

Tivarri Limited - Service Supply Agreement

This Service Supply Agreement is made between:

- (1) **Tivarri Limited** a company incorporated in England and Wales (registered number 07355302) whose registered address is at Tivarri, 28 Victoria Buildings, Bath, England, BA2 3EH; ("Tivarri"); and
- (2) **XXX** ("the Customer").

Each a "Party" and together the "Parties".

EXECUTED in two originals:

Signed for and on behalf of **TIVARRI LIMITED**

Signature:

Name:

Title:

Date:

Signed for and on behalf of **CUSTOMER**

Signature:

Name:

Title:

Date:

SCHEDULE ONE for the Service Supply Agreement

IT Services

- A) Initial Period: 12 months from Commencement Date
 B) Early Termination Charges: During initial period 100% of remainder of initial period charges.
 C) Service Commencement Date: As stated on 1st monthly cost invoice
 D) Minimum User Commitment:
 E) Changes to Subscription Service prices can be made by Tivarri with a minimum of 30-days' notice in writing to the Customer. Subscription Services and prices are defined as follows:

Subscription Services - Monthly	Per User Cost

Subscription Services – Annual (if selected)	Per Domain

- F) **SERVICE CHARGES:** The Service Charges provided below are in relation to the Services.

Product	Cost

PAYMENT

- All monthly charges in this Schedule One will be invoiced monthly in arrears except for Tivarri Helpdesk Support which is billed for the current month. All monthly charges are payable within 30 days of the invoice date by Direct Debit. Note: Service Setup and Device Management Configuration charges are not taken by Direct Debit and are payable within 14 days from the invoice date.
- All annual charges are billed in advance and are payable within 30 days of the invoice date by Direct Debit.
- All charges are monthly unless otherwise stated
- Prices are subject to VAT at the prevailing rate where applicable

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NOW IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

In these terms, unless the context otherwise requires, the following expressions have the following meanings:

"Acceptable Use Policy"	means the Tivarri policy for the Customer's use of Services, as set out in the Tivarri Limited Acceptable Use Policy document as amended and distributed from time to time. In this event the customer will be notified by email to a Customer Administrator(s) within their organisation. The Customer will be deemed to have accepted these changes unless Tivarri are advised to the contrary within 30 days of receipt.
"Business Hours"	08:30 to 17:30 UK time on Working Days.
"Confidential Information"	all information obtained by one party from the other which is expressly marked as confidential or which is manifestly confidential or which is confirmed in writing to be confidential within 7 days of its disclosure. In addition, all data that Customer stores on Tivarri servers is deemed to be Confidential Information
"Controller"	has the meaning set forth in the Directive.
"Customer"	the user of the Services supplied under these Terms;
"Customer Administrators"	up to two nominated individuals per Customer who may receive official communications from Tivarri;
"Customer's Material"	the Customer's data loaded, received, maintained or transmitted by Tivarri on the System for the Customer under these Terms;
"Data Subject"	means an identified or identifiable natural person who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity.
"Directive"	means UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018.
"Helpdesk"	the team of support staff from Tivarri, who shall provide support services through the following means, with the recommended means being Website or Email: By Website: By Email: By Telephone:
"Initial Period"	the period of the Terms as set out in Schedule One commencing on the Commencement Date
"License Terms"	the licensing conditions and restrictions of the Software manufacturer, supplier or licensor, including (but not limited to) Microsoft software, software components of the System, and other software, is available upon request;
"Minimum User Commitment"	An agreed number of users to be invoiced for the contract period as stated in Schedule One.
"Personal Data"	means any information relating to a Data Subject that Customer or its end users provide to Tivarri as part of the Services.
"Process" or "Processing"	means any operation or set of operations which is performed by Tivarri as part of the Services upon Personal Data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.
"Processor"	has the meaning set forth in the Directive.
"Software"	all machine readable data and instructions, including middleware and firmware and related updates and upgrades, licenses materials, user documentation, user manuals and operating procedures used or in the provision of, or for the Customer to access, the Services;
"Statement of Work"	an agreed schedule of work lasting longer than 1 day;
"the Server(s)"	Tivarri's (or its Service Partners') server(s) used for the purpose of providing the Services;
"the Services"	as per the individual Service Description for each element of the Service provided. Not all Services have individual Service Descriptions;
"Service Description"	the description of component services as set out in the Service Description for each element of the Service provided that in aggregate makes up the Services as amended and distributed from time to time. The Customer will be deemed to have accepted these changes unless Tivarri are advised to the contrary within 30 days of receipt.
"Service Partners"	Organisations that provide some or all of a particular service as subcontractors to Tivarri
"the SLA"	the Service Level Agreement for the Services as amended and distributed from time to time.

