

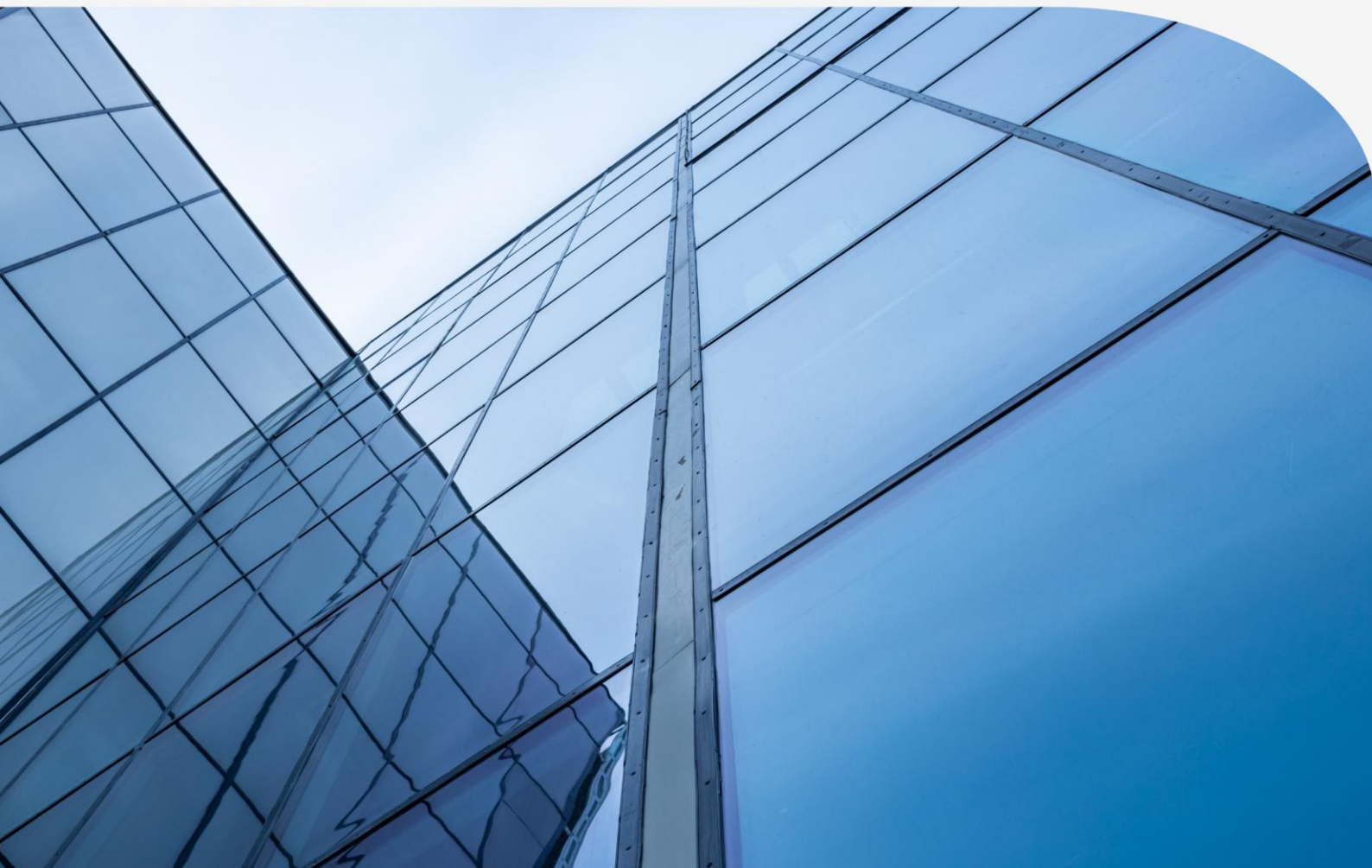


Digital Transformation Solution

Terms & Conditions
January 2026



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Liberata Digital Transformation Solution – Terms & Conditions

This agreement is dated: [DATE]

Parties

- 1) Liberata UK Limited incorporated and registered in England and Wales with company number 01238274 whose registered office is at 60 Cheapside, 2nd Floor Front, London, EC2V 6AX (**Supplier**).
- 2) XXX [Limited] incorporated and registered in England and Wales with company number 999 whose registered office is at (Customer).

Background

- a) The Supplier has developed and provides a service consisting of
- b) The Customer wishes to use the Supplier's service in its business 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.

