



ASPIRICO

Achieving life's potential



iplanit

SAMPLE SERVICE LEVEL AGREEMENT

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SERVICE LEVEL AGREEMENT FOR IPLANIT SUBSCRIPTIONS, SERVICES AND MAINTENANCE AND SUPPORT SERVICES. SLA REFERENCE: ASPXXX

1. Aspirico is the provider of the iplanit Subscription and certain services in respect of the iplanit Subscription.
2. <PROVIDER NAME> wishes to subscribe to the iplanit Subscription and engage Aspirico to provide the Services in respect of the iplanit Subscription on the terms set out in this agreement.

DEFINITIONS

Acceptance Notice means the acceptance notice issued by <PROVIDER NAME> to Aspirico in accordance with clause 4.1(g)(ii).

Administrative Contact: the individual within <PROVIDER NAME> who is the administrative contact for iplanit related matters.

Agreement means this Agreement and includes any terms, conditions or obligations that are referred to in any schedule or annex to this Agreement.

Annual Subscription Charge means the annual subscription fee paid by <PROVIDER NAME> in respect of the iplanit Subscription as set out in Schedule One. For the avoidance of doubt, the annual subscription charge includes the licensing of the iplanit software, and related documentation and all training materials in respect of the use of the iplanit Subscription.

Aspirico means Aspirico Limited, registered in Ireland.

Bill Rate means in respect of any rate of interest to be calculated pursuant to this agreement the mid or "FRA" rate for 90 day bank accepted bills (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page) at or about 10.45am on the first Business Day of the period in respect of which such rate of interest is to be calculated, and thereafter at intervals of 90 days from that Business Day.

Business Days means any day other than a Saturday, Sunday, or a statutory public holiday in <LOCATION>.

Business Hours means the hours between 9am and 5pm on a Business Day. **Charges** means the Annual Subscription Charge, Project Services Charge and Maintenance and Support Services Charge.

Control or **Controlled** includes where one or more persons, directly or indirectly, whether by the legal or beneficial ownership of shares, securities or other equity, the possession of voting power, by contract, trust, or otherwise:

- (a) has, or may have, the power to appoint or remove the majority of the members of the governing body of the person concerned;
- (b) controls or has the power, or may have the power, to control the affairs or policies of the person concerned; or
- (c) is in a position to derive more than 50% of the benefit of the existence or activities of the person concerned.

CPI means the Consumer Price Index (All Groups) published by Statistics <COUNTRY> or other <COUNTRY> government agency and any revised, replacement or substituted index.

Confidential Information means information and material which is not in the public domain relating to the Customer or Service Users of the Customer, including (without limitation) strategic, corporate, and financial information relating to

any other Party and information (including Personal Information) relating to the business, clients, members, partners, plans, knowhow, and operations of a Party.

Documentation means electronic or printed materials including operating manuals, users' manuals, programming manuals, modification manuals, flow charts, drawings and software listings and other such documentation created by or on behalf of Aspirico which are designed to assist or supplement the understanding, use or application of the Licensed Software.

Effective Date of Agreement is when this agreement is signed by <PROVIDER NAME>

Final System Delivery means the delivery of the Licensed Software to <PROVIDER NAME> in accordance with the specifications agreed between <PROVIDER NAME> and Aspirico pursuant to clause 4.

<PROVIDER NAME> means <Provider Name> (and any of its Related Companies).

<PROVIDER NAME> Data means all data and information in any form (whether written, electronic or otherwise) relating to <PROVIDER NAME> or its business, operations, facilities, customers, clients or employees, including Personal Information.

iplanit Subscription means the provision by Aspirico to <PROVIDER NAME> of the Licensed Software via the Platform as outlined in Schedule One.

Information has the meaning set out in clause 10.

Intellectual Property Rights means patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in Information and any other intellectual property rights, in each case whether registered or unregistered and including all existing and future rights capable of present assignment, applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Licensed Software: means the components of the iplanit software and additional modules as outlined in this agreement and any amendments made by Aspirico to the same in accordance with this agreement.

Maintenance and Support Services means those maintenance and support services provided by Aspirico to <PROVIDER NAME> in respect of the iplanit Subscription as set out in Schedule Three.

