

Supplier Standard Terms

This Supplier Standard Terms ("**Supplier Terms**") are incorporated into a Call-Off Contract (as defined below) between **Totalmobile Limited** (company number NI018486), a company whose registered office is at 3rd Floor, 35 Dp 35-37 Donegall Place, Belfast, BT1 5BB ("**Supplier**") and the Buyer (as defined below), and is the legal agreement that sets out the terms and conditions of use of the Services by the **Buyer**.

Buyer and Supplier herein jointly referred to as "**Parties**", Individually, each is a "**Party**".

1. DEFINITIONS

1.1 The definitions and rules of interpretation in this Clause apply in these Supplier Terms:

"Associated Company"	In relation to either Party, any company which is its holding company or subsidiary of it or of its holding company;
"Authorised Users"	means any individual who is authorised by the Buyer to access or use the Subscription Service, whether actively or passively, and whether or not such individual actually accesses or uses the Subscription Service and the Documentation during the Subscription Term, as further described in Clause 3. An Authorised User includes, without limitation, any individual who is assigned a unique login credential, username, or account identifier for the purpose of accessing the Subscription Service. For the avoidance of doubt, Fees shall be payable in respect of each Authorised User so designated, irrespective of actual usage or activity;
"Buyer"	means the Relevant Authority identified in the Order Form;
"Call-Off Contract"	the contract between the Buyer and the Supplier (entered into pursuant to the provisions of the Framework Contract), which consists of the terms set out and referred to in the Order Form;
"Confidential Information"	In relation to either Party, information (whether in oral, written or electronic form) belonging to or relating to that Party, its business, affairs, licensees, products or services including, without limitation, the terms of the Supplier Terms, the Software and the Documentation, the technology used in the provision of the Subscription Services and/or Professional Services and any other information which is either expressly stated to be confidential or which is by its nature the recipient knows or ought to have known or has reason to believe is confidential to the disclosing party;
"Buyer Data"	the data and content (including any third party data and content) input by the Buyer, Authorised Users, or the Supplier on the Buyer's behalf, for the purpose of using the Subscription Services or facilitating the Buyer's use of the Subscription Services;
"CCS"	the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
"Documentation"	the documents made available to the Buyer by the Supplier from time to time which set out a description of the Subscription Services, any applicable functional specifications and user instructions;

"Effective Date"	the date on which the final Party has signed the Call-Off Contract
"Fees"	means all charges payable by the Buyer including Subscription Fees, Professional Service(s) Fees and Day Rates;
"Framework Contract"	the framework contract established between CCS and the Supplier for the provision of the Services to buyers by the Supplier in respect of the G Cloud 15 Framework with unique identifier (OCID) RM1557.15.2b established by CCS in accordance with Chapter 4 of the Procurement Act 2023 pursuant to the notice published on the central digital platform;
"Intellectual Property Rights" or "IPR"	all intellectual property rights including, without limitation, patents, trademarks, design rights, copyright, database rights, moral rights (whether or not any of these is registered and including any applications for registration of any such rights), know-how, confidential information and trade secrets and all rights or forms of protection of a similar nature or having similar effect to any of these which may exist or come into existence in the future anywhere in the world;
"Licence"	the licence to use the Software and/or the Subscription Service and/or the Buyer Data (as applicable) as provided for under the Supplier Terms;
"Normal Business Hours"	9.00 am to 5.00 pm local UK time, each Working Day;
"Order Form"	means the Order Form of the applicable Call-Off Contract which incorporate these Master Services Agreement as the Supplier Terms;
"Platform Support Policies and Guidelines"	means the guidelines are included in the release notes issued with each new release of the Software and can be obtained from the Supplier on request;
"Platform"	means the platform managed by the Supplier and used by the Supplier to provide the Subscription Services, including the application and database software for the Subscription Services, the system and server software used to provide the Subscription Services, and the cloud environment on which that application, database, system and server software is installed;
"Privacy & Security Policy"	means the Supplier's Security and Compliance bundle which is available to the Buyer upon request and may be updated and amended from time to time.
"Professional Services"	the implementation, consulting or other related services as detailed in a Statement of Work;
"Service Descriptions"	means the descriptions of each service as detailed in Supplier Services Description specified in the Order Form;
"Software"	the online software applications provided by the Supplier as part of the Subscription Services as set out in the Order Form;
"Statement of Work"	means the description of Professional Services activities to be performed by the Supplier or its contractors;

"Subscription Fees"	the amount, inclusive of support and maintenance, payable by the Buyer to the Supplier for the User Subscriptions, as set out in an Order Form;
"Subscription Services" / "Services"	means the Software applications, tools and platforms provided by the Supplier to the Buyer under the Supplier Terms, as more particularly described in the Documentation and Clause 3, that the Buyer has subscribed to under an Order Form;
"Support Services Policy"	Suppliers' policy for providing support in relation to the Subscription Services as set out in Schedules 1 & 2 as appropriate;
"Subscription Term"	means the Call-Off Initial Period and where applicable the Extension Period as specified in the Order Form;
"User Subscriptions"	the number of Authorised User subscriptions licensed by the Buyer pursuant to the Order Form which entitle Authorised Users to access and use the Subscription Services and the Documentation in accordance with the Supplier Terms;
"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, 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; and
"Working Days"	Monday to Friday excluding public and bank holidays in the United Kingdom.

1.2 Clause headings do not form part of and shall not affect the interpretation of the Supplier Terms.

1.3 Unless the context otherwise requires:

- 1.3.1 references to Clause and Schedule numbers are to Clauses and Schedules in the Supplier Terms so numbered;
- 1.3.2 words in the singular shall include the plural and in the plural shall include the singular;
- 1.3.3 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.3.4 a reference to one gender shall include a reference to the other genders;
- 1.3.5 any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms; and
- 1.3.6 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.3.7 A reference to writing or written includes faxes but not e-mail.

- 1.3.8 If there is any conflict or ambiguity between the Clauses of the Supplier Terms, and the Schedules the Clauses of the Supplier Terms shall take precedence unless expressly otherwise stated in the relevant Schedule.

2. AGREEMENT TERM

- 2.1 These Supplier Terms shall commence on the Effective Date of the Call-Off Contract and shall continue in full force and effect unless or until terminated in accordance with the provisions of the Call-Off Contract.
- 2.2 The Subscription Services shall commence on the date set out in the Order Form or such other date as the Parties otherwise agree, and shall continue for the Subscription Term, unless otherwise terminated in accordance with the Call-Off Contract.

3. SUBSCRIPTION SERVICE

- 3.1 **Right to Use:** In consideration of the performance by the Parties of their obligations as set out under the Supplier Terms the Buyer is granted a non-exclusive, non-transferable, non-sublicensable, time-bound, right to permit the Authorised Users to access and use the Subscription Services and the Documentation during the Subscription Term solely for the Buyer's internal business operations in the UK.
- 3.2 The Buyer shall not access or use the Subscription Services other than as specified in these Supplier Terms except with the Supplier's prior written consent and the Buyer acknowledges that additional fees may be payable by it for the use of any Subscription Services upgrades made available by the Supplier. Any changes to the details set out in an Order Form shall be immediately notified by the Buyer to the Supplier in writing.
- 3.3 **Restrictions:** The Buyer may not, except as may be allowed by any applicable law (which is incapable of exclusion by agreement):
- 3.3.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software, Subscription Services and/or Documentation (as applicable) in any form or media or by any means; or
 - 3.3.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or Subscription Services; or
 - 3.3.3 access all or any part of the Software, Subscription Services and/or Documentation in order to build a product or service which competes with the Software, Subscription Services and/or the Documentation; or
 - 3.3.4 use the Software, Subscription Services and/or Documentation to provide services to third parties; or on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service; or license, sub-licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or make the Software, Subscription Services and/or Documentation available to any third party except for the Authorised Users, or
 - 3.3.5 attempt to obtain, or assist third parties in obtaining, access to the Software, Subscription Services and/or Documentation, other than as provided under Clause 2; and
 - 3.3.6 the Buyer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software, Subscription Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Supplier in writing.
- 3.4 In relation to the Authorised Users, the Buyer undertakes that:

- 3.4.1 the maximum number of Authorised Users that it authorises to access and use the Subscription Services and the Documentation shall not exceed the number of User Subscriptions it has licensed from time to time;
 - 3.4.2 it will not allow or suffer any User Subscriptions to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Subscription Services and/or Documentation;
 - 3.4.3 each Authorised User shall keep a secure password for their use of the Subscription Services and Documentation, that such password shall be changed no less frequently than quarterly and that each Authorised User shall keep their password confidential;
 - 3.4.4 it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within five (5) Working Days of the Suppliers' written request at any time or times;
 - 3.4.5 it shall permit the Supplier to audit the use of the Subscription Services in order to establish the name of each Authorised User. Such audit may be conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Buyer's normal conduct of business;
 - 3.4.6 if any of the audits referred to in Clause 3.4.5 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Buyer or the Supplier shall promptly disable such passwords and no new passwords shall be issued to the individual concerned; and
 - 3.4.7 if any of the audits referred to in Clause 3.4.5 reveal that the Buyer has underpaid Fees to the Supplier, then without prejudice to the Supplier's other rights, the Buyer shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the prices set out the relevant Order Form within ten (10) Working Days of the date of the relevant audit.
- 3.5 The Buyer may make as many copies of the Documentation as are reasonably necessary for the lawful use of the Subscription Service provided that the Buyer shall maintain records of the number of Authorised Users of the Subscription Services and the Documentation.

4. SUPPORT SERVICES

- 4.1 The Supplier shall, during the Subscription Term, provide the Subscription Services and make available the Documentation to the Buyer on and subject to the terms of these Supplier Terms.
- 4.2 The Supplier shall use commercially reasonable endeavours to make the Subscription Services available 24 hours a day, seven days a week, except for:
 - 4.2.1 Planned maintenance which (wherever reasonably possible) will be carried out outside Normal Business Hours and the Supplier shall provide the Buyer a minimum of twenty-four (24) hours written notice of such planned maintenance being carried out; or
 - 4.2.2 Unscheduled maintenance which (wherever reasonably possible) will be performed outside Normal Business Hours and the Supplier shall provide reasonable written notice where possible; or
 - 4.2.3 Emergency maintenance, which may be carried out by the Supplier without notification at any time as reasonably determined by the Supplier in its sole discretion.
- 4.3 The Supplier will, as part of the Subscription Services and at no additional cost to the Buyer, provide the Buyer with the Supplier's standard customer support services in accordance with the Supplier's Buyer Support Operating Procedures in effect at the time that the Subscription Services are provided.

The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time. The Buyer may purchase enhanced support services separately at the Supplier's then current rates.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 The Supplier or its third-party suppliers and or licensors retain all ownership and Intellectual Property Rights to the Software, the Subscription Services, any output from the Professional Services and Documentation. Except as expressly stated herein, the Supplier Terms does not grant the Buyer any rights to, under or in, the Intellectual Property Rights, or any other rights or licences in respect of the Software, Subscription Services, Professional Services output or the Documentation.
- 5.2 Any interface necessary to achieve interoperability of the Software with independently created computer programs will be provided by the Supplier on request and shall be subject to the additional Professional Services terms and conditions contained in Schedule 3 and payment by the Buyer of the Supplier's reasonable fee for such provision.
- 5.3 The Buyer shall own all right, title and interest in and to all of the Buyer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Buyer Data.
- 5.4 The Buyer hereby grants to the Supplier a worldwide, non-exclusive, transferable, sublicensable, royalty-free license to use, access, host, copy, transmit, display, and process the Buyer Data as reasonably necessary to provide the Services to the Buyer under the Supplier Terms and to monitor, modify, and improve (including develop) the Services.

