitled to any refund of Charges on termination, and will not be released from any obligation to pay Charges to QTC.
- 16.5 Within 30 days following the termination of the Agreement, howsoever caused, QTC shall supply the Customer Data to the Customer in such format as the parties may (acting reasonably) agree.
- 16.6 QTC shall, if so requested by the Customer at any time before the expiry of the period of 30 days following the termination of the Agreement, provide to the Customer assistance in relation to the transfer of the Services to a replacement service provider appointed by the Customer. Save to the extent that the parties have agreed otherwise, QTC may charge the Customer for any Services provided under this Clause 16.6 at its standard time-based charging rates.

17. Non-solicitation

Neither party shall, without the other party's prior written consent, during the Term or for a period of 6 months after the end of the Term, directly or indirectly, either for itself or for any other person, firm or company, solicit for employment or engagement any employee or contractor of the other party involved in the performance or receipt of the Services.

18. Notices

- 18.1 Any notice given under the Agreement must be in writing (whether or not described as a "written notice" in the Agreement) and must be delivered personally, sent by courier, sent by recorded signed-for post or sent by email, in each case using the contact details of the recipient set out in the Proposal.
- 18.2 Promptly following receipt of a notice sent by email, the recipient shall give to the sender a written acknowledgement of receipt of that notice. Notices sent by email shall only be effective if and when the recipient sends this acknowledgement.
- 18.3 Subject to Clause 18.2, a notice will be deemed to have been received at the relevant time set out below (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below):
 - (a) if the notice is delivered personally or sent by courier, at the time of delivery; and
 - (b) if the notice is sent by post, 48 hours after posting.

19. General

- 19.1 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.
- 19.2 If a Clause of the Agreement is determined by any court or other competent

authority to be unlawful and/or unenforceable, the other Clauses of the Agreement will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).

- 19.3 Nothing in the Agreement will constitute a legal partnership, agency relationship or contract of employment between the parties.
- 19.4 The Agreement may not be varied except by a written document signed or otherwise agreed in writing by or on behalf of each of the parties.
- 19.5 Each party hereby agrees that the other party may freely assign all of its rights and obligations under the Agreement to any Related Entity of the assigning party or any successor to all or a substantial part of the business of the assigning party from time to time. Subject to this, neither party may, without the prior written consent of the other party, assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any rights or obligations under the Agreement.
- 19.6 QTC may subcontract the provision of hosting services and related services to be provided to the Customer under the Agreement to any third party, providing that QTC shall use reasonable skill and care in the selection of subcontractors, and QTC shall remain responsible to the Customer for the performance of the subcontracted obligations. QTC shall not subcontract any other Services except with the prior written consent of the Customer. QTC shall obtain the prior written consent for the subcontract of hosting services, such written consent not being unreasonably withheld by the Customer.
- 19.7 The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.
- 19.8 Subject to Clause 12.1:
 - (a) the Agreement constitutes the entire agreement between the parties in relation to the subject matter of the Agreement, and supersedes all previous agreements, arrangements and understandings between the parties in respect of that subject matter; and
 - (b) neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into the Agreement.
- 19.9 The Agreement will be governed by and construed in accordance with the laws of England; and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

**QUICKTHINK CLOUD LIMITED
EVERQUERY ORDER FORM**

Background:

- A. We are QuickThink Cloud Limited, a company incorporated and registered in England and Wales with company number 08783872, whose registered office is Kestrel Court Harbour Road, Portishead, Bristol, England, BS20 7AN (hereafter “QTC”, “we” or “us”).
- B. We offer a service that allows our customers to, via a platform that we host (the “Platform”, as further defined below), store data (including any historic UNIT4 data) and interrogate it using prompts (the “Services”, as also further defined below).
- C. You, the Customer, now wish to use the Platform and avail yourselves of the related Services.

This Order Form shall, therefore, together with the terms and conditions at Annex 1 (“Terms”), the data processing terms at Annex 2 and the service level agreement at Annex 3 form the basis of the agreement between QTC and you, the Customer, to use the Platform and avail yourselves of the related Services and: (a) by signing where indicated below the Customer confirms that the details in this Order Form are correct and agrees to be bound by the Order Form, the Terms and the SLA; and (b) upon receipt of the signed Order Form from the Customer, QTC shall confirm its acceptance of the Customer’s offer to enter into a legally binding contract by countersigning the Order Form and dating the agreement to bring it into legal force and effect (the “Agreement”). All defined terms included in this Order Form shall, unless otherwise defined, have the meaning as set out in the Terms.

1. The Customer

Customer Name:	[INSERT] (“Customer” or “you”)
Customer’s Company Number (if applicable):	[INSERT]
Customer’s Registered Office Address:	[INSERT]

2. Parties’ Contact Details

	Name	Email	Phone Number
2.1 Customer Contact:	[INSERT]	[INSERT]	[INSERT]
2.2 QTC Contact:	[INSERT]	[INSERT]	[INSERT]

3. Key Terms

3.1 Charges	Initial Term: Subject always to the Services Usage Limits, QTC shall charge you £[●] (plus VAT, if applicable) for the Services for the Initial Term (“Initial Fees”), payable on signature of this Order Form. Renewal Term(s): For each Renewal Term, and subject always to the Services Usage Limits, QTC shall charge you for the Services in line with QTC’s price rates then in force as published on the Website or otherwise communicated to you in writing by QTC (“Renewal Fees”), payable upfront before the start of each Renewal Term.
3.2 Services Usage Limits	Authorised Users Limit: The Services may be used by a maximum of 50 Authorised Users (“Authorised Users Limit”).

	Database Size Limit: The Services are subject to a maximum database size of 1TB (“Database Size Limit”). Services Usage Limits: The Initial Fees and any Renewal Fees are subject to the Authorised Users Limit and Database Size Limit. If the Authorised Users Limit and/or Database Size Limit are exceeded by the Customer, the Customer hereby acknowledges and agrees that additional charges will apply, such charges to be as indicated to the Customer in writing by QTC.	
3.3 Commencement and Duration	3.3.1 Effective Date:	[INSERT]
	3.3.2 Term (subject to early termination rights):	[12 OR SPECIFY IF LONGER] months from the Effective Date (“ Initial Term ”). At the end of the Initial Term, the Agreement will automatically renew for subsequent 12-month periods (each a “ Renewal Term ” and together with the Initial Term, the “ Term ”) unless either party gives the other party not less than [INSERT] [days][months] notice prior to the expiry of the Initial Term or any Renewal Term that it does not wish to renew in which case the Agreement shall end at the end of the Initial Term or Renewal Term (as applicable).
3.4 Special Terms	[INSERT] OR N/A	
SIGNED for and on behalf of QUICKTHINK CLOUD LIMITED		
Name of Signatory:		
Signature:		
Date of Signature:		
SIGNED for and on behalf of the CUSTOMER		
Name of Signatory:		
Signature:		
Date of Signature:		
THIS ORDER FORM IS SUBJECT TO THE TERMS AT ANNEX 1, THE DATA PROCESSING TERMS AT ANNEX 2 AND THE SLA AT ANNEX 3.		