Maintenance and Support Services Charge means the charge paid by <PROVIDER NAME> in respect of the Maintenance and Support Services as set out in Schedule Three.

Person includes an individual, partnership, firm, company, body corporate, corporation, association, organisation, trust, estate, state or government or any agency thereof, municipal or local or regional authority, and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality).

Personal Information has the meaning set out in the Privacy Act 1993 (NZ).

Platform means the platform managed by Aspirico in respect of the Licensed Software.

Personal Information means information relating to personnel/clients of the Customer that is deemed or defined to be personal information under prevailing privacy legislation.

Project Services means those services relating to the set-up and customisation of the iplanit Subscription as set out in Schedule Two.

Project Services Charge means the charges paid by <PROVIDER NAME> in respect of the Project Services as set out in Schedule Two.

Priority One Service Level has the meaning set out in Schedule Three.

Renewal Term: this Agreement will automatically renew for an additional twelve-month period at the end of the subscription date unless either party provides written notification indicating the Renewal Term should cease at the end of this Agreement.

Related Companies has the meaning set out in section 2 of the Companies Act 1993 (NZ).

Services means the Project Services and the Maintenance and Support Services.

Service Availability: Refers to the Customer being able to access iplanit. Service Availability is defined as the ability of the Customer to exchange information with iplanit in the third-party data centre facilities. Customer hardware or software, or third-party network providers are not considered in relation to this Service Availability and this Agreement.

Service Levels means the service levels in respect of the Maintenance and Support Services that Aspirico is required to meet or exceed as set out in Schedule Three.

User Acceptance Testing means the user acceptance testing process set out in clause 0.

IPLANIT SUBSCRIPTION

2.1. **iplanit Subscription:** In consideration of <PROVIDER NAME> paying the Annual Subscription Charge pursuant to section 0, Aspirico grants to <PROVIDER NAME> a world-wide, non-exclusive licence to subscribe for, and use:

- (a) the Licensed Software (including all updates and new versions of the Licensed Software); and
- (b) all other Intellectual Property owned or licensed by Aspirico relating to the Licensed Software.

2.2. **Exclusions:** The subscription granted under clause 2.1 is subject to the following limitations:

- (a) <PROVIDER NAME> agrees and acknowledges that all new, updated or modified copies of the Licensed Software provided to <PROVIDER NAME> hereunder replace the existing copies of the Licensed Software that <PROVIDER NAME> subscribes to under this agreement and are not provided as additional copies.
- (b) This agreement is for a specific number of iplanit Subscriptions as agreed between the parties. <PROVIDER NAME> cannot increase, defer, re-use or carry forward the licensed number of iplanit Subscriptions provided to <PROVIDER NAME> otherwise than in accordance with this agreement. Each iplanit Subscription refers to each service user profile stored on the Platform for the stated term, irrespective of the level of usage, number of people in the circle of support or number of plans.

2.3. **Review of iplanit Subscriptions:** Aspirico shall periodically review the number of iplanit users that <PROVIDER NAME> has subscribed for with respect to the number of staff profiles stored on the platform. The parties shall review the number of profiles annually and discuss any necessary amendments to the Annual Subscription Charge that should apply having regard to the pricing specified in Schedule One.

2.4. **Updates:** Updates to the Licensed Software shall be conducted as follows:

- (a) Aspirico shall release all required major upgrades to the Licensed Software in accordance with Schedule Three, Part 2, paragraph (e). The parties shall agree the timing in which the major upgrade/s shall be installed but, in any event, shall be installed at a time that is not within Business Hours; or
- (b) In the event that minor releases, fix releases or patches are required to be installed or are requested by <PROVIDER NAME> from time to time (as applicable) in respect of the Licensed Software, the parties shall agree an acceptable time for such minor releases or patches to be installed, (together, the **Updates**). Aspirico shall, when providing Updates, use all reasonable care to ensure that the Updates do not disrupt <PROVIDER NAME> 's business.

SERVICES

3.1. **Provision of Services:** Aspirico agrees to provide the Services to <PROVIDER NAME> on the terms set out in Schedules Two and Three.