6. HARDWARE

- 6.1 In consideration of the performance by the Parties of their obligations as set out under the Supplier Terms the Supplier will deliver to the Buyer any Hardware ordered under the Supplier Terms. Where the Supplier resells Hardware on behalf of third party suppliers such Hardware is provided subject to the third party supplier's applicable terms which shall constitute an agreement between the Buyer and the third party supplier directly.
- 6.2 The Supplier shall use reasonable endeavours to deliver the Hardware to the requested delivery location and on the requested delivery dates and will inform the Buyer of any potential delays. If the Supplier fails to deliver Hardware by the agreed delivery date after being given a reasonable opportunity to remedy such delay, except to the extent that such delay is due to a third party for which the Supplier shall have no liability, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Hardware. The Supplier shall have no liability for any failure to deliver Hardware to the extent that such failure is caused by: i) a delay from the manufacturer, third party supplier or other third party; or ii) a Force Majeure Event; or iii) the Buyer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Hardware.
- 6.3 The risk in the Hardware shall pass to the Buyer on the date of delivery. Title in the Hardware shall pass on receipt by the Supplier of full payment in cleared funds.
- 6.4 Until title in the Hardware has passed to the Buyer, the Buyer shall: i) store the Hardware separately from all other goods held by the Buyer so they remain readily identifiable as the Supplier's property; ii) not remove, deface or obscure any identifying mark or packaging on or relating to the Hardware; iii) maintain the Hardware in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and iv) give the Supplier such information relating to the Hardware as the Supplier may require from time to time.
- 6.5 Where the Buyer is accessing the Subscription Service or downloading the Documentation onto a hardware device, the device must be capable of running the minimum operating system for the specified version of the Subscription Service as defined in the Supplier's Platform Support Policies and Guidelines. The Supplier's Platform Support Policies and Guidelines is aligned with that of the operating systems vendors.

6.6 By accessing and using the Subscription Services or downloading the Documentation on a hardware device, the Buyer automatically agrees to comply with any applicable vendor's operating system terms and conditions which can be obtained directly from the applicable operating system vendor.

6.7 If the Buyer sells or otherwise disposes of any equipment or device containing Software, it will ensure that the Software has been deleted from the equipment or device in its entirety, prior to transferring possession.

7. SUPPLIER'S WARRANTIES

7.1 The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these Supplier Terms.

7.2 The Supplier warrants that the Subscription Services will perform substantially in accordance with the Documentation during the Subscription Term. In the event of a breach of this warranty, the Buyer's exclusive remedy and the Supplier's sole liability and option shall be for: (i) the Supplier to correct the non-conforming Subscription Services at no additional charge to the Buyer, which may include providing the Buyer with a manual work-around or (ii) in the event that the Supplier is unable to correct such deficiencies after good-faith efforts and within a commercially reasonable timeframe, the Buyer shall be entitled to terminate the applicable Subscription Services and receive a refund for the pro-rata portion of any prepaid fees attributable to the defective Subscription Services.

7.3 The Supplier warrants that the Professional Services will be performed with reasonable skill and care in accordance with the terms of the applicable Statement of Work. In the event of a breach of this warranty, the Buyer's exclusive remedy and the Supplier's sole liability and option shall be for the Supplier to promptly re-perform any Professional Services that fail to meet this warranty at no additional charge to the Buyer, or refund the Buyer the fees paid for the non-conforming portion of the Professional Services.

7.4 All warranty claims must be made in writing no later than thirty (30) days from the first date the deficiency is identified by the Buyer.

7.5 The warranties contained within this Clause 7 shall not apply to the extent that any non-conformance is caused by use of the Services contrary to the Supplier's instructions, or where the Buyer has failed to perform any of its obligations under these Supplier Terms, or where such claim has arisen as a result of a modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or partners.

7.6 Notwithstanding the foregoing, the Supplier does not warrant that the Buyer's use of the Subscription Services will be uninterrupted or error-free; or that the Subscription Services, Documentation and/or the information obtained by the Buyer through the Services will meet the Buyer's requirements; and 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, and the Buyer acknowledges that the Subscription Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities. To the maximum extent permitted by law, the warranties contained in this Clause 7 are exclusive and take the place of all other express or implied warranties or conditions including warranties or conditions of merchantability, satisfactory quality, and fitness for a particular purpose.

7.7 The Buyer agrees that, in entering into these Supplier Terms, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in these Supplier Terms or (if it did rely on any representations, whether written or oral, not expressly set out in these Supplier Terms) that it shall have no remedy in respect of such representations and (in either case) the Supplier shall have no liability in any circumstances otherwise than in accordance with the express terms of these Supplier Terms.

8. BUYER'S OBLIGATIONS

8.1 The Buyer acknowledges and agrees that in order for the Supplier to provide the Services under these Supplier Terms, it must provide the Supplier with all necessary co-operation and access to

such information as is reasonably required by the Supplier in relation to this Supplier Terms including but not limited to Buyer Data, security access information and configuration services.

8.2 The Buyer warrants that it:

- 8.2.1 Has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these Supplier Terms and will obtain and maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and partners to perform their obligations under these Supplier Terms, including without limitation the Professional Services;
- 8.2.2 will comply with all applicable laws and regulations with respect to its activities under these Supplier Terms;
- 8.2.3 will carry out all other Buyer responsibilities set out in these Supplier Terms in a timely and efficient manner. In the event of any delays in the Buyer's provision of such assistance as agreed by the Parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
- 8.2.4 will ensure that the Authorised Users use the Subscription Services and the Documentation in accordance with the terms and conditions of these Supplier Terms and shall be responsible for any Authorised User's breach of these Supplier Terms;
- 8.2.5 be solely responsible for procuring and maintaining its network connections, to the relevant specifications provided by the Supplier, and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Buyer's network connections or telecommunications links or caused by the internet.
- 8.2.6 shall comply with all relevant technology control, import and export laws, rules and regulations affecting the Software and/or the Subscription Services or any portion thereof.

10 INTELLECTUAL PROPERTY RIGHTS INDEMNIFICATION

- 10.1 The Supplier shall indemnify the Buyer from and against any claim or action that the possession, use, or maintenance of the Subscription Service infringes the Intellectual Property Rights of a third party ("Claim") and shall fully indemnify the Buyer from and against any losses, damages, costs (including all legal fees) and expenses awarded against the Buyer as a result of, or in connection with, any such Claim.
- 10.2 The indemnity at Clause 10.1 is conditional upon the Buyer:
 - 10.2.1 Promptly notifying the Supplier in writing of any Claim or alleged claim, specifying the nature of the Claim in reasonable detail;
 - 10.2.2 Granting the Supplier sole control of the defence including conducting any negotiations or litigation including defence of proceedings and/or settlement of any claim and the costs incurred or recovered in such negotiations or settled claim shall be for the Supplier's account;
 - 10.2.3 Not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Supplier (such consent not to be unreasonably conditioned, withheld or delayed);
 - 10.2.4 Giving the Supplier and its professional advisers reasonable assistance and access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Buyer, so as to enable the Supplier and its professional advisers to examine them and to take copies for the purpose of assessing the Claim; and

- 10.2.5 Allowing the Supplier to modify the Subscription Services so as to avoid the infringement, provided that the modification does not materially affect the functionality or Fees payable for the Subscription Service.
- 10.1 If the Subscription Service becomes, or in the Supplier's opinion is likely to become, the subject of a claim covered by the indemnity at Clause 10.1, the Supplier may at its sole option either: (a) repair, replace or modify the affected Subscription Service so that it is no longer infringing or (b) procure the right for the Buyer to continue to use the Subscription Service or the relevant part thereof or if neither (a) nor (b) above are commercially reasonable, then the Supplier may (c) terminate the applicable elements of the Subscription Service and refund to the Buyer any prepaid fees with respect to any period of time following the termination date.
- 10.2 The indemnity at Clause 10.1 will not apply to any infringement arising from: (a) any modification, alteration, repair, adjustment or configuration made by anyone other than the Supplier or under the Supplier's direction or instruction; or (b) the Buyer's use of the Subscription Service in conjunction with software, hardware or data, where use of such software, hardware or data in combination with the Subscription Service gave rise to the infringement; or (c)) use of the Subscription Services other than in accordance with the Documentation and these Supplier Terms.
- 10.3 The indemnification obligations in this Clause 10 state the Supplier's (including the Supplier's employees', and sub-contractors') entire obligations and sole liability and the Buyer's exclusive remedy against the Supplier for any infringement claims or damages.
- 11 CONFIDENTIALITY**
- 11.1 In consideration of the disclosure of Confidential Information the receiving party hereby undertakes that (subject to the exclusions in Clause 11.4 below) it will:
- 11.1.1 not at any time without the disclosing party's prior written consent, disclose or reveal the Confidential Information to any person or other party whatsoever, except where expressly allowed by these Supplier Terms;
 - 11.1.2 use the Confidential Information solely for purpose of performing its obligations under these Supplier Terms;
 - 11.1.3 keep all Confidential Information in a safe and secure place;
 - 11.1.4 treat the Confidential Information with at least a reasonable level of care and not treat the Confidential Information with any less care than it uses for its own confidential information of a similar kind;
 - 11.1.5 not reverse engineer, or attempt to reverse engineer, any software comprised within the Confidential Information; and
 - 11.1.6 not at any time without the prior written consent of the disclosing take, make or retain any copies, reproductions or facsimiles of any of the Confidential Information in any form of media or materials.
- 11.2 The receiving party shall be entitled to disclose the Confidential Information to such of the receiving party's employees, contractors and advisers as are reasonably required to use the Confidential Information hereunder, provided that the receiving party will ensure that any such employee, contractor or adviser has a legal obligation to keep the Confidential Information confidential which, in the case of employees, contractors or advisers, shall be both during and after their current employment or engagement, on terms no less strict than these Supplier Terms. Any disclosure of such Confidential Information by any employee, contractor or adviser will be deemed to be a breach of these Supplier Terms by the receiving party.
- 11.3 The obligations set out in these Supplier Terms shall last for three years following termination or expiry of these Supplier Terms.

