

Application Services Agreement

SERVICES ORDER FORM

Supplier	
Name:	Micad Systems (U.K.) Limited
Address:	Ground Floor, 8 St George's Court, Altrincham Business Park, Dairy House Lane, Altrincham, Cheshire, WA14 5UA
Jurisdiction of incorporation:	England and Wales
Registration number:	02121580

[OR]

Supplier	
Name:	ZetaSafe Limited
Address:	Ground Floor, 8 St George's Court, Altrincham Business Park, Dairy House Lane, Altrincham, Cheshire, WA14 5UA
Jurisdiction of incorporation:	England and Wales
Registration number:	04694186

[OR]

Supplier	
Name:	Micad Systems (Australia) Pty Ltd
Address:	86-90 Bay Street, Broadway NSW 2007
Jurisdiction of incorporation:	Australia
Registration number:	653592262

[OR]

Supplier	
Name:	Micad USA, LLC
Address:	1318 N. Main St #1057 Summerville, SC 29483
Jurisdiction of incorporation:	South Carolina
Registration number:	00818109

Application Services Agreement

Customer	
Name:	[Name]
Address:	[Address]
Jurisdiction of incorporation:	[Jurisdiction]
Registration number:	[Number]

Effective Date
[Date]

Subscription for [identify Application Software] <i>[Drafting note: please duplicate the Subscription section (including charges / licensing / special T&Cs boxes) for each distinct Subscription to be provided under the Services Order Form.]</i>		
[Specify Application Software and Application Services] [The Application Services are licensed on the basis of a periodic fee; a fixed number of concurrent users are included in the base Charges specified below.] [OR] [The Application Services are licensed on the basis of the number of monitor points and users, with additional Charges payable for users above the standard level.]		
Item	Charges	Invoice dates
Application Services base Charges:	[Amount] per [period] plus VAT (including [base licence limits]) [OR] In accordance with the Price List	[Dates] [OR] In accordance with the Price List
Additional concurrent user licences:	[Amount] per user per [period] plus VAT [OR] In accordance with the Price List	[Dates] [OR] In accordance with the Price List
Licensing		
Subscription Start Date:	[The Effective Date]	
Subscription Initial Term:	[A period of [number] months beginning on the Subscription Start Date.]	
Subscription Renewal Term:	[Each consecutive 12-month period following the end of the Subscription Initial Term.]	

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Subscription Termination Notice Period:	[30 days / 6 months]
Permitted Purposes:	The Application Services may be used only for [the business purposes of the Customer / the business purposes of the Customer and the customers of the Customer]. The Application Services must not be used for the purposes of any other person.
Permitted users:	The following classes of person are permitted to use the Application Services in accordance with the Agreement and the EULA: [(a) the officers, employees and freelance subcontractors of the Customer; (b) the officers, employees and freelance subcontractors of any Affiliate of the Customer; and (c) the officers, employees and freelance subcontractors of any customer of the Customer with respect to which the Application Services are used).]

Special terms and conditions

[The Agreement replaces an existing contract between the Supplier and the Customer dated [date]. Accordingly, upon the coming into force of the Agreement, that contract shall automatically and immediately terminate.]

Professional Services

Professional Services and Professional Services Deliverables:	Charges:	Invoice dates:
[Specify any set up and configuration services, data transfer services, training services, software engineering services and/or other professional services, along with associated deliverables]	[In accordance with the Price List] or [Specify charges for each item of Professional Services]	Any time after the provision of the corresponding Services

Governing Law and Jurisdiction

Governing Law	[Law of England and Wales / Law of the State of New South Wales / Law of the State of New York]
Jurisdiction	[England and Wales / State of New South Wales / State and Federal courts located in New York, New York]

Contractual notices

Application Services Agreement

Customer:	Supplier:
[Contact details]	[Contract details]

Validity period of Services Order Form
[30 days following the date of issue of this Services Order Form by the Supplier.]

Execution	
The parties have indicated their acceptance of the Agreement, incorporating this Services Order Form and the attached terms and conditions, including each of the Schedules appended thereto, by either: (a) signing below; or (b) the Supplier sending this Services Order Form to the Customer, and the Customer issuing a purchase order to the Supplier with respect to the Services specified in this Services Order Form within any validity period specified above.	
SIGNED BY [individual name] on....., duly authorised for and on behalf of the Customer: 	SIGNED BY [individual name] on....., duly authorised for and on behalf of the Supplier:

Application Services Agreement

TERMS AND CONDITIONS

Please read these terms and conditions carefully.

Along with the Services Order Form agreed by the parties, these terms and conditions govern the provision of the Application Services and any related services provided by the Supplier.

These terms and conditions and the Services Order Form may be agreed either: (a) by the parties signing the Services Order Form; or (b) by the Supplier sending the Services Order Form to the Customer, and the Customer issuing a purchase order to the Supplier with respect to the Services specified in the Services Order Form within any validity period specified in the Services Order Form.

1. Definitions

- 1.1 In the Agreement, save to the extent expressly provided otherwise, the following words and phrases have the specified meanings.

"Access Credentials" means the usernames, passwords and other credentials enabling access to the Application Services.

"Affiliate" means an entity that Controls, is Controlled by, or is under common Control with the relevant entity.

"Agreement" means the contract between the parties incorporating these terms and conditions, the Schedules to these terms and conditions, and the Services Order Form, and any amendments to that contract from time to time.

"Aggregated Data" has the meaning given to it in Clause 8.2.

"Applicable Index" means the applicable prices index identified as such in Schedule 2 (Jurisdiction-specific terms and conditions).

"Application Services" means those hosted services provided or to be provided by the Supplier to the Customer by means of a hosted installation or instance of the Application Software.

"Application Software" means the software specified in the Services Order Form.

"Application Specification" means the specification for the Application Software and/or Application Services set out in the Services Order Form.

"Business Day" has the meaning given to it in the applicable part of Schedule 2 (Jurisdiction-specific terms and conditions).

"Business Hours" has the meaning given to it in the applicable part of Schedule 2 (Jurisdiction-specific terms and conditions).

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"Charges" means:

- (a) the charges payable by the Customer and specified in the Services Order Form or elsewhere in the Agreement; and
- (b) such other charges as may be agreed in writing by the parties from time to time.

"Cold Storage Service" has the meaning given to it in Clause 22.6.

"Confidential Information" means the Supplier Confidential Information and the Customer Confidential Information.

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

"Customer" means the person or entity identified as such in the Services Order Form.

"Customer Confidential Information" means:

- (a) any information disclosed by the Customer to the Supplier at any time before the termination of the Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked as "confidential" or should have been understood by the Supplier (acting reasonably) to be confidential;
 - (b) the Customer Data; and
 - (c) the Customer Personal Data,
- but excluding the Aggregated Data.

"Customer Data" means all data, works and materials:

- (a) uploaded to or stored on the Platform by the Customer; or
- (b) supplied by the Customer to the Supplier for uploading to or storage on the Platform.

"Customer Indemnity Event" has the meaning given to it in Clause 18.1.

"Customer Personal Data" means any Personal Data that is processed by the Supplier on behalf of the Customer in relation to the Agreement (excluding, for the avoidance of doubt, Personal Data with respect to which the Supplier acts as a controller).

"Customer User" means an individual using the Application Services on behalf of the Customer, with the authority of the Customer and/or by means of Access Credentials disclosed directly or indirectly by the Customer.

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"Data Management Policy" means the Supplier's data management policy, as it may be updated by the Supplier from time to time.

"Data Protection Laws" means all applicable laws relating to the processing of Personal Data under the Agreement including the data protection and privacy laws specified in Schedule 2 (Jurisdiction-specific terms and conditions) and/or applicable in the Jurisdiction.

"Effective Date" means the date specified as such in the Services Order Form (which may be different from the date upon which the parties sign or otherwise agree the Services Order Form).

"Expert" means a person appointed under Clause 26 to resolve a Technical Dispute between the parties.

"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 the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars).

"Governing Law" means the law that governs the Agreement, as specified in the Services Order Form.

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related 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 and rights in designs).

"Jurisdiction" means the jurisdiction specified in the Services Order Form.

"Permitted Purposes" means those purposes identified as such in the Services Order Form.

"Personal Data" means personal information and personal data as defined in any of the Data Protection Laws.

"Platform" means the platform managed by the Supplier and used by the Supplier to provide the Application Services, including the Application Software, the system and server software used to provide the Application Services, and the computer hardware on which that Application Software and that system and server software is installed.

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"Price List" means the price list or pricing document setting out the Supplier's standard charging rates and licensing rules, in the form provided by the Supplier to the Customer before the execution of the Agreement, as it may be varied by the Services Order Form, and as varied in accordance with the terms of the Agreement from time to time.

"Professional Services" means any set up and configuration services, data transfer services, training services, software engineering services and/or other professional consulting services that the Supplier agrees to provide to the Customer under the Agreement, as specified in the Services Order Form or otherwise agreed by the parties in writing.

"Professional Services Deliverables" means any works and materials arising out of the provision of the Professional Services and delivered, or to be delivered, by the Supplier to the Customer during the Term.

"Services" means any services that the Supplier provides to the Customer, or has an obligation to provide to the Customer, under the Agreement.

"Services Order Form" means a digital or hard-copy order form signed or otherwise agreed by or on behalf of each party and incorporating these terms and conditions by reference.

"Subscription" means a periodic subscription for access to and use of the Application Services under the Agreement; for the avoidance of doubt, the Agreement may include one or more Subscriptions, as specified in the Services Order Form.

"Subscription Initial Term" means, with respect to a Subscription, the period specified as such in the Services Order Form.