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	The Customer will be deemed to have accepted these changes unless Tivarri are advised to the contrary within 30 days of receipt.
Subscription Service	software and services that are paid for on a recurring monthly basis for the duration of this Service Supply Agreement. Subscription Services may vary in price during the agreement. Services that may be subject to price variations are detailed in Schedule One.
"System"	the equipment [hardware, software etc.] belonging to or used by Tivarri and/or its Service Partners, and which provides a link to the World Wide Web via the Internet;
"Terms"	this Service Supply Agreement
"Third Party Subprocessor"	means a third-party subcontractor, engaged by Tivarri which, as part of the subcontractor's role of delivering the Services, will Process Personal Data of the Customer.
"Working Days"	Monday to Friday excluding UK Public Holidays.

2. SUPPLY OF THE SERVICES

- 2.1 Tivarri shall supply the Services in accordance with the provisions of these Terms.
- 2.2 Tivarri reserves the right to control, direct and establish technical procedures for the use of the Server and provision of the Services and the Customer shall follow the reasonable instructions and procedures of Tivarri. Tivarri may make reasonable operational changes to the Services without prior notice when necessary.
- 2.3 Tivarri may contract any or all of the services to be provided under this agreement to one or more of its Service Partners.
- 2.4 Where applicable, Tivarri has been granted administrative rights within the Customer's Cloud Services subscription portal in connection with the Services. Customer can, at any point, request an administrative account from Tivarri if they wish to move between Microsoft resellers, and Tivarri will facilitate the provision of such administrative account at no cost to Customer provided that Customer has paid any applicable costs, prices, and charges as described in annexed Schedule One.
- 2.5 Tivarri reserves the right to act on behalf of the Customer with regards to Microsoft licensing administration.
- 2.6 Tivarri shall use reasonable care and skill when providing Services but does not guarantee that the Services shall be continually available to the Customer. There may be occasions when Services are disrupted through an error or act of the Customer or another third party or circumstances outside the reasonable control of Tivarri (a "Service Disruption"). An example of third-party supplier is Microsoft, Tivarri will not be held responsible for the underperformance or the unavailability of Microsoft software or services.
- 2.7 Tivarri shall, either on its own reasonable judgment, or on request by the Customer, promptly suspend availability of the Services. Tivarri shall likewise, on its own reasonable judgment or on request by the Customer, promptly resume the provision of the Services following such suspension.
- 2.8 In the event of any conflict between this Service Supply Agreement and any other documents not signed by the Customer (including, but not limited to, the SLA, the Acceptable Use Policy, and Tivarri service definition document), this Service Supply Agreement shall prevail.

3. CONDITIONS OF USE OF THE SERVICES BY THE CUSTOMER

- 3.1 The Customer will be responsible for obtaining and maintaining the Customer's own compatible computer system being all such equipment, software and communications lines, including any public lines required by the Customer (the "Customer's Equipment") to access the Services. Tivarri has no responsibility for or liability with respect to the Customer's Equipment.
- 3.2 All Software made available for use by the Customer under these Terms is provided subject to the License Terms.
- 3.3 The Services are supplied subject to the condition that there will be no abuse or fraudulent use thereof. Abuse and fraudulent use of the Services shall include (without limitation):
 - 3.3.1 obtaining, or attempting to obtain, the Service by rearranging, tampering with, or making connection with any facilities of Tivarri, or by any trick, scheme, false representation or false credit device, or by or through any other fraudulent means or devices whatsoever, with intent to avoid payment, in whole or in part, of the regular charges for the Services;
 - 3.3.2 attempting to, or actually obtaining, accessing, altering, or destroying the data files, programs, procedures and/or information of Tivarri or of another customer of Tivarri;
 - 3.3.3 using the Services in such a manner as to interfere unreasonably with the use of the Services by any other user or authorised person.
- 3.4 Tivarri shall take reasonable steps to protect the Customers information, however the Customer acknowledges that the Internet is not secure and accordingly that Tivarri cannot guarantee the privacy of the Customer's information.
- 3.5 The Customer shall use the Services in accordance with the Tivarri Limited Acceptable Use Policy and in particular (but without limitation) the Customer shall not:

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- 3.5.1 send any message, email or other communication which, under the laws of England and Wales or, where appropriate, under international laws, conventions, codes or regulations applicable to the Internet:
 - 3.5.1.1 is in breach of those laws, codes or regulations including but not limited to infringement of copyright and other intellectual property rights ("IPRs"), defamation, theft, fraud, drug-trafficking, money-laundering and terrorism;
 - 3.5.1.2 may incite violence, sadism, cruelty or racial hatred;
 - 3.5.1.3 may facilitate prostitution or paedophilia;
 - 3.5.1.4 is pornographic, obscene, indecent, abusive, offensive or menacing.
- 3.5.2 knowingly create and/or introduce any malware, virus, worm, Trojan horse or other destructive or contaminating program or advise any other party how to do so;
- 3.5.3 invade the privacy of other users of the Services or the Internet, for example by sending unsolicited emails ("spamming") nor collect or transfer personal data on individuals without their consent;
- 3.6 The Customer acknowledges that Tivarri does not operate or exercise control over, and accepts no responsibility for, the content of a Customers Materials received on the System.
- 4. PROFESSIONAL SERVICES**
- 4.1 Tivarri shall provide professional services as agreed between Tivarri and the Customer ("Statement of Work") in addition to and to compliment the Services.
- 4.2 The Statement of Work shall set out:
 - 4.2.1 The scope of the professional services to be provided by Tivarri;
 - 4.2.2 The deliverables by Tivarri to the Customer;
 - 4.2.3 The period during which the professional services are to be delivered or the date by which deliverables will be delivered to the Customer;
 - 4.2.4 The specification of the professional services to be delivered;
 - 4.2.5 The conditions upon which professional services will be delivered to the Customer by Tivarri;
 - 4.2.6 The acceptance tests to be carried out (if applicable) in respect of the professional services;
 - 4.2.7 The charges to be paid by the Customer to Tivarri for the supply of professional services;
- 4.3 No Statement of Work shall be binding until signed by both Tivarri and the Customer;
- 4.4 Tivarri shall perform the professional services in a professional manner and with due care and skill;
- 4.5 Each party acknowledges that the scope and specification of the professional services may be subject to change subsequent to the commencement of the professional services. Variation to the Statement of Work shall be agreed between Tivarri and the Customer and confirmed in writing ("Change Order") by both parties
- 4.6 Where Tivarri perform professional services at the Customer site or another third-party site outside the London area the Customer will pay Tivarri all travel and all out of pocket expenses on demand. For the avoidance of doubt car mileage travel costs will be charged at 50 pence per mile, all other travel and subsistence expenses will be recharged at cost provided that any travel and out of pocket expenses must be pre-agreed between Tivarri and Customer.
- 4.7 The Customer may cancel the Statement of Work by giving notice to Tivarri in writing. The following charges are payable upon cancellation;
 - 4.7.1 30 days' notice or more before commencement of the Statement of Work - no charge
 - 4.7.2 14 – 29 days' notice before commencement of the Statement of Work - 50% of charges as per the Statement of Work
 - 4.7.3 Less than 14 days' notice before commencement of the Statement of Work - 100% of charges as per the Statement of Work
 - 4.7.4 Once the Statement of Work has commenced - 100% of charges as per the Statement of Work.
- 5. INDEMNITY**
- 5.1 Each party shall indemnify the other against any claims, proceedings, losses, liabilities, damages charges and expenses (including reasonable costs) of whatever nature arising out of or in connection with any claim or action relating to a breach of the obligations (including negative obligations) under this Service Supply Agreement provided however that each party:
 - 5.1.1 shall not make any admissions without the other parties prior written consent;
 - 5.1.2 shall not take any step (or omit to take any step) which would prejudice the other parties defence of the claim or action; and

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5.1.3 shall allow the other party to conduct and/or settle all negotiations and litigation resulting from such claim or action provided that where the Customer fails to commence and diligently undertake conduct of such matters within 7 days of the Customer having been notified of the dispute then Tivarri shall be at liberty to take over conduct of the matter at the cost of the Customer (with all costs, disbursements and expenses to be reimbursed on demand).

