

Dated

Month Year

**Software Services and Support
Agreement**

between

Akari Software UK Limited (1)

and

CUSTOMER (2)

THIS AGREEMENT is dated (TBC)

Parties

- (1) **AKARI SOFTWARE UK LIMITED** incorporated and registered in The United Kingdom with company number 16055606 whose registered office is at 1st Floor 8 Bridle Close, Kingston Upon Thames, London, KT1 2JW, United Kingdom (**Supplier**).
- (2) **TBC (Customer)**

Background

- (A) The Supplier has developed and provides a service consisting of internet access to a curriculum management software application at its remote location.
- (B) The Customer wishes to use the Supplier's service in its operations.
- (C) The Supplier has agreed to provide, and the Customer has agreed to take and pay for the Supplier's service subject to the terms and conditions of this Agreement.

Agreed terms

1 INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Acceptance: in relation to each Deliverable, means that the Deliverable is treated as having been accepted under clause 2.

Acceptance Tests: the acceptance tests to be carried out by the Customer to test that the Implementation Services and the Hosting Services operate in accordance with the Software Specification.

Authorised Users: those employees and independent contractors of the Customer and/or other person nominated by the Customer who are authorised to use the Software through the Hosting Services under this Agreement, as further described in clause 3.2(a).

Business Day: a day other than a Saturday, Sunday or public holiday.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 9.5 or clause 9.6.

Deliverable: a defined level of functionality or other pre-set milestone within a particular phase stage of the Implementation Services referred to in Schedule 3, as more particularly described in the Project Plan or other document concerned.

Effective Date: the date of this Agreement.

EI Exemptions: the statutory exemptions from the duty to confirm or deny and/or disclosure of information as prescribed by the EI Regulations

EI Regulations: the Environmental Information Regulations 2002 together with any codes of practice that are issued under such Regulations

Fees: the fees payable to the Supplier, as described in Schedule 1.



FOI Act: the Freedom of Information Act 2000 together with any subordinate legislation and any codes of practice that are issued under such Act or subordinate legislation

FOI Exemptions: means the statutory exemptions from the duty to confirm or deny and/or disclosure of information as prescribed by the FOI Act

Hosting Services: the services that the Supplier provides to allow Authorised Users to access and use the Software, including hosting set-up and ongoing services, as described in Schedule 4.

Implementation Services: the configuration and related work referred to in clause 2 and Schedule 3, to be performed by the Supplier to configure the Software so that the Software conforms with the Software Specification.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Maintenance and Support: any error corrections, updates and upgrades that the Supplier may provide or perform with respect to the Software and Hosting Services, as well as any other support services provided to the Customer under this Agreement, all as described in Schedule 6.

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

Project Plan: the plan referred to at paragraph 2 of Schedule 3 to be developed by the Supplier in the planning stage of the Implementation Services and addressing planning, design, Acceptance Tests implementation and rollout, and submitted to the Customer for approval as provided at Schedule 3.

Service Level Agreement: the service level agreement set out in Schedule 7.

Services: the Implementation Services, Hosting Services and/or Maintenance and Support as applicable, and all other obligations of the Supplier.

Software: the Supplier's proprietary software in machine-readable object code form as described in Schedule 5, including any error corrections, updates, upgrades, modifications and enhancements to it provided to the Customer under this Agreement.

Software Specification: the functionality and performance specifications for the Software, as set out in Schedule 5.

Supplier Account Team: the individuals appointed by the Supplier from time to time who shall serve as the Customer's primary contacts for the Customer's activities under this Agreement. The initial members of the Supplier Account Team are listed in Schedule 2.

Supplier's Project Manager: the member of the Supplier's Account Team appointed in accordance with clause 2.2. The Supplier's Project Manager at the Effective Date is named in Schedule 2.

Customer Account Team: the individuals appointed by the Customer from time to time who shall serve as the Supplier's primary contacts for the Supplier's activities under this Agreement. The initial members of the Supplier Account Team are listed in Schedule 2.

AKARI

Customer Data: the data inputted into the information fields of the Software by the Customer, by Authorised Users, or by the Supplier on the Customer's behalf or other data relating to the Customer (including, without limitation, information relating to the Customer's courses and other programmes) communicated to or processed or generated by the Supplier.

Customer's Project Owner: the member of the Customer Account Team appointed in accordance with clause 5.3. The Customer's Project Owner at the Effective Date is named in Schedule 2.

Virus: any thing or device (including any software, code, file or programme) which may:

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

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to writing or written includes faxes and email.
- 1.8 References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.11 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.12 If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail.

2 IMPLEMENTATION SERVICES

- 2.1 The Supplier Account Team shall consist of the personnel listed at Schedule 2. The Supplier shall use its best efforts to ensure continuity of its personnel assigned to this Agreement.
- 2.2 The Supplier shall appoint the Supplier's Project Manager. The Supplier shall use its best efforts to ensure continuity of the Supplier's Project Manager.
- 2.3 The Supplier shall perform the Implementation Services in accordance with the timetable set out in Schedule 3 for Acceptance Tests, implementation and roll-out.
- 2.4 The Supplier shall prepare each Deliverable and submit it to the Customer in accordance with the timetable set out at Schedule 3. The Supplier undertakes that the Customer shall be able to access the Deliverable online. Within twenty (10) Business Days (or such other period as may be specified in Schedule 3) after the date of the Supplier's delivery to the Customer of any Deliverable, the Customer shall review the Deliverable to confirm that it functions in material conformance with the applicable portion of the Software Specification. If the Deliverable fails to conform with the applicable portion of the Software Specification, the Customer shall give the Supplier a detailed description of any such non-conformance ("**Error**"), in writing, within the review period.
- 2.5 With respect to any Errors contained in any Deliverables delivered to the Customer during the Implementation Services, the Supplier shall promptly correct any such Error within ten (10) Business Days of the Customer's notification and, on completion, submit the corrected Deliverable to the Customer. The provisions of this clause 2.5 shall then apply again, up to two additional times.
- 2.6 If the Customer does not provide any written comments in the review period described in clause 2.4, or if the Deliverable is found to conform with the Software Specification, the Deliverable shall be treated as having been accepted.
- 2.7 If:
- (a) the Supplier is unable to correct an Error after three attempts; and/or
 - (b) the Implementation Services fail the Acceptance Tests for a third time,
- then the Customer shall be entitled on written notice to the Supplier at any time within ten (10) Business Days after the third unsuccessful attempt to correct the Error and without affecting any other right it may have to terminate this Agreement.

3 HOSTING SERVICES, MAINTENANCE AND SUPPORT

- 3.1 The Supplier shall perform the Hosting Services and Maintenance and Support services. The Service Level Agreement shall apply with effect from the 1st Working Day after the Installation Acceptance Tests have been successfully passed.
- 3.2 In relation to the Software:
- (a) the Supplier hereby grants to the Customer on and subject to the terms and conditions of this Agreement a non-exclusive, non-transferable licence to allow Authorised Users to access the Software through the Hosting Services and to use the Software solely for the Customer's business purposes;
 - (b) the Customer shall not store, distribute or transmit any Virus, or any material through the Hosting Services that is unlawful, harmful, threatening, defamatory, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; or promotes unlawful violence, discrimination based on race,

gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;

- (c) the Customer shall not:
 - (i) attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of the Software except to the extent expressly set out in this Agreement or as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties;
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties;
 - (iii) use the Software or Hosting Services to provide services to third parties;
 - (iv) subject to clause 23.2, transfer, temporarily or permanently, any of its rights under this Agreement; or
 - (v) attempt to obtain, or assist third parties in obtaining, access to the Software, other than as provided under this clause 3.3(c); and
- (d) the Customer shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Software and notify the Supplier promptly of any such unauthorised access or use.