1. Interpretation

- 1.1. The definitions and rules of interpretation in this clause apply in this agreement.
 - 1.1.1. **Authorised Users:** those employees and independent contractors of the Customer who are entitled to configure and administer the Software through the Hosting Services under this agreement, as further described in clause 3.2.1.
 - 1.1.2. **Business Day:** any day which is not Saturday, Sunday or public holiday (in the UK)
 - 1.1.3. **Change of control:** the direct or indirect acquisition of either the majority of the voting stock, or of all, or substantially all, of the assets, of a party by another entity in a single transaction or a series of transactions.
 - 1.1.4. **Confidential Information:** information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5.
 - 1.1.5. **Configuration Services:** the configuration and related work referred to in clause 2.1. and Schedule 3, to be performed by the Supplier to configure the Software so that the Software conforms with Software Specification.
 - 1.1.6. **Content:** all documents, files, electronic media, calendar dates, discussions, tasks, meetings, telephone and web conference details and whiteboards, visual, written or audible data, information or material including, without limitation: any hyperlink, application, graphic, artwork, video, music, text, image, logo, word, sound avatar, document, spreadsheet, text message, form entry, web page, and any other file or data or any similar material, including but not limited to each of the foregoing that is uploaded to, transferred through, publicly posted, processed or entered into the Services.
 - 1.1.7. **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.
 - 1.1.8. **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.
 - 1.1.9. **Customer's Key Stakeholder:** the member of the Customer Account Team appointed in accordance with clause 7.1.3. The Customer's Key Stakeholder at the Effective Date is named in Schedule 2.
 - 1.1.10. **Customer's Key Stakeholder:** the member of the Customer Account Team appointed in accordance with clause 7.1.3. The Customer's Key Stakeholder at the Effective Date is named in Schedule 2.
 - 1.1.11. **Deliverable:** a defined level of functionality or other preset milestone within a particular phase of the Configuration Services, to be more particularly described in the Project Plan.
 - 1.1.12. **Effective date:** the date of this agreement.
 - 1.1.13. **Fees:** the fee payable to the Supplier, as described in Schedule 1.
 - 1.1.14. **Hosting Services:** the services that the Supplier provides to allow access to the Software, including hosting set-up and ongoing services, as described in Schedule 4.
 - 1.1.15. **Maintenance and Support:** any error corrections, updates and upgrades that the Supplier may provide or perform with respect to the Hosting Services, as well as any other support or training services provided to the Customer under this agreement, all as described in Schedule 5.
 - 1.1.16. **Normal Business Hours:** [6:00 to 18:00] local UK time, each Business Day.
 - 1.1.17. **Project Plan:** the plan to be developed in the planning stage of the Configuration Services.
 - 1.1.18. **Service Level Arrangements:** the service level arrangements set out in Schedule 6.
 - 1.1.19. **Services:** the Configuration Services, Hosting Services and/or Maintenance and Support as applicable, Web Services and Workspaces given the context in which the term **Services** is used.
 - 1.1.20. **Software:** The Customer's proprietary software.
 - 1.1.21. **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.
 - 1.1.22. **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.
 - 1.1.23. **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 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 on devices.
 - 1.1.24. **Web Services:** provision of the Website and other web services, the Customer Workspaces associated software, and other services related thereto provided to the Customer by the Supplier in accordance with the agreement and with the characteristics and features as described from time to time.
 - 1.1.25. **Website:** the website at <http://www.liberata.com> and any other associated Supplier registered domains.
 - 1.1.26. **Workspace:** a secure, private online service where the Customer can share files, information, discuss ideas, arrange meetings and use all of the Supplier's tools and features with the Customer's Clients, colleagues and teams, which can be accessed by Users who are authorized by the Customer to access the services.
- 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) [and that person's legal and personal representatives, successors or permitted assigns].
- 1.4. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5. Words in the singular shall include the plural and vice versa.
- 1.6. 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 for the time being, considering of any amendment, extension, or re-

enactment and includes any subordinate legislation for the time being in force made under it.

- 1.8. A reference in writing or written includes faxes but not e-mail.
- 1.9. References to clauses and schedules are to the clauses and schedules of this agreement, references to the paragraphs are to the paragraphs of the relevant schedule of this agreement.

2. Configuration Services

- 2.1. The Supplier Account Team shall consist of the personnel listed at Schedule 2. The Supplier shall use reasonable endeavours to ensure continuity of its personnel assigned to this agreement.
- 2.2. The Supplier shall appoint the Supplier's Project Manager, who shall have the authority to contractually bind the Supplier on all matters relating to this agreement. The Supplier shall use reasonable endeavours to ensure continuity of the Supplier's Project Manager but has the right to replace him from time to time where reasonably necessary in the interests of the Supplier's business.
- 2.3. The Supplier shall perform the Configuration Services in accordance with the timetable set out in Schedule 3. The Supplier shall use reasonable endeavours to meet the performance dates set out in Schedule 3, but any such dates shall be estimates only, and time shall not be of the essence in this agreement.
- 2.4. On delivery of each Deliverable, the Customer shall be able to access the Deliverable online. Within ten business days 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 Hosting Services. If the Deliverable fails in any material respect to conform with the Hosting Services, the Customer shall give the Supplier a detailed description of any such non-conformance [Error], in writing, within the ten-day review period.
- 2.5. With respect to any Errors contained in any Deliverables delivered to the Customer during the Configuration Services, the Supplier shall use reasonable endeavours to correct any such Error within a reasonable time, and, on completion, submit the corrected Deliverable to the Customer. The provisions of this clause 2.5. shall then apply again, up to three additional times. If the Supplier is unable to correct such Error after three attempts, either party may terminate this agreement [without further liability to the other party OR subject to the provisions of clause 14.3.4. (accrued rights and liabilities)].
- 2.6. If the Customer does not provide any written comments in the five-day period described above, or if the Deliverable is found to conform with the Hosting Services, the Deliverable shall be deemed accepted.

