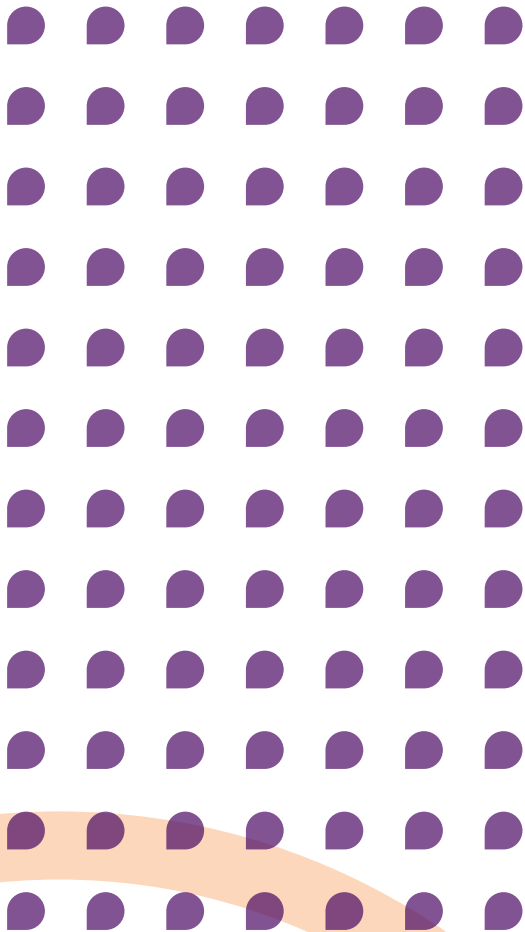




# GOSS Software as a Service Agreement

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[gossinteractive.com](https://gossinteractive.com)

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# Service Particulars

|                                                     |                                                                                                                                                               |
|-----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Business Name and Address ("Client")</b>         | The Buyer as specified in the Framework Schedule 6 Order Form                                                                                                 |
| <b>Date of Agreement</b>                            | The Call-off start date as specified in the Framework Schedule 6 Order Form                                                                                   |
| <b>No of users (if applicable)</b>                  | The Call-off Deliverables as specified in the Framework Schedule 6 Order Form                                                                                 |
| <b>Client Liaison</b>                               | The Buyer's Authorised Representative as specified in the Framework Schedule 6 Order Form                                                                     |
| <b>Location</b>                                     | The Services would be located at GOSS hosting environment, any professional services will be delivered remotely unless agreed otherwise in writing            |
| <b>Website Address</b>                              | [URL of the site(s) GOSS to host]                                                                                                                             |
| <b>Initial Term</b>                                 | The duration of the contract as specified in the Framework Schedule 6 Order Form                                                                              |
| <b>Support Level:</b>                               | Call-off deliverables as specified in the Framework Schedule 6 Order Form<br>Detail of the package specified in Schedule 1 Software Package and Support Plans |
| <b>Software Package:</b>                            | Call-off deliverables as specified in the Framework Schedule 6 Order Form<br>Detail of the package specified in Schedule 1 Software Package and Support Plans |
| <b>Additional Services</b>                          | Additional services specified in the Framework Schedule 6 Order Form                                                                                          |
| <b>Sub-processor:</b>                               | Cloud hosting: Amazon AWS and Google Cloud<br>DDoS protection : Cloudflare (if purchased or included in the Software Package)                                 |
| <b>Shared data with Third party (if applicable)</b> | If applicable as specified in the Framework Schedule 6 Order Form                                                                                             |
| <b>Service Fee (ex VAT) due to be paid</b>          | Call-off Charges as specified in the Framework Schedule 6 Order Form                                                                                          |

**I/We have read and accept the Agreement set out below: (for and on behalf of GOSS)**

**Signed:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**I/We have read and accept the Agreement set out below: (for and on behalf of Client)**

**Signed:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Date:** \_\_\_\_\_

These are the terms and conditions on which GOSS Interactive Limited, with company number 03553908 and whose registered is at 11 Buckingham Street, London, England, WC2N 6DF and whose business address for notices and correspondence is 24 Darklake View, Estover, Plymouth, Devon, PL6 7TL (hereafter "GOSS"), shall supply certain software applications and platforms as an online service to the Client. GOSS is part of AdvancedAdvT Limited ("AdvT").

GOSS reserves the right to amend these terms and conditions (in accordance with and subject to the terms set out in clause 16) at any time in accordance with any applicable law or to improve the Services (and any other service provided by GOSS) provided that no such amendment shall apply to any Call-Off Contract without the Buyer's prior written consent. All correspondence, queries or notices referred to under these terms shall be sent to its business address as specified above or as updated in accordance with this Agreement.

### **Framework Call-Off Contracts**

Where the Services are provided pursuant to a Call-Off Contract under a public sector framework agreement, these SaaS terms and conditions ("Supplier Terms") shall apply only to the extent expressly incorporated or referred to in the relevant Order Form.