4 SUPPLIER'S OBLIGATIONS

- 4.1 The Supplier undertakes that it will perform all the Services with the degree of skill and care reasonably to be expected of a skilled and experienced provider of services similar to the Services, in a timely and efficient manner, using appropriately qualified and experienced staff and, wherever relevant, in accordance with the Software Specification and the Project Plan.
- 4.2 The Supplier shall comply with all applicable laws and regulations with respect to its activities under this Agreement.
- 4.3 The undertaking at clause 4.1 shall not apply to the extent of any non-conformance which is caused by use of the Software by any Authorised User contrary to the Supplier's instructions or modification or alteration of the Software by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Software does not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours promptly to correct any such non-conformance, or provide the Customer with an alternative means of accomplishing the desired performance. Notwithstanding the foregoing, the Supplier does not warrant that the Customer's use of the Software and the Services will be uninterrupted or error-free.
- 4.4 The Supplier undertakes that it will at the written request of the Customer at any time up until three months after termination of this Agreement howsoever arising return to the Customer without further charge and in the format stipulated by the Customer a single copy of all Customer Data residing on the Supplier's hosting equipment.
- 4.5 This Agreement shall not prevent the Supplier from entering into similar agreements with third parties or from independently developing, using, selling or licensing materials, products or services which are similar to those provided under this Agreement.

5 CUSTOMER'S OBLIGATIONS

The Customer shall:

5.1 provide the Supplier with:

- (a) all necessary co-operation reasonably required in relation to this Agreement; and
- (b) all necessary access to such information as may reasonably be required by the Supplier;

in order to render the Services, including Customer Data, security access information and software interfaces to the Customer's other relevant business applications;

5.2 provide such personnel assistance, including the Customer Account Team and other Customer personnel, as may be reasonably requested by the Supplier from time to time. The Supplier Account Team shall consist of the personnel listed in Schedule 2. The Supplier shall use all reasonable endeavours to ensure continuity of its personnel assigned to this Agreement;

5.3 appoint the Customer's Project Owner, who shall have the authority to contractually bind the Customer on all matters relating to this Agreement. The Customer shall use all reasonable commercial endeavours to ensure continuity of the Customer's Project Owner;

5.4 comply with all applicable laws and regulations with respect to its activities under this Agreement; and

5.5 carry out all other Customer responsibilities set out in this Agreement or in any of the Schedules in a timely and efficient manner.

6 CHARGES AND PAYMENT

6.1 The Customer shall pay the amounts set out in Schedule 1 for the Implementation Services.

6.2 The Customer shall pay the Software licence and Maintenance and Support fees set out in Schedule 1 for Hosting Services and for use and Maintenance and Support of the Software.

6.3 All amounts and fees stated or referred to in this Agreement may be invoiced by the Supplier at the times set out in Schedule 1 and are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate. Each invoice is due and payable 30 days after the invoice date. If the Supplier has not received payment within 30 days after the due date interest shall accrue on a daily basis on such due amounts at an annual rate equal to 2% over the then current base lending rate of the Customer's bankers from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

7 CHANGE CONTROL

7.1 The Customer's Project Owner and the Supplier's Account Manager shall meet at least once every month (or as otherwise agreed) during the first year after the Effective Date and every quarter thereafter to discuss matters relating to this Agreement. If either party wishes to change the scope of the Services (including Customer requests for additional Hosting Services), it shall submit details of the requested change to the other in writing.

7.2 If the Customer requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:

- (a) the likely time required to implement the change;
 - (b) any variations to the Fees arising from the change;
 - (c) the likely effect of the change on the Project Plan; and
 - (d) any other impact of the change on the terms of this Agreement.
- 7.3 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed in writing the necessary variations to its charges, the Project Plan and any other relevant terms of this Agreement to take account of the change.

8 PROPRIETARY RIGHTS

- 8.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all Intellectual Property Rights in the Software and the Services. Except as expressly stated in this Agreement, this Agreement does not grant the Customer any rights to, or in, Intellectual Property Rights, or any other rights or licences in respect of the Software, Services or any related documents.
- 8.2 The Supplier represents, warrants and undertakes that it has all the rights in relation to the Software and Services that are necessary to grant all the rights it purports to grant and perform all the obligations it agrees to perform under, and in accordance with, the terms of this Agreement.
- 8.3 Any and all enhancements, modifications, updates, adaptations, configurations, or derivative works to the Supplier's platform, software, or services (together, "Improvements"), whether requested, specified, suggested, or funded in whole or in part by the Customer, shall be and remain the sole and exclusive property of the Supplier. The Supplier shall have the unrestricted right to incorporate any such Improvements into its products and services for any customer or purpose. For the avoidance of doubt, no rights, title, or interest in or to the Supplier's Intellectual Property shall transfer to the Customer under this Agreement, except for the limited licences expressly granted herein.

9 CONFIDENTIALITY

- 9.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving party;
 - (b) was in the other party's lawful possession before the disclosure;
 - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 9.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

- 9.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 9.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 9.5 The Customer acknowledges that the Software, the results of any performance tests of the Software and the Services constitute the Supplier's Confidential Information.
- 9.6 The Supplier acknowledges that the Customer Data and the results of the Services are the Confidential Information of the Customer.
- 9.7 No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction.
- 9.8 This clause 9 shall survive termination of this Agreement, however arising.

10 RECORDS AND AUDIT, ETC

- 10.1 For the duration of this Agreement, and for a period of seven years from termination or expiry of this Agreement, the Supplier shall maintain full and accurate records, in accordance with generally accepted accounting principles in the UK, of:
- (a) all charges, prices, costs and expenses associated with and invoiced in respect of the Services; and
 - (b) its performance against the Service Levels Agreement;
- and shall, if requested, promptly provide to the Customer copies of such records and accounts and any other financial information reasonably requested by the Customer.
- 10.2 If, on examination, the Customer determines that any charges, prices, costs or expenses exceed the amounts properly chargeable to, or recoverable from, the Customer, the Supplier shall, without affecting the Customer's other rights, promptly refund to the Customer the amount over-charged.

11 DATA PROTECTION

For the avoidance of doubt, all detailed obligations of the parties in respect of the processing and protection of Personal Data are set out in the Data Protection Schedule (Schedule 8) attached to this Agreement, which shall take precedence over any general data protection, information security, or confidentiality provisions in this Agreement to the extent of any inconsistency. No additional obligations shall be implied into this Agreement by reason of cross-reference or general wording, and the Supplier's obligations shall be limited to those expressly set out in the Data Protection Schedule.