"Subscription Renewal Term" means, with respect to a Subscription, the period specified as such in the Services Order Form.

"Subscription Start Date" means, with respect to a Subscription, the date specified as such in the Services Order Form.

"Subscription Term" means the term of a particular Subscription, commencing on the Subscription Start Date and ending upon the termination of that Subscription in accordance with the Agreement.

"Subscription Termination Notice Period" means, with respect to a Subscription, the period specified in the Services Order Form in advance of the start of a Subscription Renewal Term; and for the avoidance of doubt the "applicable Subscription Termination Notice Period" with respect to a Subscription Renewal Term shall be the relevant period before the start of that Subscription Renewal Term.

"Supplier" means the entity identified as such in the Services Order Form.

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"Supplier Confidential Information" means:

- (a) any information disclosed by the Supplier to the Customer at any time before the termination of the Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked as "confidential" or should have been understood by the Customer (acting reasonably) to be confidential;
- (b) the financial terms of the Agreement, save to the extent published by the Supplier; and
- (c) any roadmap for the development of the Platform, Application Software and/or Application Services disclosed by the Supplier to the Customer.

"Survey Templates" means any survey templates, compliance schema or precedent risk assessments (including fire, Legionella, gas, electrical and other health and safety risk assessments), risk matrices, policies, procedures, checks, checklists, compliance documents or other documents together with their associated reports that are made available by the Supplier to the Customer by means of the Application Services and/or as an element of the Services generally.

"Technical Dispute" means any contractual or other legal dispute between the parties relating wholly or predominantly to the specification, quality or performance of the Application Software, Application Services and/or associated support services.

"Term" means the term of the Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2.

2. Term

2.1 The Agreement shall come into force upon the Effective Date.

2.2 Each Subscription shall:

- (a) come into force on its Subscription Start Date;
- (b) continue in force for its Subscription Initial Term; and
- (c) renew and continue in force for subsequent consecutive Subscription Renewal Terms,

unless and until that Subscription or the Agreement is terminated in accordance with Clause 21 or any other provision of the Agreement.

2.3 The Agreement shall continue in force for so long as any Subscription subsists, subject to termination in accordance with Clause 21 or any other provision of the Agreement.

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3. Professional Services

- 3.1 The Supplier shall provide the Professional Services (if any) to the Customer with reasonable care and skill.
- 3.2 The Supplier shall use reasonable endeavours to ensure that the Professional Services are provided, and that any Professional Services Deliverables are delivered to the Customer, in accordance with any timetable set out in the Services Order Form or otherwise agreed by the parties in writing.
- 3.3 The Customer must promptly, following receipt of a written request from the Supplier to do so, provide written feedback to the Supplier concerning the Supplier's proposals, plans, designs and/or preparatory materials relating to the Professional Services Deliverables and made available to the Customer with that written request.
- 3.4 The Supplier warrants to the Customer that:
 - (a) the Professional Services Deliverables will materially conform with the requirements set out in the Services Order Form or otherwise agreed by the parties in writing; and
 - (b) the Professional Services Deliverables will not infringe the Intellectual Property Rights of any third party.
- 3.5 The Customer must notify the Supplier of any defects in the Professional Services or Professional Services Deliverables within the period of 5 Business Days following the date of completion or delivery of such Professional Services or Professional Services Deliverables (as the case may be).

4. Rights to use Professional Services Deliverables

- 4.1 The Customer's rights to use the Professional Services Deliverables are as follows:
 - (a) in relation to Professional Services Deliverables that form part of the Application Software, the Customer's rights to use those Professional Services Deliverables shall be as part of the Application Software in accordance with Schedule 1 (EULA); and
 - (b) in relation to any other Professional Services Deliverables, the Supplier hereby grants to the Customer, from the date of delivery of the relevant Professional Services Deliverables to the Customer, a non-exclusive, worldwide and non-expiring licence to copy, store, distribute, publish, adapt, edit and otherwise use the Professional Services Deliverables (excluding Customer Data) in the course of the business of the Customer.
- 4.2 Subject to Clause 4.1 and to any written agreement of the parties to the contrary, any Intellectual Property Rights that subsist in the Professional

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Services Deliverables or may arise out of the performance of the Professional Services by the Supplier shall be the exclusive property of the Supplier.

5. Application Services

5.1 The Supplier shall provide to the Customer, promptly following the completion of the setup of the Application Services, the Access Credentials necessary to enable the Customer to access and use the Application Services.

5.2 The parties acknowledge and agree that Schedule 1 (EULA) shall govern the use of the Application Services and the Customer must:

- (a) ensure that the Application Services are used only for the Permitted Purposes;
- (b) ensure that all Customer Users fall within the categories of Customer User expressly permitted by the Services Order Form;
- (c) comply with Schedule 1 (EULA);
- (d) ensure that all Customer Users comply with Schedule 1 (EULA); and
- (e) in the case of Customer Users that are not officers or employees of the Customer, ensure that such Customer Users give their written agreement to Schedule 1 (EULA).

5.3 The parties acknowledge and agree that Schedule 3 (SLA) shall govern the availability of the Application Services.

5.4 The Supplier may from time to time make Survey Templates available to the Customer. The Supplier hereby grants to the Customer a non-exclusive and non-transferable licence to copy, adapt and use such Survey Templates strictly in the course of and for the Permitted Purposes and providing that the Customer must not:

- (a) remove any proprietary notices from any Survey Template or any derivative thereof;
- (b) publish or redistribute any Survey Template or derivative thereof, except a derivative that has been fully adapted for the Permitted Purposes and is being properly used with respect to the Permitted Purposes; or
- (c) sell or resell any Survey Template or derivative thereof.

6. Support

6.1 The Supplier shall provide support services to the Customer during the Term with reasonable skill and care in accordance with Schedule 3 (SLA).

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7. Customer obligations

- 7.1 Save to the extent that the parties have agreed otherwise in writing, the Customer must provide to the Supplier, or procure for the Supplier, such:
- (a) co-operation, support and advice; and
 - (b) information and documentation,
- as are reasonably necessary to enable the Supplier to perform its obligations under the Agreement.
- 7.2 The Customer must provide to the Supplier, or procure for the Supplier, such access to the Customer's computer hardware, software, networks and systems as may be reasonably required by the Supplier to enable the Supplier to perform its obligations under the Agreement.
- 7.3 The Customer shall be responsible for ensuring that the Customer's computer hardware, software, networks and systems are configured in such a way as to permit and enable access to the Application Services by the Customer.
- 7.4 The Customer shall be responsible for ensuring that Customer Users use only the most up-to-date versions of any software applications produced or published by the Supplier that are designed for use in conjunction with the Application Software and/or Application Services.
- 7.5 The Customer must implement and maintain reasonable security measures relating to the Access Credentials; and the Customer must ensure that no unauthorised person or application may gain access to the Application Services by means of the Access Credentials.
- 7.6 The Customer acknowledges that a delay in the Customer performing its obligations in the Agreement may result in a delay in the performance of the Services; and subject to Clause 19.1 the Supplier (and the Supplier Affiliates) shall not be liable to the Customer in respect of any failure to meet any Services timetable to the extent that that failure arises out of a delay in the Customer performing its obligations under the Agreement.
- 7.7 The Customer further acknowledges that a failure or delay in the Customer performing its obligations under Clause 7.1 to 7.5 may result in additional costs and/or additional resources usage by the Supplier, and the Supplier may charge the Customer with respect to such additional costs and resources usage. These Charges shall be at a rate agreed by the parties or, in the absence of such an agreement, at the relevant rate specified in the Price List.

8. Customer Data

- 8.1 As between the parties, the Customer owns all right, title and interest in and to the Customer Data and nothing in the Agreement shall be understood to assign any ownership rights in the Customer Data to the Supplier.

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- 8.2 The Customer hereby grants to the Supplier a non-exclusive licence to:
- (a) use the Customer Data to the extent reasonably required for the provision of the Services, and for the performance of its obligations and exercise of its rights under the Agreement; and
 - (b) combine the Customer Data with other data for the purpose of creating aggregated data that do not identify the Customer and do not include any Customer Personal Data ("**Aggregated Data**"), and to use the Aggregated Data during and after the Term in the course of the Supplier's business, including publishing the Aggregated Data and providing information, products and services to third parties that use or include the Aggregated Data.

The Customer also grants to the Supplier the right to sub-license these rights to its data processing, hosting, connectivity and telecommunications service providers, subject to any express restrictions elsewhere in the Agreement.

- 8.3 The Customer warrants to the Supplier that the Customer Data will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.
- 8.4 In the event of any loss or damage to the Customer Data, the Customer's exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to procure that the hosting services provider restores the lost or damaged Customer Data from the latest back-up copy of such Customer Data.
- 8.5 Subject to Clause 19.1, the Supplier (and the Supplier Affiliates) shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by the hosting services provider for that Customer Data.

9. Back-ups

- 9.1 The Supplier shall back up the Customer Data in accordance with the Data Management Policy.

10. Charges

- 10.1 The agreed Charges as at the Effective Date are set out or referenced in the Price List, the Services Order Form and elsewhere in the Agreement.
- 10.2 All amounts stated in or in relation to the Agreement are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, goods and services taxes, sales or use taxes, or other similar taxes levied in any jurisdiction relating to the transaction(s) between Customer and Supplier that are governed hereby, which will be added to those amounts and payable by the Customer to the Supplier.