In such circumstances:

- (a) the Supplier Terms are subordinate to and shall not override the Call-Off Contract or any applicable Order Form;
- (b) the Supplier Terms shall apply only to the extent permitted under the applicable framework agreement; and
- (c) any provisions of the Supplier Terms which are not permitted to apply, or which would conflict with or materially alter the risk allocation set out in the Call-Off Contract, shall be deemed disappplied and of no effect.

In the event of any conflict or inconsistency, the Call-Off Contract shall prevail.

# 1 Interpretation

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

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**Additional Charges:** any additional charges levied by GOSS relating to:  
the Client's excessive use of the Services beyond the limitation of the Software Package including excess bandwidth use and additional storage charges;  
additional professional or ancillary services agreed with the Client, such agreement not to be unreasonably delayed, relating to the setup of the Services and/or training of Client personnel (including, but not limited to, course fees) (save to the extent that they have been provided for in the Service Fee as set out in the Service Particulars;  
and any other reasonable costs incurred by GOSS due to the Client's breach of this Agreement including, without limitation, any delay in providing the Services.

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**Agreement:** these terms and conditions, the Service Particulars and any other policies or instructions relating to the use of the Services as notified to the Client by GOSS from time to time.

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**Analytical Data:** any data which relates to the volume (by reference to the number of End-Users), dates and size (by reference to file capacity), use of the Service, any server logs and any geographical data relating to the location of End-Users or such other analytical data regarding the End-Users use of the Software Package.

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**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

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**Client Data:** any content, data (including, without limitation, browsing and statistical data relating to End-users that is not personal data but excluding Analytical Data), text, graphic, audio, video, photograph or image provided by the Client or End-users (or Trained Users or GOSS on the Client's behalf) to be inputted to the Software for the purpose of using (or facilitating the use of) the Services.

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**Client Liaison:** the person appointed by the Client to be the point of contact in relation to all matters under this Agreement.

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|                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Confidential Information:</b>                                                                                                                   | information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.5 or clause 10.6.                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures:</b> | as defined in the Data Protection Legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Cyber Attack:</b>                                                                                                                               | an act or attempt by a third party to expose, alter, disable, destroy, steal or gain unauthorised access to or make unauthorised use of computer information systems, infrastructures, computer networks, or personal computing devices.                                                                                                                                                                                                                                                                                                                |
| <b>Data Protection Legislation:</b>                                                                                                                | all applicable data protection and privacy legislation in force from time to time in the UK including the UK General Data Protection Regulation; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended (or incorporated) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to this Agreement or party hereunder. |
| <b>Documentation:</b>                                                                                                                              | the document(s) made available to the Client by GOSS from time to time which set out the user instructions for, and description of, the Services.                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>End-users:</b>                                                                                                                                  | persons who use the front-end part of the Software provided by GOSS on behalf of the Client and Quota shall refer the number of End-users permitted to use the Software in accordance with the Software Package as set out in Schedule 1.                                                                                                                                                                                                                                                                                                               |

|                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Fault:</b>                                 | any error, fault or problem with Software and/ or hosting services of the Software which has a material impact on the operation or use of the same. "material impact" for the purpose of this definition shall mean an impact where the Fault prevents or severely restricts the Client using the Software or the Fault is resulting in a loss of or corruption to data which is critical to the Client business.                                                                                                                                                                     |
| <b>Heightened Cybersecurity Requirements:</b> | any laws, regulations, codes, guidance (from regulatory and advisory bodies. Whether mandatory or not), international and national standards, industry schemes and sanctions, which are applicable to the Client, but not GOSS, relating to security of network and information systems and security breach and incident reporting requirements, which may include the cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time. |
| <b>Initial Term:</b>                          | the initial term of the Agreement as set out in the Service Particulars.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>New Content:</b>                           | all forms, processes and endpoints created by GOSS and/or the Client using the Software to gather or incorporate the Client Data.                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Normal Business Hours:</b>                 | 8.00 am to 6.00 pm local UK time, each Business Day.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Planned maintenance:</b>                   | includes without limitation regular scheduled work to maintain the infrastructure and the Software                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Renewal Period:</b>                        | the period described in clause 14.1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Service Fee:</b>                           | the fee payable by the Client to GOSS for the Services as set out in (and to be paid in accordance with) the Service Particulars and any Additional Charges incurred by the Client.                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Service Levels:</b>                        | means the agreed standards for the provision of the Services relating to site availability, as further outlined in Schedule 2.                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Service Particulars:</b>                   | the details of the Services to be provided by GOSS attached to the front of this Agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Services:</b>         | the cloud software services provided by GOSS to the Client under this agreement via the Web Address or any other website notified to the Client by GOSS from time to time being the Software Package described in the Service Particulars.                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Site:</b>             | Site(s) to be hosted by GOSS as part of the Services as identified by the Website URL(s) set out on the Service Particulars.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Software:</b>         | the online software applications, platforms or expansions provided by GOSS as part of the Services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Software Package:</b> | the Software options made available by GOSS to meet the needs of the Client, including bandwidth and storage requirements, support service plan and the agreed Quota as further set out and described in Schedule 1.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Support Level:</b>    | the support plan options as further set out and described in Schedule 1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Term:</b>             | has the meaning given in clause 14.1 (being the Initial Term together with any subsequent Renewal Periods).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Trained Users:</b>    | persons selected by the Client that have successfully attended GOSS training on the use of the Software.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Virus:</b>            | anything or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices. |
| <b>Vulnerability:</b>    | a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.                                                                                                                                                                                                                                                                                                                                                                                          |

**Web Address:** the URL through which the Trained Users and End-users gain access to the Services as set in the Service Particulars.