Annex 1 – QuickThink Cloud Standard Vault SaaS Terms

1. **DEFINITIONS:** Except to the extent expressly provided otherwise, in this Agreement:
- 1.1. **"Account"** means an account enabling a person to access and use the Hosted Services, including both administrator accounts and individual Authorised User accounts;
 - 1.2. **"Agreement"** means this agreement including any annexures, appendices and schedules attached to this Agreement (including any Order Form and any SLA) and incorporated herein, and any amendments to this Agreement from time to time;
 - 1.3. **"Authorised Users"** means those employees, agents and independent contractors of the Customer who are authorised by the Customer to access and use the Platform and the Services;
 - 1.4. **"Business Day"** means any weekday other than a bank or public holiday in England;
 - 1.5. **"Business Hours"** means the hours of 09:00 to 17:00 GMT/BST on a Business Day;
 - 1.6. **"Charges"** means the following amounts: (a) the charges for the provision of the Services set out in the Order Form, including the Initial Fees and any applicable Renewal Fees; and (b) such amounts as may otherwise be agreed in writing by the parties from time to time.
 - 1.7. **"Confidential Information"** means: (a) any information and materials disclosed by or on behalf of a party to the other party during the Term (whether disclosed in writing, orally or otherwise), whether technical or commercial concerning a party's business, plans, customers, codes, processes, methodology, specifications, suppliers and products and including a party's Intellectual Property that are confidential or of substantial value to that party and whether or not such information and/or materials are: (i) identified or marked as "confidential" at the time of disclosure; or (i) ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure; and (b) the Customer Data and Documentation;
 - 1.8. **"Customer Data"** means any and all data the Customer and Authorised Users upload and store on the Platform, including Individuals' Data, data relating to the use of the Platform by the Customer or the Customer's Authorised Users, data transferred from the Customer's UNIT4 account(s), and all related data, information, notes, records, and/or other materials, uploaded onto or stored on the Platform by the Customer and/or transmitted by the Platform at the instigation of the Customer and/or supplied by the Customer to QTC for uploading onto, transmission by and/or storage on the Platform, or generated by the Platform as a result of the use and receipt of the Services by the Customer;
 - 1.9. **"Customer Prompt"** means a prompt developed by the Customer to interrogate the Customer Data on the Platform;
 - 1.10. **"Documentation"** means any documentation for the Services produced by QTC and made available by QTC to the Customer;
 - 1.11. **"Data Protection Law"** means the retained EU Law version of Regulation (EU) 2016/679 (the General Data Protection Regulation) (UK GDPR) and the Data Protection Act 2018 and any legislation in force from time to time which implements the foregoing together with any other similar national privacy legislation and guidance issued by data protection regulators;
 - 1.12. **"Effective Date"** means the Effective Date set out in the Order Form;
 - 1.13. **"Exclusions"** means any Service Downtime caused by: (a) the actions or omissions of the Customer or the Customer's Authorised Users using the password(s) and Authorised User IDs issued by QTC to the Customer to access and use the Hosted Services; (b) an attack, hacker activity or other malicious event or code targeted against QTC or the Customer or any other customer of QTC; (c) failure of any hardware, software, network or

internet infrastructure not owned or managed by QTC, including but not limited to servers owned by the Customer (including as to an on-premise deployment) and any integration software provider that QTC engages in connection with its provision of the Hosted Services; and/or (d) any Force Majeure Event.

- 1.14. **"Force Majeure Event"** has the meaning as defined in clause 15;
- 1.15. **"Hosted Services"** means the data hosting services together with the integrated tool on the Platform allowing Customers to interrogate the Customer Data, which will be made available via the Platform by QTC to the Customer in accordance with this Agreement;
- 1.16. **"Hosted Services Defect"** means a defect, error or bug in the Platform having an adverse effect on the operation, functionality or performance of the Hosted Services;
- 1.17. **"Intellectual Property"** means all and any patents, rights to inventions, specifications, computer programs and software including source and object code, copyright and neighbouring and related rights, moral rights, trade marks and service marks, logos, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information including know-how and trade secrets and all other Intellectual Property, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
- 1.18. **"Individual"** means any natural person whose data is uploaded by the Customer and/or the Authorised Users on the Platform;
- 1.19. **"Individuals' Data"** means personal data (as defined in the Data Protection Law and incorporating Sensitive Personal Data) provided, and captured and inputted onto the Platform, by the Customer and/or the Authorised Users and relating to any Individual;
- 1.20. **"Initial Term"** means the period of time set out in the Order Form to this Agreement;
- 1.21. **"Maintenance"** means and includes: (a) any scheduled maintenance of the Platform of which the Customer is notified reasonably in advance, by email to the contact email provided by the Customer from time to time (such email to be maintained as current and frequently accessed by the Customer); and (b) any maintenance of the Platform software used by QTC as is necessary to avoid or mitigate an immediate threat to the Hosted Services of which the Customer is notified;
- 1.22. **"Order Form"** means the Order Form that forms part of this Agreement;
- 1.23. **"Permitted Purpose"** means the internal business purposes of the Customer;
- 1.24. **"Platform"** means the EverQuery platform and associated software developed and managed by QTC and used by QTC to provide the Hosted Services;
- 1.25. **"QTC Prompt"** means a prompt developed by QTC and licensed to the Customer for the purpose of allowing the Customer to interrogate the Customer Data on the Platform;
- 1.26. **"SLA"** means the Service Level Agreement provided to the Customer that forms part of this Agreement and as set out in Annex 3;
- 1.27. **"Sensitive Personal Data"** means Individuals' Data categorized as special category data under the Data Protection Law;
- 1.28. **"Services"** means the Support Services and the Hosted Services;

- 1.29. **"Service Downtime"** means any time during which the Hosted Services are incapable of access and/or use due to the failure of network equipment managed, owned, leased or used by QTC to provide the Hosted Services, including the failure of managed switches, routers and cabling, but excluding Maintenance and Exclusions;
- 1.30. **"Software"** means the software or any third-party software that underpins and powers the Platform to enable QTC to make the Platform available to the Customer as part of the Services;
- 1.31. **"Support Services"** means support in relation to the use and receipt of, and the identification and resolution of errors in, the Hosted Services provided over telephone or email during Business Hours on Business Days;
- 1.32. **"Supported Web Browser"** means the current release from time to time of any of the web browsers that QTC specifies as supported from time to time, as communicated to the Customer in writing or otherwise published on the Website or Platform;
- 1.33. **"Term"** means the term of this Agreement, commencing in accordance with clause 2 and ending in accordance with clause 14;
- 1.34. **"Update"** means a hotfix, patch or minor version update to the Platform or Software;
- 1.35. **"Upgrade"** means a major version upgrade of the Platform or Software;
- 1.36. **"Virus"** means 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 scripts, worms, trojan horses, viruses and other similar things or devices;
- 1.37. **"Website"** means everquery.net.

Interpretation (a) Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement; (b) 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; (c) reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established; (d) unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular; (e) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.; (f) reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement; (g) 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; (h) reference to writing or written includes e-mail; (i) 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. **TERM:** This Agreement shall come into force on the Effective Date and shall continue, subject to prior termination under this Agreement, to be in force for the Initial Term after which it shall continue for each Renewal Term unless and until terminated in accordance with clause 14 (Termination).

3. PLATFORM AND SOFTWARE LICENCES

- 3.1. Subject to the Customer paying the Charges for the use of the Hosted Services and access to the Platform and in accordance with clause 9 (Charges and Payment), the restrictions set out in this clause 3 and the other terms and conditions of this Agreement, QTC hereby grants to the Customer a non-exclusive, limited, paid up, royalty free, non-sublicensable, non-transferable and revocable

licence to access and use the Platform via a Supported Web Browser in order to access and use the Hosted Services during the Term solely for the Permitted Purpose.