- 11.4 The restrictions in Clause 11.1 shall not apply to Confidential Information which:
- 11.4.1 is already lawfully in the possession of the receiving party prior to its disclosure pursuant to these Supplier Terms without any obligation of confidentiality;
 - 11.4.2 is in or comes into the public domain or otherwise ceases to be of a confidential nature, other than as a result of wrongful disclosure hereunder by the receiving party;
 - 11.4.3 becomes available to the receiving party on a non-confidential basis from a third party source other than the disclosing party other than as a result of wrongful disclosure by such third party source;
 - 11.4.4 is developed by or for the receiving party at any time independently of the Confidential Information disclosed by the disclosing party by persons who have had no access to or knowledge of the Confidential Information;
 - 11.4.5 is required to be disclosed by any law or order of a court of competent jurisdiction, recognised stock exchange, regulatory authority, governmental department or agency, providing that prior to such disclosure the receiving party shall consult with the other as to the proposed form, nature and purpose of the disclosure; or
 - 11.4.6 is approved for release by written authorisation of the disclosing party.
- 11.5 The receiving party acknowledges that money damages would not be an adequate remedy for any breach of this provision. The disclosing party will be entitled to specific performance and injunctive and other equitable relief as a remedy for any breach of this provision in addition to all monetary remedies available at law and in equity.
- 11.6 Each Party shall give notice to the other of any unauthorised misuse, disclosure, theft or other loss of that Party's Confidential Information immediately upon becoming aware of the same.
- 11.7 Notwithstanding Clauses 11.1 to 11.6 (inclusive) above, the Supplier may from time to time identify the Buyer (with the Buyer's name, logo or trademark) as a customer of the Supplier and refer to its relationship with the Buyer in any press releases, website, sales or/or, marketing material. The Supplier shall not use the Buyer's name, logo or trademark for any other purpose without obtaining the prior approval of the Buyer.
- 12 **SUSPENSION & CONSEQUENCES OF TERMINATION**
- 12.1 Termination shall be without prejudice to the rights of either Party which have accrued prior to termination.
- 12.2 Any provision of these Supplier Terms which expressly or by implication is intended to come into or continue in force on or after termination of the Call-Off Contract shall do so.
- 12.3 Upon termination or expiration of the Call-Off Contract:
- 12.3.1 all rights granted to the Buyer under the Supplier Terms shall cease;
 - 12.3.2 the Buyer shall cease all activities authorised by the Supplier Terms;
 - 12.3.3 within thirty (30) days of termination, the Buyer shall destroy or return (at the Supplier's option) to the Supplier all copies of the Documentation and the Supplier's Confidential Information then in the Buyer's possession, custody or control and, in the case of destruction, the Buyer shall certify to the Supplier that it has done so.
- 12.4 The Supplier reserves the right to suspend any of the Subscription Services or Support Services without liability to the Buyer with immediate effect upon written notice to the Buyer in the event that:

- 12.4.1 The Supplier reasonably believes or has cause to believe that any of the services are being used in an unauthorised or illegal manner;
- 12.4.2 Any regulatory authority requires the Supplier to Suspend the Subscription Services or Support Services;
- 12.4.3 The Buyer fails to make payment of any undisputed sums due to the Supplier within thirty (30) days of the due date for such payment, provided that the Supplier has notified the Buyer that such payment is overdue and given the Buyer an additional 7 days to make payment;
or
- 12.4.4 to carry out emergency maintenance.

13 VIRUSES

- 13.1 The Buyer shall not access, store, distribute or transmit any known Viruses, or any material during the course of its use of the Services that:
 - 13.1.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 13.1.2 facilitates illegal activity;
 - 13.1.3 depicts sexually explicit images;
 - 13.1.4 promotes unlawful violence;
 - 13.1.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability;
or
 - 13.1.6 is otherwise illegal or causes damage or injury to any person or property;
- and the Supplier reserves the right, without liability or prejudice to its other rights to the Buyer, to disable the Buyer's access to any material that breaches the provisions of this clause.

14 DATA PROTECTION

- 14.1 The provisions contained within Schedule 4 (Data Protection) shall apply to these Supplier Terms.

SCHEDULE 1

HOSTING SERVICES AGREEMENT

This Schedule sets forth additional terms to the Supplier Terms where the Supplier hosts the Services within its cloud or the cloud of a third party (as defined below). Except as otherwise set forth below, the capitalised terms shall have the same meaning as such terms in the Supplier Terms. In the event of a conflict between this Schedule and the Supplier Terms, this Schedule shall take precedence.

1. DEFINITIONS

1.1 The definitions and rules of interpretation in this Clause apply in this Schedule:

“Acceptable Use Policy” or “AUP” means the Acceptable Use Policy as set out in Schedule 5;

“Public Cloud” means the cloud infrastructure is provisioned for open use by the general public. It may be owned, managed, and operated by a business, academic, or government organisation, or some combination of them. It exists on the premises of the cloud provider.

“Resource Pooling” means the computing resources are pooled to serve multiple consumers using a multi-tenant model, with virtual compute resources dynamically assigned and reassigned according to consumer demand.

“Platform” means the platform managed by the Supplier and used by the Supplier to provide the Subscription Services, including the application and database software for the Subscription Services, the system and server software used to provide the Subscription Services, and the cloud environment on which that application, database, system and server software is installed;

1.2 Any terms and conditions contained in this Schedule prevail over the terms and conditions in the Supplier Terms.

2. SERVICES

The Service Levels described herein set out the core aspects of our commitment and the levels to be achieved in the provision of those aspects of the Cloud services. This Schedule also explains the remedies available to the Buyer if at any time the Subscription Services fall below the standards outlined in these Supplier Terms.

Periods of service non-performance and non-availability, for the purposes of cloud service level calculation, are measured from the time the Buyer contacts the Supplier's Service Desk and a ticket reference is issued until the resolution is confirmed by the Supplier's technical teams. Furthermore, the time taken by the Buyer to respond to relevant information and access requests are excluded from service level calculation.

A fail-over time up to 1 (one) hour within the same cloud region or 24 (twenty four) hours between different cloud regions are considered as an excused outage and does not count towards any service level commitments.

Unless otherwise stated the Supplier will deploy two Buyer environments.

1. Production Environment
1. UAT Environment

Production Environment

The Buyer is entitled to access and use the Production Environment of the product. The Production Environment is designed for running live, operational workloads only and will provide functionality and performance capabilities.

The Supplier shall host, support and provide maintenance services to the Production Environment.

User Acceptance Testing (UAT) Environment

The Buyer is entitled to access and use a UAT Environment. The UAT Environment shall be used for testing new releases, updates, or changes to the service before they are deployed to the Production Environment.

The UAT Environment is not intended for running live, operational workloads. It is provided for testing purposes only, and as such, does not come with the same level of compute resources, support or data protection guarantees as the Production Environment. If the Buyer intends to test against the UAT environment at volumes on or near the levels expected in Live then then Supplier shall be entitled to charge for the additional costs of providing an upgraded UAT infrastructure for the duration period requested by the Buyer (minimum duration1 month).

The Buyer is responsible for managing their use of the UAT Environment, including conducting appropriate testing activities and managing any test data used in the UAT Environment.

The Supplier shall host, support and provide maintenance services to the UAT Environment.

The Supplier shall be entitled to scale down, stop access and pause UAT environments if they are not used in any 30-day period. Services can be restored upon a service request by the Buyer.

2.1 Data Security and Privacy

The Supplier will, where possible and applicable, ensure and safeguard the privacy and security of Buyer data via the proactive deployment, and ongoing monitoring and management of various logical controls. Principally, such controls will include encryption of data and the use of secure transport protocols while Buyer data is in transit or at rest. Additional controls such as intrusion/event monitoring are also in place alongside a dedicated incident response and management process to provide multiple holistic layers of security control over Buyer data. The Supplier also take a proactive stance in the regular application of patches and updates to ensure that networks and core infrastructure are robustly defended against new and emerging threats and vulnerabilities.

2.2 99.95% Availability

- 2.2.1 The Supplier commits to the availability of its cloud services 99.95% of the time in any given month within the same cloud region. This allows for maintenance and service refactoring where a single service has been deployed.
- 2.2.2 The cloud service will be considered available where:
 - (i) It is possible to transmit and receive data across the cloud services or licensed, and managed by the Supplier; and
 - (ii) It is possible to connect to the cloud services via the internet or our publicly accessible web portal.

2.3 Downtime & Exclusion

- 2.3.1 **“Downtime”** means where the above Service Levels are not achieved for reasons other those described under the Exclusions below. Downtime shall be measured from the time: (i) you raise incident on the Supplier's incident management system, notifying us of the relevant unavailability; and (ii) the unavailability is verified by the Supplier's technical services team. Downtime shall continue until the relevant service level is restored, as confirmed by the Supplier's technical services team.

- 2.3.2 **Exclusion:**

Downtime may not be aggregated on an event basis; i.e. if any event gives rise to unavailability in respect of different service levels affecting the same service, you may not

aggregate that unavailability and Downtime will be calculated only in respect of the service level which worst affects the relevant cloud environment. Any dispute regarding the extent and/or overlap of unavailability will be determined by the Supplier in its absolute and final discretion.

2.3.3 Other Exclusion:

Maintenance of the platform and service updates deemed critical to fix latency or resolve a problem or, security gap.

3. ACCEPTABLE USE POLICY

3.1 The Buyer shall at all times adhere to the Acceptable Use Policy. The Supplier may immediately take corrective action, including suspension, interruption or disconnection of the Network and any and all Services, or terminate this Supplier Terms as a material breach in the event of it becoming aware of any violation of the AUP by the Buyer or if it reasonably believes a violation of the AUP by the Buyer has occurred after due enquiry of the Buyer by the Supplier.

3.2 The Buyer shall, and shall ensure that all users of the Services shall:

3.2.1 comply with the AUP;

3.2.2 comply with any reasonable operating instructions notified by the Supplier and all relevant policies provided that the Supplier provides to the Buyer in advance; and

3.2.3 not infringe the rights of any third party (including, without limitation, by defamation or by infringement of Intellectual Property Rights).

3.3 The Buyer is solely responsible for all content residing within the Services, including third party content ("**Buyer Content**"). The Buyer represents and warrants on an on-going basis that the Buyer has the right and ability to provide the Supplier with the Buyer Content provided to the Supplier during the course of this Supplier Terms and that no Buyer Content infringes any Intellectual Property Right of a third party, violates applicable laws and regulations including, not limited to, data protection laws and laws relating to breach of confidence, or is in breach of the AUP.

3.4 The Buyer shall indemnify the Supplier, its licensee's and subcontractors and their respective directors, officers, employees, contractors, and customers (each an **Indemnified Party**) harmless from and against any and all claims, demands, losses, damages, liabilities and expenses (including reasonable legal expenses) an Indemnified Party may suffer or incur as a result of any claim or action brought against the Supplier alleging that its use or possession of the Buyer Content (or any part thereof) in accordance with the terms of this Supplier Terms infringes the Intellectual Property Rights of a third party or other applicable laws. In particular, but without limitation, the Buyer shall be solely responsible for ensuring that the Buyer Content is not defamatory or otherwise illegal and not otherwise in breach of the AUP.

3.5 The Buyer shall without undue delay notify the Supplier in writing to legal@totalmobile.co.uk if it becomes aware of any breach of clauses 3.2 and 3.3.

3.6 In the event the Supplier takes corrective action or terminates due to a violation of the AUP, the Buyer shall forfeit any rights to, and the Supplier shall not be required to refund to the Buyer, any Fees or other amounts paid in advance of such corrective action.

3.7 The Supplier may revise the AUP from time to time by updating the policy on its website, provided that the revised AUP will not apply to the Buyer until the date that is one (1) month from the date on which the Supplier publishes the revised AUP.

4. LIMITED WARRANTY AND WARRANTY DISCLAIMER

The Buyer acknowledges and agrees that the Supplier exercises no control over, and accepts no responsibility for, the content of the information passing through the Supplier's Network, host

computers, network hubs and points of presence or the Internet.