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- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes an individual, 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 shall 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 a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.9 A reference to writing or written includes e-mail.
- 1.10 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

## 2 Services

- 2.1 GOSS shall, during the Term and subject to terms of this Agreement, provide the Services in accordance with the Software Package, Services Levels and with reasonable skill and care.
- 2.2 The undertaking at clause 2.1 shall not apply to the extent of any non-conformance of the Services which is caused by:
  - a) use of the Services contrary to GOSS' instructions or this Agreement; or
  - b) modification or alteration of the Services by any party other than GOSS or GOSS' duly authorised contractors or agents;
  - c) any New Content created by the Client; or
  - d) periodic updates to third party software (whether integrated into the Software or otherwise).
- 2.3 If the Services do not conform with the foregoing undertaking in clause 2.1 and subject to clause 2.2, GOSS will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Client's sole and exclusive remedy for any breach of the undertaking set out in clause 2.1.
- 2.4 GOSS:
  - a) does not warrant that:
    - (i) the Client's use of the Services will be uninterrupted or error-free; or

- (ii) that the Services, Documentation and/or the information obtained by the Client through the Services will meet the Client's requirements; or
    - (iii) the Software or the Services will be free from Vulnerabilities; or
    - (iv) the Software, Documentation or Services will comply with any Heightened Cybersecurity Requirements.
  - b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, external operating environments, infrastructure or telecommunication links, and the Client acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 2.5 This agreement shall not prevent GOSS from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.
- 2.6 GOSS shall use commercially reasonable endeavours to:
- a) deliver the Software and Services by the dates notified to the Client (including maintenance of the Services) but any such dates shall not be of the essence;
  - b) make the Site available 24 hours a day, seven days a week, except for:
    - (i) planned maintenance performed outside of Normal Business Hours, in accordance with GOSS published scheduled planned maintenance that has been provided to the Client by GOSS; and
    - (ii) emergency unplanned maintenance, including but not limited to, emergency Software updates provided that GOSS will as soon as reasonably possible notify the Client as to the likely time frame for completing such emergency unplanned maintenance work;
    - (iii) downtime caused by penetration and/ or load testing carried out by the Client;
    - (iv) planned downtime performed during Normal Business Hours due to including, but not limited to, Software updates or upgrades;
    - (v) other mutually agreed downtime between the Client and GOSS.
  - c) ensure that, subject to clause 3.1, the Software and any Client Data is kept in a secure environment free from third party access.
- 2.7 GOSS may subcontract at any time, with prior written consent from the Client, any or all of its obligations under this Agreement to any third party provided that such third party can provide the Services at the same standard and quality than that provided by GOSS hereunder.
- 2.8 GOSS warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.
- 2.9 Professional Services
- a) Any professional services (including, without limitation, consultancy, training, implementation, configuration or advisory services) provided by GOSS are provided on a time and materials basis unless expressly agreed in writing.
  - b) The Client acknowledges and agrees that any advice, recommendations or guidance provided by GOSS as part of professional services do not constitute legal, regulatory, financial or business advice and are provided for general information purposes only.

- c) The Client remains solely responsible for all decisions taken, actions performed and compliance obligations arising from or related to its use of the Services and any professional services. GOSS does not warrant or guarantee that the Services or any professional services will achieve any particular commercial outcome, business objective or result.
- d) Where GOSS is supplying training service by us or by our contractors, GOSS reserves the right to amend or cancel any course, course times, dates. GOSS will use its best endeavour to advise Client of any changes to the course, course times and dates before the course start date. GOSS liability will be limited to course fee.
- e) Where GOSS is supplying services by us or by our contractors, any cancellation by the Client must be made in writing to GOSS prior to the service start date. Cancellation made within 10 working days of service start date will incur full fee.

