



StrategyWorks SaaS Agreement

[Company Name]

and

Shapecast Limited

Date: [Date]
Version: 1.0
Status: Draft

THIS AGREEMENT is made the on the _____ (Commencement Date).

BETWEEN:

- (1) **Shapecast Limited**, a company registered in the UK under number 7252310 whose registered office is at 71-75 Shelton Street, Covent Garden, London WC2H 9JQ ("Shapecast") and
- (2) **[Company name]** a company registered in the United Kingdom under number [Company number] whose registered office is at [Company address] ("the Client").

Each referred to as a "Party" and together the "Parties"

BACKGROUND

(A) Shapecast is in the business of providing Software as a Service products.

(B) The Client wishes to obtain and Shapecast wishes to provide Software as a Service on the terms set out in this Agreement.

IT IS AGREED as follows:

1 Definitions and Interpretation

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

"Account" means an account enabling a person to access and use the Hosted Services including both administrator accounts and user accounts.

"Agreement" means this agreement including any Schedules, and any amendments to this Agreement from time to time.

"Business Day" means any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in England.

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

"Confidential Information" means information which is disclosed to either Party by the other Party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly

stated to be confidential or marked as such) including information exchanged before, on or after the Commencement Date of this Agreement;

"Client Personal Data" means any Personal Data that is processed by Shapecast on behalf of the Client in relation to this Agreement.

"Data Protection Laws" shall mean all applicable data protection laws, including but not limited to, the UK Data Protection Act 2018 and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC; also known as General Data Protection Regulation ("GDPR"), as well as any other data protection laws in and any other jurisdiction Shapecast operates its business, as applicable, and any legislation which amends, extends, consolidates, re-enacts or replaces same, including any statutory instruments, regulations, codes of practice, guidelines or similar applicable to or derived from the same that may be made pursuant thereto from time to time.

"Documentation" means the documentation for the Hosted Services produced by Shapecast and delivered or made available by Shapecast to the Client.

"Deliverables" means all products, documents, architecture material, strategy, designs or other materials, developed, written or prepared by Shapecast (whether alone or jointly with Client or any other independent contractor of the Client on whatever media) and all related documentation, including but not limited to any specification, graphics, designs, data, reports, and all other written materials or output, produced in the course of providing the Services;

"Effective Date" means the date this Agreement is signed by both Parties.

"Fees" means total fees payable by the Client to Shapecast set out within Schedule 1 (Hosted Services Particulars)

"Hosted Services" means StrategyWorks which will be made available by Shapecast to the Client as a service via the internet in accordance with this Agreement;

"Hosted Services Defect" means a defect, error or bug in the Platform having a material adverse effect on the functionality or performance of the Hosted Services, but excluding any defect, error or bug caused by or arising as a result of:

(a) any act or omission of the Client or any person authorised by the Client to use the Platform or Hosted Services.

(b) any use of the Platform or Hosted Services contrary to the Documentation, whether by the Client or by any person authorised by the Client.

(c) a failure of the Client to perform or observe any of its obligations in this Agreement; and

(d) an incompatibility between the Platform or Hosted Services and any other system, network, application, program, hardware or software not specified as compatible in the Hosted Services Specification.

"Hosted Services Specification"	means the specification for the Platform and Hosted Services set out in Part 1 of Schedule 1 (Hosted Services particulars) and in the Documentation.
"Intellectual Property Rights (IPR)"	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, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs)];
"Maintenance Services"	means the general maintenance of the Platform and Hosted Services, and the application of Updates and Upgrades.
"Personal Data"	has the meaning given to it in the Data Protection Laws applicable in the United Kingdom from time to time.
"Platform"	means the platform managed by Shapecast and used by Shapecast to provide the Hosted Services, including the application and database software for the Hosted Services, the system and server software used to provide the Hosted Services, and the computer hardware on which that application, database, system and server software is installed.

"Schedule"	means any schedule attached to the main body of this Agreement;
"Services"	means any services that Shapecast provides to the Client, or has an obligation to provide to the Client, under this Agreement or in a Statement or Works separate to this Agreement.
"Support Services"	means support in relation to the use of, and the identification and resolution of errors in, the Hosted Services, but shall not include the provision of training services unless stated in the Statement of Works.
"Supported Web Browser"	means the current release from time to time of Mozilla Firefox, Google Chrome or Apple Safari, or any other web browser that Shapecast agrees in writing shall be supported.
"Term"	means the term of this Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2.
"Update"	means a hotfix, patch or minor version update to any Platform software; and
"Upgrade"	means a major version upgrade of any Platform software

2. Term

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

2.2 This Agreement shall continue in force from the effective date until terminated in accordance with Clause 16 or any other provision of this Agreement.