- 3.2. The Customer shall procure that all and any Authorised Users do not use the Hosted Services other than for the Permitted Purpose. QTC may, at its absolute discretion, require Authorised Users to agree to other commercial terms and conditions as it may require from time to time. The Customer shall take all necessary steps to procure that the Authorised Users comply at all times with the terms and obligations under any such additional terms. The Customer warrants, undertakes and agrees to indemnify and keep indemnified QTC against any loss whatsoever and howsoever caused by a breach of any of the obligations in this clause or a breach of such additional terms by any Authorised Users.
- 3.3. The Customer acknowledges and agrees that the Software, including its source code, structure, sequence and organisation, contain confidential and proprietary information and valuable trade secrets of QTC and/or its suppliers. The Customer shall not allow any third-party to use or access the Software, except third-party contractors who need access to the Software to perform services for the Customer and who have agreed to be bound by the terms and conditions of this Agreement.
- 3.4. In respect of the Software, QTC hereby grants to the Customer a non-exclusive, limited, paid up, royalty free, non- transferable and revocable licence to:
 - 3.4.1. use it to access the Services solely for the Permitted Purpose; and
 - 3.4.2. sub-license Authorised Users to use the Software and to access the Services solely for the Permitted Purpose; provided always that neither the Customer nor the Authorised Users shall be permitted to re-sell or otherwise distribute the Software or provide access to the Services to any third parties.
- 3.5. The Customer shall, and shall ensure that Authorised Users shall, comply with all applicable laws, regulations and data centre operating policies provided or otherwise notified to the Customer by QTC from time to time.
- 3.6. In relation to the Authorised Users, the Customer undertakes that:
 - 3.6.1. the maximum number of Authorised Users that it authorises to access and use the Hosted Services shall not exceed the number set out in the Order Form or otherwise agreed in writing with QTC;
 - 3.6.2. each Authorised User shall keep a secure password and Authorised User ID for his/her use of the Hosted Services, and each Authorised User shall keep his/her password and Authorised User ID secure and confidential;
 - 3.6.3. it shall permit QTC to audit the Hosted Services in order to establish its use in compliance with this Agreement including the name, Authorised User ID and password of each Authorised User. Such audit may be conducted no more than once per quarter, at QTC's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;
 - 3.6.4. if any of the audits referred to in clause 3.6.3 reveal that the Customer has underpaid the Charges due to QTC, then without prejudice to QTC's other rights, the Customer shall pay to QTC an amount equal to such underpayment as calculated in accordance with the Charges within 10 Business Days of the date of the relevant audit; and
 - 3.6.5. if the Customer becomes aware of any authorised access to the Hosted Services or any misuse of passwords or Authorised User IDs, it will disable the relevant Authorised User's access to the Services and re-issue a new password or Authorised User ID as soon as possible.
- 3.7. The Customer shall not (and shall ensure that its Authorised Users do not) use the Services:
 - 3.7.1. to store, distribute or transmit any Viruses, or any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;

- 3.7.2.in a way that excessively overloads the systems that the Customer uses to provide the Services;
 - 3.7.3.to "spam" or to send or provide unsolicited advertising or promotional material or to knowingly receive responses from "spam" or unsolicited advertising or promotional material sent or provided by the Customer or an Authorised User or any third party acting on behalf of the Customer or an Authorised User (as applicable);
 - 3.7.4.fraudulently or in connection with a criminal offence;
 - 3.7.5.in any way that infringes any third party Intellectual Property;
 - 3.7.6.in any way which may adversely affect QTC's reputation or goodwill or business;
 - 3.7.7.to attempt to obtain or assist others in obtaining access to the Services other than as provided in the Agreement;
 - 3.7.8.to republish or redistribute any content or material from the Hosted Services;
 - 3.7.9.to alter the Platform or Hosted Services, except as permitted by QTC in writing; or
 - 3.7.10. in an unlawful manner or in contravention of any legislation, laws, codes of practice, licence conditions, third party rights, or any reasonable instructions of QTC from time to time regarding use of the Services.
- 3.8. If the Customer, or Authorised User breaches any of the provisions of this clause 3 or if QTC reasonably suspects the Customer of such a breach QTC may:
- 3.8.1.immediately remove any offensive, unlawful or infringing material from the Services; and/or
 - 3.8.2.immediately suspend access to the Services by the Customer and/or the applicable Authorised User(s) until QTC is reasonably satisfied (on the production of any necessary evidence) that any breach has been sufficiently remedied; and/or
 - 3.8.3.if the Customer fails to remedy any breach of this clause 3 within 28 days of being notified by QTC of that breach, terminate this Agreement immediately by giving written notice to that effect.
- 3.9. If QTC does reject, prevent, discontinue or suspend the Customer's or any Authorised User's access and use under this clause:
- 3.9.1.QTC shall have no liability to refund any portion of the Charges that pertain to the period when the Customer or Authorised User does not have access and use, although QTC retains the discretion to refund that portion, should it consider it appropriate. Such refund shall be made without prejudice to QTC's other rights against the Customer;
 - 3.9.2.QTC shall be entitled (but not limited) to deduct any costs, damages or other expenses that it may have incurred or will incur in relation to the breach by the Customer or any Authorised User from any Charges paid by the Customer to QTC.
- 3.10. The Customer shall not:
- 3.10.1. except to the extent expressly permitted under this Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, publish, reproduce, download, display, transmit, distribute, disrupt or interfere with all or any portion of the Platform, Software or the Services (including any supporting servers or networks) in any form or media or by any means; or
 - 3.10.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce or deconstruct to human-perceivable form all or any part of the Platform or Software; or
 - 3.10.3. access all or any part of the Platform and/or the Services in order to build a product or service which competes with the Platform and/or the Services; or
 - 3.10.4. sell, resell, trade or otherwise provide access to the Services, or use the Services to provide services to third parties or otherwise furnish third parties with the Services; or
 - 3.10.5. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Platform, Software and/or the Services available to any third party except the Authorised Users, or
 - 3.10.6. attempt to obtain, or assist third parties in obtaining, access to the Platform, Software and/or the Services, other than as authorised under this Agreement.

- 3.11. The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify QTC.
- 3.12. The rights provided under this clause 3 are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.
- 3.13. The licence granted under this clause 3 includes the right to deploy and use all Updates to the Software that QTC elects to incorporate into and make part of the Services and for which QTC does not charge an additional fee above and beyond the Charges. It does not, however, include any Upgrades, including any bespoke developments that Customer may request, for which QTC reserves the right to charge additional fees.

4. SERVICES

HOSTED SERVICES

- 4.1. QTC shall, on the Effective Date, automatically activate an Account for the Customer. Thereafter it shall confirm to Customer how Customer shall be able to authorise its Authorised Users, the functionality for such authorisation being contained within the Platform itself.
- 4.2. The Customer shall use reasonable endeavours, including reasonable security measures relating to Account access details, to ensure that no unauthorised person may gain access to the Hosted Services or Platform using an Account.
- 4.3. QTC shall use all reasonable endeavours to maintain the availability of the Hosted Services to the Customer at the gateway between the public internet and the network of the Hosted Services 24 hours a day, seven days a week except in the case of Exclusions, but does not guarantee 100% availability.
- 4.4. For the avoidance of doubt, Service Downtime caused directly or indirectly by any of the following shall not be considered a breach of this Agreement and shall not give rise to service credits, abatement of Charges or other financial consequences under this Agreement:
- 4.4.1. a Force Majeure Event;
 - 4.4.2. a fault or failure of the Customer's computer systems or networks;
 - 4.4.3. any breach by the Customer or any Authorised Users of this Agreement; or
 - 4.4.4. Maintenance.
- 4.5. The Customer shall not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.
- 4.6. For the avoidance of doubt, the Customer has no right to access the source code of the Platform, either during or after the Term.
- 4.7. The Customer shall be solely responsible for the obtaining, providing and maintaining of any hardware or software or any additional hardware or software as is necessary for the Customer to gain access to and receive and use the Services and QTC shall not be liable for any damage or loss that the Customer suffers as a result of its failure in that regard (including as to any incompatibility between the hardware and software provided and the Services).
- 4.8. For the purposes of the provision of the Hosted Services, QTC may accept and act upon any instruction and requests from and communicate with any Authorised User as if he/she were the Customer itself and may validly continue to do so until notified by the Customer that the Authorised User has ceased to be the same.