## 3 Faults

- 3.1 The Services shall not include dealing with any Fault or delay which has arisen as a consequence of:
- a) the Client's negligence or misuse of the Software or its failure to operate the Software in accordance with the Documentation, instructions or for the purposes for which it was designed;
  - b) the alteration, modification or maintenance of the Software by any party other than GOSS without GOSS' prior written consent;
  - c) Client Data, changes, addition to content via the software by any party other than GOSS, or Client own development works including any New Content developed by the Client;
  - d) fault that we cannot reasonably replicate in our local development environments or GOSS hosted Pre-production/ test environment
  - e) fault on live environments where the Client has not engaged GOSS to host in a pre-production / test environment, allowing GOSS to test any changes/modifications prior to moving to a live environment
  - f) any defect or error in any third party software used upon or in association with GOSS hosting equipment or the Software;
  - g) any accident or disaster affecting the Software including without limitation fire, flood, water, wind, lightning, transportation, vandalism or burglary;
  - h) problems with any external network or equipment or problems caused by spam or mail bombing; or
  - i) operation of the Software by persons who are not Trained Users;
  - j) Cyber Attacks; or
  - k) the use of the Software by the Client that is in breach of the Client's obligations set out in clause 5.1.
- 3.2 In the event a Fault occurs pursuant to clause 3.1, GOSS may (at its sole discretion and upon request by the Client) continue to provide all or any of the Services but shall be entitled to levy Additional Charges for those Services provided.

- 3.3 All Faults must be reported to GOSS by the Client as soon as reasonably practicable and the Client shall promptly provide GOSS with all information and materials required (including access to the Client's premises, personnel and equipment for the purpose of investigation, diagnosis and correction of any reported Fault). GOSS shall not be liable for any delay in rectifying the Fault by the Client's failure to comply with this clause 3.3.
- 3.4 The Client acknowledges and accepts that:
- a) in the event that GOSS are unable to rectify a Fault or provide a reasonably acceptable solution, GOSS may at its absolute discretion replace such Software, which is subject to the Fault; and
  - b) if a Fault is found upon investigation not to be the responsibility of GOSS, GOSS may charge the Client immediately for all reasonable costs and expenses incurred by GOSS in the course of or in consequence of such investigation.
  - c) Low priority reported issues may, at the GOSS' sole discretion, be categorised as non-support matters and addressed during appropriate product backlog development.

## 4 Software Licence

- 4.1 Subject to the terms and conditions of this Agreement, GOSS hereby grants to the Client a non-exclusive, non-transferable right, without the right to grant sub licences, to permit Trained Users and End-users to use the Software, including any New Content created thereon, during the Term (Licence).
- 4.2 For the purposes of the Licence and this clause 4 "use" shall mean and include:
- a) utilisation of the Software over the internet by copying, transmitting or loading the same into the temporary memory of a personal computer for the processing of the instructions or statements contained in such Software;
  - b) utilisation of (but without copyright) the Documentation.
- 4.3 Subject to the Intellectual Property Rights existing in the Client Data and as set out in clause 4.5 below, the Client acknowledges and agrees that GOSS and/or its licensors own all Intellectual Property Rights in the Services, Documentation and any New Content. Except as expressly stated in the Licence, this agreement does not grant the Client any rights to, under or in, the Intellectual Property Rights of GOSS and/or its licensors or any other rights or licences in respect of the Services, Documentation and New Content.
- 4.4 GOSS reserves the right to include the statement "Powered by GOSS" on the Software Package and the Client shall not remove any such statement.

- 4.5 Where the Client has created any New Content the Client grants GOSS a licence to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, distribute, de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form such New Content to allow it to operate the Service. If any New Content is shared with multiple End-Users, or publicly, or the Client provides feedback, improvements or enhancements to the Services (including any New Content) then you grant GOSS the licence above as well as the right to use such New Content (and excluding any Client Data) for any other users of the Software Package. Any such modifications, amendments, enhancements or new code written by GOSS in respect of the New Content shall belong and remain the property of GOSS.
- 4.6 For the purposes of this clause 4, "Intellectual Property Rights" or "IPR" shall mean all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trademarks, service marks, trade names, patents, petty patents, utility models, design rights, semi-conductor topography rights, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off.
- 4.7 The Client shall own all right, title and interest in and to all of the Client Data (save to the extent it is personal data and therefore owned by the Data Subject) and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Client Data, including obtaining all necessary consents, licences and authority to lawfully process the Client Data to GOSS, and the Client hereby acknowledges and agrees that GOSS may utilise the Client Data, without obligation and subject to the terms of this Agreement, for monitoring and analytical purposes to improve and report on the Services.
- 4.8 The Client agrees to immediately notify GOSS of any actual or suspected infringement of third party Intellectual Property Rights and the Client also agrees not to use any trademark of GOSS as part of the name under which the Client conducts its business.
- 4.9 As between GOSS and the Client, GOSS shall be responsible for, and shall be liable to the Client for any direct costs arising as a result of, any claim or action that the Services, less any Client Data, wholly or in part infringes any Intellectual Property Rights of a third party (IPR Claim).
- 4.10 If any third party makes an IPR Claim, or notifies an intention to make an IPR Claim against the Client, the Client shall:
- a) give written notice of the IPR Claim to GOSS as soon as reasonably practicable;
  - b) not make any admission of liability in relation to the IPR Claim without the prior written consent of GOSS;
  - c) at GOSS' request and expense, allow GOSS to conduct the defence of the IPR Claim including settlement; and
  - d) at GOSS' expense, co-operate and assist to a reasonable extent with GOSS' defence of the IPR Claim.