3. Hosted Services

3.1 Shapecast hereby grants to the Client a worldwide, non-exclusive license to use the Hosted Services for the internal business purposes of the Client in accordance with the Documentation during the Term.

3.2 The license granted by Shapecast to the Client under Clause 3.2 is subject to the following limitations:

- (a) the Hosted Services may only be used by the officers, employees, agents and subcontractors of the Client.

- 3.3 Except to the extent expressly permitted in this Agreement or required by law on a non-excludable basis, the license granted by Shapecast to the Client under Clause 3.2 is subject to the following prohibitions:
- (a) the Client must not sub-license its right to access and use Hosted Services.
 - (b) the Client must not permit any unauthorised person to access or use the Hosted Services.
 - (c) the Client must not use the Hosted Services to provide services to third parties.
 - (d) the Client must not republish or redistribute any content or material from Hosted Services.
 - (e) the Client must not make any alteration to the Platform, except as permitted by the Documentation; and
 - (f) the Client must not conduct or request that any other person conduct any load testing or penetration testing on the Platform or Hosted Services without the prior written consent of Shapecast.
- 3.4 The Client shall use reasonable endeavours, including reasonable security measures relating to Account access details, to ensure that no unauthorised person may gain access to the Hosted Services using an administrator account.
- 3.5 Shapecast shall use reasonable endeavours to maintain the availability of the Hosted Services to the Client at the gateway between the public internet and the network of the hosting services provider for the Hosted Services but does not guarantee 100% availability.
- 3.6 For the avoidance of doubt, down time caused directly or indirectly by any of the following shall not be considered a breach of this Agreement:
- (a) a Force Majeure Event;
 - (b) a fault or failure of the internet or any public telecommunications network;
 - (c) a fault or failure of the Client's computer systems or networks;
 - (d) any breach by the Client of this Agreement; or
 - (e) scheduled maintenance carried out in accordance with this Agreement.

- 3.7 The Client must ensure that all persons using the Hosted Services has the authority of the Client or the administrator.
- 3.8 The Client must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.
- 3.9 The Client must not use the Hosted Services:
 - (a) in any way that is unlawful, illegal, fraudulent or harmful; or
 - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
- 3.10 For the avoidance of doubt, the Client has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.
- 3.11 Shapecast may suspend the provision of Hosted Services if any amount due to be paid by the Client to Shapecast under this Agreement is overdue and Shapecast has given to the Client at least 30 day's written notice, following the amount becoming overdue and of its intention to suspect the Hosted Service.
- 3.12 The Customer must not perform penetration testing or security assessments against the Services without Shapecast's prior written consent. Shapecast will not unreasonably withhold consent for testing requested to meet regulatory or assurance requirements.

4. Maintenance Services

- 4.1 Shapecast shall provide the Maintenance Services to the Client during the Term.
- 4.2 Shapecast shall where practicable give to the Client at least 5 Business Days' prior written notice of scheduled Maintenance Services that are likely to affect the availability of the Hosted Services or are likely to have a material negative impact upon the Hosted Services, without prejudice to Shapecast's other notice obligations under this main body of this Agreement.
- 4.3 Shapecast shall give to the Client at least 5 Business Days' prior written notice of the application of an Upgrade to the Platform.

- 4.4 Shapecast shall give to the Client written notice of the application of any security Update to the Platform and at least 5 Business Days' prior written notice of the application of any non-security Update to the Platform.
- 4.5 Shapecast shall provide the Maintenance Services in accordance with the standards of skill and care reasonably expected from a leading service provider in Shapecast's industry.
- 4.6 Shapecast may suspend the provision of the Maintenance Service if any amount due to be paid by the Client to Shapecast under this Agreement is overdue and Shapecast has given to the Client at least 30 days' written notice following the amount becoming overdue and of its intention to suspend the Maintenance Service.