5. SUSPENSION

- 5.1 Without prejudice to rights the Supplier may have under the Supplier Terms, the Supplier may, in its sole discretion, suspend, shut down or restrict access to the whole or any part of the Network with immediate effect in the event that:
- 5.1.1 the Buyer is in material breach of this Supplier Terms, including but not limited to any failure to pay any Subscription Fees for the Services when due;
 - 5.1.2 the Supplier needs to undertake routine repair or maintenance work on the Network. The Supplier shall use its reasonable endeavours to give as much notice as reasonably possible and shall endeavour to carry out such works at times agreed with the Buyer;
 - 5.1.3 the Supplier needs to carry out any emergency maintenance or repairs to any part of the Network or other infrastructure used to provide the Services or as needed to prevent overload of the Network, or to preserve the safety, security or integrity of the Network, the Services or any traffic conveyed over the Network (in which case the Supplier will use its reasonable endeavours to give as much notice of the suspension as is reasonably possible);
 - 5.1.4 the Supplier is required to do so in compliance with any applicable law, regulation, order, licence, instruction or request of Government or any regulatory body, administrative authority, or emergency service; or
 - 5.1.5 the suspension or termination by a third party of its services materially adversely affects the ability of the Supplier to provide access and use of the Network; or
 - 5.1.6 if the Supplier consider it reasonably necessary to protect its or the Buyer's interests, or the interests of any third party and/or to protect the security or operation of the Supplier's systems or Network or those of the Supplier's customers.

6. BUYER DATA

- 6.1 The Supplier shall follow its archiving procedures for Buyer Data as set out in this Supplier Terms. In the event of any loss or damage to Buyer Data, the Buyer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Buyer Data from the latest back-up of such Buyer Data maintained by the Supplier in clause 6 of Schedule 2 of this Supplier Terms. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Buyer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Buyer Data maintenance and back-up).
- 6.2 The Supplier shall, in providing the Services, comply with its Privacy & Security Policy relating to the privacy and security of the Buyer Data, as such document may be amended from time to time by the Supplier in its sole discretion.
- 6.3 If the Supplier processes any personal data on the Buyer's behalf when performing its obligations under this Supplier Terms, the Parties record their intention that the Buyer shall be the data controller and the Supplier shall be a data processor and in any such case:
- 6.3.1 the Buyer acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Buyer and the Authorised Users are located in order to carry out the Services and the Supplier's other obligations under this Supplier Terms;
 - 6.3.2 the Buyer shall ensure that the Buyer is entitled to transfer the relevant personal data to the Supplier so that the Supplier may lawfully use, process and transfer the personal data in accordance with this Supplier Terms on the Buyer's behalf;

- 6.3.3 the Buyer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
- 6.3.4 the Supplier shall process the personal data only in accordance with the terms of this Supplier Terms and any lawful instructions reasonably given by the Buyer from time to time; and
- 6.3.5 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.

7. HOSTED PLATFORM

- 7.1 The hosted platform is designed to operate the Supplier's solutions, and the Supplier's solutions accessed via the internet. The platform operates resource pooling which are shared and includes applications, cloud infrastructure components, or functions that are available to customers to consume from external locations:
- 7.2 A customer hosted platform is a single production environment of pooled compute resources fronted by the Supplier's hosted portal.
 - 7.2.1 The hosted platform is deployed to the Supplier's cloud service supplied by AWS or Azure.
 - 7.2.2 The hosted platform is located in UK but some compute resources are in EU regions.

SCHEDULE 2

SUBSCRIPTION SERVICES SUPPORT AND MAINTENANCE AGREEMENT

This Schedule sets forth additional terms to the Supplier Terms where the Supplier provides Support and Maintenance Services in respect of the Subscription Services. Except as otherwise set forth below, the capitalised terms shall have the same meaning as such terms in the Supplier Terms. In the event of a conflict between this Schedule and the Supplier Terms, this Schedule shall take precedence.

1. DEFINITIONS

1.1 The definitions and rules of interpretation in this Clause apply in this Schedule:

“Acceptable Use Policy” or “AUP”	means the Acceptable Use Policy as set out in Schedule 5;
“Change Request”	means a formal request to change or amend the Software or Services;
“Closed”	The ‘Closed’ incident status reflects the status of a call that has been resolved to the Buyer’s reasonable satisfaction, and either permission granted by the Buyer to close it, or ten days have elapsed since it was resolved and no further query has been raised by the Buyer on it whichever is the sooner. Any Incidents which are classified as defects will also be closed and a Change Request created.
“Functional Design Specification”	The formal project document used to define how the Supplier intend to deliver the Buyer’s requirements using the Software modules purchased and is a continuing reference point throughout the implementation, testing and acceptance phases of the project.
“Incident”	An issue recorded on the Supplier’s Help Desk database.
“Incident ID”	The unique identification number allocated to an issue recorded on the Supplier’s Help Desk database.
“Incident Status”	A classification indicating at which stage of its life cycle an incident is in. It starts off life as ‘Open’, then ‘Responded’, ‘Closed’ and potentially ‘Reopened’.
“Network Access Policy”	The rules and requirements stipulated by the Buyer to enable the Supplier to gain secure access to the Buyer’s network for the purposes of carrying out the Supplier’s responsibilities under this agreement.
“Prime Service Hours”	Has the meaning given to it in Clause 2.2.2
“Resolution Time”	The time elapsed during Prime Service Hours between the Incident being logged on the Supplier’s Help Desk database either online via the Supplier’s Support Centre, email or phone, and the closure of the Incident by the Supplier. When an Incident is resolved, its status is set to ‘Closed’ and the Buyer is informed by email or telephone.
“Response Time”	The time elapsed during Prime Service Hours between the Incident being logged on the Supplier’s Help Desk database either online via the Supplier’s Support Centre email or phone, and the provision of an ‘Incident ID’ by the Supplier to the Buyer.

“Support and Maintenance Services”	The support and maintenance services provided on the terms and conditions of this Supplier Terms and more particularly detailed in this Supplier Terms.
“Specified System”	The hardware system specified in the Order Form or any other system of the same minimum specification which supersedes it and is notified by the Buyer to the Supplier, including for the avoidance of doubt any system on which the Software is running following an event of disaster recovery.
“System Owner”	The Buyer’s senior operational contact responsible for identifying the source of any problems prior to contacting the Supplier’s Help Desk.
“Live Environment”	Each instance of the software modules supplied by the Supplier which have been configured to work together as a business solution to be used by the Buyer in their normal day to day operations.
“Supplier Help Desk”	Supplier’s helpdesk as further described in Clause 6.
“Supplier Release Policy”	Supplier’s policies and approach to releasing new versions of the software taking into account scheduled and responsive development activities.

2. SERVICES

2.1 OBLIGATIONS OF SUPPLIER

- 2.1.1 The Supplier shall during the term of this Supplier Terms provide the Support & Maintenance Services.
- 2.1.2 For all requests for the Support & Maintenance Services the Buyer acknowledges and agrees that the Supplier will only provide a response to the Buyer by either telephone, e-mail, facsimile and, if necessary, confirmed in writing.
- 2.1.3 In the event of any modifications or enhancements to the Software, the Supplier shall, from time to time, upgrade the suite of Software as appropriate. These shall be furnished in accordance with the Supplier’s Release Policy.
- 2.1.4 All Support & Maintenance Services shall only be provided by the Supplier on receipt by it of a request by a person or persons appropriately qualified and trained in the use of the Software, as nominated by the Buyer and notified as such to the Supplier.

2.2 SERVICE HOURS

- 2.2.1 The Supplier shall perform the Support & Maintenance Services against the key performance indicators outlined in this Supplier Terms which will be reviewed on an annual basis.
- 2.2.2 All Support & Maintenance Services will be performed within the Supplier’s Prime Service Hours outlined below. Extended hours services can be provided by arrangement and will be charged for at the Supplier’s then applicable current extended cover rates.

“Prime Service Hours”: 09:00 – 17:00 on Working Days
- 2.2.3 Except as notified for emergency work or agreed scheduled downtime, the maintenance window for all non-essential work shall be outside of Prime Service Hours.

3. ACCEPTABLE USE POLICY

- 3.1 The Buyer shall at all times adhere to the Acceptable Use Policy. The Supplier may immediately take corrective action, including suspension, interruption or disconnection of the Network and any and all Services, or terminate this Supplier Terms as a material breach in the event of it becoming aware of any violation of the AUP by the Buyer or if it reasonably believes a violation of the AUP by the Buyer has occurred after due enquiry of the Buyer by the Supplier.
- 3.2 The Buyer shall, and shall ensure that all users of the Services shall:
- 3.2.1 comply with the AUP;
 - 3.2.2 comply with any reasonable operating instructions notified by the Supplier and all relevant policies provided that the Supplier provides to the Buyer in advance; and
 - 3.2.3 not infringe the rights of any third party (including, without limitation, by defamation or by infringement of Intellectual Property Rights).
- 3.3 The Buyer is solely responsible for all data and content residing within the Services, including third party data and content ("**Buyer Content**"). The Buyer represents and warrants on an on-going basis that the Buyer has the right and ability to provide the Supplier with the Buyer Content provided to the Supplier during the course of this Supplier Terms and that no Buyer Content infringes any Intellectual Property Right of a third party, violates applicable laws and regulations including, not limited to, data protection laws and laws relating to breach of confidence, or is in breach of the AUP.
- 3.4 The Buyer shall indemnify the Supplier, its licensee's and subcontractors and their respective directors, officers, employees, contractors, and customers (each an **Indemnified Party**) harmless from and against any and all claims, demands, losses, damages, liabilities and expenses (including reasonable legal expenses) an Indemnified Party may suffer or incur as a result of any claim or action brought against the Supplier alleging that its use or possession of the Buyer Content (or any part thereof) in accordance with the terms of this Supplier Terms infringes the Intellectual Property Rights of a third party or other applicable laws. In particular, but without limitation, the Buyer shall be solely responsible for ensuring that the Buyer Content is not defamatory or otherwise illegal and not otherwise in breach of the AUP.
- 3.5 The Buyer shall immediately notify the Supplier in writing to legal@totalmobile.co.uk if it becomes aware of any breach of Clauses 3.2 and 3.3.
- 3.6 In the event that the Supplier takes corrective action or terminates due to a violation of the AUP, the Buyer shall forfeit any rights to, and the Supplier shall not be required to refund to the Buyer, any Fees or other amounts paid in advance of such corrective action.
- 3.7 The Supplier may revise the AUP from time to time by updating the policy on its website, provided that the revised AUP will not apply to the Buyer until the date that is one (1) month from the date on which the Supplier publishes the revised AUP.

4. REPORTING OF INCIDENTS AND THEIR PRIORITISATION

- 4.1.1 If the failure or problem is diagnosed as pertaining to the Software, then:
- (a) The Buyer will contact the Supplier with the required information;
 - (b) this contact may be delegated to a System Owner whose specific system knowledge may make communication easier, but in this case the Buyer must be kept up to date with the problem; and
 - (c) at the time of the contact the Buyer or System Owner (as applicable) must ask for an Incident ID and a Priority (as described below) will be assigned by the Supplier. The mandatory categories that apply to the live environment only, which may be reviewed as required are:

Priority	Impact	Defining Criteria
Priority 1	Critical Business Impact. Production system down.	Live Environment only - all users unable to access the Software; - critical business processes unable to be accessed.
Priority 2	Significant Business Impact. Important feature unavailable with no acceptable work around.	Live Environment only - Several users unable to access the Software - Several users unable to access 3rd Party Product - Important process unable to be completed
Priority 3	Some Business Impact (standard priority); functionality queries	Live Environment only - Important feature unavailable but workaround available; less significant feature unavailable with no reasonable work around. - All non-Priority 4 procedural queries - All procedural errors affecting important - Software features security related issues affecting individual modules
Priority 4	Minimal Business Impact. Query or request for information.	- All queries - All documentation requests - All minor Software issues with little or no business impact

5. RESPONSE AND RESOLUTION TIMES

5.1 The tables below outline the target Response Times and Resolution Times in line with the Priority levels as specified in Clause 4. The hours stated are working hours based on Prime Service Hours as defined in Clause 2.2.2.