# 5 Use of Services

## 5.1 The Client shall not:

- a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:
  - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software, New Content created by GOSS and/or Documentation (as applicable) in any form or media or by any means; or
  - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or New Content;
- b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation;
- c) use the Services and/or Documentation to provide services to third parties;
- d) subject to clause 20.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Trained Users;
- e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this Agreement;
- f) introduce or permit the introduction of, any Virus or Vulnerability into GOSS' network and information systems;
- g) disseminate or transmit any material that, to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious;
- h) disseminate or transmit files, graphics, software or other material, data or work that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any person;
- i) use the Services and/or Software in a way that is not in conformance with the Documentation or acceptable use policies of any connected networks and industry standards or standards set by GOSS from time to time; or
- j) remove the statement provided for in clause 4.4.

5.2 The Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify GOSS.

5.3 The Client shall ensure that it carries out any updates to its software as reasonably required by GOSS from time to time to ensure that GOSS can continue to provide the Services and that it is not required support outdated versions of the Software.

5.4 GOSS reserves the right to move the Software to any hosting provider, or the equipment on which it is hosted, temporarily or permanently, as it sees fit provided always that it shall remain subject to the terms of this Agreement.

5.5 The rights provided under this Agreement are granted to the Client only, and shall not be considered granted to any subsidiary or holding company of the Client.

## 5.6 Suspension of Services

Without prejudice to its other rights or remedies, GOSS may suspend access to all or part of the Services, with immediate effect and without liability, where:

- a) The client is in material breach of this Agreement;
- b) GOSS reasonably believes that the Client's use of the Services poses a security risk, legal or regulatory risk, or could adversely impact the Services or other clients;
- c) suspension is required to comply with applicable law, regulatory obligations or a lawful instruction from a competent authority; or
- d) the Client's use of the Services materially exceeds the agreed Software Package limits.

Where reasonably practicable, GOSS shall provide notice of suspension and shall reinstate the Services once the grounds for suspension have been remedied.

## 6 Third Party Providers

The Client acknowledges that the Services may enable or assist it to access the services of third parties and that it does so solely at its own risk. GOSS makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party services, including the integration (or continued integration by way of update throughout the Term) of those third party services into the Software, or any transactions completed, and any contract entered into by the Client, with any such third party. Any contract entered into and any transaction completed via third-party services is between the Client and the relevant third party, and not GOSS. GOSS recommends that the Client refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party services. GOSS does not endorse or approve any third-party service nor the content of any of any third-party website made available via the Services.

## 7 Trained Users

GOSS shall use reasonable endeavours to make available to the Client suitable times and dates for training the Trained Users. GOSS reserves the right to, acting reasonably, amend or cancel any training course, including training course times and/or dates and course fees. GOSS' liability in relation to the training of Trained Users will be limited to course fees as notified to the Client on the Service Particulars (Course Fees). Any cancellation by the Client to training course within 10 working days prior to the agreed training course dates will incur the full Course Fees.

## 8 Client's Obligations

- 8.1 The Client shall:
- a) provide GOSS with:

- (i) all necessary co-operation in relation to this Agreement;
  - (ii) all necessary access to such all information and/or documentation as may be required by GOSS; and
  - (iii) provide access to and copies of any hosting environment and other third-party platforms,

in order to provide the Services, including but not limited to Client Data, security access information and configuration services;
- b) report all faults, problems and/or errors in respect of the Services or their delivery as soon as reasonably possible upon becoming aware of the same to the GOSS support team (or as notified in writing by GOSS from time to time);
- c) appoint the Client Liaison and ensure that such person has the necessary expertise to deal with enquiries raised by GOSS and the necessary authority to make decisions relating to this Agreement;
- d) advise GOSS of any proposed penetration and load testing to be carried out by the Client and take into account the reasonable submissions of GOSS in the performance and use of the Software Platform during such times;
- e) permit GOSS (including employees, agents or contractors of GOSS) access to the Client's premises, personnel and IT systems (insofar as those systems are within the Client's bailiwick) to enable the provision, testing and maintenance of the Services;
- f) comply with the Internet Protocol (IP) address allocation rules set out by RIPE, and to complete and submit requests for IP network numbers where necessary;
- g) without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this agreement;
- h) ensure that any Client Data does not:
  - (i) Be defamatory of any person.
  - (ii) Be obscene, offensive, hateful or inflammatory.
  - (iii) Bully, insult, intimidate or humiliate.
  - (iv) Promote sexually explicit material.
  - (v) Include child sexual abuse material.
  - (vi) Promote violence.
  - (vii) Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
  - (viii) Infringe any copyright, database right or trade mark of any other person.
  - (ix) Be likely to deceive any person.
  - (x) Breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence.
  - (xi) Promote any illegal activity.
  - (xii) Be in contempt of court.
  - (xiii) Be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety.
  - (xiv) Be likely to harass, upset, embarrass, alarm or annoy any other person.
  - (xv) Impersonate any person, or misrepresent your identity or affiliation with any person.