5.2 Tivarri shall, at the reasonable request of the Customer, afford all reasonable assistance with such negotiations or litigation and shall be reimbursed by Customer for any reasonable legal costs, disbursements and out of pocket expenses incurred in so doing.

6. PAYMENT

6.1 The Customer shall pay to Tivarri the charges for the supply of the Services as set out in Schedule One.

6.2 Payment of invoices shall be made in a timely manner provided the Customer does not reasonably dispute any invoice within 10 Working Days of receipt, in which case the Parties will cooperate to resolve any disagreement urgently.

6.3 The charges payable under these Terms are exclusive of Value Added Tax which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law

6.4 Tivarri may vary all or any charges by giving 30 days' written notice to the Customer in advance of the expiry of the Initial Period or any anniversary thereof, save for the passing through of any increased charges by a third-party service provider or licensor in which case charges may be varied by giving 30 days' notice at any time;

6.5 Where charges are not paid by the Customer when due and provided Customer does not reasonably dispute any charge as per clause 6.2, Tivarri upon 10 days' notice may suspend all Services and/or the Statement of Work to the Customer if payment is not received by Tivarri within that 10-day notice period.

6.6 Tivarri may, in its sole discretion, deliver Services prior to receipt of payment and if it does so, it will issue the Customer with an invoice which the Customer shall pay in full within thirty (30) days of receipt of the invoice or on such other terms as may be specified in writing on that invoice. If an invoice is not paid by the due date, Tivarri reserve the right to apply charges in accordance with The Late Payment of Commercial Debts (interest) Act 1998.

6.7 Any Services provisioned to the Customer subsequent to the Commencement Date in addition to the Services in Schedule One shall be provided in accordance with the Terms of this Service Supply Agreement.

The Customer shall not be entitled by reason of any set-off, counter-claim, abatement, or other similar deduction to withhold payment of any amount due to Tivarri

7. TIVARRI'S SOFTWARE

7.1 Tivarri hereby grants to the Customer and the Customer hereby accepts a non-exclusive and non-transferable license to use any Software provided by Tivarri for the sole purpose of enabling the Customer to use the Services. The Customer hereby acknowledges that the title of and intellectual property rights to all such software is and shall remain in the ownership of Tivarri. The Customer hereby undertakes to use its best endeavours to protect and keep confidential all Tivarri software used by the Customer, and shall make no attempt to examine, copy, alter, reverse engineer, disassemble or tamper with such software.

8. LIMITATION OF LIABILITY

8.1 Except as specified in section 5 Tivarri shall not be liable to the Customer for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the supply of Services, the System, the connectivity to the Internet, any Software or its use, application, support or otherwise, except to the extent to which it is unlawful under the applicable laws and regulations to exclude such liability.

8.2 Tivarri shall not be liable to the Customer for loss of profits or contracts, loss of goodwill or other special, indirect or consequential loss whether arising from negligence, breach of contract or howsoever.

8.3 In the event that any exclusion contained in these Terms shall be held to be invalid for any reason and Tivarri becomes liable for loss or damage that it may otherwise have been lawful to limit, such liability shall be limited to the fees paid by the Customer in the previous 12 months in which the liability occurred.

8.4 Tivarri does not exclude liability for death or personal injury to the extent only that the same arises as a result of the negligence of Tivarri, its employees, agents or authorized representatives and further to the extent Tivarri is not able to exclude such liability by law.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 Tivarri acknowledges and agrees that the copyright, trademarks, trade names, patents and all other intellectual property rights vesting in the Customer shall remain vested in the Customer and nothing in these Terms shall operate as an assignment to Tivarri of such intellectual property rights.

9.2 The Customer acknowledges and agrees that the copyright, trademarks, trade names, patents and all other intellectual property rights vesting in Tivarri shall remain vested in the Tivarri and nothing in these Terms shall operate as an assignment to the Customer of such intellectual property rights.

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- 9.3 Tivarri acknowledges that the Customer's Material will at all times remain under the sole ownership of the Customer with the Customer retaining all rights to the same.