5.2 SERVICE LEVEL AGREEMENT RESPONSE TIMES AND TARGETS PER INCIDENT

Priority	Target Response Time in Prime Service Hours	Mandated means of communicating the Incident by Buyer
Priority 1	1 hour	Phone only
Priority 2	4 hours	By email or via online portal
Priority 3	6 hours	By email or via online portal
Priority 4	8 hours	By email or via online portal

5.3 SERVICE LEVEL AGREEMENT RESOLUTION TIMES AND TARGETS PER INCIDENT

Priority	Target Resolution Time in Prime Service Hours	Mandated means of communicating the Incident by Buyer
Priority 1	1 Working Day (Prime Service Hours Only)	Phone only
Priority 2	3 Working Days (Prime Service Hours only)	By email or via online portal
Priority 3	5 Working Days (Prime Service Hours only)	By email or via online portal
Priority 4	10 Working Days (Prime Service Hours only)	By email or via online portal

6. THE SUPPORT & MAINTENANCE SERVICES

6.1 The Supplier shall provide the following levels of Cloud Database availability within the scope of this Supplier Terms

6.1.1 99.95% Uptime

6.1.2 Active Geo-Replication to another Data Centre within Cloud for DR purposes

6.1.3 Transparent Data Encryption (TDE) allowing for all Database files, including backups to be encrypted

6.1.4 Full database backups on a weekly basis, differential database backups every four hours and transaction log backups every 10 minutes

6.1.5 Backup retention as standard for 30 days

6.2 The Supplier shall provide the following levels of cloud App Service availability within the scope of this Supplier Terms:

6.2.1 99.95% Uptime

6.2.2 Built-in auto scaling and load-balancing

6.2.3 Daily backups

6.2.4 Backup retention as standard for 7 days

6.3 The Supplier shall provide the following remote Helpdesk based Services within the scope of the

Supplier Terms:

- 6.3.1 Provision of a manned helpdesk during Prime Service Hours, accessible by telephone for Priority 1 Issues and by email or web based portal for all other issues;
- 6.3.2 Diagnostic/investigation of issues relating to operation of application Software;
- 6.3.3 Advice on correct use of application Software;
- 6.3.4 Periodic review of all issues, causes and resolutions;
- 6.3.5 Provision of periodically released product updates and associated documentation where development enhancements are made to the currently used version of the Software;
- 6.3.6 Notification of enhancements;
- 6.3.7 Notification of Software bugs;
- 6.3.8 Logging and tracking of all Buyer logged issues and identification of recurring issues;
- 6.3.9 Software application administration including:
 - (a) monitoring that all scheduled processing has been completed;
 - (b) monitoring that all integration files have been processed;
 - (c) monitoring and management of any system generated error messages; and
 - (d) notification to the Buyer to enable the Buyer's IT team to act to resolve issues caused by incorrect data or non-compliant working practices
- 6.3.10 Database administration, including but not limited to:
 - (a) deployment of product updates as per Totamobile's scheduled release policy;
 - (b) monitoring the databases and optimizing database performance and use of resources, including selecting optimal physical implementations of databases;
 - (c) maintaining the availability and integrity of the databases, including referential integrity checking and multiple access schemes (locking);
 - (d) updating indices;
 - (e) updating statistics;
 - (f) auditing usage;
 - (g) database engine support;
 - (h) maintaining aliases;
 - (i) database back-ups;
 - (j) checking back-up occurrences;
 - (k) check transaction logs;
 - (l) periodic restores;

- (m) database capacity planning; and
- (n) monitoring disk usage and reporting on data consumption;

6.4 For the sake of clarity, but without limitation to the foregoing, all Buyer hardware support, off-site training or consultancy services and all items set out at Clause 6.5 below are specifically excluded from the scope of the Support & Maintenance Services expressly set out in Clauses 6.1, 6.2 and 6.3 above.

6.5 **OUT OF SCOPE**

- 6.5.1 Support outside of Prime Service Hours;
- 6.5.2 Support for third party software not developed by the Supplier, whether or not it has been resold by the Supplier;
- 6.5.3 Changes to the solution or design of any forms, folios, reports, adapters or integration points as configured and accepted prior to use of the Software;
- 6.5.4 Support for solutions developed by anyone other than the Supplier or its approved contractors;
- 6.5.5 Supporting, any customer designed database queries, reports, stored procedures, indexes;
- 6.5.6 Software application administration including but not limited to:
 - (a) addition, amendment or deletion of users and their security profiles;
 - (b) completing workflow processes caused by the Buyer's failure to adhere to established working practices;
 - (c) reprocessing data or dealing with errors caused by corrupted data originating from third party systems
- 6.5.7 Mobile device management;
- 6.5.8 Hardware of PDAs, smartphones, tablets, desktop PCs and server PCs;
- 6.5.9 Operating systems, service packs or patches for PDAs, smartphones, tablets, desktop PCs and server PCs;
- 6.5.10 Buyer and server printers, modems or communication equipment;
- 6.5.11 Buyer and server network, switches, hubs or any associated equipment or networks including mobile networks;
- 6.5.12 Buyer and server network security;
- 6.5.13 Third party software not included in the Call-Off Contract;
- 6.5.14 Third party database reporting tools;
- 6.5.15 Professional services, including but not limited to:
 - (a) consultancy on existing or new business practices and procedures;
 - (b) design and development of new or amended solutions and their components;
 - (c) training of new or existing staff;

6.5.16 Requests for enhancements to the software for new legislative requirements.

7. SOFTWARE SERVICE EXCLUSIONS

- 7.1 The Supplier is not obliged to provide the Support & Maintenance Services in respect of the Software if: (i) the Buyer is not using the versions of the operating system software as specified by the Supplier from time to time; or (ii) if the Buyer fails to maintain the Software at the Supplier's specified release level unless specifically agreed in writing in advance by the Supplier.
- 7.2 The Supplier will undertake responsibility for Software on the Specified System or any approved successor to it only and provided that the Specified System is the subject of a maintenance agreement with the manufacturer of the relevant hardware or with a reputable third party maintainer.
- 7.3 The Support & Maintenance Services do not include services in respect of defects or errors resulting from any modifications or enhancements to the Software not made by the Supplier or made without the prior written consent of the Supplier, or resulting from use of the Software in a business process or in a manner not defined during the implementation of the Software as outlined in the Functional Design Specification. Furthermore, any amendments to data or to the tables holding the data by the use of Software query tools which bypass the validation rules incorporated in the Software are not covered by this Service.
- 7.4 The Supplier is not obliged to provide the Support & Maintenance Services in respect of the Software if malfunctions are due to incorrect use of the Software, or for any reason external to the Software including, but not limited to, failure or fluctuation of electrical supplies, hardware failures, accident or natural disasters.
- 7.5 The Supplier is not obliged to provide the Support & Maintenance Services in respect any components of the Software which have been licensed to the Supplier by any third party. The Supplier will use its reasonable endeavours to procure that the relevant third party supports the components of the Software in accordance with its licence obligations (if any). Any costs or expenses arising in connection with such third-party support services for the benefit of the Buyer shall be borne exclusively by the Buyer.

8. DISCLAIMERS

- 8.1 The Supplier will use its reasonable endeavours to perform the Support & Maintenance Services promptly but time will not be of the essence for performance of the Support & Maintenance Services.
- 8.2 The Supplier is not liable for any delay or loss incurred by the Buyer arising from any failure on the part of any third party to support any of the components of the Software licensed to the Supplier in accordance with its licence obligations (if any).
- 8.3 The Supplier is not liable for delay arising from any industrial dispute or any cause outside its reasonable control (including without limitation any delay due to any loss breakdown or interruption in the supply of telecommunications to the Site or the Supplier's premises) and any agreed timescale will be subject to reasonable extension in the event of such delay.
- 8.4 The Supplier reserves the right to refuse to provide the Support & Maintenance Services at any time without refunding any sums paid by the Buyer in the following circumstances:
- 8.4.1 if any attempt is made, other than by the Supplier (or with the prior written approval of the Supplier), to remove any defects or deal with any errors in the Software; or
 - 8.4.2 if any development, enhancement or modification of the Software is carried out other than by the Supplier or with the Supplier's permission; or
 - 8.4.3 where, in the reasonable opinion of the Supplier, the Specified System has ceased to be capable of running the Software successfully for any reason and where discussions on a proposed solution have not reached a successful conclusion; or

- 8.4.4 where modifications are made to the Specified System which adversely affect the operation of the Software or lead to increased use of the Support & Maintenance Services offered without the prior written agreement of the Supplier.

9. BUYER RESPONSIBILITIES

9.1 The Buyer shall:

- 9.1.1 Use the Software correctly and in accordance with any Supplier operating instructions as notified to the Buyer;
- 9.1.2 Designate primary and secondary contacts in each of the Buyer's business and IT services departments who are appropriately qualified and trained to an acceptable standard authorised to request Support & Maintenance Services and inform the Supplier accordingly. Authorised use of the telephone helpline and Supplier Help Desk extranet is limited to these designated contacts;
- 9.1.3 Maintain procedures to facilitate reconstruction of any lost or altered files, data or programs on any devices or computer equipment external to the Supplier's Cloud platform to the extent deemed necessary by the Buyer, and the Buyer agrees that the Supplier will not be liable under any circumstances for any consequences arising from lost or corrupted data, files or programs. The Buyer is solely responsible for carrying out all necessary back-up procedures for their own benefit, to ensure that data integrity can be maintained in the event of loss of data for any reason;
- 9.1.4 Be solely responsible for the security of its confidential and proprietary information and not disclose such information to the Supplier except on a need to know basis for the purposes of the performance of the Support & Maintenance Services by the Supplier;
- 9.1.5 Notify the Supplier promptly of any malfunction of the Software;
- 9.1.6 Control the environmental conditions of the Site hosting any devices or computer equipment external to the Supplier's Network in accordance with any reasonable environmental operating ranges recommended by the Supplier or other relevant third parties;
- 9.1.7 Regularly perform the various routine and preventative maintenance and cleaning operations described in the applicable user guides or as reasonably advised by the Supplier including, but not limited to, any operating and diagnostic checks and the regular inspection and, if necessary, cleaning of disk packs and cartridges. The cost of rectifying any damage directly caused by not observing this undertaking will not be covered by this Supplier Terms;
- 9.1.8 Keep records of the Specified System's usage and performance if requested by the Supplier, for the purpose of specific problem investigation, in a mutually agreed format and for a defined period during the problem investigation;
- 9.1.9 Provide the Supplier with access to and usage of Buyer's information and facilities as reasonably necessary to provide the Support & Maintenance Services; and
- 9.1.10 Provide ready access to a telephone at the site on which external calls connected with the Support & Maintenance Services can be made and received by personnel of the Supplier.