3. Hosting Services, Maintenance and Support

- 3.1. The Supplier shall perform the Hosting Services and Maintenance and Support Services. The Service Level Arrangements shall apply with effect from the start of the month after the Configuration Services have been satisfactorily completed.
- 3.2. In relation to Authorised Users:
 - 3.2.1. the Customer shall maintain a written list of current Authorised Users of the Software;
 - 3.2.2. the Customer may grant other Users access to the Customer Workspace(s), and such other Users will be bound by the terms of this Agreement.
 - 3.2.3. the Customer shall ensure each Authorised User keeps a secure password for his use of the software, that such password is changed no less frequently than monthly and that each

Authorised User keeps his password confidential; The Customer agrees to notify the Supplier immediately of any unauthorised use of the Customer's account, password, or any other breach of security. The Customer may be held liable for losses incurred by the Supplier or any other user of the Services due to someone else using the Customer's Registration Data.

4. In Relation to the Software

- 4.1. the Supplier hereby grants to the Customer on and subject to the terms and conditions of this agreement access to the Software through the Hosting Services and to use the Software solely for the Customer's business purposes;
- 4.2. the Customer shall not store, distribute or transmit any Viruses, or any material through the Hosting Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;
- 4.3. the rights provided under this clause 4 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer;
- 4.4. the Customer shall not
 - 4.4.1. access all or any parts of the Hosting Services in order to build a product or service which competes with Services
 - 4.4.2. use Hosting Services to provide services to third parties other than as per the terms of this agreement; or
 - 4.4.3. subject to clause 19.1., transfer, temporarily or permanently, any of its rights under this agreement, or
 - 4.4.4. attempt to obtain, or assist third parties in obtaining, access to the Hosting Services, other than provided under this clause 4.4.; and
- 4.5. the customer shall use reasonable endeavours to prevent any unauthorised use of the Software and notify the Supplier promptly of any such unauthorised use.
- 4.6. The Supplier shall be entitled to take measures deemed necessary for technical, maintenance, operational, or security reasons. These may affect accessibility, and the Customer acknowledges that its access to the internet cannot be guaranteed.
- 4.7. The Customer is responsible for ensuring that the Customer's Internet connections, computer unit and telephone service are compatible with the Services and for any damage that may be caused to any incompatibility etc. The Supplier shall not be liable for any losses suffered by the Customer because of any such incompatibility or damage. The Customer is responsible for paying all charges in relation to The Customer's internet connection, computer unit and telephone service etc.

5. Customer Data

- 5.1. The Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 5.2. The Supplier shall follow its archiving procedures for Customer Data as described in Schedule 4. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the archiving procedure described in Schedule 4. The Supplier shall not be

responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up).

- 5.3. If the Supplier processes any personal data on the Customer's behalf when performing its obligations under this agreement, the parties record their intention that the Customer shall be the data controller, and the Supplier shall be a data processor and in any such case:
 - 5.3.1. The Customer shall ensure that the Customer is entitled to transfer the relevant personal data to the Supplier so that the Supplier may lawfully process the personal data in accordance with this agreement on the Customer's behalf.
 - 5.3.2. The Supplier shall process the personal data only in accordance with the terms of this agreement and any lawful instructions reasonably given by the Customer from time to time; and
 - 5.3.3. Each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

6. Supplier's Obligations

- 6.1. The Supplier undertakes that the Services will be performed substantially in accordance with the Hosting Services Specification and with reasonable skill and care.
- 6.2. The undertaking at clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Software contrary to the Customer's instructions or modification or alteration of the Software by any party other than the Customer or the Customer's duly authorised contractors or agents. Notwithstanding the foregoing, Supplier does not warrant that the Customer's use of the Software and the Services will be uninterrupted or error-free.
- 6.3. 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 like those provided under this agreement.
- 6.4. If the Customer creates a User account using an email address belonging to a third party, such User account may become subject to additional terms and conditions. The Customer acknowledges that such third party could impose access restrictions to the Services. The Supplier will not be liable to the Customer for any lack or curtailment of access.
- 6.5. The Services may contain links to third-party websites that are not owned or controlled by The Supplier. These links are provided solely for The Customer convenience. The Customer acknowledges and agrees that under no circumstances will the Supplier be liable for any third-party Content posted, displayed, linked to or otherwise transmitted via Services.