10. CONFIDENTIALITY

- 10.1 Tivarri and the Customer shall treat as strictly confidential all Confidential Information and shall not divulge such Confidential Information to any person (except to such Party's own employees who have a need to know and who have executed confidentiality agreements at least as restrictive of the Confidential Information as this Service Supply Agreement), provided that this clause shall not extend to (i) information which the Receiving Party can reasonably demonstrate it was rightfully in its possession at the time of disclosure, or (ii) information which was already public knowledge at the time of disclosure or becomes so at a future date otherwise than as a result of a breach of this Service Supply Agreement. The Receiving Party agrees (i) to protect the secrecy of and avoid disclosure or unauthorised use of Confidential Information, and (ii) to prevent such Confidential Information from falling into the public domain or the possession of persons other than those persons authorised hereunder to have such information. The Receiving Party agrees to use at least the same degree of care that the Receiving Party uses to protect its own confidential information but not less than a reasonable standard of care. Each Party shall ensure that its employees are aware of and comply with the provisions of this clause.

11. TIVARRI DATA PROCESSING AGREEMENT FOR SERVICES

11.1 Scope and order of precedence

This data processing agreement (the "Data Processing Agreement") applies to Tivarri's Processing of Personal Data provided to Tivarri by Customer as part of Tivarri's provision of the Services. The Services are specified in customer order or subsequent orders and all documents, addenda, schedules and exhibits incorporated therein and together with the Services (as defined in Section 1 Definitions) shall form part of the "Service Supply Agreement" by and between Customer and Tivarri.

This Data Processing Agreement specified in this section 11 is incorporated in this Service Supply Agreement. Except as expressly stated otherwise, in the event of any conflict between the terms of this Service Supply Agreement, including any policies or schedules referenced therein, and the terms of this Data Processing Agreement, the relevant terms of this Data Processing Agreement shall take precedence.

This Data Processing Agreement shall be effective for the duration of this Service Supply Agreement.

11.2 Categories of Personal Data

In order to execute the Service Supply Agreement, and in particular to perform the Services, Customer authorises and requests that Tivarri Process the following Personal Data:

Categories of Personal Data: Personal Data may include, among other information, personal contact information such as name, or mobile number, email address, and passwords, unique IDs collected from mobile devices, network carriers or data providers and IP addresses.

11.3 Customer's Instructions

Customer may provide instructions in writing to Tivarri in addition to those specified in this Service Supply Agreement with regard to Processing of Personal Data. Tivarri will comply with all such instructions without additional charge to the extent necessary for Tivarri to comply with its obligations as a Processor in the performance of the Services. The parties will negotiate in good faith with respect to any other change in the Services and/or fees resulting from any additional instructions.

11.4 Controller and Processor of Personal Data and purpose of the Personal Data Processing

Customer will at all times remain the Controller for the purposes of the Services, this Service Supply Agreement, and this Data Processing Agreement. Customer is responsible for compliance with its obligations as a Controller under data protection laws, in particular for justification of any transmission of Personal Data to Tivarri (including providing any required notices and obtaining any required consents and authorisations), and for its decisions and actions concerning the Processing and use of the Personal Data.

Tivarri is a Processor for the purposes of the Services, this Services Supply Agreement, and this Data Processing Agreement. Tivarri will Process Personal Data solely for the provision of the Services, and will not otherwise (i) Process or use Personal Data for purposes other than those set forth in this Service Supply Agreement or as instructed by Customer in accordance with Section 11.3, or (ii) disclose such Personal Data to third parties other than Third Party Subprocessors for the aforementioned purposes or as required by law.

Tivarri will comply with all applicable data protections laws to the extent that such laws by their terms impose obligations directly upon Tivarri as a Processor in connection with the services specified in the applicable Order.

Should Customer authorise any third party to interact with Tivarri on their behalf, access Customer systems or Customer data, in this case Customer remains responsible for compliance with its obligations as a Controller under data protection laws.

11.5 Rights of Data Subjects

If requested by Customer, Tivarri will grant Customer electronic access to Customer's Microsoft Services environment that holds Personal Data to permit Customer to respond to Data Subject requests to access, delete, release, correct or block access to specific Personal Data.

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To the extent such electronic access is not available to Customer, Tivarri will follow Customer's detailed written instructions to access, delete, release, correct or block access to Personal Data held by Tivarri

Customer agrees to pay Tivarri's reasonable fees that may be associated with Tivarri's performance of any such access, deletion, release, correction or blocking of access to Personal Data on behalf of Customer.

Tivarri will pass on to the Customer any requests of an individual Data Subject to access, delete, release, correct or block Personal Data Processed under this Service Supply Agreement. Tivarri will not be responsible for responding directly to the request, unless otherwise required by law.