- (xvi) Give the impression that the contribution emanates from GOSS, if this is not the case.
  - (xvii) Advocate, promote, incite any party to commit, or assist any unlawful or criminal act such as (by way of example only) copyright infringement or computer misuse.
  - (xviii) Contain a statement which you know or believe, or have reasonable grounds for believing, that members of the public to whom the statement is, or is to be, published are likely to understand as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism.
- i) carry out all other Client responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, GOSS may adjust any agreed timetable or delivery schedule;
  - j) ensure that the Trained Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Trained User's breach of this agreement;
  - k) obtain and shall maintain all necessary licences, consents, and permissions necessary for GOSS, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
  - l) notify GOSS immediately if the Client undergoes a change of control within the meaning of Section 450 of the Corporation Tax Act 2010 ("Change of Control") and provided this does not contravene any Law shall notify GOSS immediately in writing of any circumstances suggesting that a Change of Control is planned or in contemplation (and unless a written approval was granted prior to the Change of Control, GOSS may terminate the Agreement by notice in writing with immediate effect within six (6) Months of being notified in writing that a Change of Control has occurred or is planned or in contemplation or where no notification has been made, the date that GOSS becomes aware of the Change of Control);
  - m) ensure that its network and systems comply with the relevant specifications provided by GOSS from time to time; and
  - n) be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to GOSS's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

## 9 Charges and Payment

- 9.1 The Client shall pay the Service Fee to GOSS for the Services in accordance with this clause 9, without set off or deduction, by the agreed date as set in the Service Particulars (Due Date). In the event that no Due Date is specified, all Charges (including without limit the Additional Charges) shall be paid within 30 days of receiving a valid invoice from GOSS.

- 9.2 GOSS shall be entitled to levy Additional Charges for any part of the Services performed outside the scope of the Software Package that are specified in the Service Particulars, additional professional or ancillary services (including, but not limited to, Software updates or upgrades) performed outside Normal Business Hours but excluding Planned Maintenance, or for any reasonable costs incurred by GOSS due to the Client's breach of this Agreement. In the event that the Client incurs Additional Charges, GOSS shall;
- a) calculate the Additional Charges based on the Client's excessive use of the Services during the previous 3 months;
  - b) inform the Client of the Additional Charges in the proceeding months' service and the Client shall be invoiced within a 1-month notice period; and
  - c) be entitled to cap the Client's excessive use of the Services in accordance with the limitation of the Software Package or charge for the next tier of Services as set out in Schedule 1.
- 9.3 GOSS reserves the right to increase the Service Fee in line with the Retail Price Index published monthly by the Office for National Statistics in the United Kingdom (RPI Index), such increase to commence on each anniversary of this Agreement on giving the Client no less than one months' notice in writing. The minimum increase shall be 1.3 times the RPI Index rate. In the event that any changes occur to the basis of the RPI Index, or it is no longer published, GOSS and the Client shall agree a fair and reasonable adjustment to that index or, if appropriate, shall agree a revised formula that in either event will have substantially the same effect as that specified in this Agreement.
- 9.4 If GOSS has not received payment by the Due Date, and without prejudice to any other rights and remedies of GOSS:
- a) GOSS may, without liability to the Client, disable the Client's access to all or part of the Services and GOSS shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid;
  - b) Remove the Software Package of the Client from its live hosting environment; and
  - c) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of HSBC Bank plc from time to time, commencing on the Due Date and continuing until fully paid, whether before or after judgment.
- 9.5 All amounts and fees stated or referred to in this agreement:
- a) shall be payable in pounds sterling;
  - b) are, subject to clause 13.3(b), non-cancellable and non-refundable;
  - c) are exclusive of value added tax, which shall be added to GOSS's invoice(s) at the appropriate rate.
- 9.6 GOSS shall be entitled to increase the Service Fee and the Additional Charges at the start of each Renewal Period upon 3 months' prior notice to the Client and the Service Particulars shall be deemed to have been amended accordingly.
- 9.7 Change Control
- a) Any services, functionality, configuration, integrations or deliverables not expressly included in the applicable Software Package or Service Particulars shall be deemed out of scope.
  - b) Any request by the Client for changes or additions to the Services shall be subject to GOSS's written agreement and may require a change request, which may include adjustments to the Service Fee, Additional Charges, delivery timelines and/or Service Levels.

- c) GOSS shall have no obligation to implement any change request unless and until agreed in writing by the parties.

## 10 Confidentiality

- 10.1 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 be deemed to 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;
- or
- d) is independently developed by the receiving party, which independent development can be shown by written evidence.
- 10.2 Subject to clause 10.4, each party shall hold the other's Confidential Information in confidence and 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.
- 10.3 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.
- 10.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 10.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 10.5 The Client acknowledges that details of the Services, and the results of any performance tests of the Services, constitute GOSS's Confidential Information.
- 10.6 GOSS acknowledges that the Client Data is the Confidential Information of the Client.
- 10.7 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, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 10.8 The above provisions of this clause 10 shall survive termination of this agreement, however arising.