3.2. **Standard of Performance:** In providing the Services, Aspirico shall:

- (a) provide all personnel, processes, and resources required to provide the Services.
- (b) comply with any reasonable directions of <PROVIDER NAME>
- (c) use appropriately skilled, qualified, and experienced personnel.
- (d) keep <PROVIDER NAME> fully advised of the progress of the Services and changes or possible changes to the scope or timing of the Services.
- (e) not damage or adversely affect the business operations or assets of <PROVIDER NAME>
- (f) minimise any disruption to <PROVIDER NAME>'s business and the activities of its employees and service providers;
- (g) comply with all relevant laws and maintain all licences, approvals and permits required in order for it to provide the Services; and
- (h) without limiting subclauses 3.2(b) to (g), exercise that degree of skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a skilled, reasonable and experienced operator in the same or similar circumstances, with reference to best international standards and practice.

(a) **Service Levels:** Without limiting clause 3.2, Aspirico shall, in performing the Maintenance and Support Services, comply with the Service Levels. If Aspirico fails to resolve a Priority One issue (that is, an issue

which both parties agree, causes a complete cessation of provider access to the service and is within the control of Aspirico), within the Priority One Service Level timeframes, then in respect of each instance of non-compliance with a Priority One Service Level timeframe the aggregate of the Annual Subscription Charge and Maintenance and Support Services Charge payable by <PROVIDER NAME> to Aspirico in respect of the following Renewal Term shall be reduced by an amount calculated as follows:

$$\text{Adjusted ASC} = \text{ASC} - (\text{ASC} \times Z)$$

Where:

ASC = the aggregate of the Annual Subscription Charge and Maintenance and Support Services Charge payable by <PROVIDER NAME> to Aspirico

Z = the lower of (i) 0.02; or (ii) the number of consecutive days (whole or part thereof) of non-compliance with a Priority One Service Level divided by 365

USER ACCEPTANCE TESTING OF LICENSED SOFTWARE

- 4.1 **User Acceptance Testing:** Prior to Final System Delivery, the parties shall undertake the following process in respect of the Licensed Software:
- (a) The parties shall agree the specifications for the Licensed Software as part of the Quickstart process outlined in Schedule Two (**Specifications**).
 - (b) Aspirico shall modify the Licensed Software to meet the Specifications.
 - (c) Contemporaneously with Aspirico modifying the Licensed Software in accordance with clause 4.1(b), the parties shall develop and agree a user acceptance testing programme for the purposes of testing whether the Licensed Software meets the Specifications.
 - (d) Following modification of the Licensed Software, Aspirico and <PROVIDER NAME> shall undertake user acceptance testing of the Licensed Software in a testing environment for the period of **Initial User Acceptance Testing**.
 - (e) Upon completion of the Initial User Acceptance Testing:
 - (i) <PROVIDER NAME> and Aspirico shall agree a list of bugs or other defects in the Licensed Software (**Defects**) that were identified during the course of the Initial User Acceptance Testing (**Defects Notice**); and
 - (ii) Aspirico shall modify the Licensed Software to remedy such Defects as soon as practicable.
 - (f) Upon Aspirico remedying any Defects in accordance with clause 4.1(e)(ii), the parties shall undertake further user acceptance testing in a testing environment to ensure that all Defects in the Defects Notice have been remedied (**Final User Acceptance Testing**).
 - (g) Upon completion of the Final User Acceptance Testing:
 - (i) to the extent that the Final User Acceptance Testing reveals further Defects, the parties shall agree in writing:
 - a. those Defects that Aspirico must remedy prior to Final System Delivery; and

- b. those Defects that Aspirico shall remedy after Final System Delivery; and
 - (ii) upon the Defects referred to clause 4.1(g)(i) a being remedied to <PROVIDER NAME>'s satisfaction, <PROVIDER NAME> shall then provide written notice of its acceptance of the Licensed Software (**Acceptance Notice**).
- (h) Notwithstanding clause 4.1(g)(ii), <PROVIDER NAME> shall be deemed to have given an Acceptance Notice if it uses the Licensed Software in a production environment.