11. SPECIFIC SOFTWARE RESPONSIBILITIES

11.1 The Buyer shall:

- 11.1.1 Provide telephone and internet facilities to the Supplier's requirements for remote investigation of Software defects in agreement with the Buyer and under the terms of any Network Access Policy agreed with the Buyer.
- 11.1.2 Install the latest applicable Software revisions and enhancements to the Software for any devices or computer equipment external to the Supplier's Azure platform as soon as reasonably practicable, and in any event, within twelve (12) months of release, unless the Parties agree for a particular release an implementation plan with a longer timescale.
- 11.1.3 Copy and use any updates, modifications, corrections or enhancements to the Software only in accordance with the licence granted for the Software. Under no circumstances is title to any software, including updates, modifications, corrections or enhancements, granted under this Supplier Terms.

SCHEDULE 3

PROFESSIONAL SERVICES ADDITIONAL TERMS

This Schedule sets forth additional terms to the Supplier Terms where the Supplier provide professional services in respect of the Subscription Services. Except as otherwise set forth below, the capitalised terms shall have the same meaning as such terms in the Supplier Terms. In the event of a conflict between this Schedule and the Supplier Terms, this Schedule shall take precedence.

1. DEFINITIONS

1.1 The definitions and rules of interpretation in this Clause apply in this Schedule:

“Acceptance Criteria”	means the criteria to be satisfied to demonstrate that the Acceptance Tests have been successfully completed;
“Acceptance Date”	means, for each Acceptance Test, the date set out in the Project Plan for Acceptance of the Deliverable against that Acceptance Test;
“Acceptance Tests”	means the various tests (which may include system tests, end-to-end tests and user acceptance tests where the same would be applicable to the relevant Deliverable) to ensure compliance of a Deliverable with the relevant Acceptance Criteria applicable to such test, each of which are to be conducted by the Buyer in accordance with Clause 4;
“Acceptance”	means that the Buyer confirms in writing, that a Deliverable has passed or deemed to have passed the relevant Acceptance Tests and “Accept” and “Accepted” shall be construed accordingly;
“Defects”	means any error or failure of code within a Deliverable which causes the Deliverable to produce unintelligible or incorrect results;
“Deliverables”	means an item or feature in the supply of the Services delivered or to be delivered by the Supplier and listed in the Statement of Work, Order Form or otherwise provided by the Supplier at any other stage during the performance of the Services;
“Good Industry Practice”	means the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in providing the Services;
“IT Environment”	means the equipment and computer software embedded in or forming an integral part of such equipment and any replacement equipment owned by the Buyer;
“Laws”	means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, rule of common law, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of Court or directives or requirements of any Regulator, delegated or subordinate legislation;

“Buyer Materials”	shall have the meaning set out at Clause 2.3.3;
“Live Use”	means any intentional use of the relevant Deliverable by the Buyer to operate a live production environment other than any such use that is carried out as part of a planned Acceptance Test;
“Long Stop Acceptance Date”	means the date falling 20 (twenty) weeks after the Acceptance Date;
“Minimum Recommended System Requirements”	Means the minimum recommended system requirements as notified to the Buyer by the Supplier from time to time;
“Project Plan”	means the project plan set out in the Statement of Work, or such other implementation or delivery plan as may be agreed between the Parties in writing from time to time;
“Revised Acceptance Date”	shall have the meaning set out at Clause 4.6.1;
“Service Charges”	the charges payable for the Services as set out in an Order;
“Site”	The locations where the Software has been installed as agreed by the Supplier and specified in the Schedule;
“Standards”	means those standards policies and procedures (if any) identified in the Order Form as are relevant to the delivery of the Services by the Supplier;

- 1.2 Clause, Schedule and paragraph headings shall not form part of and shall not affect the interpretation of this Supplier Terms.

2. SERVICES

- 2.1 Subject to earlier termination as hereinafter provided as from the Effective Date the Supplier shall provide:

- 2.1.1 the professional Services in accordance with this Schedule 3 and in particular the Specification;
- 2.1.2 any and all associated services and activities that are not specifically referred to in the Specification but which are required for the proper and efficient provision of the Services.

- 2.2 The Supplier shall perform its obligations under this Supplier Terms including those in relation to the Services, in accordance with:

- 2.2.1 Good Industry Practice;
- 2.2.2 all applicable Laws;
- 2.2.3 all applicable national, international and industry standards;
- 2.2.4 the Standards (if any) specified in the Order Form; and

- 2.2.5 all other provisions of this Supplier Terms.
- 2.3 In providing the Services, the Supplier shall:
- 2.3.1 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Specification;
 - 2.3.2 observe all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises, to the extent the same are reasonable and notified to the Supplier in advance; and
 - 2.3.3 hold all materials, equipment and tools, drawings, specifications and data supplied by the Buyer to the Supplier ("**Buyer Materials**") in safe custody at its own risk, maintain the Buyer Materials in good condition until returned to the Buyer, and not dispose or use the Buyer Materials other than in accordance with the Buyer's written instructions or authorisation.
- 2.4 The Supplier will use its reasonable endeavours to meet any and all performance dates and timescales relating to the Services in this Supplier Terms including as set out in any agreed Project Plan.
- 2.5 Without prejudice to its other obligations under this Supplier Terms, the Supplier shall promptly advise the Buyer (and, where such advice is given orally, promptly, provide written confirmation of such advice) of any development of which the Supplier is aware or becomes aware, that will or may have a material impact on the Supplier's ability to provide the Services or otherwise perform its obligations (including any potential or actual delay in meeting the performance dates for the Services referred to in clause 2.4) in accordance with the agreed Project Plan.
- 2.6 Regardless of its cause the Supplier shall use its reasonable endeavours to eliminate or mitigate the consequences of any delay to the delivery of the Services in accordance with the agreed Project Plan PROVIDED ALWAYS that the Supplier shall not be liable for any failure to meet any performance dates and timescales set out in any agreed Project Plan where the cause of such delay arises from a circumstance or event outside of the Supplier's control.
- 3. ACCEPTANCE TESTS PREPARATION**
- 3.1 In respect of each Deliverable, the Supplier shall, in accordance with the Project Plan prepare and submit to the Buyer the Deliverable and, where applicable, any relevant Documentation.
- 3.2 Where a particular Deliverable is to be subjected to Acceptance Tests (as specified in the Project Plan), the Supplier and the Buyer shall jointly develop the Acceptance Criteria against which the Acceptance Tests will be conducted for that Deliverable. The relevant Acceptance Criteria shall, in the context of the particular Acceptance Test, demonstrate compliance of the Deliverable with the relevant Specification.
- 3.3 The Acceptance Tests shall each test whether the Deliverable attains the relevant Acceptance Criteria applicable to the particular Acceptance Test.
- 4. ACCEPTANCE TESTING**
- 4.1 The Buyer shall carry out each set of Acceptance Tests forming part of Acceptance Testing in accordance with the Project Plan. The Buyer shall provide the Supplier upon request with all relevant documents, reports and data from such Acceptance Tests.
- 4.2 If the Deliverable does not pass the particular Acceptance Tests being performed the Buyer will promptly, and within no more than 5 days of the Acceptance Test failure, notify the Supplier of such failure. The Supplier shall use reasonable endeavours to rework the Deliverable to pass repeat Acceptance Tests and shall submit the reworked Deliverable to the Buyer for repeat Acceptance Testing in accordance with this Clause 4 and the provisions of

this Clause 4.2 shall apply to the repeat Acceptance Test.

- 4.3 Acceptance of the Deliverable against the Acceptance Tests shall occur when all the Acceptance Tests have been completed and passed (or are considered by the Buyer to have passed in accordance with Clause 4.3). At that point the Buyer shall sign an acceptance certificate and forward it to the Supplier and Acceptance of that Deliverable against the Acceptance Tests shall occur.
- 4.4 If the Buyer considers a Deliverable to have passed the relevant Acceptance Tests in accordance with Clause 4.3 but the Deliverable still contains Defects, the Supplier will, at no additional cost to the Buyer, use reasonable endeavours to remedy the Defects as soon as is practically possible.
- 4.5 If the Buyer places the Deliverable into Live Use (other than as required as part of Acceptance Testing) then such use shall constitute Acceptance for the purposes of this Clause 4.
- 4.6 If a Deliverable has not passed the Acceptance Tests as a whole (and the Acceptance Tests shall still be considered to be passed even where one or more of the Acceptance Tests comprising the Acceptance Tests has been deemed to have been passed by virtue of Clause 4.4) by the relevant Long Stop Acceptance Date then the Buyer may elect, acting reasonably and in good faith, to:
 - 4.6.1 Extend the relevant Acceptance Date by such period to such a date as the Buyer shall reasonably determine (such date being the “**Revised Acceptance Date**”) in which case the Supplier shall (i) seek to rectify the outstanding Defects and the Deliverable shall be retested in accordance with Clause 4.2; or (ii) exercise its rights under Clause 4.6.2; or
 - 4.6.2 Terminate this Supplier Terms by reason of material default of the Supplier that is not capable of remedy and reject the Deliverable.

5. BUYER'S OBLIGATIONS

- 5.1 The Buyer shall:
 - 5.1.1 Provide reasonable cooperation to the Supplier in the performance of its obligations;
 - 5.1.2 Provide the Supplier with access to such personnel within Buyer's staff, as is reasonably requested by the Supplier to assist the Supplier in discharging its obligations;
 - 5.1.3 Provide the Supplier with reasonable access at reasonable times to the Buyer's premises and systems for the purpose of providing the Services;
 - 5.1.4 Provide such documentation, data and/or other information to the Supplier as the Supplier may reasonably requests which is necessary to enable Supplier to perform its obligations under this Supplier Terms;
 - 5.1.5 be responsible for its subcontractor's compliance with this Supplier Terms;
 - 5.1.6 take such action as is necessary to ensure that the IT Environment meets the Minimum Recommended System Requirements
 - 5.1.7 procure and set up operational equipment, and operate the needed IT Environment in compliance with the Supplier's requirements; and
 - 5.1.8 ensure all necessary hardware complies with the requirement specifications and recommendations provided by the Supplier from time to time.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 All Intellectual Property Rights and all other rights in the Deliverables shall be owned by the Supplier. The Supplier hereby licenses all such rights to the Buyer on a non-exclusive basis to such extent as is necessary to enable the Buyer to make reasonable use of the Software, the Deliverables and the Services for its internal business purposes only as is envisaged by the Parties. If the Supplier terminates this Supplier Terms this licence will automatically terminate.
- 6.2 Except as expressly set forth in this Supplier Terms, nothing in this Supplier Terms acts to create any licences (implied or otherwise), in any Intellectual Property Rights in the Software, the Deliverables (including any configuration coding or the Documentation) together with any other deliverable provided by the Supplier under this Supplier Terms as part of the Services or otherwise.
- 6.3 Without limiting the foregoing, Buyer acknowledges that the Supplier shall own any development or deliverable and shall be free, without restriction or accounting to the Buyer, to use, disclose (on a non-confidential basis) develop and otherwise exploit any idea, suggestion, feedback or concept provided by Buyer during the term of this Supplier Terms which may include developing standard functionality to be included within the Software or otherwise.

7. SERVICE CHARGES

- 7.1 Subject to clause 7.2, the Buyer shall pay to the Supplier the Service Charges in such amount(s) as set out in the applicable Order Form.
- 7.2 Where Services are agreed to be provided by the Supplier on an agreed date, and such Services are cancelled by the Buyer, the Buyer shall be liable to pay:
- 7.2.1 100% of the applicable Service Charges where less than 2 Working Days' notice to terminate has been given; or
- 7.2.2 50% of the applicable Service Charge where 3 to 5 Workings Days' notice to terminate has been given.