11.6 Cross Border and Onward Data Transfers

Tivarri treats all Personal Data in a manner consistent with the requirements of this Service Supply Agreement and this Data Processing Agreement in all locations globally. Tivarri's information, privacy and security policies, standards and governance practices are managed on a global basis.

11.7 Third Party Subprocessors

Tivarri's obligations under this Service Supply Agreement may be performed by Third Party Subprocessors contracted by Tivarri. Any Third Party Subprocessors contracted by Tivarri are required to abide by substantially the same obligations as Tivarri under this Data Processing Agreement as applicable to their Processing of Personal Data. Customer may request that Tivarri audit a Third Party Subprocessor or provide confirmation that such an audit has occurred (or, where available, obtain or assist customer in obtaining a third-party audit report concerning the Third Party Subprocessor's operations) to ensure compliance with such obligations. Customer will also be entitled, upon written request, to receive copies of the relevant privacy and security terms of Tivarri's agreement with Third Party Subprocessors that may Process Personal Data.

Tivarri remains responsible at all times for compliance with the terms of this Data Processing Agreement by Third Party Subprocessors.

Customer consents to Tivarri's use of Third Party Subprocessors in the performance of the Services in accordance with the terms of Sections 11.6 and 11.7 above.

11.8 Technical and Organisational Measures

Tivarri has implemented and will maintain appropriate technical and organisational security measures for the Processing of Personal Data, including the measures specified in this Section to the extent applicable to Tivarri's Processing of Personal Data. These measures are intended to protect Personal Data against accidental or unauthorised loss, destruction, alteration, disclosure or access, and against all other unlawful forms of Processing. Additional measures, and information concerning such measures, including the specific security measures and practices for the particular Services ordered by Customer, may be specified in this Service Supply Agreement.

11.8.1 Physical Access Control. Tivarri employs measures designed to prevent unauthorised persons from gaining access to data processing systems in which Personal Data is Processed, such as the use of trained staff, secured buildings and data centre premises.

11.8.2 System Access Control. The following may, among other controls, be applied depending upon the particular Services ordered: authentication via passwords and/or two-factor authentication, documented authorisation processes, documented change management processes, and logging of access on several levels.

Environments by Tivarri employees and Third Party Subprocessors are logged; (ii) logical access to the data centres is restricted and protected by firewall/VLAN; and (iii) intrusion detection systems, centralised logging and alerting, and firewalls are used.

11.8.3 Data Access Control. Personal Data is accessible and manageable only by properly authorised staff, direct database query access is restricted, and application access rights are established and enforced. In addition to the access control rules set forth in Sections 11.8.1-3, Tivarri implements an access policy under which Customer controls access to its Services environment and to Personal Data and other data by its authorised personnel.

11.8.4 Transmission Control. Except as otherwise specified for the Services (including specifications referenced in this Service Supply Agreement), transmissions of data outside the Customer's Microsoft Services environment are encrypted. Some Services, such as social media services, may be configurable by Customer to permit access to third party sites that require unencrypted communications. The content of communications (including sender and recipient addresses) sent through some email or messaging services may not be encrypted. Customer is solely responsible for the results of its decision to use such unencrypted communications or transmissions.

11.8.5 Input Control. The Personal Data source is under the control of the Customer, and Personal Data integration into the system, is managed by secured file transfer (i.e., via web services or entered into the application) from the Customer. As set forth in Section 11.8.4 above, note that some internet applications permit Customers to use unencrypted file transfer protocols. In such cases, Customer is solely responsible for its decision to use such unencrypted field transfer protocols.

11.8.6 Data Backup. For Services hosted by Tivarri: back-ups are taken on a regular basis; backups are secured using a combination of technical and physical controls, depending on the particular Service. Where data is hosted by 3rd

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parties, e.g. Microsoft, then backup is the responsibility of the Cloud Provider and not Tivarri unless the client contracts with Tivarri to backup data in the Customer's account/s.

- 11.8.7 Data Segregation. Personal Data from different Tivarri customers' environments is segregated on Tivarri's systems.
- 11.8.8 Confidentiality. All Tivarri employees and Third Party Subprocessors that may have access to Personal Data are subject to appropriate confidentiality arrangements.