5. Support Services

- 5.1 Shapecast shall provide the Support Services to the Client during the Term via a support email or phone.
- 5.2 Shapecast shall provide the Support Services in accordance with the standards of skill and care reasonably expected from a service provider in Shapecast's industry.
- 5.3 Shapecast shall respond promptly to all requests for Support Services made by the Client via approved methods (email or phone).
- 5.4 Shapecast may suspend the provision of the Support Service if any amount due to be paid by the Client to Shapecast under this Agreement is overdue and Shapecast has given to the Client at least 30 days' written notice following the amount becoming overdue and of its intention to suspend the Support Service.

6. Customer Data

- 6.1 The Client hereby grants to Shapecast a non-exclusive license to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of Shapecast's obligations and the exercise of Shapecast's rights under this Agreement. The Client also grants to Shapecast the right to sub-license these rights to its hosting, connectivity and telecommunications service providers, subject to any express restrictions elsewhere in this Agreement.
- 6.2 The Client warrants to Shapecast that the Client 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.

- 6.3 Shapecast shall create a back-up copy of the Client Data at least daily, shall ensure that each such copy is sufficient to enable Shapecast to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days.
- 6.4 Within the period of 1 Business Day following receipt of a written request from the Client, Shapecast shall use all reasonable endeavours to restore to the Platform the Client Data stored in any back-up copy created and stored by Shapecast in accordance with Clause 6.3. The Client acknowledges that this process will overwrite the Client Data stored on the Platform prior to the restoration.

7. Mobile App

- 7.1 The parties acknowledge and agree that the use of the Mobile App (where available), the parties' respective rights and obligations in relation to the Mobile App and any liabilities of either party arising out of the use of the Mobile App shall be subject to separate terms and conditions, and accordingly this Agreement shall not govern any such use, rights, obligations or liabilities.

8. Assignment of Intellectual Property Rights

- 8.1 Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from Shapecast to the Client, or from the Client to Shapecast.

9. Fees

- 9.1 The Client shall pay the Fees to Shapecast in accordance with this Agreement and as set out in Schedule 2 (Hosted Services Particulars).
- 9.2 All amounts stated in or in relation to this Agreement are, unless the context requires otherwise, stated are exclusive of any value added or sale taxes, which will be added to those amounts and payable by the Client to Shapecast if applicable.

10. Shapecast's confidentiality obligations

- 10.1 Shapecast must:
- (a) keep the Confidential Information strictly confidential;

- (b) not disclose the Confidential Information to any person without the Client's prior written consent, and then only under conditions of confidentiality approved in writing by the Client;
- (c) use the same degree of care to protect the confidentiality of the Confidential Information as Shapecast uses to protect Shapecast's own confidential information of a similar nature, being at least a reasonable degree of care;
- (d) act in good faith at all times in relation to the Confidential Information; and
- (e) use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of this Agreement, or at any time after that date becomes, public knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.

10.2 Notwithstanding Clause 10.1, Shapecast may disclose the Confidential Information to Shapecast's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Confidential Information for the performance of their work with respect to this Agreement and who are bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information.

10.3 This Clause 10 imposes no obligations upon Shapecast with respect to Confidential Information that:

- (a) is known to Shapecast before disclosure under this Agreement and is not subject to any other obligation of confidentiality;
- (b) is or becomes publicly known through no act or default of Shapecast; or
- (c) is obtained by Shapecast from a third party in circumstances where Shapecast has no reason to believe that there has been a breach of an obligation of confidentiality.

10.4 The restrictions in this Clause 10 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 Shapecast on any recognised stock exchange.

10.5 Each Party undertakes the provisions of this Clause 10 shall continue at all times during the continuance of this Agreement and for 1 year after its termination, at the end of which period they will cease to have effect.

11. Data protection

11.1 Each party shall comply with the Data Protection Laws with respect to the processing of the Client Personal Data.

11.2 The Client warrants to Shapecast that it has the legal right to disclose Personal Data to Shapecast in connection with this Agreement.

11.3 The Client shall supply to Shapecast, and Shapecast shall process, in each case under or in relation to this Agreement, the Personal Data of data subjects falling within the categories and types specified in Schedule 2 (Data processing information); and Shapecast shall only process the Client Personal Data for the purposes specified in Schedule 2 (Data processing information).

11.4 Shapecast shall solely process the Personal Data during the Term and for not more than 30 days following the end of the Term, subject to the other provisions of this Clause 11.

11.5 Shapecast shall process the Client Personal Data on the documented instructions of the Client as set out in this Agreement or any other document agreed by the parties in writing.