TERM

- 5.1 **Initial Term:** Aspirico shall provide the iplanit Subscription and the Services for a term of one (1) year commencing upon issue of test acceptance by <Provider Name>: see section 6.2 (a).1.
- 5.2 **Renewal Term:** The Initial Term will be automatically renewed for a further term of one (1) year on and from each anniversary of the date of this agreement (each, a **Renewal Term**) unless <PROVIDER NAME> has provided notice in writing to Aspirico that it does not wish to renew the agreement not less than 90 days prior to the expiry of the then current term. Aspirico may, with the agreement of <PROVIDER NAME> (acting reasonably), increase or decrease the Annual Subscription Charge payable in respect of any Renewal Term to account for any material change in CPI or the exchange rate of X Euros to 1 <Country> Dollar that has occurred since the commencement of the then current term. Any such change will be notified by Aspirico to <PROVIDER NAME> in writing within 90 days of the expiry of the then current term.
- 5.3 **Return of data:** Upon the expiry of the agreement, Aspirico shall use best endeavours to assist <PROVIDER NAME> extracting any <PROVIDER NAME> Data and all other information owned by <PROVIDER NAME> that is located on or embedded in the Licensed Software as a result of <PROVIDER NAME>'s use of the iplanit Subscription and the Services.

PAYMENT

- 6.1 **Invoicing and payment of the Project Services:**
 - (a) **Invoicing:** Aspirico will invoice <PROVIDER NAME> for the Project Services as follows:
 - (i) Aspirico shall provide <PROVIDER NAME> with an invoice for the project services work as per the <Provider Name> Implementation services cost summary in Schedule II. This charge payable by <PROVIDER NAME> as outlined below.
 - (b) **Payment:** <PROVIDER NAME> will pay:
 - (i) the Project Services within 30 Business Days of receipt of an invoice from Aspirico in accordance with clause 6.1(a)(i)
- 6.2 **Invoicing and payment of Annual Subscription Charge and Maintenance and Support Services Charge for the Initial Term:**

Invoicing: Aspirico will invoice <PROVIDER NAME> in respect of the Annual Subscription Charge and the Maintenance and Support Services Charge for the Initial annual term and this will be payable 30 days from project agreement date.

- (a) **Payment:** <PROVIDER NAME> will pay:
 - (i) the amount within 30 Business Days of receipt of an invoice from Aspirico in accordance with clause 6.2(a)(i); and

6.3 Invoicing and payment of the Annual Subscription Charge and Maintenance and Support Services Charge for each Renewal Term:

- (a) **Invoicing:** Aspirico will, on the commencement of each Renewal Term, provide to <PROVIDER NAME> an invoice for the total Annual Subscription Charge and Maintenance and Support Services Charge payable by <PROVIDER NAME> in respect of the Renewal Term.
- (b) **Payment:** <PROVIDER NAME> will pay the Annual Subscription Charge and the Maintenance and Support Services Charge in respect of the Renewal Term within thirty (30) Business Days of receipt of the invoice in accordance with clause 6.3(a).

6.4 No refund of the Charges: Except as provided for in clauses (a) and **Error! Reference source not found.** the Charges are non-refundable.

6.5 Default interest: Amounts not paid when due may be liable to interest payments at the Bill Rate plus 3% per annum.

6.6 Tax: The charges set out in this agreement are exclusive of GST and similar taxes (if any).

WARRANTIES

7.1 Aspirico warranties: Aspirico undertakes and warrants to <PROVIDER NAME> that:

- (a) it owns the Licensed Software and that it has the right and power to grant the iplanit Subscription to <PROVIDER NAME> and has obtained all third-party licenses or consents necessary for granting the iplanit Subscription to <PROVIDER NAME>;
- (b) any software, equipment, hardware and deliverables supplied under this agreement (whether in respect of the iplanit Subscription, the Services or otherwise) will conform with all descriptions and specifications provided to <PROVIDER NAME> by Aspirico;
- (c) it will provide the Maintenance and Support Services in accordance with the Service Levels;
- (d) it will make good any defect arising under the iplanit Subscription or the Services;
- (e) the application of any updates and upgrades to the iplanit Subscription will not introduce any defect, error or bug to the Platform;
- (f) the Platform will be free from viruses, worms, Trojan horses, ransomware, spyware, adware and any other malicious programmes;
- (g) the Platform will incorporate security features reflecting the requirements of best international standards and practice;