12 ANTI-BRIBERY

- 12.1 The Supplier shall:
- (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010 (Relevant Requirements);

- (b) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 12.1(b), and will enforce them where appropriate;
 - (c) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Agreement;
 - (d) immediately notify the Customer (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers or employees or as direct or indirect owners at the date of this Agreement).
- 12.2 Without prejudice to clause 23, the Supplier shall ensure that any person associated with the Supplier who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 12 (“**Relevant Terms**”). The Supplier shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms and shall in all circumstances be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.
- 12.3 For the purpose of this clause 12, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 12 a person associated with the Supplier includes any subcontractor of the Supplier.

13 EXPORT

- 13.1 Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations (“**Export Control Laws**”), including United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 13.2 Each party undertakes:
- (a) contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out in clause 13.1; and
 - (b) if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

14 FREEDOM OF INFORMATION

- 14.1 The Supplier acknowledges that the Customer is subject to legal obligations under the FOI Act and/or the EI Regulations which may require the disclosure of information to third parties on request and that such information may include matters relating to, or arising out of, or under this Agreement.
- 14.2 The Supplier accepts that, in order to facilitate openness with and accountability to users of the Customer’s services, the Customer is of the general view that all relevant

information concerning its agreements and/or the services it provides and/or acquires may be disclosed unless the information is subject to a FOI Exemption or EI Exemption (as applicable).

14.3 Notwithstanding anything in this Agreement to the contrary, including obligations of confidentiality imposed on the Customer by this Agreement (or any related agreement), in the event that the Customer receives a request for information under the FOI Act or the EI Regulations, it shall be entitled to disclose all information and documentation (in whatever form) as it considers is necessary to respond to that request in accordance with the FOI Act or EI Regulations without any liability under this Agreement or otherwise to the Supplier or any other person that may arise as a result of disclosure. However, in such circumstances, the Customer:

(a) shall use reasonable endeavours to consult the Supplier as soon as reasonably practicable about the request for information; and

(b) shall not:

(i) confirm or deny that the information in question is held; or

(ii) disclose the information requested

without having made reasonable attempts to seek the views and representations of the Supplier in respect of the request for disclosure and the applicability of a FOI Exemption or EI Exemption (as applicable).

14.4 The Supplier shall assist the Customer to enable the Customer to comply with its obligations under the FOI Act and/or the EI Regulations. In the event that the Customer receives a request for information under the FOI Act or EI Regulations and requires the Supplier's assistance in obtaining or compiling the information that is the subject of such request, the Supplier shall provide such assistance promptly and in any event within 5 days of receiving the request for assistance.

15 INDEMNITY

15.1 The Supplier shall indemnify the Customer against all claims, actions, proceedings, liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Services, their use or otherwise in relation to them.

15.2 If any third party makes a claim, or notifies an intention to make a claim, against the Customer which may reasonably be considered likely to give rise to a liability under this indemnity (a Claim), the Customer shall:

(a) as soon as reasonably practicable, give written notice of the Claim to the Supplier, specifying the nature of the Claim in reasonable detail;

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

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

- (d) subject to the Supplier providing security to the Customer to the Customer's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Supplier may reasonably request to avoid, dispute, compromise or defend the Claim.
- 15.3 In the defence or settlement of any Claim, the Supplier may obtain for the Customer the right to continue using the Software, replace or modify the Software so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this Agreement without liability to the Customer. The Supplier shall have no liability if the alleged infringement is based on:
- (a) a modification of the Software by anyone other than the Supplier;
 - (b) the Customer's use of the Software in a manner contrary to the instructions given to the Customer by the Supplier; or
 - (c) the Customer's use of the Software after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

16 LIMITATION OF LIABILITY

- 16.1 Neither party excludes or limits liability to the other party for:
- (a) fraud or fraudulent misrepresentation;
 - (b) death or personal injury caused by negligence;
 - (c) a breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - (d) tangible property or physical damage.
- 16.2 Subject to clause 16.1 and 16.3 neither party shall be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:
- (a) any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
 - (b) loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or
 - (c) any loss or liability (whether direct or indirect) under or in relation to any other contract.
- 16.3 Except for any liability of the Supplier under the indemnities given under this Agreement and under clause 9, clause 10, clause 11 and clause 12 and subject to clause 16.1 (where in each case liability shall be unlimited), each party's total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement or any collateral contract shall be limited to 50% of the total charges payable for the Services by the Customer to the Supplier during the 12-month period immediately before the date on which the cause of action first arose or, if the cause of action arose during any period before 12 months had elapsed from the Effective Date, during that shorter period.

17 TERM AND TERMINATION

- 17.1 This Agreement shall commence on the Effective Date and shall continue for the period of three years (the “**Term**”), unless otherwise terminated as provided in this clause 17. At the end of the Term this Agreement shall automatically terminate unless the parties otherwise agree in writing to extend or renew it for an additional period.
- 17.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of this Agreement which breach is not capable of remedy or (if such breach is capable of remedy) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
 - (b) the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
 - (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
 - (g) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
 - (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 17.2(c) to clause 17.2(k) (inclusive);
 - (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

17.3 Without affecting any other right or remedy available to it, the Customer may terminate this Agreement with immediate effect by giving written notice to the Supplier if the Supplier commits a breach deemed to be material and uncured after notice of its obligation in clause 4.2.

17.4 On termination of this Agreement for any reason:

- (a) all licences granted under this Agreement shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;
- (c) the Supplier shall deliver to the Customer, upon request the Customer Data and all other relevant data in its most recent form (whether or not backed up) and all other property of the Customer then in its possession; and
- (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

18 FORCE MAJEURE

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, including; failure of a utility service or transport or telecommunications network or the internet; act of God; war; riot; civil commotion; malicious damage; compliance with any law or governmental order, rule, regulation or direction; accident; breakdown of plant or machinery; fire, flood, or storm; or default of suppliers or sub-contractors. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for six months, the party not affected may terminate this Agreement by giving 30 days' written notice to the other party.

19 WAIVER

19.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.

19.2 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

20 RIGHTS AND REMEDIES

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

21 SEVERANCE

21.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

21.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

22 ENTIRE AGREEMENT

- 22.1 This Agreement and any documents referred to in it constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 22.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 22.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
- 22.4 Nothing in this clause shall limit or exclude any liability for fraud.

23 ASSIGNMENT

- 23.1 Neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust of or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).
- 23.2 Notwithstanding clause 9, a party assigning any or all of its rights under this Agreement may disclose to a proposed assignee any information in its possession that relates to this Agreement or its subject matter, the negotiations relating to it and the other party which is reasonably necessary to disclose for the purposes of the proposed assignment, provided that no disclosure under this clause 23 shall be made until notice of the identity of the proposed assignee has been given to the other party.

24 NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

25 VARIATION

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

26 THIRD PARTY RIGHTS

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and (where applicable) their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

27 NOTICES

- 27.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this Agreement.
- 27.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been

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delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

28 GOVERNING LAW

This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England.

29 JURISDICTION

The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been entered into on the date stated at the beginning of it.

Schedule 1

Fees

1 SUMMARY OF FEES

- (a) TBC
- (b) Fees for the Software Subscription (License/Hosting, Maintenance and Support) are shown in Schedule 1.1 and will cover the period shown in 17.1. In the event of the Agreement extending beyond the period shown in 17.1, Fees for the Software Subscription will increase annually by the higher of 5% or CPI.

2 PAYMENT AND INVOICING SCHEDULE

TBC

Liability for the Software Subscription set out in Schedule 1 shall accrue from the Effective Date.