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11. Charges variation

- 11.1 The Charges payable with respect to the Application Services (and associated support) under a Subscription shall automatically increase on each anniversary of the Subscription Start Date. This increase shall be equal, in percentage terms, to the increase in the Applicable Index over the preceding 12-month period (being a 12-month period selected by the Supplier ending at any time within the period of 60 days before the date upon which the increase is effective).
- 11.2 The Charges may also be varied:
- (a) by the Supplier issuing to the Customer a revised version of the Services Order Form, and the Customer issuing a purchase order to the Supplier with respect to the Services under that Services Order Form, or otherwise expressly accepting that Services Order Form, within any validity period specified in that Services Order Form;
 - (c) by means of a written document signed, or otherwise agreed in writing, by or on behalf of each party.
- 11.3 The Charges with respect to a Subscription may be varied by the Supplier on and from the start of any applicable Subscription Renewal Term by the Supplier giving to the Customer written notice of the proposed variation, such notice to be given to the Customer at least 14 days before the start of the applicable Subscription Termination Notice Period.
- 11.4 The Supplier may vary the Charges payable with respect to Professional Services by giving to the Customer not less than 30 days' written notice of the variation.

12. Payments

- 12.1 The Supplier shall issue invoices for the Charges to the Customer on or after the invoicing dates set out in the Services Order Form.
- 12.2 The Customer must pay the Charges to the Supplier within the period of 28 days following the issue of an invoice in accordance with this Clause 12.
- 12.3 The Customer must pay the Charges by bank transfer (using such payment details as are notified by the Supplier to the Customer from time to time).
- 12.4 If the Customer does not pay any amount properly due to the Supplier under the Agreement, the Supplier may:
- (a) charge the Customer interest on the overdue amount at a rate equal to the interest rate specified in Schedule 2 (Jurisdiction-specific terms and conditions) above the applicable base rate specified in Schedule 2 from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or

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- (b) claim interest and/or statutory compensation from the Customer pursuant to any applicable late payments legislation identified in Schedule 2.

12.5 The Supplier may suspend the provision of any Services if any amount due to be paid by the Customer to the Supplier under the Agreement is overdue, and the Supplier has given to the Customer at least 14 days' written notice, following the amount becoming overdue, of its intention to suspend Services on this basis.

13. Confidentiality obligations

13.1 The Supplier must:

- (a) keep the Customer Confidential Information strictly confidential using the same degree of care the Supplier uses to protect the Supplier's own confidential information of a similar nature, being at least a reasonable degree of care;
- (b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in the Agreement; and
- (c) act in good faith at all times in relation to the Customer Confidential Information.

13.2 The Customer must:

- (a) keep the Supplier Confidential Information strictly confidential using the same degree of care the Customer uses to protect the Customer's own confidential information of a similar nature, being at least a reasonable degree of care;
- (b) not disclose the Supplier Confidential Information to any person without the Supplier's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in the Agreement; and;
- (c) act in good faith at all times in relation to the Supplier Confidential Information.

13.3 Notwithstanding Clauses 13.1 and 13.2, a party's Confidential Information may be disclosed by the other party to that other party's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Confidential Information that is disclosed for the performance of their work with respect to the Agreement and who are bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information that is disclosed.

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- 13.4 No obligations are imposed by this Clause 13 with respect to a party's Confidential Information if that Confidential Information:
- (a) is known to the other party before disclosure under the Agreement and is not subject to any other obligation of confidentiality;
 - (b) is or becomes publicly known through no act or default of the other party;
 - (c) is obtained by the other party from a third party in circumstances where the other party has no reason to believe that there has been a breach of an obligation of confidentiality; or
 - (d) is independently developed by that party without reliance upon or use of any of the other party's Confidential Information.
- 13.5 The restrictions in this Clause 13 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of either party on any recognised stock exchange. In the event that a party is required to disclose such Confidential Information, to the extent permitted by law and reasonably practicable, it shall promptly notify the other party so that the party owning the Confidential Information may seek a protective order. In the event that such protective order is not obtained, the party required to make such disclosure shall only disclose that portion of the Confidential Information which is required to be disclosed as advised by counsel to be in compliance with the disclosure requirement.
- 13.6 The provisions of this Clause 13 shall continue in force indefinitely following the termination of the Agreement.

14. Data protection

- 14.1 Each party shall comply with the Data Protection Laws, this Clause 14 and any additional data protection clauses set out in Schedule 2 (Jurisdiction-specific terms and conditions) with respect to the processing of the Customer Personal Data.
- 14.2 The Customer warrants to the Supplier that it has the legal right to disclose all Personal Data that it does in fact disclose to the Supplier under or in connection with the Agreement.
- 14.3 The Customer shall only supply to the Supplier, and the Supplier shall only process, in each case under or in relation to the Agreement:
- (a) the Personal Data of individuals whose details are uploaded to the Platform for the purpose of enabling the Customer to use the Application Services (and such other categories as may be agreed by the parties in writing); and

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- (b) names, addresses, telephone numbers and such other personal identifiers and other data relating to data subjects whose details may be uploaded to the Platform for the purpose of enabling the Customer to use the Application Services (and such other types as may be agreed by the parties in writing).
- 14.4 The Supplier shall only process the Customer Personal Data in order to perform its obligations under the Agreement and/or provide the Services.
- 14.5 The Supplier shall process Customer Personal Data only during the applicable Subscription Term and for not more than 6 months following the end of that Subscription Term, and will irrevocably delete the Customer Personal Data from its systems and media by or promptly following the end of that period, save in the following circumstances:
 - (a) the parties agree in writing that the Supplier will provide storage of the Customer Personal Data for some other period (which may be subject to Charges); or
 - (b) the Supplier has an obligation to retain Customer Personal Data under applicable law.
- 14.6 The Supplier shall only process the Customer Personal Data on the documented instructions of the Customer (including with regard to international transfers of the Customer Personal Data that are restricted under the Data Protection Laws), as set out in the Agreement or any other document agreed by the parties in writing.
- 14.7 The Customer hereby authorises the Supplier to make transfers of Customer Personal Data in accordance with Schedule 2 (Jurisdiction-specific terms and conditions).
- 14.8 The Supplier shall promptly inform the Customer if, in the opinion of the Supplier, an instruction of the Customer relating to the processing of the Customer Personal Data infringes the Data Protection Laws.
- 14.9 Notwithstanding any other provision of the Agreement, the Supplier may process the Customer Personal Data if and to the extent that the Supplier is required to do so by applicable law. In such a case, the Supplier shall inform the Customer of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- 14.10 The Supplier shall ensure that persons authorised to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 14.11 The Supplier shall implement appropriate technical and organisational measures to ensure an appropriate level of security for the Customer Personal Data, including those measures specified in the Data Management Policy.

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- 14.12 The Supplier must not engage any third party to process the Customer Personal Data without the prior specific or general written authorisation of the Customer. In the case of a general written authorisation, the Supplier shall inform the Customer at least 14 days in advance of any intended changes concerning the addition or replacement of any third party processor, and if the Customer objects to any such changes before their implementation, then the Customer may terminate the Agreement on 7 days' written notice to the Supplier, providing that such notice must be given within the period of 7 days following the date that the Supplier informed the Customer of the intended changes. The Supplier shall ensure that each third party processor is subject to equivalent legal obligations as those imposed on the Supplier by this Clause 14.
- 14.13 The Supplier is hereby authorised by the Customer to engage, as sub-processors with respect to Customer Personal Data, the third parties, and third parties within the categories, identified on the Supplier's website on the Effective Date.
- 14.14 The Supplier shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Customer with the fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.
- 14.15 The Supplier shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws. The Supplier may charge the Customer at its standard time-based charging rates for any work performed by the Supplier at the request of the Customer pursuant to this Clause 14.15, save to the extent that the requirement for such work arises out of any default of the Supplier.
- 14.16 The Supplier must notify the Customer of any Personal Data breach affecting the Customer Personal Data without undue delay and, in any case, not later than 36 hours after the Supplier becomes aware of the breach.
- 14.17 The Supplier shall make available to the Customer all information necessary to demonstrate the compliance of the Supplier with its obligations under this Clause 14 and the Data Protection Laws. The Supplier may charge the Customer at its standard time-based charging rates for any work performed by the Supplier at the request of the Customer pursuant to this Clause 14.17, providing that no such charges shall be levied with respect to the completion by the Supplier (at the reasonable request of the Customer, not more than once per calendar year) of the standard information security questionnaire of the Customer.

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- 14.18 Without prejudice to the Supplier's rights to levy Charges under Clause 22.4, the Supplier shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services relating to the processing, and shall delete existing copies save to the extent that applicable law or regulation requires storage of the relevant Personal Data.
- 14.19 The Supplier shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer in respect of the compliance of the Supplier's processing of Customer Personal Data with the Data Protection Laws and this Clause 14. The Supplier may charge the Customer at its standard time-based charging rates for any work performed by the Supplier at the request of the Customer pursuant to this Clause 14.19, providing that no such charges shall be levied where the request to perform the work arises out of any breach by the Supplier of the Agreement or any security breach affecting the systems of the Supplier.
- 14.20 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under the Agreement, then the parties shall use their best endeavours promptly to agree such variations to the Agreement as may be necessary to remedy such non-compliance.

15. Intellectual Property Rights

- 15.1 The Supplier warrants to the Customer that the Application Services, when used by the Customer in accordance with the Agreement, will not infringe the Intellectual Property Rights of any person under the Governing Law. The Supplier's liability in respect of any breach of this warranty shall not be subject to the limitations and exclusions of liability in Clauses 19.3 to 19.5.
- 15.2 If the Supplier reasonably determines, or any third party alleges, that the use of the Application Services by the Customer in accordance with the Agreement infringes any person's Intellectual Property Rights, the Supplier may at its own cost and expense:
- (a) modify the Application Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or
 - (b) procure for the Customer the right to use the Application Services in accordance with the Agreement.