Where more than five (5) Working Days' notice to terminate has been given no Service Charge shall be payable.

- 7.3 Expenses incurred by the Supplier in the delivery of the Services shall be charged for in addition. Where Services are cancelled by the Buyer, without prejudice to clause 7.2, the Buyer shall be liable for and pay to the Supplier any third party costs paid or payable by the Supplier in relation to the cancelled Services where the Supplier is unable to obtain a refund or cancel the same without incurring any penalty.
- 7.4 All professional service or training days purchased under this Supplier Terms or under any subsequent variation(s) thereof must be used within 12 months of the date of this Supplier Terms (or the date of the variation). All unused professional service or training days shall automatically expire after 12 months from the relevant date, the Buyer shall not be entitled to any refunds or other compensation for any unused days.

8. DISCLAIMERS

- 8.1 The Supplier will use its reasonable endeavours to perform the Services promptly but no warranty is given in respect of any times for response or performance by the Supplier and time for performance of the Services will not be of the essence.
- 8.2 The Supplier shall not be responsible for and is not liable for any failure to perform its obligations under this Supplier Terms or any delay or loss incurred by the Buyer arising if and to the extent that the Supplier's non-performance, failure or delay results from the actions, inactions, negligence or default of the Buyer, its employees, consultants or subcontractors.

- 8.3 The Supplier is not liable for delay arising from any industrial dispute or any cause outside its reasonable control (including without limitation any delay due to any loss breakdown or interruption in the supply of telecommunications to the Site or the Supplier's premises) and any agreed timescale will be subject to reasonable extension in the event of such delay.
- 8.4 The Supplier reserves the right to refuse to provide the Services at any time in the following circumstances:
- 8.4.1 the Buyer makes changes to the IT Environment contrary to the Supplier's requirements and without the Supplier's consent. The Supplier is entitled to claim future exemption from any obligation in relation to the Software or the Services, including remedying of defects; and/or
 - 8.4.2 where the Buyer fails to provide the Supplier with reasonable access to equipment and systems required to provide the Services.

SCHEDULE 4

DATA PROTECTION

1. INTERPRETATION

1.1 In this Schedule:

“Controller”	shall have the meaning set out in the UK GDPR;
“Data Protection Laws”	means the GDPR as implemented into the laws of the United Kingdom (“ UK GDPR ”), the Data Protection Act 2018 and the Privacy and Electronic Communication Regulations 2003, any amendment, consolidation or re-enactment thereof, any legislation of equivalent purpose or effect enacted in the United Kingdom, or, where relevant, the European Union, and any orders, guidelines and instructions issued under any of the above by relevant national authorities, a judicial authority in England and Wales or, where relevant, a European Union judicial authority;
“Data Subject”	shall have the meaning set out in the UK GDPR;
“Description of Processing”	of means as described in Annex 1 of Schedule 10 of the Call-Off Contract;
“GDPR”	means General Data Protection Regulation (EU) 2016/679 as in force from time to time;
“Personal Data”	has the meaning given to it by the UK GDPR, but shall only include personal data to the extent that such personal data, or any part of such personal data, is processed in relation to the services provided under this Supplier Terms;
“Processor”	shall have the meaning set out in the UK GDPR; and

1.2 Words and phrases with defined meanings in the GDPR have the same meanings when used in this Schedule, unless otherwise defined in this Schedule.

2. OBLIGATIONS

2.1. Each Party shall comply with the Data Protection Laws applicable to it in connection with this Supplier Terms, and shall not cause the other Party to breach any of its obligations under applicable Data Protection Laws.

2.2. The Parties have agreed that the Supplier will process Personal Data as described in the Description of Processing as the Processor on behalf of the Buyer which shall act as a Controller of such Personal Data in connection with this Supplier Terms. The Supplier shall, or shall ensure that its sub-contractor shall:

- 2.2.1. process the Personal Data only on behalf of the Buyer, only for the purposes of performing its obligations under this Supplier Terms, and only in accordance with instructions contained in this Supplier Terms or instructions received in writing from the Buyer from time to time. The Supplier shall notify the Buyer if, in its opinion, any instruction given by the Buyer breaches Data Protection Laws or other applicable law;
- 2.2.2. not otherwise modify, amend or alter the contents of the Personal Data or disclose or permit the disclosure of any of the Personal Data to any third party (including without limitation the Data Subject itself) unless specifically authorised in writing by the Buyer;
- 2.2.3. document all processing in accordance with Article 30 UK GDPR;
- 2.2.4. only grant access to the Personal Data to persons who need to have access to it for the purposes of performing this Supplier Terms;
- 2.2.5. ensure that all persons with access to the Personal Data are:

- 2.2.5.1. reliable, trustworthy and suitably trained on Data Protection Laws; and
- 2.2.5.2. subject to an obligation of confidentiality or are under an appropriate statutory obligation of confidentiality.
- 2.2.6. taking into account the nature of the processing and the information available to the Supplier, assist the Buyer in ensuring compliance with its obligations pursuant to Article 32 to 36 UK GDPR inclusive;
- 2.2.7. as a minimum, take all measures required pursuant to Article 32 UK GDPR in accordance with best practice and the security obligations set out in this Supplier Terms (as amended from time to time), whichever imposes a higher standard, and at the request of the Buyer provide a written description of, and rationale for, the technical and organizational measures implemented, or to be implemented, to:
 - 2.2.7.1. protect the Personal Data against unauthorized or unlawful processing and accidental loss, destruction, damage, alteration or disclosure; and
 - 2.2.7.2. detect and report personal data breaches within good time,

such measures shall be subject to the adequacy assessment of the Buyer. Where the Buyer does not deem such measures adequate, the Supplier shall revise them until the Buyer does so. Once approved by the Buyer, the Supplier shall be bound to implement and maintain such measures, and shall provide the Buyer with reasonable assistance in documenting its adequacy assessment;
- 2.2.8. report to the Buyer on a regular basis, and at least once every year, on the status of the Personal Data security. Unless otherwise agreed in writing, the Supplier will define the content of said reporting based on its own operational requirements in conjunction with any applicable legal and/or regulatory requirements;
- 2.2.9. notify any loss, damage or destruction of Personal Data to the Buyer as soon as reasonably practicable, without undue delay and in any event within 24 hours of becoming aware of such breach and provide reasonable assistance to the Buyer in relation to the notification of such breach to the Information Commissioner and any other applicable regulator and any data subject;
- 2.2.10. provide reasonable assistance to the Buyer in ensuring compliance with its legal obligations relating to data security and privacy impact assessments;
- 2.2.11. not engage another processor (a **"Sub-Processor"**) to process the Personal Data on its behalf without specific written consent of the Buyer, approving a named Sub-Processor, such consent always subject to:
 - 2.2.11.1. the Supplier binding any Sub-Processor by written agreement, imposing on the Sub-Processor obligations in relation to the Personal Data equivalent to those set out in this Supplier Terms; and
 - 2.2.11.2. the Supplier remaining liable to the Buyer for the acts and omissions of any Sub-Processor, as if they were the acts and omissions of the Supplier;
- 2.2.12. notify the Buyer (within seven days) if it receives:
 - 2.2.12.1. a request from a Data Subject to have access to that person's Personal Data; or
 - 2.2.12.2. a complaint or request relating to the Buyer's obligations under Data Protection Laws; or
 - 2.2.12.3. any other communication relating directly or indirectly to the processing of any Personal Data in connection with this Supplier Terms;

- 2.2.13. not take action in relation to such communication, unless compelled by law or a regulator, without the Buyer's prior approval, and shall comply with any reasonable instructions the Buyer gives in relation to such communication;
- 2.2.14. provide the Buyer with full co-operation and assistance in relation to any complaint or request made in respect of any Personal Data including (without limitation) by:
- 2.2.14.1. providing the Buyer with full details of the complaint or request;
 - 2.2.14.2. complying with a data access request within the relevant timescales set out in the Data Protection Legislation but strictly in accordance with the Buyer's instructions;
 - 2.2.14.3. providing the Buyer with any Personal Data it holds in relation to a Data Subject making a complaint or request within the timescales required by the Buyer;
 - 2.2.14.4. providing the Buyer with any information requested by the Buyer; and
 - 2.2.14.5. assisting the Buyer to respond or comply with the Buyer's complaint or request;
- 2.2.15. on termination of this Supplier Terms and otherwise at the Buyer's request, delete or return to the Buyer the Personal Data, and procure that any party to whom the Supplier has disclosed the Personal Data does the same;
- 2.2.16. where reasonably possible, store the Personal Data in a structured, commonly used and machine readable format;
- 2.2.17. not transfer process or have transferred or otherwise have processed Personal Data outside of the UK without the prior written consent of the Buyer. Where the Buyer consents to the transfer of Personal Data outside the UK (in the same country as the transferee "third party" or in another third country, hereinafter "onward transfer") , such transfer may only take place if:
- 2.2.17.1. it is to a country benefitting from an adequacy decision pursuant to Article 45 of the UK GDPR that covers the transfer or onward transfer;
 - 2.2.17.2. the Supplier complies with the obligations laid down in Articles 46 or 47 UK GDPR inclusive by providing an adequate level of protection to any Personal Data transferred;
 - 2.2.17.3. the third party and/or where applicable the Supplier enters into a binding instrument ensuring the same level of data protection as under this Supplier Terms and in accordance with Data Protection Laws, and including where necessary the EU Standard Contract Clauses or any applicable Standard Contract Clauses approved by another Supervisory Authority
 - 2.2.17.4. it is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
 - 2.2.17.5. it is necessary in order to protect the vital interests of the data subject or of another natural person;
 - 2.2.17.6. any transfer or onward transfer is subject to compliance by the Supplier and any third party with all the other safeguards under Data Protection Laws, in particular purpose limitation; and
 - 2.2.17.7. the Supplier complies with any reasonable instructions of the Buyer in relation to such transfer;
- 2.2.18. have a data protection officer where required by the UK GDPR, and where a data protection officer is not required, have a named individual that is responsible and available to deal with data protection issues as and when they arise in conjunction with the Buyer; and

- 2.2.19. allow the Buyer, or its external advisers (subject to reasonable and appropriate confidentiality undertakings) and a notice period of five (5) Working Days, to inspect and audit the Supplier's data processing activities and those of its relevant group companies and sub- contractors, and comply with reasonable requests or directions by the Buyer, and to the extent necessary provide the Buyer with access to its premises during Normal Business Hours to enable the Buyer to verify and procure that the Supplier is in full compliance with its obligations under this Schedule.

3. LIABILITY

- 3.1. The Supplier shall remain liable to the Buyer against all properly mitigated liabilities, costs, expenses, damages and losses suffered or incurred by it arising out of or in connection with the Supplier's breach of this Schedule, unless such indemnity is prohibited on grounds of public policy. Notwithstanding anything stated elsewhere in this Supplier Terms the Supplier's liability under this paragraph 3 shall be capped in accordance with the liability clause under Call-Off Contract.
- 3.2. Notwithstanding anything stated elsewhere in this Supplier Terms, the Supplier's liability in damages for breach of this Schedule shall be capped in accordance with the applicable liability clause under the Call-Off Contract.

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1. All intellectual property rights in the Personal Data vest and shall remain vested absolutely in the Buyer.
- 4.2. Electronic media and other means of transport containing the Personal Data received by the Supplier and all copies or reproductions thereof shall also remain the property of the Buyer.