SUPPORT SERVICES

- 4.9. QTC shall make available to the Customer the Support Services and shall provide these to the Customer during the Term.
- 4.10. QTC shall provide the Support Services with reasonable skill and care and in accordance with the SLA.
- 4.11. The Customer may use the helpdesk for the purposes of requesting and, where applicable, receiving the Support Services and the Customer must not use the helpdesk for any other purpose.

GENERAL

- 4.12. The Services may contain features designed to interoperate with non-QTC applications. To use such features, the Customer may be required to obtain access to such non-QTC applications from their providers, including accepting any associated terms and conditions relating to the access and use of such non-QTC applications as may be provided by QTC from time to time. If the provider of any such non-QTC application ceases to make the non-QTC application available for interoperation with the corresponding Service features on reasonable terms, QTC may cease providing such Service features without entitling the Customers to any refund, credit, or other compensation. QTC makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the use of non-QTC applications and their ability to integrate with the Services.

5. DATA

- 5.1. The Customer hereby grants to QTC, and warrants to QTC that in relation to Customer Data it is permitted to grant and has all necessary consents and permissions to grant, a non-exclusive licence to process, access, analyse, copy, reproduce, modify, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of QTC's obligations and the provision of the Services, to improve its services and the exercise of QTC's rights under this Agreement, together with the right to sub-license these rights to third parties such as hosting services partners or communications partners to the extent reasonably required for the performance of QTC's obligations and the provision of the Services.
- 5.2. The Customer confirms and agrees that the licence in clause 5.1 permits QTC both during the Term and after termination to process anonymised Customer Data to improve its products or services now or in the future. This licence is expressly subject to QTC complying with the Data Protection Law.
- 5.3. The Customer warrants to QTC that the use of the Customer Data by QTC in accordance with this Agreement will not:
- 5.3.1. breach the provisions of any law, statute or regulation (including the Data Protection Law);
 - 5.3.2. infringe the Intellectual Property Rights or other legal rights of any person or entity (this includes, to the extent the Customer Data includes data previously hosted on UNIT4 or another platform, a warranty that the Customer is legally entitled to own and transfer such data to the Platform); or
 - 5.3.3. give rise to any cause of action against QTC, in each case in any jurisdiction and under any applicable law.
- 5.4. The Customer further warrants that it will inform QTC as soon as reasonably practicable should an Individual revoke his or her consent to his or her personal data being processed and fully indemnifies QTC for failing to do so.
- 5.5. QTC shall create a back-up copy of the Customer Data, shall ensure that each such copy is sufficient to enable QTC to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days.

- 5.6. If there is an event of data corruption affecting the Platform as a whole (or substantial elements of it), QTC shall use all reasonable endeavours to restore to the Platform the Customer Data stored in the most recent back-up copy created and stored by QTC in accordance with clause 5.5. The Customer acknowledges that this process will overwrite the Customer Data stored on the Platform prior to the restoration.
- 5.7. The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 5.8. If the Customer, during the Term, is unable to retrieve any of the Customer Data, the Customer must immediately report the same to QTC. QTC will promptly investigate the cause of the same. The Customer agrees to provide reasonable assistance to QTC during such investigation.
- 5.9. For the avoidance of doubt, the Customer confirms that QTC is permitted and is hereby authorised to process, upload and transcribe any Customer Data on the instruction of the Customer and for and on behalf of the Customer onto the Hosted Services and Platform. The Customer shall remain at all times responsible for and liable to QTC in relation to the accuracy and completeness of any such Customer Data and for ensuring that the Customer has all necessary consents, authorisations and permissions to permit and enable QTC to perform the aforesaid.
- 5.10. The Customer agrees to indemnify and keep indemnified and defend at its own expense QTC against all costs, claims, damages or expenses incurred by or for which QTC may become liable due to any breach of the Customer's obligations and warranties in this clause.
- 5.11. QTC strongly recommends the Customer not to include any personal data within the Customer Data. To the extent any personal data is included, the Customer shall ensure that any consent required from data subjects has been obtained to allow the use of Customer Data as anticipated by this Agreement.

6. DATA PROTECTION

- 6.1. If QTC processes any personal data (as defined in the Data Protection Law) on the Customer's behalf when performing its obligations in relation to Customer Data under this Agreement, the parties record and acknowledge that the Customer shall be the data controller and QTC shall be a data processor in respect of that personal data ("**Relevant Personal Data**").
- 6.2. Both parties will comply with all applicable requirements of the Data Protection Law. This clause 6 is in addition to, and does not relieve, remove or replace, party's obligations or rights under Data Protection Law.
- 6.3. Without prejudice to the generality of clause 6.2, in respect of the Relevant Personal Data, QTC shall:
- 6.3.1. subject to clause 6.3.3 process the Relevant Personal Data only on behalf of the Customer, only for the purposes of performing the Services and only in accordance with instructions contained in this clause 6 and Annex 2 or otherwise received from the Customer in writing from time to time;
 - 6.3.2. subject to clause 6.3.3, not transfer any Relevant Personal Data to any third country outside the European Economic Area unless it complies with the adequacy requirements under the Data Protection Law when doing so;
 - 6.3.3. where QTC is obliged by applicable law to process Relevant Personal Data otherwise than in accordance with clause 6.3.1, inform the Customer of that obligation before processing, giving:
 - 6.3.3.1. as much advance notice of any such processing as is reasonably possible; and
 - 6.3.3.2. a description of the nature and timing of any such processing,
 - 6.3.3.3. unless applicable law prohibits such information on important grounds of public interest;

- 6.3.4.inform the Customer immediately if, in QTC's reasonable opinion, any instruction from the Customer is in breach of, or is likely to breach, Data Protection Law;
- 6.3.5.take and implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk and to protect the Relevant Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Relevant Personal Data and having regard to the nature of the Relevant Personal Data which is to be protected;
- 6.3.6.ensure that only those of QTC's personnel who need to have access to the Relevant Personal Data are granted access to such data and only for the purposes of the performance of the Services and ensure that all of QTC's personnel required to access the Relevant Personal Data are informed of the confidential nature of the Relevant Personal Data and are subject to confidentiality undertakings or professional or statutory obligations of confidentiality and that they comply with the obligations set out in this clause 6.3;
- 6.3.7.notify the Customer promptly (and in any event within 24 hours) if QTC discovers any actual or suspected personal data breach (as defined in the Data Protection Law) involving the Relevant Personal Data or it receives any complaint, request for Relevant Personal Data or any other communications relating directly or indirectly to the processing of any Relevant Personal Data in connection with this Agreement;
- 6.3.8.provide the Customer with full co-operation and assistance in relation to any complaint, request or other communication made in respect of any Relevant Personal Data, including by:
 - 6.3.8.1. providing the Customer with full details of the complaint or request;
 - 6.3.8.2. complying with the Customer's instructions if a breach of Data Protection Law occurs or is suspected to have occurred;
 - 6.3.8.3. assisting the Customer in fulfilling the Customer's obligations to respond and comply with requests for exercising the data subject's (as defined in the Data Protection Law) rights pursuant to the Data Protection Law;
 - 6.3.8.4. providing the Customer with any Relevant Personal Data it holds in relation to a data subject within the timescales required by the Customer; and
 - 6.3.8.5. providing the Customer with any other information relating to the Relevant Personal Data, as may be reasonably requested by the Customer;
- 6.3.9.permit the Customer or its external advisers (subject to reasonable and appropriate confidentiality undertakings and, other than in the case of an audit required by a regulator pursuant to applicable law, subject to Customer or such external advisers providing QTC with reasonable advance written notice of such audit) to inspect and audit the data processing activities carried out by QTC's personnel and comply with all reasonable requests or directions of the Customer to enable the Customer to verify and procure that QTC is in full compliance with its obligations under this clause 6 and Data Protection Law;
- 6.3.10. maintain complete and accurate records of all information necessary to demonstrate compliance with this clause 6.2 and Data Protection Law and make such records available to the Customer or the Customer's auditors on demand;
- 6.3.11. subject to clause 6.3.12, at the choice of the Customer, delete or return all Relevant Personal Data after the termination or expiry of this Agreement and delete all existing copies of such data, and certify to Customer that it has done so; and
- 6.3.12. where QTC is obliged by applicable law to retain Relevant Personal Data, comply with its obligations under clause 6.3.11 in relation to that Relevant Personal Data as soon as is permissible under applicable law.
- 6.3.13. Customer acknowledges and agrees that QTC may engage third party sub-processors in connection with the provision of the Services under this Agreement ("**Sub-Processors**"). QTC shall enter into a written agreement with each Sub-Processor containing data protection obligations not less protective than those in this clause 6.
- 6.3.14. QTC shall give Customer prior written notice of the appointment of any new Sub-Processor, including full details of the processing to be undertaken by the Sub-Processor. If, within 30 days of receipt of that notice, Customer notifies QTC in writing of any objections (on reasonable grounds) to the proposed appointment, QTC shall work with Customer in good