7. Customer's Obligations

- 7.1. The Customer shall:
 - 7.1.1. provide the Supplier with all necessary co-operation in relation to this agreement; and all necessary access to such information as required by the Supplier; to render the Services, including but not limited to Customer Data, security access information and software interfaces to the Customer's other business applications;
 - 7.1.2. 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 reasonable endeavours to ensure continuity of its personnel assigned to this agreement;

- 7.1.3. appoint the Customer's Key Stakeholder, who shall have the authority to contractually bind the Customer on all matters relating to this agreement. The Customer shall use reasonable endeavours to ensure continuity of the Customer's Key Stakeholder;
 - 7.1.4. comply with all applicable national and local laws and regulations (including the geographical jurisdiction in which the User is located) with respect to its activities under this Agreement; and
 - 7.1.5. carry out all other Customer responsibilities set out in this agreement or in any of the Schedules in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any timetable or delivery schedule set out in this agreement as reasonably necessary.
- 7.2. The Customer agrees that it shall not remove, alter, or destroy from Content provided by the Supplier any logo, copyright or proprietary notices, legends, symbols, labels, watermarks, signatures or any other like marks affixed to or embedded in such Content.
 - 7.3. The Customer shall comply with the security and administrative regulations as notified by the Supplier in conjunction with registration, by email or in any other manner from time to time made available on the Website.
 - 7.4. The Customer agrees to reasonably: (a) provide true, accurate, current and complete information about Users as prompted by the registration process, including Users' identity and a correct and legitimate email address (the "Registration Data"); (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete; (c) maintain the security of the Customer password and identification; and (d) consent and authorize the Supplier to verify the Customer Registration Data. If the Customer provides any information that is untrue, inaccurate, not current or incomplete, or the Supplier has a reasonable belief that such information is untrue, inaccurate, not current, or incomplete, the Supplier has the right to suspend or terminate a User account and refuse any and all current or future use of the Services (or any portion thereof).
 - 7.5. The Customer acknowledges, consents, and agrees that the Supplier may access, preserve and disclose Customer account information and Content if required to do so by law or in good faith belief that such access, preservation, or disclosure is reasonably necessary to: (a) respond to the Customer's requests for the Customer's service; (b) comply with legal process; (c) enforce this Agreement; (d) respond to claims that the Customer's Content violates the rights of third parties; or (e) protect the rights, property, or personal safety of the Supplier, other Users, or the public.
 - 7.6. The Customer agrees not to:
 - 7.6.1. Use or launch any automated system, including without limitation, "robots", "spiders" or "offline readers" that accesses the Services in a manner that sends more request messages to the Supplier's servers in each period than a single human can reasonably produce in the same period by using a conventional online web browser;

- 7.6.2. Collect or harvest any personally identifiable information, including names, from the Services;
- 7.6.3. Use any information provided in the Services for the sending of spam, bulk email messages, bulk instant messages, MP3 files, music files, video files or executable program files, any bulky files, or any other file that has a disproportionate number of hits for the number of pages or network transfers;
- 7.6.4. Use any part of the Services to pretend to be the Supplier or someone else or otherwise misrepresent the Customer's identity or affiliation or attempt to disguise the origin of any Content;
- 7.6.5. "Stalk" or otherwise harass another.
- 7.6.6. Interfere with or disrupt the Services, servers, or networks connected to the Services, or disobey any requirements, procedures, policies, or regulations of networks connected to the Services.
- 7.6.7. Upload, post, email, transmit, or otherwise make available any Content that the Supplier, in its sole discretion, deems to be unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libellous, invasive of another's privacy, inflammatory, hateful, or racially, religiously, ethnically, or otherwise objectionable, or harmful to minors.
- 7.6.8. Attempt to gain unauthorised access to the Services or any portion or feature thereof, or any other systems or networks connected to the Website or to any of the Supplier's servers.
- 7.6.9. Probe, scan, or test the vulnerability of the Website or any network connected to the Website, nor breach the security or authentication measures on the Website or any network connected to the Website.
- 7.6.10. Take any action that imposes an unreasonable load on the Services or on the Supplier's infrastructure or networks or any networks connected to the Website.
- 7.6.11. Use the Services
 - 7.6.11.1. to obtain material which might or if sent to another party might, injure the reputation of a third party, or
 - 7.6.11.2. in any manner which may result in the infringement of any third party's Intellectual Property Rights, or
 - 7.6.11.3. which constitutes a dissemination of business secret, or
 - 7.6.11.4. may incite a third party to commit or participate in a crime, or
 - 7.6.11.5. may be understood as constituting a threat, or
 - 7.6.11.6. to use the Services in any other manner incompatible with the purpose thereof.
- 7.6.12. Register, operate or otherwise control more than one User account: or
- 7.6.13. Provide access to the Services to anyone else other than Users.