11.6 Shapecast shall promptly inform the Client if, in the opinion of Shapecast, an instruction of the Client relating to the processing of the Client Personal Data infringes the Data Protection Laws.

11.7 Notwithstanding any other provision of this Agreement, Shapecast may process the Client Personal Data if and to the extent that Shapecast is required to do so by applicable law. In such a case, Shapecast shall inform the Client of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest.

11.8 Shapecast shall ensure that persons authorised to process the Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

11.9 Shapecast and the Client shall each implement appropriate technical and organisational measures to ensure an appropriate level of security for the

Client Personal Data under Data Protection Law, including those measures specified in Schedule 2 (Data processing information).

- 11.10 Shapecast must not engage any third party to process the Client Personal Data without the prior specific or general written authorisation of the Client. In the case of a general written authorisation, Shapecast shall inform the Client at least 14 days in advance of any intended changes concerning the addition or replacement of any third-party processor, and if the Client objects to any such changes before their implementation, then Shapecast must not implement the changes. Shapecast shall ensure that each third-party processor is subject to the same legal obligations as those imposed on Shapecast by this Clause 11. Shapecast shall remain fully liable for the performance of the sub-processor's obligations.
- 11.11 As at the Effective Date, Shapecast is hereby authorised by the Client to engage, as sub-processors with respect to Client Personal Data, the third parties identified in Schedule 2 (Data processing information).
- 11.12 Shapecast shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Client with the fulfilment of the Client's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.
- 11.13 Shapecast shall assist the Client 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. Shapecast shall report any Personal Data breach relating to the Client Personal Data to the Client within 24 hours following Shapecast becoming aware of the breach.
- 11.14 Shapecast shall make available to the Client all information necessary to demonstrate the compliance of Shapecast with its obligations under this Clause 11 and the Data Protection Laws.
- 11.15 Shapecast shall, at the choice of the Client, delete or return all of the Client Personal Data to the Client after the provision of services relating to the processing, and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Data.
- 11.16 Shapecast shall allow for and contribute to audits, including inspections, conducted by the Client or another auditor mandated by the Client in respect of the compliance of Shapecast's processing of Client Personal Data with the Data Protection Laws and this Clause 11.

11.17 Shapecast shall indemnify and hold harmless the Client against the consequences of any breach of this clause and any liability incurred directly or indirectly by Shapecast due to any act, omission or similar of Shapecast and/or its [representatives] or sub-processors with regard to its obligations under DP processors obligations clause 11.

11.18 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 this Agreement, then the parties shall use their best endeavours promptly to agree such variations to this Agreement as may be necessary to remedy such non-compliance.

11.19 The Services are hosted using third party cloud infrastructure providers. Where applicable, Customer Data is hosted within the United Kingdom or European Economic Area. Details of sub processors, including cloud hosting providers, are made available to the Customer on request.

12. Warranties

12.1 Shapecast warrants to the Client that:

- (a) Shapecast has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement;
- (b) Shapecast will comply with all applicable legal and regulatory requirements applying to the exercise of Shapecast's rights and the fulfilment of Shapecast's obligations under this Agreement; and
- (c) Shapecast has or has access to all necessary know-how, expertise and experience to perform its obligations under this Agreement.

12.2 Shapecast warrants to the Client that:

- (a) the Platform and Hosted Services will conform in all material respects with the Hosted Services Specification;
- (b) the Hosted Services will be free from Hosted Services Defects;
- (c) the application of Updates and Upgrades to the Platform by Shapecast will not introduce any Hosted Services Defects into the Hosted Services;
- (d) the Platform will be free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs; and

- (e) the Platform will incorporate security features reflecting the requirements of good industry practice.
- 12.3 Shapecast warrants to the Client that the Hosted Services, when used by the Client in accordance with this Agreement, will not breach any laws, statutes or regulations applicable under English law.
- 12.4 Shapecast warrants to the Client that the Hosted Services, when used by the Client in accordance with this Agreement, will not infringe the Intellectual Property Rights of any person in any jurisdiction and under any applicable law.
- 12.5 If Shapecast reasonably determines, or any third party alleges, that the use of the Hosted Services by the Client in accordance with this Agreement infringes any person's Intellectual Property Rights, Shapecast may at its own cost and expense:
 - (a) modify the Hosted Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or
 - (b) procure for the Client the right to use the Hosted Services in accordance with this Agreement.
- 12.6 The Client warrants to Shapecast that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.
- 12.7 All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

13. Acknowledgements and warranty limitations

- 13.1 The Client acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, Shapecast gives no warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.
- 13.2 The Client acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, Shapecast gives no warranty or representation that the Hosted Services will be entirely secure.