- (h) the iplanit Subscription, the Services, and any other software, equipment, hardware and/or deliverables supplied hereunder shall not infringe the Intellectual Property Rights of any third party and Aspirico will indemnify <PROVIDER NAME> in respect of any such claim by a third-party alleging infringement of the Intellectual Property Rights of that third party;
- (i) to the extent that Aspirico has access to, stores, or processes <PROVIDER NAME> Data:
 - (i) it will act only on instructions from <PROVIDER NAME> in relation to the processing of that <PROVIDER NAME> Data;
 - (ii) it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised access of that <PROVIDER NAME> Data and against loss or corruption of that <PROVIDER NAME> Data; and
 - (iii) it will not transfer or permit the transfer of that <PROVIDER NAME> Data without the prior written consent of <PROVIDER NAME>; and
- (j) the iplanit Subscription and the Services will be provided in accordance with all applicable legislation from time to time in force.

7.2 **Mutual warranties:** In addition to the above, each party warrants that:

- (a) it has full power and authority to execute and deliver this agreement and to comply with the provisions of, and perform all its obligations and exercise all of its rights under, this agreement;
- (b) this agreement is executed by its duly authorised representative with full power and authority to bind it; and
- (c) it has obtained all necessary consents, approvals, authorisations, licences and permissions which are required to enable it to comply with its obligations under this agreement and will throughout the duration of this agreement maintain all such consents, approvals, authorisations, licences and permissions and shall not commit any act or omission which might invalidate, breach or otherwise impair the effect of such consents, approvals, authorisations, licences or permissions.

INTELLECTUAL PROPERTY

- 8.1 **Ownership:** All Intellectual Property and related rights which is owned by, or is proprietary to, a party at the date of this agreement shall remain exclusively owned by that party.
- 8.2 **New property:** Any new Intellectual Property and related rights which is created as a result of any enhancements, modifications or additions to the Licensed Software during the term of this agreement arising out of the provision of the iplanit Subscription or the Services will be the Intellectual Property of, and owned by, Aspirico.

DATA PROTECTION

- 9.1 **<PROVIDER NAME> Data:** <PROVIDER NAME> Data is the property of <PROVIDER NAME>. Aspirico shall maintain adequate safeguards to protect <PROVIDER NAME> Data which Aspirico holds against any destruction, loss, unauthorised access or alteration and may only use that <PROVIDER NAME> Data for the sole purpose of carrying out its obligations under this agreement, and then only to the extent necessary, unless prior written authorisation has been given by <PROVIDER NAME>.
- 9.2 **Privacy Act:** Aspirico shall comply with the Privacy Act <Year> to the extent it is relevant to the <PROVIDER NAME> Data, the iplanit Subscription or the provision of the Services. Aspirico will hold all <PROVIDER NAME> Data solely as agent for the purposes of the Privacy Act <Year>.

CONFIDENTIALITY

- 10.1 **Confidentiality Obligation:** Subject to clause 10.2, each party shall keep confidential, and make no disclosure of:
- (a) the existence and contents of this agreement; and
 - (b) all information obtained from the other party under this agreement or in the course of negotiations in respect of this agreement, (together, **Information**).
- 10.2 **Exceptions:** Information may be disclosed by a party if:
- (a) disclosure is required by law, or necessary to comply with the listing rules of any recognised stock exchange; or
 - (b) disclosure is necessary to obtain the benefits of, and fulfil obligations under, this agreement; or
 - (c) that information already is, or becomes, public knowledge other than as a result of a breach of clause 10 by that party; or
 - (d) disclosure is made to a bona fide financier or potential financier of that party, or to a bona fide purchaser or potential purchaser of all or part of the business of, or the shares in, that party, so long as:
 - (i) that party has notified the other party of the proposed disclosure; and
 - (ii) the person to which disclosure is made has entered into a confidentiality agreement in a form reasonably acceptable to the other party; or
 - (e) disclosure is made to a lawyer or accountant for that party.
- 10.3 **Prior notification and consultation:** If either party is required by clause 10.2(a) to make a disclosure or announcement, it shall, before doing so:
- (a) give to the other party the maximum notice reasonably practicable in the circumstances, specifying the requirement under which it is required to disclose Information, and the precise Information which it is required to disclose;

- (b) comply with all reasonable directions by the other party to consent to or resist the requirement to disclose Information; and
- (c) consult in good faith with the other party with a view to agreeing upon the form and timing of the disclosure or announcement.