# 11 Data Protection

- 11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Agreement is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 11.2 The parties acknowledge that:
- a) if GOSS processes any personal data on the Client's behalf when performing its obligations under this agreement, the Client is the controller and GOSS is the processor for the purposes of the Data Protection Legislation.
  - b) Schedule 3 sets out the scope, nature and purpose of processing by GOSS, the duration of the processing and the types of personal data and categories of data subject.
  - c) the personal data may be transferred or stored outside the EEA or the country where the Client and the Trained Users are located in order to carry out the Services and GOSS's other obligations under this agreement.
- 11.3 Without prejudice to the generality of clause 11.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to GOSS for the duration and purposes of this agreement so that GOSS may lawfully use, process and transfer the personal data in accordance with this agreement on the Client's behalf.
- 11.4 Without prejudice to the generality of clause 11.1, GOSS shall, in relation to any personal data processed in connection with the performance by GOSS of its obligations under this agreement:
- a) process that personal data only on the documented written instructions of the Client unless GOSS is required by the laws of any member of the European Union or by the laws of the European Union applicable to GOSS and/or the Data Protection Legislation to process personal data (Applicable Laws). Where GOSS is relying on Applicable Laws as the basis for processing personal data, GOSS shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit GOSS from so notifying the Client;
  - b) not transfer any personal data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:
    - (i) the Client or GOSS has provided appropriate safeguards in relation to the transfer;
    - (ii) the data subject has enforceable rights and effective legal remedies;
    - (iii) GOSS complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
    - (iv) GOSS complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the personal data;
  - c) assist the Client, at the Client's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - d) notify the Client without undue delay on becoming aware of a personal data breach;

- e) at the written direction of the Client, delete or return personal data and copies thereof to the Client on termination of the agreement unless required by Applicable Law to store the personal data (and for these purposes the term "delete" shall mean to put such data beyond use); and
  - f) maintain complete and accurate records and information to demonstrate its compliance with this Agreement and immediately inform the Client if, in the opinion of GOSS, an instruction infringes the Data Protection Legislation.
- 11.5 Each party shall ensure that it has in place appropriate technical and organisational measures, which may be provided to by the other party if reasonably requested (and not on multiple occasions without reasonable justification for doing so or in the event of changes to such policies by the other party), to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
- 11.6 The Client consents to GOSS appointing the Sub-Processor as a third-party processor of personal data under this agreement. GOSS confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this Agreement and in either case which GOSS confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Client and GOSS, GOSS shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Agreement.
- 11.7 Either party may, at any time on not less than 30 days' notice, revise this clause 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

## 12 Indemnity

- 12.1 The Client shall defend, indemnify and hold harmless GOSS against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Client's use of the Services and/or Documentation, provided that:
- a) the Client is given prompt notice of any such claim;
  - b) GOSS provides reasonable co-operation to the Client in the defence and settlement of such claim, at the Client's expense; and
  - c) the Client is given sole authority to defend or settle the claim.

- 12.2 GOSS shall defend the Client, its officers, directors and employees against any claim that the Client's use of the Services or Documentation in accordance with this Agreement infringes any United Kingdom patent effective as of the date of this Agreement, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Client for any amounts awarded against the Client in judgment or settlement of such claims, provided that:
- a) GOSS is given prompt notice of any such claim;
  - b) the Client provides reasonable co-operation to GOSS in the defence and settlement of such claim, at GOSS's expense; and
  - c) GOSS is given sole authority to defend or settle the claim.
- 12.3 In the defence or settlement of any claim, GOSS may procure the right for the Client to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to the Client without any additional liability or obligation to pay liquidated damages or other additional costs to the Client.
- 12.4 In no event shall GOSS, its employees, agents and sub-contractors be liable to the Client to the extent that the alleged infringement is based on:
- a) a modification of the Services or Documentation by anyone other than GOSS; or
  - b) the Client's use of the Services, New Content or Documentation in a manner contrary to the instructions given to the Client by GOSS; or
  - c) the Client's use of the Services, New Content or Documentation after notice of the alleged or actual infringement from GOSS or any appropriate authority.
- 12.5 The foregoing and clause 13.3(b) state the Client's sole and exclusive rights and remedies, and GOSS's (including GOSS's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

## 13 Limitation of Liability

- 13.1 Except as expressly and specifically provided in this agreement:
- a) the Client assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Client, and for conclusions drawn from such use. GOSS shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to GOSS by the Client in connection with the Services, or any actions taken by GOSS at the Client's direction;
  - b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and
  - c) the Services and the Documentation are provided to the Client on an "as is" basis.
- 13.2 Nothing in this agreement excludes the liability of GOSS:
- a) for death or personal injury caused by GOSS's negligence; or
  - b) for fraud or fraudulent misrepresentation.

13.3 Subject to clause 13.1 and clause 13.2:

- a) GOSS shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and
- b) GOSS's total aggregate liability in contract (including in respect of the indemnity at clause 12.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to 100% of the Service Fee paid by the Client during the 12 months immediately preceding the date on which the claim arose.