8. Charges and Payment

- 8.1. The Customer shall pay the amounts set out in Schedule 1 for the Configuration Services.
- 8.2. The Customer shall pay the monthly Maintenance and Support fees set out in Schedule 1 for use and maintenance and support of the Software.
- 8.3. The Customer shall pay the initial set-up services fee and monthly fees, as set out in Schedule 1, for the Hosting Services. The Hosting set-up fee specified in paragraph 2 of Schedule 1 shall be paid at the Effective Date. [The Supplier has assumed that there will be no

TUPE implications in offering the Services. If this assumption proves incorrect then, where applicable, fees shall include any employee and staff costs arising from any employment obligations imposed upon the Supplier e.g. pay, conditions pensions, redundancy etc]

- 8.4. The Customer shall reimburse the Supplier for all actual, reasonable travel expenses including, but not limited to, airfare, hotel and meals incurred by the Supplier in performance of any additional consultancy required in support of further developing the Services.
- 8.5. All amounts and fees stated or referred to in this agreement are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.
- 8.6. The Supplier shall invoice the Customer monthly as of the first day of each month for all Services to be performed by the Supplier during that month. Each invoice is due and payable 30 calendar days after the invoice date. If the Supplier has not received payment within five business days after the due date, and without prejudice to any other rights and remedies of the Supplier:
 - 8.6.1. the Supplier shall be under no obligation to provide any or all the Services while the invoice(s) concerned remain unpaid; and
 - 8.6.2. interest shall accrue on such due amounts at an annual rate equal to [3] % over the then current base lending rate of [THE SUPPLIER'S BANKERS IN THE UK] at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.

9. Change Control

- 9.1. The Customer's Key Stakeholder and the Supplier's Project Manager shall meet at least once every month? 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.
- 9.2. If either party 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:
 - 9.2.1. the likely time required to implement the change;
 - 9.2.2. any variations to the Fees arising from the change;
 - 9.2.3. the likely effect of the change on the Project Plan; and
 - 9.2.4. any other impact of the change on the terms of this agreement.
- 9.3. If the Supplier requests a change to the scope of the Services, the Customer shall not unreasonably withhold, or delay consideration or approval of the change control notice raised detailing the changes requested.
- 9.4. 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.

10. Proprietary Rights

- 10.1. The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the configuration and provision of the Services. Except as expressly stated herein, this agreement does not grant the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any

other rights or licences in respect of the Services or any related documentation.

- 10.2. All Content uploaded to, transferred through, publicly posted, processed or entered the Services by the Customer shall remain the Customer's sole property or the property of its respective legal owner. The Supplier shall have no liability for such Content. The Supplier does not claim any rights to the Customer's Content. The Supplier does not have access to the Customer's Content save by express approval by the Customer, allowing the Supplier access to the Customer's Content through methods such as, but not limited to, an invitation to the Supplier by the Customer to join one or more of the Customer's Workspaces. By uploading third party content, the Customer represents and warrants that the Customer has obtained all necessary licenses, permissions, consents and agreements necessary for the lawful use of such third-party content by the Supplier and by third parties in accordance with this Agreement and for the Supplier to provide the Services. The Customer agrees to indemnify and hold the Supplier and any subsidiaries, affiliates, officers, agents, and employees, harmless from any claim or demand, including but not limited to reasonable legal fees, made by any third party due to or arising out of the Customer's Content.
- 10.3. The Customer confirms that it has all the rights in relation to the Software that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

11. Confidentiality

- 11.1. Each party may be given access to Confidential Information from the other party to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:
- 11.1.1. is or becomes publicly known other than through any act or omission of the receiving party; or
 - 11.1.2. was in the other party's lawful possession before the disclosure; or
 - 11.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 11.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 11.1.5. is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 11.2. 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.
- 11.3. 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.
- 11.4. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 11.5. The Customer acknowledges that the results of any performance tests of the Software and the Services constitute the Supplier's Confidential Information.
- 11.6. The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.
- 11.7. This clause 11 shall survive termination of this agreement, however arising.

12. Indemnity

- 12.1. The Customer shall defend, indemnify and hold harmless the Supplier 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 Customer's use of the Software or Services, provided that:
- 12.1.1. the Customer is given prompt notice of any such claim;
 - 12.1.2. the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
 - 12.1.3. the Customer is given sole authority to defend or settle the claim.
- 12.2. The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Hosting Services infringes any [United Kingdom] patent effective as of the Effective Date, copyright, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
- 12.2.1. the Supplier is given prompt notice of any such claim;
 - 12.2.2. the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
 - 12.2.3. the Supplier is given sole authority to defend or settle the claim.
- 12.3. In the defence or settlement of the claim, the Supplier may obtain for the Customer the right to continue using the Hosting Services, replace or modify the Hosting Services 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:
- 12.3.1. a modification of the Software by anyone other than the Customer; or
 - 12.3.2. the Customer's use of the Hosting Services or Software in a manner contrary to the instructions given to the Customer by the Supplier; or
 - 12.3.3. the Customer's use of the Hosting Services or Software after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- 12.4. The foregoing states the Customer's sole and exclusive rights and remedies, and the Supplier's entire obligations and liability, for patent, copyright, database or right of confidentiality infringement.