Invoices relating to the Software Subscription fees shall be payable annually in advance. Invoices relating to Implementation Services set out in Schedule 1 shall be issued monthly in arrears.

3 SUSPENSION FOR LATE PAYMENT

If any undisputed amount payable by the Customer under this Agreement remains outstanding for more than [30] days after the due date for payment, the Supplier may, without liability and upon giving the Customer at least [7] days' prior written notice, suspend the provision of any or all Services (including disabling access to the Software) until such amounts are paid in full. Any suspension under this clause shall not affect the Customer's obligation to pay all amounts due under this Agreement, nor shall it constitute a waiver of, or prejudice, any other rights or remedies available to the Supplier.

Schedule 2

Personnel

1 SUPPLIER

1.1 Supplier Account Team

Supplier's Project Manager: TBC

Account Manager: TBC

Customer Support Representative: TBC

2 CUSTOMER

2.1 Customer Account Team

Customer Executive Sponsor: TBC

Customer's Project Owner: TBC

Schedule 3

Implementation Services

1 TIMETABLE

TBC

2 PLANNING

The Supplier shall prepare the Project Plan in co-operation with the Customer during this stage of the Implementation Services.

3 IMPLEMENTATION

The Supplier and the Customer shall co-operate in implementing the Services in accordance with the implementation provisions of the Project Plan.

4 ROLLOUT

The Supplier and the Customer shall co-operate in rolling out the Services to the Customer's Authorised Users in accordance with the roll-out provisions of the Project Plan.

5 ACCEPTANCE TESTS

The Supplier shall deliver the Implementation Services to ensure that the Software and the Hosting Services are ready for the Acceptance Tests on the date set out in the Project Plan. The Customer shall carry out Acceptance Tests in accordance with the Project Plan. The Acceptance Tests shall consist of such tests as the Customer reasonably considers appropriate to determine whether the Implementation Services, the Hosting Services and the Software meet the Software Specification. The Acceptance Tests may include testing of infrastructure and performance of the Hosting Services and the Software as well as the existing and new functionality of the Software. The Acceptance Tests shall be considered to be successfully passed if they show that the Implementation Services, the Hosting Services and the Software are operating in accordance with the Software Specification. In that event, the Customer shall notify the Supplier in writing to that effect. If the Acceptance Tests are not successfully passed, the Customer shall also notify the Supplier to that effect in writing. In any event the Supplier shall within ten (10) Business Days carry out all necessary remedial work and the above procedure will be repeated. If the Implementation Services fail the Acceptance Tests for the third time, clause 2.7 of this Agreement will apply.

Schedule 4

Cloud Hosting Services

The Supplier partners with Amazon Web Services (AWS) to provide hosting services for the Software for the Customer. The Supplier will provide DevOps services for the hosted Software to streamline infrastructure automation, monitoring, and security to ensure scalable, reliable, and efficient Software availability.

The hosted Software is secured by Virtual Private Cloud (VPC). Access to the application is obtained via secure encrypted key using a Secure Shell (SSH) protocol

The Software (application and API) is a single tenancy SaaS solution, in a data region local to the Customer. For the UK this is in the Europe (London) eu-west2 region. The Software hosting setup provides the Supplier with the ability to recover the system to a point in time to maintain availability levels.

The Supplier uses AWS services to audit actions and changes to the infrastructure via the following services with automated alerts triggered from them:

- AWS CloudTrail is an AWS service used for operational and risk auditing, governance, and compliance of the AWS account. Actions taken by a user, role, or an AWS service are recorded as events in CloudTrail.
- AWS Config enables assessment, audit, and evaluation of the configurations of the AWS resources.
- AWS GuardDuty is a threat detection service that continuously monitors the AWS accounts and workloads for malicious activity

The events are configured to send alarm notifications via SNS (Simple Notification Service) to alert the Supplier's DevOps team to findings that need to be investigated and potentially acted upon.

ENVIRONMENTS

The Supplier provides three standard environments for the Software:

- Production
- Test/UAT
- Development

These are physically separate environments. The development and test environments are replicas of the Production environment in terms of setup and configuration.

No releases will be deployed to Test or Production without sign off from the Customer. The Customer can control the schedule for the releases and can avoid business critical periods if they so wish.

Development Environment. This environment is used by Supplier to fix and test reported defects and also for the development of additional features and functionality. The Supplier will replace the database time to time with the production environment in order to ensure that any fixes or feature will work on production environment.

Test Environment. The environment is predominantly used by the Customer for testing, defect verification and configuration changes. The Supplier will promote any changes from development environment to test environment to ensure that defect fixes/feature will work on

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the live environment. The Customer will verify any changes and will provide sign off before the code is promoted to production environment.

Production Environment. This is live environment and provided for the Customer's Authorised Users. No changes will be made to this environment before prior agreement and sign off from the Customer.

Production Server

Server Name	AWS Service & Type	Size	Configuration
Application Server	Ec2 – T3	Medium	3.1 GHz , 2 vCPU, 4.0 GB Memory
API Server	Ec2 – T3	Micro	3.1 GHz , 2 vCPU, 1.0 GB Memory
Reporting Server	Ec2 – T3	Medium	3.1 GHz , 2 vCPU, 4.0 GB Memory
Database	RDS – T3	Medium	Core Count:1 2 vCPUs, 4.0 GB Memory

Test Instance & Dev Instance (note: Dev and Test environment share an API Server).

Server Name	AWS Service & Type	Size	Configuration
Application Server	Ec2 – T3	Medium	3.1 GHz , 2 vCPU, 4.0 GB Memory
API Server	Ec2 – T3	Micro	3.1 GHz , 2 vCPU, 1.0 GB Memory
Reporting Server	Ec2 – T3	Medium	3.1 GHz , 2 vCPU, 4.0 GB Memory
Database	RDS – T3	Small	Core Count:1 2 vCPUs, 4.0 GB Memory

Backup and Recovery

Akari leverages AWS services for backups. AWS automatically backs up the database every 5 minutes and retains for 7 days. Additionally, a daily snapshot of the database is created and stored in AWS Glacier as a fall back plan.

Software Updates, and Release

Each Software major release is accompanied by Release Notes detailing the new functionality in the release. The Supplier's Product team alert Customers to new releases and share the relevant content.

The Supplier operates both technical upgrades to new released versions as well as functional upgrades; whereby customers wish to adopt new features as an integral part of the version upgrade process, this combining implementation activities alongside the release version upgrade. In addition to this there are minor releases for each of the major versions

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being actively supported for incremental changes for bug fixes, security patches etc. These changes are packaged into minor releases for each Customer. For minor releases, release notes are compiled to list the changes in the delta between the version the Customer is on to the one being deployed.