- 13.3 The Client acknowledges that the Hosted Services are designed to be compatible only with that software and those systems specified as compatible in the Hosted Services Specification; and Shapecast does not warrant or represent that the Hosted Services will be compatible with any other software or systems.
- 13.4 The Client acknowledges that Shapecast will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Hosted Services; and, except to the extent expressly provided otherwise in this Agreement, Shapecast does not warrant or represent that the Hosted Services or the use of the Hosted Services by the Client will not give rise to any legal liability on the part of the Client or any other person.

14. Limitations and exclusions of liability

14.1 Nothing in this 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.

14.2 The limitations and exclusions of liability set out in this Clause 14 and elsewhere in this Agreement:

- (a) are subject to Clause 14.1; and
- (b) govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

14.3 Shapecast shall not be liable to the Client in respect of any losses arising out of a Force Majeure Event.

14.4 Shapecast shall not be liable to the Client in respect of any loss of profits or anticipated savings.

14.5 Shapecast shall not be liable to the Client in respect of any loss of revenue or income.

- 14.6 Shapecast shall not be liable to the Client in respect of any loss of use or production.
- 14.7 Shapecast shall not be liable to the Client in respect of any loss of business, contracts or opportunities.
- 14.8 Shapecast shall be liable to the Client in respect of any loss or corruption of any data, database or software; providing that this Clause 14.8 shall not protect Shapecast unless Shapecast has fully complied with its obligations under Clause 6.3 and Clause 6.4.
- 14.9 Shapecast shall be liable to the Client in respect of any special, indirect or consequential loss or damage.
- 14.10 Shapecast to the Client under this Agreement in respect of any event or series of related events shall not exceed the total amount paid and payable by the Client to Shapecast under this Agreement in the 12-month period preceding the commencement of the event or events.
- 14.11 The aggregate liability of Shapecast to the Client under this Agreement shall not exceed the total amount of £100,000.

15. Force Majeure Event

- 15.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under this Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.
- 15.2 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 this Agreement, must:
- (a) promptly notify the other; and
 - (b) inform the other of the period for which it is estimated that such failure or delay will continue.
- 15.3 A party whose performance of its obligations under this Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

16. Termination

- 16.1 Either party may terminate this Agreement by giving to the other party at least 90 working days' written notice of termination.

- 16.2 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if the other party commits a material breach of this Agreement.
- 16.3 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:
- (a) the other party:
 - (i) is dissolved.
 - (ii) ceases to conduct all (or substantially all) of its business.
 - (iii) is or becomes unable to pay its debts as they fall due.
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors.
 - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party.
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this Agreement); or
 - (d) if that other party is an individual:
 - (i) that other party dies.
 - (ii) because of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
 - (iii) that other party is the subject of a bankruptcy petition or order.

17. Effects of termination

- 17.1 Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 3.11, 7, 10, 11.1, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 11.9, 11.10, 11.11, 11.12, 11.13, 11.14, 11.15, 11.16, 11.17, 14, 18, 20 and 21.

- 17.2 Except to the extent that this Agreement expressly provides otherwise, the termination of this Agreement shall not affect the accrued rights of either party.
- 17.3 Within 30 days following the termination of this Agreement for any reason:
- (a) the Client must pay to Shapecast any Fees in respect of Services provided to the Client before the termination of this Agreement; and
 - (b) Shapecast must refund to the Client any Fees paid by the Client to Shapecast in respect of Services that were to be provided to the Client after the termination of this Agreement, without prejudice to the parties' other legal rights.
- 17.4 Upon termination or expiry of this Agreement, the Customer may request a copy of its Customer Data in a commonly used electronic format. Shapecast will provide reasonable assistance to support data export and transition, subject to any applicable fees agreed in advance.

18. Notices

- 18.1 Any notice from one party to the other party under this Agreement must be given by one of the following methods (using the relevant contact details set out in Clause 18.2 and in Schedule 1 (Hosted Services particulars)):

- (a) delivered personally or by recorded delivery first class post, in which case the notice shall be deemed to be received upon delivery.

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.