13. Limitation of Liability

- 13.1. This clause 13 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 13.1.1. any breach of this agreement or
 - 13.1.2. any use made by the Customer of the Services, the Software, the Deliverables or any part of them; and
 - 13.1.3. any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.
- 13.2. Except as expressly and specifically provided in this agreement:
- 13.2.1. the Customer assumes sole responsibility for results obtained from the use of the Software and the Services by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any

- damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction; and
- 13.2.2. 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.
- 13.3. Nothing in this agreement excludes the liability of the Supplier:
- 13.3.1. for death or personal injury caused by the Supplier's negligence; or
- 13.3.2. for fraud or fraudulent misrepresentation.
- 13.4. The Service Level Arrangements state the Customer's full and exclusive right and remedy, and the Supplier's only obligation and liability in respect of, the performance and/or availability of the Service, or their non-performance and non-availability.
- 13.5. Subject to clause 13.3 and clause 12.4:
- 13.5.1. the Supplier 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
- 13.5.2. the Supplier 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

14. Terms and Termination

- 14.1. the Supplier 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
- 14.2. Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this agreement without liability to the other if:
- 14.2.1. the other party commits a material breach of any of the terms of this agreement and (if such a breach is remediable) fails to remedy that breach within 30 calendar days of that party being notified in writing of the breach; or
- 14.2.2. three Major Outages (as defined in Schedule 6 paragraph 4.2) are incurred within a rolling 12-month period during the lifetime of this agreement; or
- 14.2.3. an order is made, or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other party; or
- 14.2.4. an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of

competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or

- 14.2.5. a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- 14.2.6. the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- 14.2.7. the other party ceases, or threatens to cease, to trade; or
- 14.2.8. there is a change of control of the other party within the meaning of section 840 of the Income and Corporation Taxes Act 1988; or
- 14.2.9. the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.
- 14.3. On termination of this agreement for any reason:
- 14.3.1. all licences granted under this agreement shall immediately terminate;
- 14.3.2. 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;
- 14.3.3. the Supplier may destroy or otherwise dispose of, in accordance with existing United Kingdom data protection requirements, any of the Customer Data in its possession unless the Supplier receives, no later than ten calendar days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 calendar days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Customer Data; and
- 14.3.4. the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

15. Force Majeure

- 15.1. The Supplier shall have no liability to the Customer 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, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier 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 Customer is notified of such an event and its expected duration.

16. Waiver

- 16.1. 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.
- 16.2. Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

17. Severance

- 17.1. 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.
- 17.2. 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.

18. Entire Agreement

- 18.1. This agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 18.2. Each of the parties acknowledges and agrees that in entering into this agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement, other than as expressly set out in this agreement.

19. Assignment

- 19.1. The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 19.2. The Supplier 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.

20. No Partnership or Agency

- 20.1. 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).

21. Counterparts

- 21.1. This [agreement OR deed] may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this [agreement OR deed], but all the counterparts shall together constitute the same [agreement OR deed]. [No counterpart shall be effective until each party has executed at least one counterpart.]

22. Third Party Rights

- 22.1. 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 fax to the other party's fax number as set out in this agreement.
- 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 fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

24. Governing Law and Jurisdiction

- 24.1. 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.
- 24.2. 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 document.

Schedule 1: Fees

1. Configuration Service Fees

- 1.1. £[AMOUNT] based on [NUMBER] man-days at £[AMOUNT] per day, plus daily and mileage charges.
- 1.2. In the event that the Supplier reasonably expects that the actual cost will exceed the amounts specified in paragraph 1.1, any work to be completed in additional man-days shall first be approved in writing by both the Supplier and the Customer, shall be charged at the rates set out in paragraph 1.1 and shall result in an extension of the acceptance date for the implementation of such phase of the Configuration Services on a day-for-day basis.

2. Hosting Set-up Fee

- 2.1. The Hosting set-up fee shall be £[AMOUNT].

3. Monthly Hosting Fee

- 3.1. The amounts charged to the Customer, up to a maximum of £[AMOUNT] per month. Our fee will be based on volume of invoices processed. We will estimate this number at the start of the year then do an end of year true up.

4. Review

- 4.1. The basis for calculating the fees will be reviewed for each renewal after the initial period and any resulting increases capped at the annual rate of variation in the retail price index in the previous twelve months.

Schedule 2: Personnel

1. Supplier

1.1. Supplier Account Team

Account manager	[NAME]
Account Representative	[NAME]
Account Representative	[NAME]

1.2. Supplier's Project Manager: [NAME]

1.3. Supplier's Support Engineer(s): [NAME(s)]

2. Customer

2.1. Customer Account Team

Account manager	[NAME]
Account Representative	[NAME]
Account Representative	[NAME]

2.2. Customer's Key Stakeholder: [NAME]

2.3. Customer Support Representatives: [NAME]

Schedule 3: Configuration Services

1. Timetable

Stage	Timetable		Deliverable
Phase	Estimated Start Date	Estimated Completion Date	Task
Planning:			
Design:			
Implementation:			
Rollout:			

2. Planning

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

3. Design

- 3.1. The Supplier shall develop a configuration of hosting servers designed to provide access to the Software. The design shall include redundancy across application servers, database servers, mail and DNS servers and switches to allow for continued service in the event of certain component malfunctions.

4. Implementation

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

5. Rollout

- 5.1. 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.