16. General warranties

- 16.1 The Supplier warrants to the Customer that the Supplier has the legal right and authority to enter into the Agreement and to perform its obligations under the Agreement.

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- 16.2 The Customer warrants to the Supplier that it has the legal right and authority to enter into the Agreement and to perform its obligations under the Agreement.
- 16.3 All of the parties' warranties and representations in respect of the subject matter of the Agreement are expressly set out in 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.

17. Acknowledgements and warranty limitations

- 17.1 If the Customer uses the Application Services to keep records that the Customer is legally obliged to keep, the Supplier accepts no responsibility for the way in which such information is stored or recorded, the failure to store or record such information or the accuracy of such information. The responsibility for complying with the relevant legislation remains with the Customer.
- 17.2 Without prejudice to the generality of Clause 17.1, if the Application Services include a module for the keeping of asbestos records, the Supplier gives no warranty that the information which the Application Services enables the Customer to store or the format in which it is stored will meet current asbestos legislation or standards.
- 17.3 Notwithstanding that the Application Services may incorporate data analysis and/or data error-checking functionality, the Customer shall be responsible for ensuring that all information added, uploaded or imported into the Application Services or generated by the Application Services (including reporting information and scheduling information) is correct, accurate and complete. The Customer is responsible for regularly testing any hardware devices and software systems that provide such information to the Application Services to ensure that they are functioning properly; and the Customer is responsible for auditing such information to ensure that it is correct, accurate and complete.
- 17.4 The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of the Agreement, the Supplier gives no warranty or representation that the Application Services will be wholly free from defects, errors and bugs.
- 17.5 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of the Agreement, the Supplier gives no warranty or representation that the Application Services will be entirely secure.
- 17.6 The Customer acknowledges that the Application Services are designed to be compatible only with that software and those systems specified as compatible in the Application Specification; and the Supplier does not warrant or

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represent that the Application Services will be compatible with any other software or systems.

- 17.7 The Customer acknowledges that the Supplier will not provide any legal, financial, accountancy or taxation advice under the Agreement or in relation to the Application Services; and, except to the extent expressly provided otherwise in the Agreement, the Supplier does not warrant or represent that the Application Services or the use of the Application Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.
- 17.8 The Customer acknowledges that any Survey Template made available by the Supplier will need to be adapted for the Customer's business and circumstances, may not be suitable for the Customer's legal, compliance and other purposes, and must not be relied on as legal, compliance or other professional advice.
- 17.9 Nothing in the Agreement shall operate to assign or transfer any Intellectual Property Rights from the Supplier to the Customer, or from the Customer to the Supplier.

18. Indemnities

- 18.1 The Customer shall indemnify and shall keep indemnified the Supplier 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 Supplier and arising directly or indirectly as a result:

- (a) the use of the Application Services by the Customer or any Customer User;
- (b) any breach by the Customer of the Agreement; or
- (c) any claims, actions and/or proceedings against the Supplier by any Customer User, any third party authorised to use the Application Services by the Customer, or any third party with respect to whose business the Application Services and/or Survey Templates are used (save to the extent that such claims, actions and/or proceedings arise out of any breach of the Agreement by the Supplier),

(a "**Customer Indemnity Event**").

- 18.2 The Supplier must:

- (a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;
- (b) provide to the Customer all such assistance as may be reasonably requested by the Customer in relation to the Customer Indemnity Event;

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- (c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Customer Indemnity Event; and
- (d) not admit liability to any third party in connection with the Customer Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Customer Indemnity Event without the prior written consent of the Customer,

without prejudice to the Customer's obligations under Clause 18.1.

18.3 The indemnity protection set out in this Clause 18 shall not be subject to the limitations and exclusions of liability set out in the Agreement.

19. Limitations and exclusions of liability

19.1 Nothing in the Agreement will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

19.2 The limitations and exclusions of liability set out in this Clause 19 and elsewhere in the Agreement:

- (a) are subject to Clause 19.1; and
- (b) govern all liabilities arising under the Agreement or relating to the subject matter of the Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in the Agreement.

19.3 The Supplier (and the Supplier Affiliates) shall not be liable to the Customer in respect of:

- (a) any loss of profits or anticipated savings;
- (b) any loss of business, contracts or opportunities;
- (c) any losses arising out of a Force Majeure Event; and
- (d) any special, indirect or consequential loss or damage.

19.4 The Supplier (and the Supplier Affiliates) shall not be liable to the Customer in respect of any loss or corruption of any data, database or software;

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providing that this Clause 19.4 shall not apply in relation to any liabilities of the Supplier under Clause 13 or 14.

- 19.5 The Supplier (and the Supplier Affiliates) shall not be liable to the Customer in respect of any loss or damage arising out of any:
- (a) errors in specifications, test data or other material supplied by the Customer, or in data uploaded or imported into the Application Services;
 - (b) errors, bugs, defects or design faults in Customer or third party software, or Customer or third party equipment;
 - (c) failure to fulfil the responsibilities of the Customer specified in Clause 17.3 or elsewhere in the Agreement;
 - (d) communications failures or network failures or faults not caused by any act or omission of the Supplier or any Supplier Affiliate; or
 - (e) use of any Survey Template by the Customer or any third party,
- and, if any of the matters specified in Clauses 19.5(a) to (c) gives rise to additional costs for the Supplier, the Customer must pay to the Supplier additional reasonable Charges invoiced by the Supplier representing reasonable compensation in respect of such costs.
- 19.6 Subject to Clause 19.7, the liability of the Supplier (and all the Supplier Affiliates) to the Customer under the Agreement in respect of any event or series of related events shall not exceed the greater of:
- (a) GBP 10,000; and
 - (b) the total amount paid and payable by the Customer to the Supplier under the Agreement in the 12-month period preceding the commencement of the event or events.
- 19.7 The aggregate liability of the Supplier (and all the Supplier Affiliates) to the Customer under the Agreement shall not exceed GBP 250,000.

20. Force Majeure Event

- 20.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.
- 20.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Agreement, must:
- (a) promptly notify the other; and

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- (b) inform the other of the period for which it is estimated that such failure or delay will continue.

20.3 A party whose performance of its obligations under the Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

21. Termination

21.1 Either party may terminate a Subscription at the end of:

- (a) its Subscription Initial Term; or
- (b) any of its Subscription Renewal Terms,

by giving to the other party written notice of termination, such notice to be given at or before the start of the applicable Subscription Termination Notice Period.

21.2 Either party may terminate the Agreement (including all Subscriptions) immediately by giving written notice of termination to the other party if:

- (a) the other party commits any material breach of the Agreement, and the breach is not remediable; or
- (b) the other party commits a material breach of the Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied.

21.3 Subject to applicable law, either party may terminate the Agreement (including all Subscriptions) immediately by giving written notice of termination to the other party if:

- (a) the other party is dissolved, ceases to conduct all (or substantially all) of its business, is or becomes unable to pay its debts as they fall due, is or becomes insolvent or is declared insolvent, or 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.

21.4 The Supplier may terminate the Agreement (including all Subscriptions) immediately by giving written notice to the Customer if:

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- (a) any amount due to be paid by the Customer to the Supplier under the Agreement is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and
- (b) the Supplier has given to the Customer at least 14 days' written notice, following the failure to pay, of its intention to terminate the Agreement in accordance with this Clause 21.4.

21.5 Upon the date of effective termination of all Subscriptions or the last subsisting Subscription, the Agreement shall automatically and simultaneously terminate; and upon the date of effective termination of the Agreement, all Subscriptions shall automatically and simultaneously terminate.

21.6 Each Subscription and the Agreement may only be terminated in accordance with the express provisions of the Agreement.

22. Effects of termination

22.1 Upon the termination of the Agreement, the provisions of the Agreement shall cease to have effect, save that:

- (a) Clauses 1, 5.4, 8.2, 12, 13, 14, 17, 18, 19, 22, 25, 26, 27 and 28 shall survive and continue to have effect; and
- (b) any other provision that, in order to give proper effect to the Agreement's intent, should survive termination, shall do so,

in each case accordance with their express terms or otherwise indefinitely.

22.2 Except to the extent that the Agreement expressly provides otherwise, the termination of the Agreement shall not affect the accrued rights of either party.

22.3 Subject to Clause 22.6 and the Supplier's obligations under applicable law:

- (a) upon termination of a Subscription, the Customer shall cease to use the Application Services under that Subscription; and
- (b) the Customer Data relating to the Subscription may be stored by the Supplier for a period of 6 months following the date of effective termination of the Subscription but shall be deleted by the Supplier at the end of that period or promptly thereafter.

22.4 Unless Clause 22.6 applies, promptly following the giving of a notice of termination of a Subscription, the parties shall use their best endeavours to agree in writing:

- (a) the file types, data formats and timetable for the provision of the applicable Customer Data to the Customer; and

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- (b) to the extent not already specified in the Price List, the Supplier's Charges with respect to the provision of that Customer Data to the Customer,

and the Supplier shall provide that Customer Data to the Customer in accordance with such agreement, subject to the payment of the applicable Charges.

22.5 Within 10 Business Days following the termination of a Subscription, the Customer must delete from its mobile devices, and must ensure that all Customer Users delete from their mobile devices:

- (a) any software applications produced or published by the Supplier that are designed for use in conjunction with the applicable Application Software and/or Application Services; and
- (b) any data stored or generated by any such applications.