11.9 Incident Management and Breach Notification

Tivarri evaluates and responds to incidents that create suspicion of or indicate unauthorised access to or handling of Personal Data ("Incident"). Tivarri operational staff are instructed on responding to Incidents where processing of Personal Data may have been unauthorised, including prompt and reasonable internal reporting, escalation procedures, and chain of custody practices to secure relevant evidence.

Depending on the nature of the Incident, Tivarri defines escalation paths and response teams to address the Incident. Tivarri will work with Customer, with internal Tivarri lines of business, with the appropriate technical teams and, where necessary, with outside law enforcement to respond to the Incident. The goal of Tivarri's Incident response will be to restore the confidentiality, integrity, and availability of the Services, and to establish root causes and remediation steps.

For purposes of this section, "Security Breach" means the misappropriation or unauthorised Processing of Personal Data located on Tivarri systems or the Customer's Microsoft environment, including by a Tivarri employee, that compromises the security, confidentiality or integrity of such Personal Data. Tivarri will inform Customer within 24 hours or sooner as required by applicable law if Tivarri determines that Personal Data has been subject to a Security Breach or any other circumstance in which Customer is required to provide a notification under applicable law.

Tivarri will promptly investigate the Security Breach and take reasonable measures to identify its root cause(s) and prevent a recurrence. As information is collected or otherwise becomes available, unless prohibited by law, Tivarri will provide Customer with a description of the Security Breach, the type of Personal Data that was the subject of the Security Breach, and other information Customer may reasonably request concerning the affected Data Subjects. The parties agree to coordinate in good faith on developing the content of any related public statements or any required notices for the affected Data Subjects and/or notices to the relevant data protection authorities.

11.10 Legally Required Disclosures

Except as otherwise required by law, Tivarri will promptly notify Customer of any subpoena, judicial, administrative or arbitral order of an executive or administrative agency, regulatory agency, or other governmental authority ("Demand") that it receives, and which relates to the Processing of Personal Data. At Customer's request, Tivarri will provide Customer with reasonable information in its possession that may be responsive to the Demand and any assistance reasonably required for Customer to respond to the Demand in a timely manner. Customer acknowledges that Tivarri has no responsibility to interact directly with the entity making the Demand.

12. FORCE MAJEURE

Notwithstanding clause 2.6, Tivarri will not be responsible for any delay in, or failure of, the Services or the Internet due to any occurrence, event or cause beyond Tivarri's reasonable control, which may prevent or hinder the performance of Tivarri of any of its obligations under this Service Supply Agreement.

13. DURATION AND TERMINATION

- 13.1 These Terms shall commence on the Commencement Date for the Initial Period as defined in Schedule One and shall continue until terminated in accordance with this Clause 13.
- 13.2 Early termination charges during the Initial Period are defined in Schedule One.
- 13.3 Following the Initial Period these Terms may be terminated by the Customer by giving at least 1 calendar month's notice in writing in advance of the expiry of the Initial Period or any subsequent contract extension anniversary.
- 13.4 If notice of termination is not given during the Initial Period these contract terms shall automatically extend on a monthly basis.
- 13.5 These Terms may be terminated forthwith by either party on giving notice in writing to the other if the other party shall have a receiver or administrative receiver appointed or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the other party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or a bankruptcy petition presented to the court or shall cease or threaten to cease to carry on business.
- 13.6 Tivarri may cease to supply the Services forthwith without giving notice to the Customer if the Customer is in material breach of these Terms and has failed to rectify such breach (in the case of a breach capable of being remedied) within 14 days of receiving a written notice requiring it to do so.