Schedule 5

Software

The Software is an application that enables the functionality listed below, and consists of the following components:

TBC

Schedule 6

Maintenance and Support

1 MAINTENANCE EVENTS

- 1.1 Maintenance of the hosting equipment, facility, Software or other aspects of the Hosting Services that may require interruption of the Hosting Services (Maintenance Events) shall not be performed during Normal Business Hours. The Supplier may interrupt the Services to perform necessary maintenance during the daily window of 10.00 pm to 2.00 am UK time. In addition, the Supplier may interrupt the Hosting Services outside Normal Business Hours for unscheduled maintenance, provided that it has given the Customer at least three days' advance notice. Any Maintenance Events that occur during Normal Business Hours, and which were not requested or caused by the Customer, shall be considered downtime for the purpose of service availability measurement. The Supplier shall at all times use all reasonable endeavours to keep any service interruptions to a minimum.
- 1.2 The Supplier may determine, at its sole discretion, that providing appropriate service levels requires additional equipment and/or bandwidth and may install that equipment and/or bandwidth without approval from the Customer, provided that it does not diminish in any way the functionality, connectivity or compatibility of the Services.

2 MAINTENANCE

- 2.1 Maintenance includes all regularly scheduled error corrections, software updates and those upgrades limited to improvements to features described in the Software Specification. Support for additional features developed by the Supplier, as requested by the Customer, may be purchased separately at the Supplier's then current rates.
- 2.2 The Supplier shall maintain and update the Software. Should the Customer determine that the Software includes a defect, the Customer may at any time file error reports and the Supplier shall use all reasonable commercial endeavours promptly to correct any errors. During maintenance periods, the Supplier may, at its discretion, upgrade versions, install error corrections and apply patches to the hosted systems. The Supplier shall use all reasonable commercial endeavours to avoid unscheduled downtime for Software maintenance.
- 2.3 The Supplier shall maintain technical support on the two most current releases of the Software.

3 TECHNICAL SUPPORT SERVICES

- 3.1 The Supplier shall provide the Customer with technical support services. The Customer and Supplier technical support shall jointly determine the priority of any defect, using one of following priorities:

3.2 Service Levels

Priority	Description	Response Time	Target Resolution Time
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Priority 1	The entire service is "down" and inaccessible.	2 hours	<24 hours
Priority 2	Operation of the Services is severely degraded, or major components of the Service are not operational and use of the Service cannot reasonably continue.	4 hours	<48 hours
Priority 3	Certain non-essential features of the Service are impaired while most major components of the Service remain functional.	2 days	<5 business days
Priority 4	Errors that are non-disabling or cosmetic and clearly have little or no impact on the normal operation of the Services.	5 days	<15 business days

- 3.3 If no progress has been made on a Priority 1 or Priority 2 incident within the relevant target resolution time specified in the table set out in paragraph 4.3, the incident shall be escalated to the Director of Customer Success.
- 3.4 The Customer personnel nominated as Customer Support Reps (CSR) shall be the authorised personnel to contact the Supplier for technical support services. The Customer shall provide front-line support to Authorised Users who are not the designated CSRs. However, the Customer's designated CSRs may contact Supplier technical support in order to report problems from Authorised Users that the Customer's designated CSRs cannot resolve themselves after they have performed a reasonable level of diagnosis. The Customer's designated CSRs may contact the Supplier for these purposes.
- 3.5 Before the Supplier or the Customer makes changes to integration interfaces between the Software and the Customer's internal data stores or systems, the Supplier or the Customer shall provide notice to the other in order to ensure the continued operation of any integration interfaces affected by such changes. The Supplier shall provide the CSRs, or the Customer shall provide the Supplier, with at least 60 days' advance notice of such changes. Such notice shall include at least the new interface specifications and a technical contact to answer questions on these changes. The Supplier or the Customer (as applicable) shall also provide up to 15 days of integration testing availability to ensure smooth transition from the previous interfaces to the new interfaces and the Customer shall pay for all such services relating to integration testing carried out by the Supplier at the Supplier's then current daily fee rates.

Schedule 7

Service Level Arrangements

1 SERVICE AVAILABILITY

Akari guarantee availability of 99.95% each calendar month.

2 AVAILABILITY MEASUREMENT

The following measures are required:

Service Levels	Target
Uptime/ Availability	99.95% uptime each calendar month
Backups	Daily and Weekly backups of data to be retained for 7 calendar day
Planned Maintenance	100% of maintenance conducted outside of UK business hours (8am – 6pm, Monday – Friday) 7 Days' notice before planned maintenance
Unplanned Maintenance	24 hours' notice to university for non-planned/ emergency maintenance
Necessary Maintenance Interruption	Daily window availability between 10pm and 2.00 am UK time.

3 PERFORMANCE MONITORING AND REPORTING

The Contract will be monitored against the Service Levels specified. The Supplier will provide SLA information, by exception, to the Customer's nominated contact by the 5th day of the following month.

Akari will provide support reports, by exception, on the following:

- Workload /Tickets Created per month (The number of requests assigned to agents and the status and turnaround times))
- Created Vs. Resolved (Compares the number of requests created and resolved over time)
- System Availability (Monthly Pingdom Uptime report, calculated by ratio of uptime to downtime)
- SLA met Vs Breached (Compares the number of requests that have met or breached an SLA goal).

4 SERVICE LEVEL REMEDIES

4.1 Service Credits

If in any calendar month the Supplier fails to achieve the Availability target set out in this Schedule, the Customer shall be entitled to a service credit calculated as follows:

- For each full 0.5% (or part thereof) by which actual Availability falls below the target, the Customer shall receive a credit equal to **1% of the monthly Fees**

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for the 0.5% downtime exceeding SLA for that month, subject to the aggregate cap in paragraph 3 below.

4.2 Application of Credits

Service credits will be applied as a deduction from the Fees payable for the next annual invoice following the contract year in which the failure occurred. If the Agreement has expired or terminated, any service credits due shall be paid as a refund within thirty (30) days of the applicable failure being agreed or determined.

4.3 Annual Cap

The total service credits in any contract year shall not exceed seven percent (7%) of the total Fees payable for that year. Once this cap is reached, no further service credits shall accrue.

4.4 Exclusive Remedy

Service credits awarded under this Schedule shall be the Customer's sole and exclusive remedy for any failure to meet the Service Levels, and are in full and final settlement of any claims arising from such failure, whether in contract, tort (including negligence), or otherwise.

4.5 Exclusions

Availability calculations shall exclude any downtime caused by:

- Scheduled maintenance (not exceeding [X] hours per month, notified at least [Y] hours in advance);
- Force Majeure events;
- Failures or delays caused by the Customer, its systems, or third-party providers not under the Supplier's control.

Schedule 8

Data Protection Schedule

1. DEFINITIONS

In this Schedule the following definitions shall apply:

"Controller", "Processor", "Data Subject" "Personal Data" and "Sensitive Personal Data/Special Category Data"	shall have the meaning given to those terms in the applicable Data Protection Laws;
"Binding Corporate Rules"	means internal rules (such as a Code of Conduct) adopted by a multinational group of companies which define its global policy with regard to the international transfers of personal data within the same corporate group to entities located in countries which do not provide an adequate level of protection in order to adduce adequate safeguards for the protection of the privacy and fundamental rights and freedoms of individuals within the meaning of the Data Protection Laws for all transfers of personal data protected under law and ensure that all transfers made within the group of companies benefits from an adequate level of protection as required by applicable Data Protection Laws;
"Data Protection Impact Assessment"	means an assessment of the impact of the envisaged Processing operations on the protection of Personal Data, as required by Data Protection Laws;
"Data Protection Laws"	means any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the Processing of Personal Data to which a Party is subject, including (without limitation) the Data Protection Act 2018 and the UK GDPR (as defined in Section 3 of the Data Protection Act 2018), and any laws that replace, extend, re—enact, consolidate, modify or amend any of the foregoing, together with all codes of practice and other guidance on the foregoing issued by any relevant Regulator, all as amended from time to time;
"Data Processing Particulars"	means, in relation to any Processing under this Agreement: (a) the subject matter and duration of the Processing; (b) the nature and purpose of the Processing; (c) the type of Personal Data being Processed; and (d) the categories of Data Subjects; as set out in Appendix 1 (<i>Data Processing Particulars</i>).