Schedule 4: Hosting Services

1. Hosting Set-up

- 1.1. The set-up phase of the Hosting Services includes those services provided by the Supplier or its contracted third parties to design, install, configure and test the Hosting Services, as well as the hosting facility and internet connectivity.

2. Installation and Configuration

- 2.1. The Supplier shall procure, install and configure the hosting equipment to provide access to the Software. This includes the rack mounting of servers and related equipment, installation of system and database software components, configuration of clustering and cross-connects, installation of the Software, and loading of initial Customer Data.

3. Facility

- 3.1. The hosting equipment shall be installed in a rack-mounted configuration inside a professional hosting facility designed for such use. The facility shall be equipped with access security, climate control, fire suppression, and managed power supply with UPS and generator back-up.

4. Internet Connectivity

- 4.1. The Supplier shall provide internet connectivity through an internet service provider at the hosting facility. The connectivity shall include multiple, diversely routed high-speed connections, a firewall for security and a load balancer for traffic management and speed optimisation. The Customer shall, and shall ensure that its Authorised Users shall, make their own arrangements for internet access to access the Software.
- 4.2. The Supplier shall supply burstable bandwidth connectivity services. The connectivity shall include multiple connections and a network operations centre that monitors servers, the network platform and internet access.

5. Continuing Hosting Services

- 5.1. The continuing Hosting Services provided by the Supplier or its contracted third parties, which allow for availability of the Software, include internet connectivity (as detailed in paragraph 4 above, load distribution management, security services, monitoring, back-up, release management and change control, and administration services.

6. Load Distribution Management

- 6.1. The Supplier shall provide load-balancing services to distribute load and redundancy across application servers.

7. Security Services

- 7.1. The Supplier shall provide security services as follows:
 - 7.1.1. facility access shall be limited to the authorised Supplier and contracted third-party personnel.
 - 7.1.2. the facility shall be monitored 24 hours a day, seven days a week through closed circuit video surveillance and shall require identification for access; and
 - 7.1.3. data access security shall be provided through managed firewall services with security on all web pages, a private network path for administration and SNMP monitoring, and fully hardened servers.

8. Monitoring Services

- 8.1. The Supplier shall provide, 24 hours a day and seven days a week, monitoring of the computing, operating and networking infrastructure to detect and correct abnormalities. This includes environmental monitoring, network monitoring, load-balancing monitoring, web server and database monitoring, firewall monitoring, and intrusion detection.

9. Back-up, Archiving and Recovery Services

- 9.1. The Supplier shall develop the back-up schedule, perform scheduled back-ups, provide routine and emergency data recovery, and manage the archiving process. The back-up schedule shall include at least weekly full back-ups and daily incremental back-ups. In the event of data loss, the Supplier shall provide recovery services to try to restore the most recent back-up.

10. Release Management and Change Control

- 10.1. The Supplier shall provide release management and change control services to ensure that versions of servers, network devices, storage, operating system software and utility and application software are audited and logged, and that new releases, patch releases and other new versions are implemented as deemed necessary by the Supplier to maintain the Hosting Services.

11. Administration Services

- 11.1. These services include the installation and administration of additional hardware, operating system and other software, and other resources as necessary to maintain the Hosting Services.

Schedule 5: Maintenance and Support

1. Maintenance Events

- 1.1. Maintenance of the hosting equipment, facility, or other aspects of the Hosting Services that may require interruption of the Hosting Services (Maintenance Events) will be agreed with the Customer prior to implementation. The Supplier may interrupt the Services to perform emergency maintenance on approval being received by the Supplier from the Customer to proceed. In addition, the Supplier may interrupt the Hosting Services for unscheduled maintenance, if it has given the Customer at least two business days' advance notice. Any Maintenance Events which occur during Normal Business Hours, and which were not requested by the Customer, shall be considered downtime for the purpose of service availability measurement. The Supplier shall always endeavour to keep any service interruptions to a minimum.
- 1.2. The Supplier may determine that providing appropriate service levels requires additional equipment and/or bandwidth and may install that equipment and/or bandwidth after the approval from the Customer has been given following their review of the submitted change control notice. The Supplier may increase the corresponding Hosting Services fees (only), as specified in Schedule 1 once agreement has been reached with the Customer to do so. The Customer will not unreasonably withhold or delay agreement to this.