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- 13.7 Any termination under this clause 13 shall discharge Tivarri from any liability for further performance of the Services but its rights to make any claim for any antecedent breaches shall remain in force.
- 13.8 In the event of termination, unless otherwise agreed in writing, Tivarri will delete the Customer data from its systems 32 days following the termination date. Following a Customer notice of termination and, at any time before the termination date, Customer may request a copy of their data held on Tivarri servers be made to another external system. There is no charge for a snapshot of Customer data on Tivarri's servers being made and transferred electronically over the Internet to a suitable upload facility such as an SFTP (Secure File Transfer Protocol) server for which Customer has provided suitable credentials. For additional Customer data transfer requests, or for transfers to be performed outside of Business Hours Tivarri reserves the right to charge time their standard support charges which are published annually. Should the customer request that data be transferred to media, e.g. an encrypted USB storage device Tivarri will charge the customer the cost of the device, plus time taken to complete the transfer. Once data has been transferred, unless Customer notifies Tivarri of issues reading the exported data within 7 days of receipt, Tivarri will delete the original Customer data. The data export service is available subject to Tivarri's receipt of all outstanding invoices and fees due under this agreement.
- 14. AMENDMENTS**
- 14.1 No variation to the provisions of these Terms or Schedules shall be of any effect unless made in writing and agreed and signed by or on behalf of Tivarri and the Customer.
- 15. ASSIGNMENT**
- 15.1 Tivarri may perform any of the obligations undertaken by it and to exercise any of the rights granted to it under these Terms through any other company which at the relevant time is its holding company or subsidiary (as defined by section 1159 of the Companies Act 2006) or the subsidiary of any such holding company, and any act or omission of any such company shall for the purposes of these Terms be deemed to be the act or omission of Tivarri.
- 16. NOTICES**
- 16.1 Any notice required or permitted under these Terms or required by statute, law or regulation shall (unless otherwise provided) be in writing and shall be delivered in person, sent by registered mail as appropriate, properly posted and fully pre-paid in an envelope properly addressed or sent by email to the respective addressee at its usual place of business or to such other address or email address as may from time to time be designated by notice hereunder.
- 16.2 Any such notice shall be considered to have been received on the next working day following delivery, emailing or in any other event within 7 Working Days after it was mailed in the manner provided under this clause.
- 17. LAW**
- 17.1 These Terms shall be governed by and construed in accordance with the laws of England and Wales.
- 17.2 Any dispute which may arise between the parties concerning these Terms shall be determined by the English Courts and the parties hereby submit to the exclusive jurisdiction of the English Courts for such purpose.
- 18. INTERPRETATION**
- In these Terms:
- 18.1 reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted;
- 18.2 words importing the singular include the plural, words importing any gender include every gender and words importing persons include bodies corporate and unincorporated; and (in each case) vice versa;
- 18.3 any reference to Tivarri or the Customer in these Terms includes a reference to their successors in title and permitted assigns;
- 18.4 the headings to the clauses are for ease of reference only and shall not affect the interpretation or construction of these Terms.
- 18.5 any reference to a clause means a clause in this Service Supply Agreement unless the contrary is stated.
- 18.6 references to "written" (e.g. written consent or written notice) shall include by email.
- 18.7 all clauses take precedence over sales and marketing material and information contained on Tivarri's website(s).
- 19. SEVERABILITY**
- 19.1 Notwithstanding that the whole or any part of any provision of these Terms may prove to be illegal or unenforceable the other provisions of these Terms and the remainder of the provision in question shall remain in full force and effect.
- 20. THIRD PARTIES**
- 20.1 Tivarri and the Customer confirm their intent not to confer any rights on any third parties by virtue of these Terms and accordingly the Contracts (Rights of Third parties) Act 1999 shall not apply.
- 21. WAIVER**
- 21.1 The waiver by either party of a breach or default of any of the provisions of this Service Supply Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission

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on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

22. ENTIRE AGREEMENT

22.1 Each party on behalf of itself and as agent for each of its related persons acknowledges and agrees with the other party (each such party acting on behalf of itself and as agent for each of its related persons) that:

22.1.1 this Service Supply Agreement constitutes the entire and only Agreement between the parties and their respective related persons relating to the subject matter of this Service Supply Agreement;

22.1.2 neither it nor any of its related persons has been induced to enter into this Service Supply Agreement in reliance upon, nor has any such party been given, any warranty, representation, statement, assurance, covenant, agreement, undertaking, indemnity or commitment of any nature whatsoever other than as are expressly set out in this Service Supply Agreement and, to the extent that any of them have been, it (acting on behalf of itself and as agent on behalf of each of its related persons) unconditionally and irrevocably waives any claims, rights or remedies which any of them might otherwise have had in relation thereto;

PROVIDED THAT the provisions of this clause 22.1 shall not exclude any liability with any of the parties or, where appropriate, their related persons would otherwise have to any other party or, where appropriate, to any other party's related persons or any right which any of them may have in respect of any statements made fraudulently by any of them prior to the execution of this Service Supply Agreement or any rights which any of them may have in respect of fraudulent concealment by any of them.