faith to make available a commercially reasonable change in the provision of the Services which avoids the use of that proposed Sub- Processor. Where a Sub-Processor fails to fulfil its obligations under this Agreement or under Data Protection Law, QTC shall remain fully liable to the Customer for the performance of the Sub-Processor's obligations, and shall be fully liable for the acts or omissions of the Sub-Processor.

7. QTC'S OBLIGATIONS

- 7.1. QTC undertakes that the Services will be performed with reasonable skill and care.
- 7.2. The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to QTC's instructions (including the Documentation), or modification or alteration of the Services by any party other than QTC or QTC's duly authorised contractors or agents.
- 7.3. This Agreement shall not prevent QTC from entering into similar agreements with third parties, or from independently developing, using, selling or licensing the Services under this Agreement. QTC warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement. QTC may subcontract any of its obligations under this Agreement without the prior written consent of the Customer.

8. CUSTOMER'S OBLIGATIONS

- 8.1. The Customer shall:
 - 8.1.1. ensure they have backed-up the existing database(s) they seek to transfer to the Platform in SQL Server format; and
 - 8.1.1.1. retain a complete copy of the database(s) provided to QTC, as it is hosted in a read-only format solely for interrogation purposes and QTC does not act as the primary custodian of the data;
 - 8.1.2. provide QTC with:
 - 8.1.2.1. all necessary co-operation in relation to this Agreement; and
 - 8.1.2.2. all necessary access to such information and files as may be required by QTC in order to provide the Services, including but not limited to Customer Data, files required for document archive (to the extent not held in the Customer's existing database), security access information and configuration services;
 - 8.1.3. comply with all applicable laws and regulations (including but not limited to the Data Protection Law) with respect to its activities under this Agreement;
 - 8.1.4. comply with any policies or guidelines that QTC may introduce or, at its absolute discretion, amend from time to time, including (but not limited to) policies or guidelines relating to technical specifications, privacy and acceptable content and use of the Website;
 - 8.1.5. 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, QTC may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - 8.1.6. ensure that the Authorised Users use the Hosted Services in accordance with the terms and conditions of this Agreement and any other terms and conditions as set out in clause 3 and shall be solely responsible for any Authorised User's breach of this Agreement;
 - 8.1.7. liaise with and manage the Authorised Users;
 - 8.1.8. obtain and shall maintain all necessary rights, licences, consents, and permissions necessary for QTC, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services, without violation of any third party's rights with the exception of any third party software licences comprising any part of the Services which shall be dealt with in accordance with the terms of this Agreement;
 - 8.1.9. ensure that its network and systems comply with the relevant specifications provided by QTC from time to time;
 - 8.1.10. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to QTC's data centres and Platform, 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 caused by the internet;

- 8.1.11. allow QTC to, at QTC's discretion, use the Customer's name and refer to the Customer as a user of the Services in any publicity, press release, advertising or marketing material or media anywhere throughout the world;
 - 8.1.12. not use QTC's name, trade marks, logos or otherwise mention QTC in any publication, website, press release or other media without QTC's prior written permission;
 - 8.1.13. acting reasonably, provide a reference for approval by QTC that QTC may, at its discretion, publish on the Website or in other online and other marketing materials.
- 8.2. The Customer warrants that it has and will maintain all necessary licences, consents, and permissions necessary for entry into and the performance of its obligations under this Agreement.

9. CHARGES AND PAYMENT

- 9.1. In consideration for the provision of the Services by QTC, the Customer agrees to pay and shall pay the Charges to QTC for purposes of subscribing to the Hosted Services and obtaining access to the Platform in accordance with this clause 9. If the Customer exceeds any Services Usage Limits as specified in the Order Form during the Term such modification to the Services shall only be deemed accepted by QTC once the parties have either confirmed the extent of such modifications or otherwise signed a revised Order Form to confirm such modifications, including regarding any additional Charges to be paid by the Customer in respect of such modifications.
- 9.2. The Customer shall pay the Charges in line with the Payment Terms set out in the Order Form or otherwise within 30 days of receipt of the invoice relating to such Charges.
- 9.3. All amounts stated in or in relation to this Agreement are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Customer to QTC. The Customer must pay the Charges to QTC within the period of 30 days following the issue of an invoice in accordance with this clause 9, providing that the Charges must in all cases be paid before the commencement of the period to which they relate.
- 9.4. The Customer shall pay the Charges by BACS.
- 9.5. QTC may, at its sole discretion and without liability to the Customer, withdraw the Services (including the Support Services), disable the Customer's and the Authorised User IDs, passwords, Account and access to and receipt and use of all or part of the Services and QTC shall be under no obligation to provide any or all of the Services while the Charges are unpaid, after which QTC may re-commence Services and charge reasonable administration fees and reconnection fees. QTC shall also be entitled to charge reasonable legal and/or administration fees in the event that debt recovery proceedings are issued.
- 9.6. If the Customer does not pay any amount properly due to QTC under this Agreement, in addition to the suspension rights set out in clause 9.5 above, QTC may claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 9.7. All amounts and fees stated or referred to in this Agreement:
- 9.7.1. shall be payable in pounds sterling; and
 - 9.7.2. are non-cancellable and non-refundable.
- 9.8. QTC reserves the right to adjust the licence Charges applicable to the services provided. This adjustment shall be instituted on an annual basis and is designed to ensure the sustained quality and enhancement of services offered to the Customer and to account for inflationary pressures and market dynamics.