## 14 Term and Termination

14.1 This Agreement shall, unless otherwise terminated as provided in this clause 14, commence on the date of this Agreement and shall continue for the Initial Term and, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a Renewal Period), unless:

- a) either party notifies the other party of termination, in writing, at least 3 months before the end of the Initial Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Term or Renewal Period; or
- b) the parties agree to any increase or decrease in the period of the Renewal Period;
- c) otherwise terminated in accordance with the provisions of this agreement; and the Initial Term together with any subsequent Renewal Periods shall constitute the Term.

14.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- b) the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 5 days after being notified in writing to do so;
- c) 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;
- d) 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, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

- e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- g) 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;
- h) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- i) 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;
- j) 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;
- k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2(d) to clause 14.2(j) (inclusive); or
- l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

14.3 On termination of this agreement for any reason:

- a) all licences granted under this agreement shall immediately terminate and the Client shall immediately cease all use of the Services, the New Content and/or the Documentation;
- b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- c) GOSS may destroy or otherwise dispose of any of the Client Data in its possession in accordance with clause 11.4(c), unless GOSS receives, no later than ten days after the date of this Agreement of the termination of this agreement, a written request for the delivery to the Client of the then most recent back-up of the Client Data. GOSS shall use reasonable commercial endeavours to deliver the back-up to the Client within 30 days of its receipt of such a written request, provided that the Client has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Client shall pay all reasonable expenses incurred by GOSS in returning or disposing of Client Data, unless previously agreed between the parties in accordance with a service exit plan; 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.

# 15 Force Majeure

GOSS shall have no liability to the Client under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, Cyber Attacks or other similar network based events, strikes, lock-outs or other industrial disputes (whether involving the workforce of GOSS or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Client is notified of such an event and its expected duration.

# 16 Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives). GOSS reserves the right to make changes to these terms in order that it can effectively manage the Services or if required by a change in law. In the event of such changes the Client will be notified. If the Client rejects any change they must notify GOSS within 14 days, in which case these terms (or any subsequently agreed to) will remain enforceable, failing which the Client is deemed to have agreed any new terms in substitution for the existing ones.

# 17 Waiver

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

# 18 Severance

- 18.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 18.2 If any provision or part-provision of this agreement is deemed deleted under clause 18.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## 19 Entire Agreement

- 19.1 This agreement 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.
- 19.2 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.

## 20 Assignment

- 20.1 The Client shall not, without the prior written consent of GOSS, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 20.2 GOSS may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

## 21 No Partnership or Agency

Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## 22 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.

## 23 Notices

- 23.1 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 email to the other party's email address as set out in this agreement. GOSS' email address is [enquiries@gossinteractive.com](mailto:enquiries@gossinteractive.com)
- 23.2 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 delivered in the normal course of post. A notice sent by email shall be deemed to have been received at 9 am on the first business day following sending to the correct email address without any error message (as shown by record obtained by the sender). Notice by email do not apply to serving legal proceedings.

## 24 Governing Law

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

## 25 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

# Schedule 1 Software Package and Support Plans

As specified in GOSS G-Cloud Service definition or pricing documentation.

# Schedule 2 Service Levels (SLA)

Site availability shows availability of the live production Site (not applicable to development, test or pre-production sites).

In the case of integration or application hosted by third party the Service Level Site availability below will apply only to the Site hosted by GOSS.

|                                |        |
|--------------------------------|--------|
| <b>Site Availability Level</b> | 99.95% |
|--------------------------------|--------|

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## Site Availability Credit Bandings and Service Credits

|                       |     |
|-----------------------|-----|
| <b>99.95% or more</b> | Nil |
|-----------------------|-----|

|                                  |                      |
|----------------------------------|----------------------|
| <b>Between 99.94% and 99.00%</b> | 3% of Monthly charge |
|----------------------------------|----------------------|

|                                  |                      |
|----------------------------------|----------------------|
| <b>Between 98.99% and 97.50%</b> | 7% of Monthly charge |
|----------------------------------|----------------------|

|                     |                       |
|---------------------|-----------------------|
| <b>Below 97.49%</b> | 20% of Monthly charge |
|---------------------|-----------------------|

The Client will promptly request any claim on Hosting service credits within 7 days at end of each calendar month.

# Schedule 3 Processing, Personal Data and Data Subjects

|                                             |                                                                                                                                                                                        |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject Matter</b>                       | GOSS's provision of the Software, Services and support to the Client                                                                                                                   |
| <b>Duration of the Processing</b>           | The term of the agreement plus the period from the expiry of the term until deletion of all Client's data by GOSS in accordance with the terms                                         |
| <b>Nature and Purpose of the Processing</b> | GOSS will process Client's Personal Data for the purposes of providing the Software, Services and support to the Client in accordance with the terms of the agreement.                 |
| <b>Categories of Data</b>                   | Data relating to individuals provided to GOSS via the Software, Services, and support activities by (or at the direction of) the Client or by Client end users.                        |
| <b>Data Subjects</b>                        | Data subjects include the individuals about whom data is provided to GOSS via the Software, Services and support activities by (or at the direction of) Client or by Client end users. |