SCHEDULE 5

ACCEPTABLE USE POLICY

1. Policy Overview

This Acceptable Use Policy (“**AUP**”) governs the Buyer’s and the Authorised Users use of any Services provided by the Supplier and any use of the Supplier’s network.

By subscribing for or receiving any Services, or by using the Supplier’s network, the Buyer agrees to and to ensure the Authorised Users abide by the terms of this AUP, which will be incorporated into any agreement between the Buyer and the Supplier and shall apply to any use the Buyer makes of the Supplier’s Services or network.

2. Prohibited Uses – Overview

The Buyer and its Authorised Users may use the Services or the Supplier’s network only for lawful purposes. The Buyer and its Authorised Users may not use the Services or the Supplier’s network:

- (i) in any way that breaches any applicable local, national or international law or regulation;
- (ii) in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
- (iii) for the purpose of harming or attempting to harm anyone, including minors, or in any manner which will, or is likely to, infringe the personal rights of others;
- (iv) in any manner that will, or is likely to, infringe the copyright, trademark, trade secret or other intellectual property rights of others;
- (v) to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation or spam;
- (vi) in connection with any defamatory, indecent, obscene, offensive, threatening, racist, homophobic, terrorist or abusive conduct or activity;
- (vii) to knowingly transmit any data, send or upload any material that contains viruses, trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware; or
- (viii) in any way that is inconsistent with the terms of the Buyer’s agreement with the Supplier.

2.1 Specific Prohibitions

Without prejudice to the generality of the overview principles set out above, unacceptable use includes, but is not limited to, the following:

- (i) posting, transmission, re-transmission, or storing material on or through any of the Supplier’s Services or Network, if the Supplier reasonably believes that such posting, transmission, re-transmission or storage is:
 - a) in violation of any local, national or international law or regulation (including rights protected by copyright, trade secret, patent or other intellectual property or similar laws or regulations);
 - b) threatening or abusive;
 - c) racist, homophobic;
 - d) promoting violence or terrorist acts;
 - e) obscene;
 - f) indecent; or
 - g) defamatory.
- (ii) installation or distribution of pirated or other software products that are not appropriately licensed for use.
- (iii) Resale of the Supplier’s Services without the express prior written consent of the Supplier.
- (iv) deceptive or fraudulent marketing practices.

- (v) Actions that restrict or inhibit anyone – whether a customer of the Supplier or otherwise – in his or her use or enjoyment of the Services or the Supplier's network, or that generate excessive network traffic through the use of automated or manual routines that are not related to ordinary business use of our Services.
- (vi) introduction of malicious programs into the Supplier's network or servers or software (e.g., viruses, Trojan horses and worms).
- (vii) causing or attempting to cause security breaches or disruptions of internet communications. Examples of security breaches include but are not limited to accessing data of which the customer is not an intended recipient, or logging into a server or account that the customer is not expressly authorised to access (e.g., port scans, flood pings, packet spoofing and forged routing information).
- (viii) executing any form of network monitoring that will intercept data not intended for you.
- (ix) circumventing user authentication or security of any host, network or account.
- (x) interfering with or denying service to any user other than the customer's host (e.g., denial of service attack-DDOS).
- (xi) using any program/script/command, or sending messages of any kind, designed to interfere with, or to disable a user's terminal session.
- (xii) Failing to comply with the Supplier's procedures relating to the activities of customers on Supplier-owned facilities.
- (xiii) furnishing false or incorrect data or attempting to circumvent or alter the processes or procedures to measure time, bandwidth utilisation or other methods to document use of the Services.
- (xiv) sending unsolicited mail messages, including the sending of junk mail or other advertising material to individuals who did not specifically request such material, who were not previous customers of yours or with whom you do not have an existing business relationship (e.g., e-mail spam).
- (xv) harassment (e.g., through language, frequency, or size of e-mail messages).
- (xvi) unauthorised use or forging of mail header information.
- (xvii) solicitations of mail or any other e-mail address other than that of the poster's account or service, with the intent to harass or to collect replies.
- (xviii) creating or forwarding chain letters or other pyramid schemes of any kind.
- (xix) use of unsolicited e-mail originating from within the Supplier's Network or networks of other internet service providers on behalf of or to advertise any service hosted by the Supplier or connected via the Supplier's Network.
- (xx) Exporting, re-exporting, or permitting downloads of any content in violation of the export or import laws of England and Wales or Scotland or without all required approvals, licenses and exemptions.
- (xxi) use of IRC servers or bots connected to public IRC networks or servers.

3. Enforcement

The Supplier will determine, in its discretion, whether there has been a breach of this AUP by the Buyer. When a breach of this policy has occurred, the Supplier may take such action as we deem appropriate.

Failure to comply with this AUP constitutes a material breach of the Buyer's agreement with the Supplier under which the Buyer and the Authorised Users are permitted to use the Services, and may result in the Supplier taking all or any of the following actions:

- (i) immediate, temporary or permanent withdrawal of the Buyer's right to use the Services.
- (ii) immediate, temporary or permanent removal of any posting or material uploaded by the Buyer or an Authorised User.
- (iii) issue of a written warning to the Buyer.
- (iv) legal proceedings against the Buyer for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from the breach.
- (v) further legal action against the Buyer as recommended by the Supplier's lawyers.
- (vi) disclosure of such information to law enforcement authorities as the Supplier reasonably feels necessary.

The Supplier excludes liability for actions taken in response to breaches of this AUP. The responses described in this policy are not limited, and the Supplier may take any other action which the Supplier reasonably deems appropriate.

4. Waiver and Severance

Any failure or delay in exercising or enforcing this policy shall not constitute a waiver of this policy or of any other right or remedy.

SCHEDULE 6

GENERAL AGREEMENT FOR DATA USE RELATED TO ARTIFICIAL INTELLIGENCE

This Schedule sets forth additional terms to the Supplier Terms where the Supplier provides AI Technology in respect of the Subscription Services. Except as otherwise set forth below, the capitalised terms shall have the same meaning as such terms in the Supplier Terms. In the event of a conflict between this Schedule and the Supplier Terms, this Schedule shall take precedence.

9. DEFINITIONS

9.1 The definitions and rules of interpretation in this Clause apply in this Schedule:

“AI Technology”	means any and all machine learning, deep learning, and other artificial intelligence (“ AI ”) technologies, including statistical learning algorithms, models (including large language models), neural networks, and other AI tools or methodologies, all software implementations of any of the foregoing, and related hardware or equipment capable of generating various types of content (including text, images, video, audio, or computer code) based on user-supplied prompts (“ Generative AI Tools ”);
“AI Input”	means information, data, materials, text, prompts, images, or other content that is (i) input, entered, posted, uploaded, submitted, transferred, transmitted, or otherwise provided or made available for processing by or through AI Technology, or (ii) collected, downloaded, or otherwise received by AI Technology;
“AI Output”	means information, data, materials, text, images, or other content (including text, numbers, images, photos, graphics, video, audio, or computer code) generated, produced, or otherwise output by AI Technology;
“Buyer Data”	means Buyer’s Confidential Information and any and all other information, data, materials, works, expressions, or other content owned or provided by or on behalf of Buyer to Supplier or its representatives or to which Supplier or its representatives have access pursuant to this Schedule, including any that are (a) uploaded, submitted, posted, transferred, transmitted, or otherwise provided or made available by or on behalf of Buyer to Supplier or its representatives pursuant to this Schedule including for processing or use by Supplier in providing the Services or (b) collected, downloaded, or otherwise received by Supplier for Buyer pursuant to this Schedule or at the written request or instruction of Buyer, or (c) Deliverables or AI Output produced in connection with the Services. All outputs, including AI Output, copies, reproductions, improvements, modifications, adaptations, translations, and other derivative works of, based on, derived from, or otherwise using any Buyer Data will not themselves be Buyer Data;
“Personal Information”	means information provided to Supplier by or at the direction of Buyer, information that is created or obtained by Supplier on behalf of Buyer, or information to which access was provided to Supplier by or at the direction of Buyer, in the course of Supplier’s performance under this Schedule that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, email addresses, and other unique identifiers); or (ii) can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, user identification and account access credentials or passwords, financial account numbers, credit report information, student information, biometric, health, genetic, medical, or medical insurance data, answers to security questions, and other personal identifiers). Buyer’s business contact information is not by itself deemed to be Personal Information;
“Supplier Intellectual Property”	means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual

property rights laws, and all similar or equivalent rights or forms of protection, owned or developed by or on behalf of the Supplier in any part of the world;

“User Data” means any and all information reflecting the access or use of the Services or Deliverables, including data pertaining to any end user profile, visit, session, impression, click throughs, or click streams, and any statistical or other analysis, information, or data based on or derived from any of the foregoing.

10. USE OF CUSTOMER DATA WITH AI

- 10.1 Notwithstanding anything to the contrary in this Call-Off Contract, Supplier shall have the right to use any Buyer Data:
- 10.1.1 as or in AI Input to train, validate, update, improve, or modify any of Supplier's AI Technology; or
- 10.1.2 as or in prompts for any Generative AI Tools;
- for itself or for the benefit of any other person or entity other than solely for the benefit of Buyer, without Buyer's prior written authorization, which may be withheld at Buyer's sole discretion.

11. STATEMENT OF WORK

- 11.1 The specific use of the Buyer Data under this Schedule shall be described in the Order Form and/or a Statement of Work (“**SOW**”) and shall be appended to the Call-Off Contract. Each SOW shall make reference this Schedule, be executed by both Parties, and upon execution shall be incorporated into and form part of the Call-Off Contract. The SOW will set forth, at a minimum, the scope of services, deliverables, any applicable fees, payment terms, project schedule, and any specific responsibilities of the Parties.
- 11.2 The SOW shall commence on the effective date specified in such SOW and shall continue until completion of the services or termination in accordance with the Call-Off Contract.
- 11.3 In the event of any conflict or inconsistency between the terms of this Schedule and the terms of the SOW, the terms of the SOW shall govern with respect to the services described therein, unless expressly stated otherwise in the SOW.

12. PERMITTED AI TECHNOLOGY

- 12.1 For all AI Technology permitted under Clause 10, Supplier represents and warrants that:
- 12.1.1 Supplier: (i) has obtained and is in compliance with all licenses, consents, and permissions; (ii) has provided all notices and disclosures; and (iii) otherwise has all rights, in each case as required under applicable Law and as necessary for Buyer to fully exercise its rights to the Services under this Schedule, related to the AI Technology and its AI Inputs for any use of AI Technology in connection with the provision of the Services under this Schedule;
- 12.1.2 Supplier has complied with all use restrictions and other requirements of any license, consent, permission, or other agreement and any website terms of use, terms of service, or other terms governing the use of the AI Technology;
- 12.1.3 Supplier has complied with all applicable Laws and third-party contractual or other rights applicable to: (i) the development, creation, training, fine-tuning, implementation, provision, and use of the AI Technology and (ii) Customer's use of the AI Technology as contemplated under this Schedule;
- 12.1.4 Supplier has implemented and is in compliance with industry standard policies and procedures for the ethical and responsible use of AI Technology, including for transparency, human interpretability, mitigation of bias, and oversight of the AI Technology, Training Data, and other data input into AI Technology.

13. NO MODIFICATION OF CONFIDENTIALITY OBLIGATIONS

Buyer Data that consists of Confidential Information will remain subject to the provisions of the Call-Off Contract and nothing in this Schedule shall negate or otherwise affect any of Supplier's obligations with respect to Buyer's Confidential Information.