10. INTELLECTUAL PROPERTY

- 10.1. Nothing in this Agreement shall operate to assign or transfer any Intellectual Property of and belonging to QTC from QTC to the Customer, or of and belonging to the Customer from the Customer to QTC. In particular:

- 10.1.1. the Customer shall retain all rights, title and interest and all Intellectual Property in the Customer Data and the Customer Prompts (and any data output generated by a Customer Prompt or QTC Prompt used by the Customer); and
 - 10.1.2. QTC and/or its licensors own and retain all Intellectual Property in the Services, the Platform, the QTC Prompts and the Documentation and all other materials, documents, and data of and belonging to QTC, including the SQL queries behind the QTC Prompts and Customer Prompts. For the avoidance of doubt, ownership of the SQL queries does not include ownership of any data that the query might return when used by the Customer (such returned data being owned by the Customer).
- 10.2. QTC hereby grants to Customer during the Term a non-exclusive, non-transferable, worldwide, revocable, royalty free licence, sublicensable only to Authorised Users, to use the QTC Prompts solely for the Permitted Purpose.
- 10.3. With the exception of any Relevant Personal Data which shall be handled and processed in accordance with clause 6 of this Agreement, the Customer acknowledges that QTC will receive Customer Data and will create databases derived from such Customer Data that QTC may, subject to complying with clause 10.4, share with third parties and the Customer hereby waives any and all rights it may have to assert any form of database right in respect of such databases. QTC undertakes that where any such databases are created and utilised on a commercial basis such usage will comply with clause 10.4 and Customer further acknowledges and agrees that QTC reserves the right to store, analyse, aggregate, distribute and publish and reproduce any data submitted to the Services or any analytics related to the use of the Services, providing that such data and analytics are anonymised in accordance with clause 10.4.
- 10.4. Where QTC uses or shares all or any part of the Customer Data in accordance with clause 10.3, QTC shall ensure that any such data is anonymised so that it does not contain any Relevant Personal Data or any information from which any person (including QTC and the Customer) could identify any Individual or other data subject whose personal data is contained in the Relevant Personal Data, whether directly from that data or when combined with (i) any other data that is in the control or possession or control of that person or (ii) any publicly available information.
- 10.5. Except as expressly stated herein, this Agreement does not grant the Customer any rights, title and/or interest in and to any of QTC's Intellectual Property Rights or any other rights or licences in respect of the Services.
- 10.6. The Customer agrees that QTC has the right to use any feedback that the Customer provides as to the Services in any way whatsoever, including to improve the Services or to create new products or services.

11. CONFIDENTIALITY

- 11.1. Each party acknowledges that by reason of its relationship to the other party under this Agreement it may be given access to Confidential Information from the other party. A party's Confidential Information shall not be deemed to include information that:
- 11.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
 - 11.1.2. was in the other party's lawful possession before the disclosure;
 - 11.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 11.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence.
- 11.2. Authorised User access management (of confidential information) is the responsibility of the Customer, who is required to ensure individual user permissions are granted, amended and revoked as appropriate.

- 11.3. Each party (the **Recipient**) shall hold the other party's (the **Discloser**) Confidential Information (however obtained) in confidence and, unless required by law or otherwise permitted in writing by the other party or as set out in this clause 11, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 11.4. A party may disclose the Confidential Information to the minimum extent required by:
- 11.4.1. an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction;
 - 11.4.2. the rules of any listing authority or stock exchange on which its shares are listed or traded; or
 - 11.4.3. the laws or regulations of any country to which its affairs are subject.
- 11.5. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 11.6. The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute QTC's Confidential Information.
- 11.7. QTC acknowledges that the Customer Data is the Confidential Information of the Customer.
- 11.8. Subject to clause 8, neither party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 11.9. The terms of this Agreement shall be deemed to be Confidential Information.
- 11.10. If Confidential Information (other than this Agreement) has been disclosed to a party by the other party, the party shall be obliged, at the reasonable request of the other party, to return to that other party any and all manifestations of the Confidential Information and/or destroy such manifestations, at the other party's absolute discretion.
- 11.11. The above provisions of this clause shall survive termination of this Agreement, however arising.

12. LIMITATION OF LIABILITY

- 12.1. Nothing in this Agreement will:
- 12.1.1. limit or exclude any liability for death or personal injury resulting from negligence;
 - 12.1.2. limit or exclude any liability for fraud or fraudulent misrepresentation;
 - 12.1.3. limit any liabilities in any way that is not permitted under applicable law; or
 - 12.1.4. exclude any liabilities that may not be excluded under applicable law.
- 12.2. The limitations and exclusions of liability set out in this clause and elsewhere in this Agreement:
- 12.2.1. are subject to clause 12.1; and
 - 12.2.2. govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.
- 12.3. Neither party shall be liable to the other party in respect of:
- 12.3.1. any losses arising out of a Force Majeure Event;
 - 12.3.2. any loss of profits or anticipated savings;
 - 12.3.3. any loss of revenue or income;
 - 12.3.4. any loss of use or production;
 - 12.3.5. any loss of business, contracts or opportunities;

- 12.3.6. any loss or corruption of any data, database or software;
 - 12.3.7. any special, indirect or consequential loss or damage or loss arising as a result of any adverse regulatory findings as to the use of the Services.
- 12.4. QTC's liability under this Agreement in respect of any event or series of related events shall not exceed the total amount paid and payable by the Customer to QTC under this Agreement in the 12-month period preceding the commencement of the event or events.
- 12.5. This clause sets out the entire financial liability of QTC (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
- 12.5.1. arising under or in connection with this Agreement;
 - 12.5.2. in respect of any use made by the Customer of the Services or any part of them; and
 - 12.5.3. in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 12.6. Except as expressly and specifically provided in this Agreement:
- 12.6.1. QTC shall have no liability for any damage caused by errors or omissions in any information provided to QTC by the Customer in connection with the Services, or any actions taken by QTC at the Customer's direction;
 - 12.6.2. in no event shall QTC, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged breach of this Agreement is based on: (a) a modification of the Services by anyone other than QTC or any person authorised by it; or (b) the Customer's use of the Platform or Services in a manner contrary to the Documentation and/or reasonable instructions given to the Customer by QTC.
- 12.7. QTC shall have no liability to the Customer for any losses arising out of a Hosted Services Defect that is caused or arises as a result of:
- 12.7.1. any act or omission of the Customer or Authorised Users to use the Platform or the Services;
 - 12.7.2. any use of the Platform or Services contrary to the Documentation and/or other instructions issued by QTC, whether by the Customer or any Authorised User;
 - 12.7.3. a failure of the Customer or any Authorised User to perform or observe any of its obligations in this Agreement;
 - 12.7.4. an incompatibility between the Platform or the Services and any other system, network, application, program, hardware or software not specified as compatible; and/or
 - 12.7.5. the Customer's use of the Services after notice of the alleged or actual infringement from QTC or any appropriate authority.
- 12.8. The Customer acknowledges that the Software and Services are compiled by QTC based upon information provided by third party sources and QTC does not conduct independent verification of such source material as a matter of course, QTC gives no warranty as to the accuracy or completeness of the data. Accordingly, QTC shall not be responsible for any use that the Customer and/or any Authorised User makes of the Software.

13. WARRANTIES

- 13.1. Each party warrants to the other party that:
- 13.1.1. it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement;
 - 13.1.2. it will comply with all applicable legal and regulatory requirements applying to the exercise of its rights and the fulfilment of its obligations under this Agreement.
- 13.2. QTC warrants to the Customer that:
- 13.2.1. it has or has access to all necessary know-how, expertise and experience to perform its obligations under this Agreement;
 - 13.2.2. the Hosted Services will be substantially (but not completely) free from Hosted Services Defects;