22.6 At any time before the deletion of Customer Data from the Platform, the parties may agree that the Supplier shall provide an ongoing storage service to the Customer with respect to some or all of the Customer Data ("**Cold Storage Service**"); the following provisions of this Clause 22.6 shall apply with respect to any such service:

- (a) the Cold Storage Services shall be provided for an indefinite period following termination of the applicable Subscription, and the Cold Storage Service may be cancelled by either party giving to the other at least 30 days' prior written notice of cancellation;
- (b) the Charges payable with respect to the Cold Storage Service shall be agreed by the parties in writing, and Clauses 10, 11 and 12 shall continue to apply after the termination of the Subscription, and after any termination of the Agreement, with respect to those Charges;
- (c) for the avoidance of doubt, the provisions of Clauses 8, 9, 13, 14, 17, 18 and 19 shall apply with respect to the Cold Storage Service; and
- (d) the provision of a Cold Storage Service shall not otherwise affect the termination of a Subscription or the Agreement.

23. Notices

23.1 Any notice from one party to the other party under the Agreement must be given by one of the following methods (using the relevant contact details set out in the Services Order Form):

- (a) sent by courier, in which case the notice shall be deemed to be received upon delivery;
- (b) sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting; or

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- (c) sent by email, in which case notice shall be deemed to be received upon the sending of the email, providing the sender retains evidence of the date and time of sending and the content of the email,

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

- 23.2 The addressee and contact details set out in the Services Order Form may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 23.

24. Subcontracting

- 24.1 Subject to any express restrictions elsewhere in the Agreement, the Supplier may subcontract any of its obligations under the Agreement.
- 24.2 The Supplier shall remain responsible to the Customer for the performance of any subcontracted obligations.

25. General

- 25.1 The Customer hereby agrees that the Supplier may assign, transfer or otherwise deal with the Supplier's contractual rights and obligations under the Agreement. Save to the extent expressly permitted by applicable law, the Customer must not assign, transfer or otherwise deal with the Customer's contractual rights and/or obligations under the Agreement without the prior written consent of the Supplier, providing that the Customer may assign the entirety of its rights and obligations under the Agreement to any Affiliate of the Customer or to any successor to all or a substantial part of the business of the Customer from time to time.
- 25.2 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach. No waiver of any breach of any provision of the Agreement shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of the Agreement.
- 25.3 If a provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect. If any unlawful and/or unenforceable provision of the Agreement would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.
- 25.4 The Agreement is for the benefit of the parties and is not intended to benefit or be enforceable by any third party. The exercise of the parties' rights under the Agreement is not subject to the consent of any third party.
- 25.5 The Agreement may be varied:

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- (a) by the Supplier issuing to the Customer a revised version of the Services Order Form (which may be accompanied by a revised version of these terms and conditions and/or their Schedules), and the Customer issuing a purchase order to the Supplier with respect to the Services under that Services Order Form, or otherwise expressly accepting that Services Order Form, within any validity period specified in that Services Order Form;
- (b) on and from the start of any Subscription Renewal Term, by the Supplier giving to the Customer written notice of the proposed variation, such notice to be given to the Customer at least 14 days before the start of the applicable Subscription Termination Notice Period; or
- (c) by means of a written document signed, or otherwise agreed in writing, by or on behalf of each party.

25.6 The Services Order Form, the main body of the Agreement and the Schedules shall constitute the entire agreement between the parties in relation to the subject matter of the Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter. 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.

26. Technical Disputes and expert determination

- 26.1 Authorised representatives of each of the Customer and the Supplier shall agree within 14 days of a Technical Dispute arising to discuss and attempt to resolve that Technical Dispute between themselves prior to the appointment of an Expert
- 26.2 If any Technical Dispute is incapable of resolution between the parties, the Customer and the Supplier shall on request promptly supply to the Expert all such assistance, documents and information as he may require for the purpose of his determination and both the Customer and the Supplier shall use all reasonable endeavours to procure the prompt determination of the Technical Dispute.
- 26.3 The Expert shall be deemed to act as an expert and not as an arbitrator.
- 26.4 The costs of the Expert appointed under this Clause 26 shall be equally apportioned between the parties or as may otherwise be directed by the Expert.
- 26.5 If the parties are unable to agree the identity of the individual to act as the Expert, then the Expert shall be chosen in accordance with the provisions of Schedule 2 (Jurisdiction-specific terms and conditions).

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- 26.6 Nothing in the Agreement shall prevent either the Customer or the Supplier at any time from seeking any interim or interlocutory relief from the court.
- 26.7 Either party may, within 90 days after receipt of the determination of the Expert, refer any matter comprised in the Technical Dispute to the court for determination and the court shall have jurisdiction to determine the rights of the parties in respect of such matters.
- 26.8 Subject to Clause 12.5, until the time that a Technical Dispute between the Supplier and the Customer is resolved the Supplier shall continue to perform the Services and be paid by the Customer in accordance with the Agreement.

27. Law and jurisdiction

- 27.1 The Agreement shall be governed by and construed in accordance with the Governing Law.
- 27.2 Subject to Clause 26, any disputes relating to the Agreement shall be subject to the exclusive jurisdiction of the courts of the Jurisdiction.

28. Interpretation

- 28.1 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.
- 28.2 The Clause headings do not affect the interpretation of the Agreement.
- 28.3 References in the Agreement to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.
- 28.4 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.

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SCHEDULE 1 (EULA)

This EULA sets out the legal basis upon which Customers and Customer Users may use the Application Services under a Subscription. Customers and Customer Users will be asked to agree to the terms of this EULA before using the Application Services.

1. Definitions

1.1 In this EULA, the following words and phrases have the specified meanings.

"Access Credentials" means the usernames, passwords and other credentials enabling access to the Application Services, including both access credentials for the User Interface and access credentials for any API.

"Agreement" means the contract between the Customer and the Supplier for the provision of the Application Services.

"Aggregated Data" has the meaning given to it in Paragraph 5.2(b).

"API" means any application programming interface of the Application Services defined by the Supplier and made available by the Supplier to the Customer (or the Licensee).

"Application Services" means those hosted services provided or to be provided by the Supplier to the Customer by means of a hosted installation or instance of the Application Software (including, where a right to access the Database Software has been granted by the Supplier, the provision of access to the Database Software).

"Application Software" means the software specified in the Services Order Form.

"Customer" means the person or entity identified as such in the Services Order Form.

"Customer User" means an individual using the Application Services on behalf of the Customer, with the authority of the Customer and/or by means of Access Credentials disclosed directly or indirectly by the Customer.

"Database Software" means any database software, hosted and administered by or on behalf of the Supplier, that the Supplier enables the Customer (or the Licensee) to use for the purposes of managing any information in the database associated with the Application Services.

"Documentation" means any documentation (including user manuals and release notes) for the Application Software and/or Application Services produced by the Supplier and delivered or made available by the Supplier to the Licensee.

"Licensee" means the Customer or a Customer User as the case may be.

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"Licensee Data" means all data, works and materials:

- (a) uploaded to or stored on the Platform by the Licensee; or
- (b) supplied by the Licensee to the Supplier for uploading to, transmission by or storage on the Platform.

"Supplier" means the entity identified as such in the Services Order Form.

"Permitted Purposes" means the business purposes of the Customer, and any other purposes authorised by the Supplier in writing.

"Platform" means the platform managed by the Supplier and used by the Supplier to provide the Application Services, including the Application Software, the Database Software, the other system and server software used to provide the Application Services, and the computer hardware on which all that software is installed.

"Price List" means the price list or pricing document setting out the Supplier's standard charging rates and licensing limitations, in the form provided by the Supplier to the Customer before the execution of the Agreement, as it may be varied by the Services Order Form, and as updated in accordance with the terms of the Agreement.

"Services Order Form" means a digital or hard-copy order form signed or otherwise agreed by or on behalf of the Supplier and the Customer.

"Subscription" means a periodic subscription for access to and use of the Application Services.

"Subscription Start Date" means, with respect to a Subscription, the date specified as such in the Services Order Form.

"Subscription Term" means the term of a particular Subscription, commencing on the Subscription Start Date and ending upon the termination of that Subscription in accordance with the Agreement.

"Term" means the term of the Agreement.

"User Interface" means the interface for the Application Services designed to allow individual human users to access and use the Application Services.

1.2 References in this EULA to Paragraphs are to the paragraphs of this EULA.

1.3 If the Licensee is the Customer, and there is any conflict between this EULA and the Agreement, the provisions of the Agreement shall prevail.

2. Licence

2.1 The Supplier hereby grants to the Licensee worldwide, non-exclusive licences:

- (a) to use the Application Services by means of the User Interface;

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- (b) to use the Application Services by means of any API; and/or
- (c) if separately agreed by the Supplier in writing, to use the Database Software,

in each case in accordance with the Documentation for the Permitted Purposes during the applicable Subscription Term.

2.2 The licence granted by the Supplier to the Licensee under Paragraph 2.1 is subject to the following limitations:

- (a) the User Interface may only be used: (i) through a supported web browser, as notified by the Supplier (acting reasonably) to the Customer from time to time; or (ii) through an up-to-date version of a mobile application published by the Supplier for this purpose;
- (b) the User Interface may only be used by Customer Users that are officers and employees of the Customer (plus any classes of person identified in the Services Order Form);
- (c) the use of the User Interface shall be subject to the licensing limitations and restrictions set out in the Services Order Form and/or the Price List (which may include limitations on the purposes for which the Application Services may be used, user accounts, concurrent users, numbers of assets monitored), subject to licensing variations agreed by the parties in writing from time to time;
- (d) the API (if available) may only be used by an application or applications either: (i) specifically approved by the Supplier in writing and controlled by the Customer; (ii) within a class of applications approved by the Supplier in writing; and
- (e) any rights the Customer may have to use the Database Software shall be limited in accordance with the Supplier's written agreement to grant such rights and, in particular: (i) the Customer shall have no right to develop the Application Services database; and (ii) the Customer shall have no rights to change or amend Application Services database contents by means of the Database Software unless the Supplier has expressly granted such rights.