"Data Subject Request"

means an actual or purported request or notice or complaint from or on behalf of a Data Subject exercising his rights under the Data Protection Laws in relation to Personal Data including without limitation: the right of access by the Data Subject, the right to rectification, the right to erasure, the right to restriction of processing, the right to data portability and the right to object;

"Data Transfer Risk Assessment"

means a risk assessment which sets out details of the following:

(a) the Personal Data that will be transferred to and/or Processed in any Third Country;

(b) the Third Country or Countries to which the Personal Data will be transferred to and/or Processed in;

(c) the means by which the Supplier will ensure an appropriate level of protection and appropriate safeguards in respect of the Personal Data that will be transferred to and/or Processed in a Third Country so as to ensure the Customer's compliance with Data Protection Laws; and

(d) in providing and evaluating the risk assessment, the Supplier shall ensure that it has regard to the Data Protection Laws in connection with transfers of Personal Data to any Third Country;

"Regulator"

means the UK Information Commissioner's Office, or any successor or replacement body from time to time, and also means the relevant local governmental or other official regulator(s) responsible for enforcement of the Data Protection Laws from time to time in relation to the Customer;

"Regulator Correspondence"

means any correspondence or communication (whether written or verbal) from the Regulator in relation to the Processing of Personal Data;

"Losses"

means all direct losses, fines, penalties, liabilities, damages, costs, charges, claims, amounts paid in settlement and expenses (including reasonable legal fees (on a solicitor/client basis), disbursements, reasonable costs of investigation (including forensic investigation), litigation, settlement (including ex gratia payments), judgment, interest and penalties), other reasonable professional charges and expenses, disbursements, cost of breach notification including notifications to the data subjects, cost of complaints handling (including providing data subjects with credit reference checks, setting up contact centres (e.g. call centres) and making ex gratia payments), all whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;

"Personal Data"

means any personal data (as defined in the Data Protection Laws) Processed by either Party in connection with this Agreement, and for the purposes of this Agreement includes Sensitive Personal Data/Special Category Personal Data;

"Personal Data Breach"	has the meaning set out in the Data Protection Laws and includes any actual or suspected, threatened or 'near miss ' personal data breach in relation to the Personal Data and, for the avoidance of doubt, includes a breach of Paragraph 2.2.1(c);
"Personal Data Breach Particulars"	means the information that must be included in a Personal Data Breach notification, as set out in Data Protection Laws and Appendix 2 (<i>Notification Procedure</i>);
"Project Personnel"	means all persons engaged or employed from time to time by the Supplier in connection with this Agreement, including employees, consultants, contractors and permitted agents;
"Processing"	means any use of or processing applied to any Personal Data and includes "process" or "processing" as defined in applicable Data Protection Laws. For the avoidance of doubt, this includes, without limitation, collecting, recording, organising, structuring, storing, adapting, altering, retrieving, consulting, using, disclosing by transmission, disseminating or otherwise making available, aligning or combining, restricting, erasing or destroying Personal Data;
"Third Country"	means a country, territory or jurisdiction outside of the United Kingdom which is not deemed to provide adequate protection in accordance with Data Protection Laws;
"Security Measures"	means the requirements regarding the security of Personal Data, as set out in the Data Protection Laws and as set out in Appendix 3;
"Services"	means the Services described in Appendix 1 of this Agreement and/or in the Purchase Order; and
"Standard Contractual Clauses"	means the Standard Contractual Clauses approved for transfers from Controllers in the United Kingdom to Processors outside the United Kingdom as updated and/or amended from time to time.
"Third Party Request"	means a written request from any third party for disclosure of Personal Data where compliance with such a request is required or purported to be required by law or regulation.

2. DATA PROTECTION

2.1 Arrangement Between The Parties

2.1.1 The Parties shall each Process the Personal Data. The Parties acknowledge that the factual arrangements between them dictate the classification of each Party in respect of the Data Protection Laws. Notwithstanding the foregoing, the Parties anticipate that, in respect of the Personal Data, as between Customer and the Supplier for the purposes of this Agreement, Customer shall act as the Controller and the Supplier shall act as the Processor, as follows:

- (a) the Customer shall be the Controller to the extent it is Processing Personal Data in relation to its status as a public authority and higher education provider; and

- (b) the Supplier shall be the Data Processor to the extent it is Processing Personal Data pursuant to providing the Services to the Customer under this Agreement.

2.1.2 Nothing within this Agreement relieves the Supplier of its own direct responsibilities and liabilities under the Data Protection Laws.

2.1.3 Legal Compliance and Conflicting Instructions

Unless prohibited by law, the Supplier shall promptly notify the Customer in writing if it considers, on reasonable grounds and confirmed by its Data Protection Officer (or equivalent), that it is required by applicable law to act other than in accordance with the Customer's documented instructions.

Where the Supplier believes that any of the Customer's instructions would infringe applicable Data Protection Laws, it shall inform the Customer without undue delay, providing reasonable details of the concern.

The Supplier's obligations under this clause are limited to what is reasonably necessary to comply with its obligations as a Processor under applicable Data Protection Laws, and any additional assistance requested by the Customer shall be subject to the parties agreeing in writing any applicable costs in advance.

2.2 Data Processor Obligations

2.2.1 To the extent that the Supplier Processes any Personal Data as a Processor for and on behalf of the Customer (as the Controller), pursuant to providing the Services under this Agreement, it shall:

- (a) only Process the Personal Data for and on behalf of the Customer for the purposes of performing its obligations under this Agreement, and only in accordance with the terms of this Agreement and any documented instructions from the Customer;
- (b) keep a record of any Processing of the Personal Data it carries out on behalf of the Customer;
- (c) take, implement and maintain appropriate technical and organisational security measures which are sufficient to comply with:
 - (i) at least the obligations imposed on the Customer by the Security Measures; and

and where requested provide to the Customer evidence of its compliance with such requirements immediately;

- (d) hold the Personal Data in such a manner that is capable of being distinguished from other data or information processed by the Supplier;
- (e) The Customer may, on giving the Supplier not less than ten (10) Business Days' prior written notice (except where there is a reasonable suspicion of a material Personal Data Breach, in which case shorter notice may be given), request an audit for the sole purpose of verifying the Supplier's compliance with this Schedule and applicable Data Protection Laws.

Any such audit shall:

- (a) be conducted no more than once in any twelve (12) month period, except where the Customer has reasonable grounds to suspect a material breach of this Schedule;
- (b) be conducted during normal business hours and in a manner designed to minimise disruption to the Supplier's operations;
- (c) be limited to those systems, processes, personnel, and documentation under the Supplier's direct control and involved in the Processing of Personal Data;
- (d) not include physical inspection of facilities operated by third-party hosting providers (including AWS) or other sub-processors; and
- (e) rely in the first instance on the Supplier's provision of relevant information, policies, procedures, and, where applicable, independent third-party audit reports, certifications, and security attestations (including those made available by AWS) as evidence of compliance.