- 13.2.3. the application of Updates and Upgrades to the Platform by QTC will not, as far as is reasonable and possible, introduce any Hosted Services Defects into the Hosted Services;
 - 13.2.4. the Platform will incorporate appropriate security features reflecting the requirements of good industry practice;
 - 13.2.5. the Hosted Services, when used by the Customer in accordance with the Documentation, will not breach any laws, statutes or regulations applicable under English law.
- 13.3. If QTC reasonably determines, or any third party alleges, that the use of the Hosted Services by the Customer in accordance with this Agreement infringes any person's Intellectual Property, QTC may at its own cost and expense:
- 13.3.1. modify the Hosted Services in such a way that they no longer infringe the relevant Intellectual Property; or
 - 13.3.2. procure for the Customer the right to use the Hosted Services in accordance with this Agreement.
- 13.4. Notwithstanding anything to the contrary herein, any warranties:
- 13.4.1. that the Services, the Website, Platform and/or servers are free from Viruses;
 - 13.4.2. that the Services are fit for any general or particular purpose (including the Permitted Purpose), are expressly excluded.
- 13.5. All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.
- 13.6. The Customer acknowledges in particular that:
- 13.6.1. complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, QTC gives no warranty or representation that the Services will be wholly free from defects, errors and bugs and QTC does not warrant that the Customer's use of the Hosted Services will be uninterrupted or error-free or that the Services, and/or the information obtained by the Customer through the Services (including the Documentation) will meet the Customer's requirements;
 - 13.6.2. complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, QTC gives no warranty or representation that the Services will be entirely secure and QTC is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, or failures or delays involving the Customer's hardware, software, power or other systems and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities;
 - 13.6.3. the Hosted Services are designed to be compatible only with that software and those systems specified as compatible and QTC does not warrant or represent that the Hosted Services will be compatible with any other software or systems;
 - 13.6.4. QTC will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Services; and
 - 13.6.5. except to the extent expressly provided otherwise in this Agreement, QTC does not warrant or represent that the Services or the use of the Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.
- 13.7. QTC will support in rectifying issues in QTC software applications only. QTC will not support to rectify any non-QTC provided hardware issues or issues arising because of hardware fault.
- 13.8. Correction of errors or assistance to overcome specific software problems will be resolved by QTC at its sole discretion by 'patch' or by new version.
- 13.9. QTC may from time to time provide updates to the Software to take account of any change of legislation or new legal requirement.

- 13.10. QTC reserves the right to discontinue support for any prior version if a superseding version has been made available.

14. TERM AND TERMINATION

- 14.1. This Agreement shall, unless otherwise terminated as provided in this clause or the Order Form, commence on the Effective Date and shall continue for the Initial Term and, thereafter, unless terminated in accordance with the provisions of this Agreement, shall continue for each Renewal Term unless and until terminated by either party giving the other not less than 90 days' prior written notice before the end of (as applicable) the Initial Term or applicable Renewal Term that it wishes to terminate. The earliest such notice shall take effect shall be the end of the Initial Term. If the Customer wishes to terminate this Agreement prior to the end of the Initial Term the Customer will be required to pay the Charges in full for the remainder of the unexpired Initial Term.
- 14.2. Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
- 14.2.1. in the case of QTC, the Customer fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - 14.2.2. in the case of QTC, the Customer fails to agree to any third party software terms and/or any other non-QTC applications (including any updates to the same) which are essential for the functioning of the Software and Hosted Services;
 - 14.2.3. the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 14.2.4. 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;
 - 14.2.5. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - 14.2.6. 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 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;
 - 14.2.7. 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 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;
 - 14.2.8. 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;
 - 14.2.9. the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
 - 14.2.10. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 14.2.11. 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 the other party's assets and such attachment or process is not discharged within 14 days;
 - 14.2.12. 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 14.2.5 to clause 14.2.11 (inclusive); or
 - 14.2.13. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

14.3. On termination of this Agreement for any reason:

- 14.3.1. both parties shall continue to comply with all of their obligations that are not affected by termination. All other provisions of this Agreement shall cease to have effect;
- 14.3.2. the Customer shall stipulate whether it wishes to print or download its Customer Data and retain such Customer Data in its own storage facility;
- 14.3.3. the Customer shall pay to QTC any Charges in respect of Services provided to the Customer before the termination of this Agreement;
- 14.3.4. the provision of the Services by QTC to the Customer shall immediately terminate and all licences granted in relation thereto shall expire;
- 14.3.5. each party shall return and make no further use of any equipment, property, and other items (and all copies of them) belonging to the other party, including but not limited to the Documentation and all other information, materials and documents belonging to and incorporating any Confidential Information and/or Intellectual Property Rights of a party (and including all copies);
- 14.3.6. subject to clause 6 in respect of any personal data which forms part of the Customer Data, QTC may destroy or otherwise dispose of any of the Customer Data in its possession unless QTC receives, no later than 10 Business Days after the Effective Date of the termination of this Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. QTC shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all Charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by QTC in returning or disposing of Customer Data. QTC will have no liability to the Customer arising from its maintenance, destruction or disposal of the Customer Data in its possession and the Customer shall hold QTC harmless and otherwise indemnify QTC against any fees, damages or claims that either the Customer or any third party may have or face in relation to such maintenance, destruction or disposal; and
- 14.3.7. any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

15. FORCE MAJEURE: QTC shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of QTC or any other party), total failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration ("**Force Majeure Event**").

16. CONFLICT: If there is an inconsistency between any of the provisions in the main body of this Agreement and the Order Form, the provisions in the Order Form shall prevail.

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

18. WAIVER: 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 prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19. RIGHTS AND REMEDIES: 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.

- 20. SEVERANCE:** If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 21. ENTIRE AGREEMENT:** This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.
- 22. ASSIGNMENT**
- 22.1. The Customer shall not, without the prior written consent of QTC, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 22.2. QTC may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 23. NO PARTNERSHIP OR AGENCY:** Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 24. THIRD PARTY RIGHTS:** This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 25. COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. No counterpart shall be effective until each party has executed and delivered at least one counterpart.
- 26. NOTICES:** All notices given under or in connection with this Agreement shall be in writing and shall be sent to the address of the recipient set out in the Order Form or such other address as the recipient may designate by notice given in accordance with the provisions of this clause. Any such notice may be delivered personally by hand (including by commercial courier) or by first class pre-paid letter (or by air-mail if overseas) or by email, and shall be deemed to have been served, if by hand, when delivered; if by first class post, 48 hours after posting; (if by air-mail, five days from the date of posting) and if by e-mail, when successfully dispatched in full.
- 27. GOVERNING LAW:** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including noncontractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 28. JURISDICTION:** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Annex 2 - Processing, Personal Data and Data Subjects

1. Processing by QTC

1.1 Scope: The scope shall be as set out in this Agreement.

1.2 Nature: The nature shall be as set out in this Agreement.

1.3 Purpose of processing: The purpose of the processing shall be for the provision of the Services to the Customer.

1.4 Duration of the processing: During the Term.

2. Types of personal data: Any personal data and/or special category data (each as defined in the Data Protection Legislation) that the Customer chooses to upload and store on the Platform.

3. Categories of data subject: Any Individual whose personal data and/or special category data is uploaded and stored by the Customer on the Platform.

Annex 3 – Service Level Agreement

1. **Interpretation:** The following definitions and rules of interpretation apply in this annex.

1.1 Definitions:

Commercially Reasonable Efforts: the same degree of priority and diligence with which QTC meets the support needs of its other similar customers.

Contact List: a current list of QTC contacts and telephone numbers to enable the Customer to escalate its Support Requests, including: (a) the first person to contact; and (b) the persons in successively more qualified or experienced positions to provide the support sought.

Customer Cause: any of the following causes: (a) any improper use, misuse or unauthorised alteration of the Software or Platform by the Customer; (b) any use of the Software or Platform by the Customer in a manner inconsistent with the then-current Documents; (c) the use by the Customer of any hardware or software not provided by QTC or approved by QTC in writing for use by the Customer in connection with the Software or Platform; or (d) the use of a non-current version or release of the Software or Platform.

Fault: any Operational Fault.

Good Industry Practice: the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a company within the relevant industry or business sector.

Help Desk Support: support provided by help desk technicians sufficiently qualified and experienced to identify and resolve most support issues relating to the Software or Platform.

Higher-level Support: higher-level support provided by an individual on the Contact List.

Main Agreement: the agreement to which this annex relates.

Operational Fault: failure of the Software or Platform to operate in all material respects in accordance with the specifications set out in the Main Agreement, including any operational failure or error referred to in the Service Level Table.