- 18.2 Shapecast's contact details for notices under this Clause 18 are as follows:

Commercial Director
Shapecast Limited
71-75 Shelton Street,
Covent Garden,
London
WC2H 9JQ

- 18.3 The addressee and contact details set out in Clause 18.2 and in Schedule 1 (Hosted Services particulars) 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 18.

19. Subcontracting

- 19.1 Subject to any express restrictions elsewhere in this Agreement, Shapecast may subcontract any of its obligations under this Agreement, providing that Shapecast must give to the Client, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question.
- 19.2 Shapecast shall remain responsible to the Client for the performance of any subcontracted obligations.
- 19.3 Notwithstanding the provisions of this Clause 19 but subject to any other provision of this Agreement, the Client acknowledges and agrees that Shapecast may subcontract to any reputable third-party hosting business the hosting of the Platform and the provision of services in relation to the support and maintenance of elements of the Platform.

20. General

- 20.1 No breach of any provision of this Agreement shall be waived except with the express written consent of the party not in breach.
- 20.2 If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision 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 (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).
- 20.3 This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.
- 20.4 Neither party may without the prior written consent of the other party assign, transfer or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.
- 20.5 This Agreement is made for the benefit of the parties and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or

settlement under or relating to this Agreement are not subject to the consent of any third party.

- 20.6 Subject to Clause 14.1, this Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 20.7 This Agreement shall be governed by and construed in accordance with English and Welsh law.
- 20.8 The courts of England and Wales shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.
- 20.9 Where the Customer procures the Services through the G Cloud framework, the applicable G Cloud Call Off Contract shall take precedence over this Agreement in the event of any conflict or inconsistency.

21. Interpretation

- 21.1 In this 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.
- 21.2 The Clause headings do not affect the interpretation of this Agreement.
- 21.3 References in this Agreement to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.
- 21.4 In this 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.

IN WITNESS OF WHICH the duly authorised representatives of the parties have signed this Agreement on the date first below written:

SIGNED FOR AND BEHALF OF

Shapecast Limited

Signature:

Printed Name:

Title:

Date:

SIGNED FOR AND ON BEHALF OF

[Company name]

Signature:

Printed Name:

Title:

Date:

SCHEDULE 1 (DATA PROCESSING INFORMATION)

PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1.1 Scope and nature

Any operation such as discovery, collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means).

1.2 Purpose of processing

Shapecast and/or its Sub-Processor will process the Client's personal data only to the extent necessary for them to supply services to the Client pursuant to the Agreement and Article 6 (b) of EU General Data Protection Regulations.

1.3 Duration of the processing

The processing shall continue during the period of the Agreement and after such period, in accordance with Shapecast's retention policy.

1.4 Types of personal data processed

Contact details, date of birth, bank account numbers, job role, salary, pension, benefits and/or payment information of employees and subcontractors of the Client and any other personal data provided directly or indirectly by the Client.

1.5 Categories of data subject

Employees, subcontractors, Clients and suppliers of the Client.

SCHEDULE 2 – FEES PER ORGANISATION

- 1.1 Unlimited free users can be used (Fair Usage Policy applies)
- 1.2 Unlimited free Objectives, KPIs, Key Results, Risks, Issues and Decisions (as applied to free components)
- 1.3 Fees are charged for each Project, Programme or Supporting Initiative maintained per month at a rate of £100 per component.
- 1.4 Total fees charged each month are based on the maximum number of Initiatives, Strategies, Programmes and Projects maintained within each month.
- 1.5 Any applicable discounts (for example educational discounts) will be applied for annual or multi-year agreements.
- 1.6 Optionally, annual fees will be charged in advance on a required number of strategies, programmes and projects if known.
- 1.7 Fees will be due 14 days following receipt of valid invoice where billed indirectly (not via the StrategyWorks website)
- 1.8 Shapecast reserves the right to amend fee structures with notice of no less than one calendar month.
- 1.9 Any existing annual subscriptions will remain at the price when purchased until the subscription term lapses.
- 1.10 Any subsequent subscriptions will be subject to the amended pricing.
- 1.11 Where two or three year terms subscriptions are purchased in advance, the following discounts will be applied:

Two-year subscription: 10% on total fees for the whole term

Three-year subscription or more: 15% on total fees for the whole term

SCHEDULE 3 – FAIR USAGE**FAIR USAGE**

Fair usage is intended to prevent excessive or abnormal use that materially degrades service performance for other customers. Fair usage thresholds are applied reasonably and discussed with the Customer before any enforcement action is taken.