2.3 Except to the extent expressly permitted in the Agreement or required by law on a non-excludable basis, the licence granted by the Supplier under Paragraph 2.1 is subject to the following prohibitions:

- (a) the Licensee must not resell or sub-license its right to access and use the Application Services;
- (b) the Licensee must not permit any unauthorised person or application to access or use the Application Services;

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- (c) the Licensee must not republish or redistribute any content or material from the Application Services;
- (d) the Licensee must not make any alteration to the Application Software; and
- (e) the Licensee must not conduct or request that any other person conduct any load testing or penetration testing on the Platform without the prior written consent of the Supplier.

3. Access Credentials

- 3.1 The Licensee shall implement and maintain reasonable security measures relating to the Access Credentials.
- 3.2 The Licensee must ensure that no unauthorised person or application may gain access to the Application Services by means of the Access Credentials.

4. Access to software code

- 4.1 For the avoidance of doubt, the Licensee has no right to access the software code (including object code, intermediate code and source code) of the Application Software or any other element of the Platform, either during or after the Subscription Term.

5. Licensee Data

- 5.1 If the Licensee is the Customer or the Licensee is a Customer User acting as agent for the Customer, then the provisions of the Agreement relating to "Customer Data" shall apply in place of this Paragraph 5.
- 5.2 Subject to Paragraph 5.1, the Licensee hereby grants to the Supplier a non-exclusive licence to:
 - (a) use the Licensee Data to the extent reasonably required for the provision of services to the Customer, and for the performance of its obligations and exercise of its rights under the Agreement and this EULA; and
 - (b) combine the Licensee Data with other data for the purpose of creating aggregated data that do not identify the Licensee or the Customer and do not include any personal data ("**Aggregated Data**"), and to use the Aggregated Data during and after the Term in the course of the Supplier's business, including publishing the Aggregated Data and providing information, products and services to third parties that use or include the Aggregated Data.

The Licensee also grants to the Supplier the right to sub-license these rights to its data processing, hosting, connectivity and telecommunications service providers, subject to any express restrictions in the Agreement.

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- 5.3 The Licensee warrants and represents to the Supplier that the Licensee Data will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.
- 5.4 Subject to Paragraph 8.1, the Supplier is not responsible for any loss, destruction, alteration or disclosure of Licensee Data caused by the hosting services provider for that Licensee Data.

6. Acceptable use

- 6.1 The Licensee must not use the Application Services or Platform in any way that causes, or may cause, damage to the Platform or impairment of the availability or accessibility of the Application Services.
- 6.2 The Licensee must not use the Application Services or Platform in any way that uses excessive Platform resources and as a result is liable to cause a material degradation in the services provided by the Supplier to its other customers using the Platform (if any); and the Licensee acknowledges that the Supplier may use reasonable technical measures to limit the use of Platform resources by the Customer or a Customer User for the purpose of assuring services to its customers generally.
- 6.3 The Licensee must not use the Application Services or Platform:
- (a) in breach of applicable law;
 - (b) in any way that is criminal, unlawful, illegal, fraudulent or harmful; or
 - (c) in connection with any criminal, unlawful, illegal, fraudulent or harmful purpose, activity, operation or transaction.
- 6.4 Without prejudice to the generality of Paragraph 6.3, the Licensee must not use the Application Services or Platform, either directly or indirectly, for itself or any third party;
- (a) for or in connection with the production, transport, storage, purchase or sale of goods or services that: (i) infringe third party Intellectual Property Rights, including counterfeit goods and/or pirated content; (ii) constitute dangerous goods, being goods that cause damage, harm or injury, including recreational drugs or derivatives from drugs (chemical or herbal), psychoactive substances, equipment to facilitate drug use, weapons, ammunition, explosive materials and fireworks, instructions for making explosives or other harmful products, and tobacco products; and/or (iii) enable dishonest behaviour, including hacking software or instructions, fake documents and academic cheating products;
 - (b) to benefit a country, organisation, entity or person embargoed by the applicable laws of the United Kingdom, Australia, and/or the United

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States (including those on sanctions lists identified by the United States Office of Foreign Asset Control (OFAC)).

7. Acknowledgements

- 7.1 If the Licensee uses the Application Services to keep records that the Licensee is legally obliged to keep, the Supplier accepts no responsibility for the way in which such information is stored or recorded, the failure to store or record such information or the accuracy of such information. The responsibility for complying with the relevant legislation remains with the Licensee.
- 7.2 Without prejudice to the generality of Clause 7.1, if the Application Services include a module for the keeping of asbestos records, the Supplier gives no warranty that the information which the Application Services enables the Licensee to store or the format in which it is stored will meet current asbestos legislation or standards.
- 7.3 Notwithstanding that the Application Services may incorporate data analysis and/or data error-checking functionality, the Licensee shall be responsible for ensuring that all information added, uploaded or imported into the Application Services or generated by the Application Services (including reporting information and scheduling information) is correct, accurate and complete. The Licensee is responsible for regularly testing any hardware devices and software systems that provide such information to the Application Services to ensure that they are functioning properly; and the Licensee is responsible for auditing such information to ensure that it is correct, accurate and complete.
- 7.4 The Licensee acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the commitments of the Supplier to the Customer in the Agreement, the Supplier gives no warranty or representation that the Application Services will be wholly free from defects, errors and bugs.
- 7.5 The Licensee acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the commitments of the Supplier to the Customer in the Agreement, the Supplier gives no warranty or representation that the Application Services will be entirely secure.
- 7.6 Without prejudice to any commitments of the Supplier to the Customer in the Agreement, the Supplier does not warrant or represent that the Application Services will be compatible with any software or systems.
- 7.7 The Licensee acknowledges that the Supplier will not provide any legal, financial, accountancy or taxation advice in relation to the Application Services; and, without prejudice to any commitments of the Supplier to the Customer in the Agreement, the Supplier does not warrant or represent that the Application Services or the use of the Application Services by the Licensee

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will not give rise to any legal liability on the part of the Licensee or any other person.

8. Limitations and exclusions of liability

8.1 Nothing in the EULA will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

8.2 The limitations and exclusions of liability set out in this Paragraph 8 and elsewhere in this EULA:

- (a) are subject to Paragraph 8.1; and
- (b) govern all liabilities arising under this EULA or relating to the subject matter of this EULA, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty.

8.3 If the Licensee is the Customer, then the limitations and exclusions of liability set out in the Agreement shall apply in place of this Paragraph 8.

8.4 If the Licensee uses the Application Services but does not pay the Supplier directly with respect to such use, then the Supplier shall have no liability to the Licensee under this EULA or in relation to the Application Services. The Licensee acknowledges that, in the event of a breach of this EULA by the Supplier or any other loss or damage arising out of the Application Services, the Supplier's only liabilities will be those owed to the Customer under the Agreement. The following provisions of this Paragraph 8 are without prejudice to this Paragraph 8.4.

8.5 The Supplier shall not be liable to the Licensee in respect of:

- (a) any loss of profits or anticipated savings;
- (b) any loss of business, contracts or opportunities;
- (c) any losses arising out of any event or events beyond the reasonable control of the Supplier; and
- (d) any special, indirect or consequential loss or damage.

8.6 The Supplier shall not be liable to the Licensee in respect of any loss or corruption of any data, database or software.

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- 8.7 The Supplier shall not be liable to the Licensee in respect of any loss or damage arising out of any:
- (a) errors in specifications, test data or other material supplied by the Licensee, or in data uploaded or imported into the Application Services;
 - (b) errors, bugs, defects or design faults in Licensee or third party software, or Licensee or third party equipment;
 - (c) failure to fulfil the responsibilities of the Customer in the Agreement or the Licensee in this EULA; or
 - (d) communications failures or network failures or faults.
- 8.8 The Supplier shall not be liable to the Licensee in respect of any loss or damage arising out of the actions or omissions of any reseller of the Application Services or any other intermediary that contracts with the Licensee in relation to the Application Services or directly or indirectly makes the Application Services available to the Licensee.

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SCHEDULE 2 (JURISDICTION-SPECIFIC TERMS AND CONDITIONS)

This Schedule 2 sets out terms and conditions that will apply dependent upon the governing law of the Agreement specified in the Services Order Form.

English law

The following provisions shall apply if and only if the Governing Law of the Agreement is the law of England and Wales.

A. Applicable Index

The Applicable Index shall be the Consumer Prices Index published by the UK Office for National Statistics.

B. Business Day / Business Hours

A "**Business Day**" shall be any weekday other than a bank or public holiday in England.

"**Business Hours**" shall be the hours of 09:00 to 17:00 GMT/BST on a Business Day.

C. Interest rate and base rate

The applicable interest rate is 8% per annum.

The applicable base rate is the base lending rate of the Bank of England.

D. Late payments legislation

The applicable late payments legislation is the UK's Late Payment of Commercial Debts (Interest) Act 1998.

E. Selection of Expert

If the parties are unable to agree the identity of the individual to act as the Expert, then the Expert shall either be chosen from the *Registry of Independent Experts* maintained by the *Law Society of England and Wales* or be nominated by a professional association or institute agreed upon between the parties with the intent that by agreement or nomination the Expert be appointed, and the Technical Dispute referred to the Expert, within 7 days.