Out-of-scope Services: either of the following services: (a) any services provided by QTC in connection with any apparent problem regarding the Software or Platform reasonably determined by QTC not to have been caused by a Fault, but rather by a Customer Cause or a cause outside the QTC's control (including any investigational work resulting in such a determination); or (b) any Higher-level Support provided in the circumstances specified in paragraph 0.

Service Credits: the service credits specified in the table set out in paragraph 0.

Service Levels: the service level responses and response times referred to in the Service Level Table.

Service Level Table: the table set out in paragraph 0.

Solution: either of the following outcomes: (a) correction of an Operational Fault or; (b) a workaround in relation to an Operational Fault (including a reversal of any changes to the Software or Platform if deemed appropriate by QTC) that is reasonably acceptable to the Customer.

Support Hours: the hours of 09:00 to 17:00 GMT/BST on a Business Day.

Support Period: the Term.

Support Request: request made by the Customer in accordance with this schedule for support in relation to the Software or Platform, including correction of an Operational Fault.

Support Services: maintenance of the then-current version or release of the Software or Platform, including Help Desk Support and Higher-level Support, but excluding any Out-of-scope Services.

- 1.2 All initial capitalised terms in this schedule shall have the meaning given to them in the Main Agreement, unless otherwise defined herein.

2. Support Services

- 2.1 During the Support Period QTC shall perform the Support Services during the Support Hours in accordance with the Service Levels.

- 2.2 As part of the Support Services, QTC shall:
- (a) provide Help Desk Support by means of the following website: <https://support.quickthinkcloud.com/>;
 - (b) commit appropriate resources to the provision of Higher-Level Support;
 - (c) where Help Desk Support is not provided within the relevant Service Level response time and the Customer escalates its Support Request to an individual of appropriate qualification or experience on the Contact List, provide Higher-Level Support;
 - (d) use Commercially Reasonable Efforts to correct all Operational Faults notified under paragraph 4.3; and
 - (e) provide technical support for the Software or Platform in accordance with the Service Levels.

- 2.3 Any Higher-level Support requested by the Customer to be provided by an individual whose qualification or experience is greater than that reasonably necessary to resolve the relevant Support Request shall be deemed an Out-of-scope Service, provided that an appropriately qualified or experienced individual was available at the time when the Higher-level Support was sought.

- 2.4 QTC may reasonably determine that any services are Out-of-scope Services. If QTC makes any such determination, it shall promptly notify the Customer of that determination.

- 2.5 The Customer acknowledges that QTC is not obliged to provide Out-of-scope Services.

3. Fees

- 3.1 The provision of Support Services on a remote, off-site basis (such as over the telephone or by e-mail) within the Support Period shall be included in the Charges.

- 3.2 The provision of Support Services outside the Support Period or at the Customer's site or the provision of Out-of-scope Services shall be charged for at the applicable time and materials rates currently being £115 per hour (minimum one hour charged).

4. Submitting Support Requests and access

- 4.1 The Customer may request Support Services by way of a Support Request.

- 4.2 Each Support Request shall include a description of the Operational Fault and, where relevant, the start time of the incident.
- 4.3 The Customer shall provide QTC with: (a) prompt notice of any Faults which it becomes aware of; and (b) such output and other data, documents, information, assistance and (subject to compliance with all Customer's security and encryption requirements notified to QTC in writing) remote access to the Customer System, as are reasonably necessary to assist QTC to reproduce operating conditions similar to those present when the Customer detected the relevant Operational Fault and to respond to the relevant Support Request.
- 4.4 Save for where QTC reasonably determines that it requires access to the Customer Site to provide the relevant Support Service, all Support Services shall be provided on an off-site basis (such as over the telephone or by e-mail) from QTC's office.
- 4.5 The Customer acknowledges that, to properly assess and resolve Support Requests, it may be necessary to permit the Supplier direct access at the Customer Site to the Customer System and the Customer's files, equipment and personnel.
- 4.6 The Customer shall provide such access promptly, provided that QTC complies with all the Customer's reasonable security requirements and other policies and procedures relating to contractors entering and working on the Customer Site notified to QTC in writing reasonably in advance.

5. Service Levels

- 5.1 QTC shall:
- (a) Prioritise all Support Requests based on its reasonable assessment of the severity level of the Fault reported;
 - (b) respond to all Support Requests, in accordance with the responses and response times specified in the table set out below:

Severity level of Fault	Definition	Service Level response and response time for Operational Faults
1	Business Critical Failures: An error in, or failure of, the Software or Platform that: a) materially impacts the operations or security of the Customer's business or marketability or security of its service or product; b) prevents necessary work from being done; or c) disables major functions of the Software or Platform from being performed.	Level 1 Response: Acknowledgment of receipt of a Support Request within 60 minutes. Level 2 Response: QTC shall: a) restore the Software or Platform to a state that allows the Customer to continue to use all functions of the Software or Platform in all material respects within 2 hours after the Level 1 Response time has elapsed; and b) exercise Commercially Reasonable Efforts until full restoration of function is provided. Level 3 Response: QTC shall work on the problem continuously and implement a Solution within 4 hours of receipt of the Support Request. If QTC delivers a Solution by way of a workaround reasonably acceptable to the Customer, the severity level assessment shall reduce to a severity level 2 or lower.
2	System Defect with Workaround: a) a Business Critical Failure in the Software or Platform for which a work-around above has been deployed; or	Level 1 Response: Acknowledgment of receipt of a Support Request within 60 minutes. Level 2 Response:

	b) an error or failure in the Software or Platform (other than a Business Critical Failure) that affects the operations or security of the Customer's business or marketability or security of its service or product.	QTC shall, within 2 hours after the Level 1 Response time has elapsed, provide: a) an emergency software fix or workaround; or b) temporary release or update release, which allows the Customer to continue to use all functions of the Software or Platform in all material respects. Level 3 Response: QTC shall provide a permanent Fault correction as soon as practicable and no later than 4 hours after QTC's receipt of the Support Request.
3	Minor Error: An isolated or minor error in the Software or Platform that: a) does not significantly affect Software or Platform functionality or security; b) may disable only certain non-essential functions; or c) does not materially impact the Customer's business performance.	Level 1 Response: Acknowledgment of receipt of the Support Request within 60 minutes. Level 2 Response: The Supplier shall provide a permanent Fault correction within 2 hours after the Level 1 Response time has elapsed.

5.2 The parties may, on a case-by-case basis, agree in writing to a reasonable extension of the Service Level response times.

5.3 QTC shall give the Customer regular updates of the nature and status of its efforts to correct any Fault.

6. Service Credits

6.1 If QTC fails to provide a Solution within the relevant Service Level response time, the Customer shall become entitled to the Service Credit specified in the table set out below corresponding to the relevant severity level of Fault on submitting a written claim for such Service Credit, provided that the relevant Fault or other problem relating to the Software or Platform:

- (a) did not result from a Customer Cause or a cause outside the Supplier's control; and
- (b) was promptly notified to QTC under paragraph 4.3.

Severity Level of Fault	Service Credit
1	An amount equal to 3% of the-then current annual Charges.
2	An amount equal to 2% of the-then current annual Charges.
3	An amount equal to 1% of the-then current annual Charges.

6.2 The parties acknowledge that each Service Credit is proportionate when considering the Customer's legitimate interest to address and resolve all Faults as quickly as possible.

6.3 The provision of a Service Credit shall be an exclusive remedy for a particular Service Level failure.

6.4 Service Credits shall be shown as a deduction from the amount due from the Customer to QTC in the next invoice then due to be issued under the Main Agreement. QTC shall not in any circumstances be obliged to pay any money or make any refund to the Customer.

7. Other remedies

7.1 If a Solution is not provided within the relevant Service Level response time, the Customer may escalate the Support Request to the Customer's technical lead and then to a director of QTC.