2. Technical Support Services

- 2.1. The Supplier shall provide the Customer with technical support services. The Customer personnel named as Customer support representatives in paragraph 2.3 of Schedule 2 (CSRs) shall be authorised to contact the Supplier for technical support services. The Supplier shall provide technical support services only to that specified set of CSRs. The Supplier shall provide the Supplier support engineers (SSEs) named in paragraph 1.3 of Schedule 2 who are assigned to the Customer account. The SSEs shall handle support calls from the Customer's CSRs and shall maintain continuity of knowledge of the Customer account history. The Supplier shall use reasonable endeavours to provide continuity of SSEs.
- 2.2. The Supplier shall issue customer identification numbers (CINs) to the CSRs, which will allow those CSRs to access Supplier technical support. Supplier technical support shall accept voicemail, e-mail and web form-based incident submittal from CSRs with valid CINs 24 hours a day, seven days a week. The Supplier technical support call centre shall accept calls for English language telephone support during Normal Business Hours within Business Days. The Supplier shall use reasonable endeavours to process support requests, issue trouble ticket tracking numbers, if necessary, determine the source of the problem and respond to the Customer. The Supplier technical support call centre shall respond to all support requests from CSRs with valid CINs within the time periods specified below, according to priority.
- 2.3. The named CSRs and Supplier technical support shall jointly determine the priority of any defect, using one of following priorities:

Priority	Description	Response time
Priority 1	The entire Service is "down" and inaccessible. Priority 1 incidents shall be reported by telephone only.	Within [1hr]
Priority 2	Operation of the Services is severely degraded, or major components of the Service are not operational, and work cannot reasonably continue. Priority 2 incidents shall be reported by telephone only.	Within [two] Normal Business Hours.

Priority 3	Certain non-essential features of the Service are impaired while most major components of the Service remain functional.	Within [one] Business Day.
Priority 4	Errors that are, non-disabling or cosmetic and clearly have little or no impact on the normal operation of the Services.	Within [two] Normal Business Days.

Note: Response and Resolution times will be dependent upon service agreed

- 2.4. If no progress has been made on a Priority 1 or Priority 2 incident within the Target Resolution Time, the incident shall be escalated to the [Manager of Supplier Technical Services]. If the incident is not resolved, then after each successive increment of the Target Resolution Time (for example four Business Hours for a Priority 1 incident, one and a half Business Days for a Priority 2 incident), the incident shall be escalated to the [Director of Supplier Technical Services], followed by [[POSITION] for Supplier Technical Services], followed by the [President OR CEO].
- 2.5. The Supplier shall provide monitoring of its Hosting Services as described in paragraph 8 of Schedule 4 24 hours a day seven days a week. The Supplier shall directly notify the CSRs of Maintenance Events (as defined in paragraph 1.1 of Schedule 5) that may affect the availability of the Hosting Services.
- 2.6. 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 to report problems from Authorised Users that the Customer's designated CSRs cannot resolve themselves after they have performed a reasonable level of diagnosis.
- 2.7. The Customer shall also provide support for data integration tools and processes developed or maintained by the Customer to connect the Software to the Customer's other software and databases.
- 2.8. 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 SSEs, with at least [60] calendar 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] business 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 6: Service Level Arrangements

1. Service Availability

- 1.1. The Supplier shall provide at least a [TBA *dependent upon service agreed*] uptime service availability level (**Uptime Service Level**). This availability refers to an access point on the Supplier hosting provider's backbone network. It does not apply to the portion of the circuit that does not transit the hosting provider's backbone network, as the Customer is responsible for its own internet access. Availability does not include Maintenance Events as described in paragraph 1.1 of Schedule 5, Customer-caused or third party-caused outages or disruptions (except to the extent that such outages or disruptions are caused by those duly authorised third parties sub-contracted by the Supplier to perform the Services), or outages or disruptions attributable in whole or in part to force majeure events within the meaning of clause 15.
- 1.2. Note: The Supplier shall be entitled to take measures deemed necessary for technical, maintenance, operational, or security reasons. These may affect accessibility, and the Customer acknowledges that its access to the Internet cannot be guaranteed.

2. Availability Measurement

- 2.1. The total uptime of the Service shall be measured over a rolling 3 month (90 day) [or as agreed dependent upon service required] period by a reputable external monitoring service of the Supplier's choice from time to time.

3. Service Credits

- 3.1. If availability falls below the Uptime Service Level (as defined in paragraph 1 of Schedule 6) in each calendar month [or as agreed dependent upon service required] (Service Delivery Failure), the Supplier shall credit the Customer's account by an amount [TBA dependent upon service agreed] (Service Credit).
- 3.2. The Supplier will inform the Customer that Service Credits are payable within 14 calendar days of the end of the month in which the Service Credit accrued. The maximum Service Credit allowable in each month is limited to an amount equal to 5% of the total Monthly Hosting Fee owed by the Customer for that month. When the maximum Service Credit has been incurred in a month it will be determined that a Major Outage has occurred and will be recorded as such for measurement against the termination rights specified in Clause 13.2
- 3.3. The Customer acknowledges and agrees that the terms of this Schedule 6 relating to Service Credits constitute a genuine pre-estimate of the loss or damage that the Customer would suffer as a result of the Supplier's Service Delivery Failure and are not intended to operate as a penalty for the Supplier's non-performance.

Schedule 7: Response to Requirements Submission

The embedded se document dated xxx is included here and should be read in conjunction with, and forms part of, the rest of this agreement document.

Signed by [NAME OF DIRECTOR]	
for and on behalf of Liberata UK Ltd	Director
Signed by [NAME OF DIRECTOR]	
for and on behalf of [NAME OF CUSTOMER]	Director

Liberata

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