F. Freedom of information

This Section F applies if and only if the Customer is subject to the requirements of the Freedom of Information Act 2000 ("**FOIA**").

Where this Section F applies, the Supplier shall assist and cooperate with the Customer to enable the Customer to comply with its disclosure requirements under the FOIA, at the cost of the Customer. In particular, the Supplier shall:

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- (a) transfer any request for information made under the FOIA to the Customer as soon as practicable after receipt;
- (b) provide the Customer with a copy of all information (within the meaning of section 84 of the FOIA) in its possession or control in the form that the Customer requires within 7 days (or such other period as the Customer may specify) of the Customer requesting that information; and
- (c) provide all assistance as reasonably requested by the Customer to enable the Customer to respond to a request for information within the time for compliance set out in section 10 of the FOIA.

The Supplier shall be entitled to respond directly to a request for information under the FOIA to the extent required to comply with applicable laws.

The provisions of this Section F shall survive the termination of the Agreement and shall continue in force indefinitely thereafter.

G. Data Protection

The terms set out in this Section G apply in addition to the obligations set out in Clause 14 of the Agreement.

The "**Data Protection Laws**" shall include:

- (a) the General Data Protection Regulation (Regulation (EU) 2016/679) and all other EU laws regulating the processing of Personal Data, as such laws may be updated, amended and superseded from time to time; and
- (b) the General Data Protection Regulation as transposed into UK law (including by the Data Protection Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019) and all other UK laws regulating the processing of Personal Data, as such laws may be updated, amended and superseded from time to time.

The Customer hereby authorises the Supplier to make the following transfers of Customer Personal Data:

- (a) the Supplier may transfer the Customer Personal Data to its sub-processors in the jurisdictions identified on the Supplier's website as at the Effective Date, providing that such transfers must be protected by any appropriate safeguards identified therein; and
- (b) the Supplier may transfer the Customer Personal Data to a country, a territory or sector to the extent that the competent data protection authorities have decided that the country, territory or sector ensures an adequate level of protection for Personal Data.

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Australian (State of NSW) law

The following provisions shall apply if and only if the Governing Law of the Agreement is the law of the State of New South Wales.

A. Applicable Index

The Applicable Index shall be the Consumer Price Index as published by the Australian Bureau of Statistics.

B. Business Day / Business Hours

A "**Business Day**" shall be any weekday other than a public holiday in New South Wales.

"**Business Hours**" shall be the hours of 09:00 to 17:00 AEST/AEDT on a Business Day.

C. Interest rate and base rate

The applicable interest rate is 7% per annum.

The applicable base rate is the official cash rate as determined by the Reserve Bank of Australia from time to time.

D. Selection of Expert

If the parties are unable to agree the identity of the individual to act as the Expert, then the Expert shall be nominated by the Resolution Institute (<https://www.resolution.institute>) with the intent that by agreement or nomination the Expert be appointed, and the Technical Dispute referred to the Expert, within 7 days.

E. Privacy Laws

"**Data Protection Laws**" includes the *Privacy Act 1988 (Cth)* and the Australian Privacy Principles established under the *Privacy Act 1988 (Cth)* as amended.

The terms set out in this Section E apply in addition to the obligations set out in Clause 14 of the main terms of the Agreement. In the event of any inconsistency, the former shall prevail.

The Supplier may disclose Customer Personal Data to a person or entity (including a related entity or subcontractor) who is not in Australia, including the sub-processors in the jurisdictions identified on the Supplier's website as at the Effective Date, provided that person or entity provides a written statement in a form satisfactory to the Customer and the Supplier which states that they agree to comply with the Australian Privacy Principles in relation to the collection, use, disclosure, storage and destruction or de-identification of Customer Personal Data disclosed to it in the course of the Agreement.

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F. Australian Consumer Law

This Section F only applies if the Customer is a consumer within the meaning of section 3 of the Australian Consumer Law ("**ACL**").

The ACL provides certain guarantees in relation to the services and goods provided by the Supplier that cannot be excluded. Nothing in the Agreement is intended to have the effect of excluding, restricting or modifying the application of all or any of the provisions of the ACL (but to the extent permitted by law all other implied representations and warranties are excluded).

The Supplier's liability for breach of any condition, guarantee or warranty implied by the ACL is to the extent permitted by the ACL limited to: (a) in the case of services - to the resupply of those services or payment of the cost of having those services resupplied; (b) in the case of goods - to the repair of the goods, or, at the Supplier's option, the replacement of the goods or the supply of equivalent goods or the payment of the cost of repair, replacement or supply of equivalent goods; and (c) if the Customer is a reseller of the goods, it will include similar limitations in its supply terms to its customers.

New York law

The following provisions shall apply if and only if the Governing Law of the Agreement is the law of the State of New York.

A. Applicable Index

The Applicable Index shall be the Consumer Price Index for All Urban Consumers (CPI-U), U.S. city average series, published by the US Bureau of Labor Statistics.

B. Business Day / Business Hours

A "**Business Day**" shall be any weekday other than a bank or public holiday in New York, New York, United States.

"**Business Hours**" shall be the hours of 09:00 to 17:00 EST/EDT on a Business Day.

C. Interest rate and base rate

The applicable interest rate is the lesser of: (a) 8% per annum; and (b) the maximum lawful rate of interest or loan charges, if any, that at any time or from time to time may be contracted for, charged, or received under the applicable laws.

The applicable base rate is the Federal funds (effective) rate published by the US Federal Reserve at <https://www.federalreserve.gov/> from time to time.

E. Selection of Expert and Dispute Resolution

If the parties are unable to agree the identity of the individual to act as the Expert, then the Expert shall either be nominated by the American Arbitration Association

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with the intent that the Expert be appointed, and the Technical Dispute referred to the Expert, within 7 days.

F. Freedom of information

This Section F applies if and only if the Customer is subject to the requirements of the U.S. Freedom of Information Act of 1967 and/or any applicable similar state legislation (collectively, as amended, "**FOIA**").

Where this Section F applies, the Supplier shall assist and cooperate with the Customer to enable the Customer to comply with its disclosure requirements under the FOIA, at the cost of the Customer. In particular, the Supplier shall:

- (a) transfer any request for information made under the FOIA to the Customer as soon as practicable after receipt;
- (b) provide the Customer with a copy of all information (within the meaning of FOIA) in its possession or control in the form that the Customer requires within 14 days (or such other period as the Customer may reasonably specify) of the Customer requesting that information; and
- (c) provide all assistance as reasonably requested by the Customer to enable the Customer to respond to a request for information within the time for compliance set out in the applicable provisions of FOIA.

The Supplier shall be entitled to respond directly to a request for information under the FOIA to the extent required to comply with applicable laws.

The provisions of this Section F shall survive the termination of the Agreement and shall continue in force indefinitely thereafter.

G. Data Protection

The terms set out in this Section G apply in addition to the obligations set out in Clause 14 of the Agreement.

The "**Data Protection Laws**" shall include the consumer privacy protection laws applicable in the United States, including any Federal and/or State privacy protection laws that may apply to the Supplier and/or the Customer, which may include, without limitation, the California Consumer Privacy Act as amended, modified or supplemented from time to time.

The Customer hereby authorises the Supplier to make the following transfers of Customer Personal Data:

- (a) the Supplier may transfer the Customer Personal Data to its sub-processors in the jurisdictions identified on the Supplier's website from time to time, providing that such transfers must be protected by any appropriate safeguards identified therein; and

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- (b) the Supplier may transfer the Customer Personal Data to a country, a territory or sector to the extent that the Supplier reasonably determines that it is able to ensure an adequate level of protection for Personal Data within such country, territory or sector.

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SCHEDULE 3 (SLA)

PART 1: INTRODUCTION

SLA and ASA

This service level agreement ("**SLA**") should be read in conjunction with our *Application Services Agreement* ("**ASA**").

Purpose of SLA

The SLA sets out our commitments relating to the availability of our hosted application services (the "**Application Services**") and the provision of support in relation to the Application Services.

The following tables set out important information relating to this SLA.

SUPPORT PORTAL AND WHITELISTS	
Support portal address:	Micad: https://www.micad.co.uk/support ZetaSafe: https://support.zetasafe.net/hc/en-us/requests/new
Instructions for logging tickets	Micad: https://www.micad.co.uk/how-to-log-a-ticket/ ZetaSafe: Option 1: Fill in form found here: https://support.zetasafe.net/hc/en-us/requests/new Option 2: Email ZetaSafe support support@zetasafe.com Option 3: If you are on ZetaSafe then click on 'Support' button found on the bottom left corner of home screen > Click 'Contact us'
Domains and ports requiring whitelisting and/or proxy bypass	Micad: *.micadipr.net, *.micadhd.net, *.micad.systems, ports 443 and 22 ZetaSafe: *.zetasafe.net, *.zetasafe2.net, *.zetasafe.com, ports 443 and 80, and email domains

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	mail.zetasafe.net, mail.zetasafe.com, zetasafe2.net, zetasafe.com
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UK SUPPORT	
Support hours:	09:00 to 17:00 GMT/BST on any weekday other than a bank or public holiday in England and Wales
Telephone contact for support and ticket escalation:	Micad: 0161 6961600 ZetaSafe: 01865 920190

AUSTRALIA SUPPORT	
Support hours:	08:30 to 17:00 AEST/AEDT on any weekday other than a public holiday in New South Wales
Telephone contact for support and ticket escalation:	1300 049 118

USA SUPPORT	
Support hours:	09:00 to 17:00 EST/EDT on any weekday other than a public holiday in South Carolina
Telephone contact for support and ticket escalation:	(843) 438-7172

PART 2: AVAILABILITY

Availability

We shall use reasonable endeavours to maintain the availability of the Application Services, but we do not guarantee 100% availability.