The Customer shall bear its own costs of any audit. Where the Customer requests assistance from the Supplier beyond what is reasonably necessary to meet the Supplier's obligations as a Processor under applicable Data Protection Laws, the parties shall agree in advance any reasonable costs to be reimbursed by the Customer.

- (f) not disclose Personal Data to a third party (including a sub-contractor) in any circumstances without the Customer's prior written consent, save in relation to Third Party Requests where the Supplier is prohibited by law or regulation from notifying Customer, in which case it will advise the Customer in advance of such disclosure and in any event as soon as practicable thereafter;
- (g) promptly comply with any request from the Customer to amend, transfer or delete any Personal Data held on the live system or backup systems, or any other media, including those held within archive when requested by the Customer;
- (h) notify the Customer immediately following its receipt of any Data Subject Request or Regulator Correspondence and shall:

- (i) not disclose any Personal Data in response to any Data Subject Request or Regulator Correspondence without first consulting with and obtaining the Customer's prior written consent; and
- (ii) not delete any Personal Data in response to any Data Subject Request or Regulator Correspondence without first consulting with and obtaining the Customer's prior written consent; and
- (iii) provide the Customer with all co-operation and assistance required by the Customer in relation to any such Data Subject Request or Regulator Correspondence;

- (i) The Supplier shall notify the Customer without undue delay, and in any event no later than seventy-two (72) hours after confirming a Personal Data Breach that is likely to result in a risk to the rights and freedoms of natural persons, providing such information as is reasonably available at that time.

Where it is not possible to provide all required information at the same time, the Supplier shall provide the information in phases as it becomes available, without undue further delay.

For the purposes of this clause, "Personal Data Breach" shall not include events that have been investigated and determined by the Supplier not to pose any risk to the rights and freedoms of natural persons under applicable Data Protection Laws.

The Supplier shall co-operate with the Customer in good faith to investigate and mitigate any confirmed Personal Data Breach to the extent reasonably within the Supplier's control. Any material assistance beyond what is necessary to comply with the Supplier's obligations under applicable Data Protection Laws shall be subject to the parties agreeing in writing any applicable costs in advance.

- (j) comply with the obligations imposed upon a Processor under the Data Protection Laws;
- (k) assist the Customer to comply with the obligations imposed on the Customer by the Data Protection Laws, including:
 - (i) compliance with the Security Measures;
 - (ii) obligations relating to notifications required by the Data Protection Laws to the Regulator and/ or any relevant Data Subjects;
 - (iii) undertaking any Data Protection Impact Assessments, and where required by Data Protection Laws, consulting with the Regulator and/or any other

relevant regulatory body in respect of such assessments, to the extent reasonably necessary and directly related to the Services and the Processing of Personal Data under this Agreement. Any material assistance beyond what is reasonably necessary to comply with the Supplier's obligations as a Processor under applicable Data Protection Laws shall be subject to the parties agreeing in writing any applicable costs in advance; and

- (iv) without undue delay and where feasible not later than 72 hours after having become aware of it notify Personal Data Breaches to the Regulator and/or any other relevant regulatory body unless the Personal Data Breach is unlikely to result in a risk to the rights and freedoms of natural persons;

- (l) Upon the earlier of (a) termination or expiry of this Agreement, or (b) the date on which Personal Data is no longer required for the performance of the Services, the Supplier shall, at the Customer's written request, securely delete or return all Personal Data in its possession or control, except to the extent retention is required by applicable law or to comply with the Supplier's reasonable data retention, archival, or backup policies.

Where deletion is requested, the Supplier shall complete such deletion within a timeframe agreed in writing between the parties, taking into account the volume of data, the format in which it is stored, the nature of any backup or archival systems, and applicable technical constraints. For data stored in backups or archives that cannot be immediately overwritten for technical or legal reasons, the Supplier shall ensure such data is securely isolated and protected from any further processing, and deleted in accordance with its standard backup cycle.

Upon completion of deletion, the Supplier shall provide the Customer with a written confirmation of completion.

- (m) not make not make (nor instruct or permit a third party to make) a transfer of any Personal Data to a Third Country except:
 - (a) with the prior written consent of the Customer; or
 - (b) where such transfer is carried out by an approved third-party hosting or infrastructure provider (including AWS) engaged by the Supplier, provided that:
 - (i) the transfer is necessary for the performance of the Services;
 - (ii) the transfer is subject to appropriate safeguards recognised under applicable Data Protection Laws, such as the UK International Data Transfer Agreement, the UK Addendum to the EU Standard Contractual Clauses, Binding Corporate Rules, or any other lawful transfer mechanism approved by the UK ICO; and

(iii) the Supplier maintains up-to-date records of such transfers and makes these available to the Customer on reasonable written request.

For the purposes of this clause, routine replication, hosting, backup, content delivery, and other processing carried out by approved hosting or infrastructure providers in the ordinary course of delivering the Services shall not require separate written consent, provided the above conditions are met.

- 2.2.2 Except as otherwise provided, this Agreement does not transfer ownership of, or create any licences (implied or otherwise), in any intellectual property rights in any Personal Data.

2.3 **Supplier Personnel**

- 2.3.1 The Supplier shall only disclose Personal Data to its Personnel that are required by the Supplier to assist it in meeting its obligations under this Agreement (the "**Project Personnel**") and shall ensure that no other Personnel shall have access to such Personal Data.
- 2.3.2 The Supplier shall only disclose Personal Data to the Project Personnel where the following conditions have been satisfied in relation to such Project Personnel:
- (a) the Supplier shall have taken (and shall continue to take) all steps to ensure the reliability and integrity of each member of the Project Personnel;
 - (b) each member of the Project Personnel shall have been subject to adequately clear pre-employment checks);
 - (c) each member of the Project Personnel shall have undergone, and shall continue to receive on an annual basis, appropriate training in Data Protection Laws and in the care and handling of Personal Data; and
 - (d) each member of the Project Personnel shall have entered into appropriate contractually-binding confidentiality undertakings.

2.4 **Sub-contractors**

- 2.4.1 The Supplier shall be permitted to appoint a sub-contractor in accordance with this Paragraph 2.4 and to disclose Personal Data to such sub-contractor for Processing in accordance with the Supplier's obligations under this Agreement, provided always that:
- (a) the Supplier undertakes thorough due diligence on the proposed sub-contractor, including a risk assessment of the information governance-related practices and processes of the proposed sub-contractor, which shall be used by the Supplier to inform any decision on appointing the proposed sub-contractor;

- (b) the Supplier provides the Customer with full details of the proposed sub-contractor including the results of the due diligence undertaken in accordance with Paragraph 2.4.1(a) before its appointment and the Customer has consented to such appointment in writing;
- (c) the sub-contractor contract (as it relates to the Processing of Personal Data) is on terms which are substantially the same as, and in any case no less onerous than, the terms set out in this Schedule 4 (Data Protection);; and
- (d) the sub-contractor's right to Process Personal Data terminates automatically on expiry or termination of this Agreement for whatever reason.