LIMITATION OF LIABILITY

- 11.1 **Consequential loss:** To the full extent permitted by law Aspirico shall not be liable under any legal theory, tort, contract or otherwise for any lost profits, lost data or any consequential, incidental, indirect, punitive or special damages arising out of or relating to this agreement even if advised of the likelihood of such damages occurring.
- 11.2 **Limitation of liability:** To the full extent permitted by law, in no event shall Aspirico's total cumulative liability to <PROVIDER NAME> (from all causes of action of any kind, including contract, tort or otherwise) arising out of or related to the transactions contemplated in connection with this agreement exceed the aggregate Annual Subscription Charge paid or payable by <PROVIDER NAME> to Aspirico in respect of the six month period immediately preceding the event in which the liability arose. These limitations shall apply to protect Aspirico's licensors, including without limitation, Aspirico. Notwithstanding the foregoing, this clause 11.2 shall not apply to any liability that arises out of a breach by Aspirico of the warranty in clause 7(i) or Aspirico's obligations in clauses (a) and **Error! Reference source not found.**

ESCROW

- 12.1 **Escrow Agreement:** Aspirico and <PROVIDER NAME> can, as required by <PROVIDER NAME>, enter into an escrow arrangement with a <Country> escrow agent nominated by <PROVIDER NAME> in respect of the code base for the iplanit Subscription (**Escrow Agreement**). The Escrow Agreement shall provide for, amongst other matters:
 - (a) the holding of the code base for the iplanit Subscription by the escrow agent;
 - (b) Aspirico providing to the escrow agent a new copy of the code base for the iplanit Subscription each time there is an upgrade or major new release of the iplanit Subscription;
 - (c) the escrow agent immediately releasing the code base for the iplanit Subscription on receiving notice from <PROVIDER NAME> that an event specified in clause 13(a) to (d) of this agreement has occurred; and
 - (d) <PROVIDER NAME>'s responsibility to pay for all costs associated with the provision of source code to the escrow agent pursuant to the Escrow Agreement.

TERMINATION

- 13.1 **<PROVIDER NAME>'s termination rights:** <PROVIDER NAME> may terminate this agreement without liability to Aspirico:
 - (a) If Aspirico:
 - (i) is, becomes, or is deemed to be, insolvent or bankrupt;

- (ii) makes an assignment for the benefit of, or enters into or makes any arrangement or composition with, its creditors generally;
 - (iii) goes into receivership or has a receiver, trustee and manager (or either of them) (including a statutory manager) appointed in respect of any of its property; or
 - (iv) an order is made or a resolution is passed for the winding up of Aspirico, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to Aspirico;
- (b) if a Person who Controlled Aspirico at the date of this agreement ceases to Control Aspirico, or a Person who did not Control Aspirico at the date of this agreement subsequently Controls Aspirico;
 - (c) if Aspirico ceases to trade;
 - (d) if Aspirico breaches, or fails to properly or promptly perform, any obligation of it under this agreement and fails to remedy the breach or perform the obligation to <PROVIDER NAME>'s reasonable satisfaction within 10 Business Days after receiving notice from <PROVIDER NAME> specifying the breach or failure and requiring remedy; or
 - (e) for convenience, on 3 months' written notice to Aspirico.

13.2 **Return of information:** On termination of this agreement for any reason, Aspirico shall:

- (a) immediately deliver to <PROVIDER NAME> all copies of information or data provided by <PROVIDER NAME> to Aspirico, including all <PROVIDER NAME> Data, for the purposes of the agreement; and
- (b) use its best endeavours to assist <PROVIDER NAME> extracting any <PROVIDER NAME> Data and all other information owned by <PROVIDER NAME> that is located on or embedded in the Licensed Software as a result of <PROVIDER NAME>'s use of the iplanit Subscription and the Services.

13.3 **Aspirico termination rights:** Aspirico may terminate this agreement immediately where <PROVIDER NAME> fails to pay Aspirico the Annual Subscription Charge, Project Services Charge and/or Maintenance and Support Services Charge, (or any other monies owed to Aspirico by <PROVIDER NAME>) if such failure to pay continues for twenty (20) Business Days after Aspirico gives <PROVIDER NAME> written notice of Aspirico's intention to terminate for such failure to pay.