Exceptions

Downtime caused directly or indirectly by any of the following will not constitute a breach of this SLA or the ASA:

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- any event or events beyond our reasonable control;
- a fault or failure of the internet or any public telecommunications network;
- a fault or failure of our hosting services provider;
- a fault or failure, or incorrect configuration, of your computer systems or networks;
- any breach of contract by you; or
- scheduled maintenance carried out in accordance with this SLA.

Scheduled maintenance

We may from time to time suspend or limit the availability of the Application Services for the purposes of scheduled maintenance.

We will, where practicable, give to you at least 7 days' prior written notice of scheduled maintenance that will, or is likely to, have a material effect upon the availability of the Application Services.

We will, where practicable, carry out scheduled maintenance outside of business hours in your jurisdiction.

Customer system configuration

It is important that you request that your IT team make exclusions to any software/hardware that could impede access to the application services. Typically, corporate network equipment such as proxy servers, malware filters and firewalls interfere with access to the Application Services.

Your IT department should apply a proxy bypass and/or whitelisting to the domains and ports specified above.

PART 3: SUPPORT SERVICES

What is covered?

This SLA covers support for all customers using our products, associated modules and services.

Support hours

Our support team is available during the support hours specified above.

Support channels

Our main channels for providing support are our support portal and telephone.

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Support tickets

We provide a support portal for our users to log support tickets and check on any they have logged previously.

Users can create their own profiles and manage their contact details.

The web address of our support portal is specified above.

Telephone support

For an immediate response, phone our support team using the contact details specified above.

You will speak with one of our engineers who will work to troubleshoot your queries with you live and advise on a resolution where necessary.

Support priorities and response times

We commit to using reasonable endeavours to prioritise response times that are based on ticket prioritisation.

Our support team will classify tickets initially and may change the priority if it is not deemed appropriate following discussion with you.

Response times may vary and in general responses will only be provided during the applicable support hours specified above.

Ticket priority	
Low	This is the general support level. This includes advice on configuration, administration, firewall changes, development requests and so on.
Medium	This is to be used in place of low priority for general support questions but you have an approaching deadline or is otherwise more urgent. Medium and low should be the vast majority of the tickets.
High	This is for extremely urgent situations and should only be used for instances where there is a fault in the product which is preventing the user from being able to do their job, there is a data exposure issue etc.
Critical	This is the top-level priority and should only be used in instances such as denial-of-service. An operative will begin work on this immediately. If it is not deemed an appropriate priority for the ticket raised, the operative will reprioritise. For such a ticket, we recommend that you also call us.

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Escalation

Calls logged through our support portal are automatically managed and escalated by our support team.

If you wish to escalate a call yourself, you should contact our support manager using the escalation contact details specified above.

If our support manager cannot resolve the call satisfactorily, it will be escalated further to a member of our senior management team.

Closure of tickets

We will close tickets when the query has been resolved or there has been no response from you for more than 1 month.

Tickets can be reopened using the support portal or by replying to the confirmation email.

Duplicate tickets, and tickets enquiring about other tickets, will be closed.

What we need from you

To expedite the resolution of your ticket, please provide as much information as possible. If a ticket is clearly deficient, this will severely impact resolution times.

When raising a ticket, include as much information as you can to help us resolve your issue as quickly as possible. A detailed process with minimum requirements can be found at the address specified above.

To ensure the fastest response times during support issues please include appropriate URLs in any email communications.

What we will not do

Our support services do not cover the matters listed below.

- Creating module user accounts.
- Processing or altering your data, unless it is reasonably necessary for us to deliver support.
- Creating FTP user accounts or firewall exceptions, unless you have given your written consent (in such form as we may specify from time to time).
- Enabling any third party access to your system, unless you have given your written consent (in such form as we may specify from time to time).
- Responding to direct approaches from third parties that request access to your system.
- Providing on-site support, unless by prior written agreement.

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- Providing telephone tuition for contractors attempting to 'get by' without training.
- Carrying out a client's work on their behalf, such as running off reports.

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SCHEDULE 4 (SERVICES PROVIDERS)

This Schedule 4 applies if and only if the Customer is "**a Services Provider**" – in other words, if the Services Order Form specifies that the Customer has a right to use the Application Services to provide services to third parties.

References in this Schedule 4 to "**the Services Provider**" are to the Customer acting as a Services Provider.

1. Supplemental definitions

- 1.1 In addition to those words and phrases defined in the main body of the Agreement, the following words and phrases have the following meanings in this Schedule 4.

"**Configuration**" means the configuration settings for the Application Services devised by the Services Provider;

"**Configuration IPR**" means the Intellectual Property Rights (if any) in the Configuration;

"**End Customer**" means a customer of the Services Provider with respect to the Application Services;

"**End Customer Data**" means all data relating to an End Customer or the business or operations of an End Customer and stored or processed by the Application Services;

"**End Customer Data IPR**" means the Intellectual Property Rights (if any) in the End Customer Data;

"**New Services Provider**" means a Services Provider to which a Configuration and corresponding End Customer Data are (or are to be) transferred; for the avoidance of doubt, a New Services Provider may or may not be *the* Services Provider;

"**Outgoing Service Provider**" means a Services Provider from which a Configuration and corresponding End Customer Data are (or are to be) transferred; for the avoidance of doubt, an Outgoing Services Provider may or may not be *the* Services Provider;

"**Permitted Purposes**" means, in relation to the Configuration for a particular End Customer, the purposes of enabling or facilitating the ongoing compliance of that End Customer with applicable laws, regulations and rules in the context of the receipt of the services of both the Supplier and a New Services Provider;

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"Services Provider" has the meanings given in the preamble to this Schedule 4;

"Services Provider Transfer" means a transfer or proposed transfer of a Configuration and corresponding End Customer Data from an Outgoing Services Provider to a New Services Provider; and

"Transfer Request" means a request made by an End Customer to the Services Provider, or to the Supplier, for a Services Provider Transfer.

3. Services Provider Transfer process

- 3.1 If an End Customer communicates to the Services Provider that it wishes to make a Services Provider Transfer from the Services Provider to a New Services Provider, the Services Provider must, unless Clause 3.2 applies:
- (a) within 7 days following the date of the End Customer's communication, notify the End Customer in writing of the period for which that End Customer's End Customer Data will be available for a Services Provider Transfer (being a period beginning on the date of the Services Provider's notice and ending at least 30 days following the end of the agreed subscription period for the End Customer);
 - (b) within 7 days following the End Customer's communication, notify the Supplier in writing of the Transfer Request (including with that notice full details of the request);
 - (c) promptly following receipt of a request from the Supplier, provide to the Supplier all such information as may be in the possession of the Services Provider and reasonably requested by the Supplier in relation to the Transfer Request.
- 3.2 This Clause applies where any payment is overdue from an End Customer to the Services Provider with respect to the Application Services. Where this Clause applies, the Services Provider shall have no obligation to facilitate a Transfer Request.
- 3.3 The Services Provider hereby authorises the Supplier to make the End Customer Data (including Personal Data included therein) and the Configuration of the Customer available to the relevant End Customer for the purposes of a Services Provider Transfer.
- 3.4 The Supplier shall have discretion as to whether to agree or deny a Transfer Request, and in particular may deny a request if the Supplier is in dispute with the Outgoing Services Provider, New Services Provider or End Customer, or for technical reasons. The Supplier's consent to a Transfer Request will be dependent upon the New Services Provider paying quoted Charges to the Supplier.

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- 3.5 The Services Provider acknowledges that the Configuration may prevent the direct transfer of End Customer Data to an account with a different configuration.

4. Intellectual Property Rights and confidentiality

- 4.1 Nothing in the Agreement shall assign or transfer any Configuration IPR from the Services Provider to the Supplier; and nothing in the Agreement shall assign or transfer any End Customer Data IPR to the Services Provider.
- 4.2 Subject to Clause 4.1, in the event of a Services Provide Transfer request, the Services Provider hereby grants, from the date of the request:
- (a) to the relevant End Customer;
 - (b) to the relevant New Services Provider; and
 - (c) to the Supplier,
- a non-exclusive, perpetual, worldwide, royalty-free licence to use the Configuration IPR solely for Permitted Purposes.
- 4.3 The New Services Provider must treat a Configuration as Supplier Confidential Information, providing that the Outgoing Services Provider shall have a right to enforce the confidentiality obligations of the New Services Provider under the Agreement with respect to the Configuration.
- 4.4 The Services Provider must not without the prior written consent of the Supplier require that any End Customer assign or transfer any End Customer Data IPR to the Supplier, or otherwise use any Intellectual Property Rights or contractual restrictions to prevent an End Customer from making a Services Provider Transfer.

5. No warranties

- 5.1 The Supplier acknowledges that the Services Provider, when acting as Outgoing Services Provider, gives no warranties or representations in relation to the Configuration or the Configuration IPR.
- 5.2 The Services Provider, when acting as New Services Provider, acknowledges that neither the Supplier nor the Outgoing Services Provider gives any warranties or representations in relation to the Configuration or the Configuration IPR.

6. Services Provider charges

- 6.1 If the Services Provider acting as Outgoing Services Provider levies any charges or fees in relation to any Services Provide Transfer, those charges or fees must be consistent with the Services Provider's standard time-based charging rates and must in any case be reasonable.