2.4.2 Notwithstanding any consent or approval given by the Customer under Paragraph 2.4.1, the Service Provider shall remain primarily liable to the Customer for the acts, errors and omissions of any sub-contractor to whom it discloses Personal Data, and shall be responsible to the Customer for the acts, errors and omissions of such sub-contractor as if they were the Supplier's own acts, errors and omissions to the extent that the Supplier would be liable to the Customer under this Agreement for those acts, errors and omissions.

2.5 Notwithstanding anything in this Agreement to the contrary, this Schedule 4 (*Data Protection*) shall continue in full force and effect for so long as the Supplier Processes any Personal Data.

3. INDEMNITY

The Service The Supplier shall indemnify and keep indemnified the Customer from and against any direct losses, damages, fines, and reasonable third-party claims and expenses (including reasonable legal fees) suffered or incurred by the Customer directly as a result of a proven material breach by the Supplier of this Schedule, provided that:

- (a) the Customer notifies the Supplier promptly in writing upon becoming aware of any claim or circumstances likely to give rise to a claim;
- (b) the Supplier is given sole control of the defence and settlement of such claim (save that the Supplier shall not settle any claim in a manner that imposes any admission of liability or obligation on the Customer without the Customer's prior written consent, such consent not to be unreasonably withheld); and
- (c) the Customer provides all reasonable assistance at the Supplier's expense in defending such claim.

The Supplier's total aggregate liability under this indemnity, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed three hundred thousand pounds (£300,000) in aggregate for all claims arising in any twelve (12) month period.

For the purposes of this clause, "losses" shall exclude any indirect, special, incidental, punitive, or consequential loss, and shall not include costs of credit monitoring, ex gratia payments, loss of profits, loss of business, loss of anticipated

savings, or damage to goodwill, except to the extent such losses arise as a direct and foreseeable result of the Supplier's proven material breach of this Schedule.

4. **INSURANCE**

The Supplier shall, for the duration of this Agreement, maintain in force appropriate insurance coverage with a reputable insurer authorised to operate in the United Kingdom, including cover for its liabilities under this Agreement in respect of the Processing of Personal Data.

Such insurance shall include:

- (a) Public liability insurance;
- (b) Professional indemnity / errors and omissions; and
- (c) Cyber liability / data protection covering security breaches, data restoration, and regulatory defence costs.

The Supplier shall provide to the Customer, on reasonable written request no more than once in any twelve (12) month period, evidence of such insurance, including a summary of the cover and confirmation that all premiums due have been paid.

The parties agree that any change to the insurance requirements shall only be made by mutual written agreement, and any increases shall be reasonable, proportionate, and consistent with prevailing market practice for suppliers of similar size, nature, and scope of services.

APPENDIX 1 TO DATA PROTECTION SCHEDULE

DATA PROTECTION PARTICULARS

The Services to be provided by the Supplier	Provision of a SaaS Curriculum Management Solution, including configuration, hosting, user access, maintenance, support, updates, and ensuring the secure processing of the Customer's curriculum and associated personal data.
The purposes for which the Customer is the Controller	The Customer determines the purposes and means of processing personal data for the design, development, approval, management, and administration of academic programs and courses, including managing curriculum content, program reviews, academic planning, reporting, and compliance with academic governance and regulatory requirements.
The purposes for which the Supplier is the Processor	To process personal data on behalf of the Customer for the purpose of delivering, maintaining, and supporting the SaaS Curriculum Management Solution, facilitating curriculum workflows, and ensuring secure storage and retrieval of curriculum-related data under the Customer's use of the solution.
The subject matter and duration of the Processing	The subject matter is the processing of the Customer's curriculum and academic data within the SaaS Curriculum Management Solution. The duration of the processing is the term of the service agreement, including any renewals and any period necessary to fulfill obligations for data return or secure deletion upon termination or expiration.
The nature and purpose of the Processing	Collection, storage, organisation, retrieval, transmission, and processing of personal data necessary for managing curriculum development and academic program administration; enabling academic staff to propose, review, and approve course and program structures; reporting and analytics; user access management; and system maintenance and support.
The type of Personal Data being Processed	- ID data (names, email addresses, staff or faculty IDs) - Professional details (academic positions, department affiliations) - Curriculum and course-related data (course creators, reviewers, approvers) - System usage metadata (user logins and activity logs)
The categories of Data Subjects	Academic staff (faculty members, instructors, course developers), administrative staff involved in curriculum management and academic program governance, and authorised Customer personnel responsible for academic oversight.



APPENDIX 2 TO DATA PROTECTION SCHEDULE SECURITY MEASURES

The Supplier provides the following Security Measures:

Data Classification and Protection

- Data classified into: Highly Sensitive, Sensitive, Private, Public.
- Protection aligned with internationally recognised standards for Information Security and Records Management, ensuring data is safeguarded against unauthorised access, loss, alteration, deletion or destruction.

Staff Responsibilities and Access Control

- Access restricted to authorised personnel only.
- Employees accept Akari's Security Policy and relevant Acceptable Use Statement.
- Mandatory use of strong, complex passwords.
- Regular staff training on data protection principles.
- Immediate deactivation of access upon staff termination.

Secure Data Handling and Storage

- Customer data accessed only via secure devices and connections.
- Data must not be transferred via insecure methods (e.g., unsecured email).
- Encryption of personal data in transit (TLS 1.2/1.3) and at rest.
- Daily backup using AWS Glacier with RPO of 24 hours and 12-month retention.
- Secure deletion practices following NIST 800-88 guidelines.

Hosting and Network Security

- Hosted on AWS with ISO 27001-certified data centers.
- Separate instances for each customer, region-specific hosting (e.g., Dublin, London, Singapore, Sydney).
- Secure physical access, monitoring, surveillance, and device management at AWS.
- IP-based access restrictions and secure remote access via SSH.
- Application and network access protected by layered access control.

System and Application Security

- User authentication via SSO, SAML2, Shibboleth, and ADFS.
- Passwords stored securely (salt and hash encryption).
- Fine-grained role-based access control at both domain and role levels.
- No direct write access to databases by users.
- Audit trails with user action history.

Protection of Data in Transit

- End-to-end encryption using 256-bit AES over TLS.
- Server authentication with public certificates.

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- Encrypted tunnels for all data exchanges.

Account Monitoring and Session Management

- Unique user logins, no shared accounts.
- Session timeouts enforced after inactivity.
- Local login or SSO mandatory.
- Sensitive data protected at rest and in transit.
- Security logs and monitoring in place.

Security Incident Management

- Adherence to the UK GDPR (as defined in Section 3 of the Data Protection Act 2018) guidelines.
- Incident detection, containment, mitigation, and reporting within 72 hours.
- Documented Security Incident Reports (SIR) and post-incident reviews.
- Customer notification procedures in place.

Independent Validation

- Annual third-party vulnerability assessments.
- AWS compliance and security certifications leveraged.

Secure Software Development Practices

- Secure coding guidelines based on OWASP standards.
- Code review and security validation at design, development, and testing stages.
- Regular cyber security reviews by Management Team.

Compliance Monitoring

- Regular audits and compliance checks.
- Enforcement of disciplinary action for violations of security policies.

AKARI

Signed by TBA)
for and on behalf of CUSTOMER)

Signed by TBA)
for and on behalf of AKARI)
SOFTWARE UK LIMITED) _____