13.4 **Effect of termination:** Expiry or termination of this agreement:

- (a) Is without prejudice to any other right, power, or remedy under this agreement, at law, or otherwise, that either party has in respect of default by the other party; and
- (b) shall not terminate clauses 10, 11, 15, 16 and 18 which shall continue in force notwithstanding expiry or termination.

FORCE MAJEURE

- 14.1 Neither party is liable for the non-performance of the agreement if it is prevented from or delayed in complying with any obligation imposed on it by this agreement by acts, events, omissions or accidents beyond its reasonable control, including without limitation an act of God, war, riot, civil commotion, malicious damage, requirements of any law or governmental order, rule, regulation or direction; accident; fire; flood or storm (**Event**).
- 14.2 A party which wishes to rely on clause 14 shall:
- (a) give the other party written notice as soon as possible after becoming aware of the Event or likelihood of the Event, providing details of the nature, expected duration and effect of the Event, and keep the other party informed of any changes in the nature of the cause and of the cessation of the Event; and
 - (b) use its reasonable endeavours to:
 - (i) mitigate the effects of the Event on that party's obligations under this agreement; and
 - (ii) perform that party's obligations under this agreement within the time specified by this agreement despite the Event.
- 14.3 If a party is unable to comply with any obligation imposed on it under this agreement as a result of an Event for an aggregate of 20 Business Days in any 12-month period, either party may cancel this agreement by giving written notice to the other party. Cancellation of this agreement under this clause shall not prejudice the rights of either party against the other party in respect of any matter or thing occurring under this agreement prior to cancellation.

DISPUTE RESOLUTION

- 15.1 **Good faith negotiations:** The parties will meet and discuss in good faith any disputes between them arising out of or in connection with this agreement, or the subject matter of this agreement (including any dispute as to its existence or validity) or relating to any matter which this agreement requires to be decided by them (**Dispute**).
- 15.2 **Mediation:** If the Dispute is not resolved within one month of the Dispute first arising, then the matter may be referred by a party to a person as a mediator with a view to resolving it within 20 Business Days from the date of the referral to mediation. If the parties in dispute cannot agree upon the appointment of the mediator, then the mediator will be appointed by the President for the time being of the <Country> Law Society (or their nominee) after consultation with the parties.
- 15.3 **Arbitration:** Where the parties are unable to resolve a Dispute within 20 Business Days of the date of referral to mediation, either party may, by written notice to the other refer the Dispute to arbitration by a single arbitrator. The arbitration will be commenced by a party giving notice to the other party stating the subject matter and details of the Dispute and requiring the Dispute to be referred to arbitration. The arbitrator will be appointed by the parties, or failing agreement within five Business Days after, and exclusive of, the date of giving the notice, will be appointed at the request of a party by the president or vice-president for the time being of the <Country> Law Society or the nominee of such president or vice-president.
- 15.4 **Binding effect:** Except to the extent that it is reviewable at law, the decision or award of the arbitrator shall be final and binding on the parties.

RELATED COMPANIES

- 16.1 **Contract Privity:** This agreement is entered into by <PROVIDER NAME> on its own behalf and for the benefit of its Related Companies and shall apply with any necessary modifications to the iplanit Subscription by, and provision of Services by Aspirico to, Related Companies of <PROVIDER NAME>. The covenants of Aspirico in this agreement are given for the benefit of and are enforceable in terms of the Contracts (Privity) Act 1982 by, any Related Company of <PROVIDER NAME>. This agreement may be varied by <PROVIDER NAME> and Aspirico without the approval of any Related Company of <PROVIDER NAME>.

NOTICES

- 17.1 **Notice:** Every notice or other communication (**Notice**) for the purposes of this agreement shall:
- (a) be in writing; and
 - (b) be delivered in accordance with clause 17.2.
- 17.2 **Method of service:** A Notice may be given by:
- (a) delivery to the physical address of the relevant party; or
 - (b) posting it by pre-paid post to the postal address of the relevant party; or
 - (c) sending it by facsimile transmission to the facsimile number of the relevant party, so long as clause 17.4(a) is complied with; or
 - (d) sending it by email to the address of the relevant party, so long as clause 17.4(b) is complied with.
- 17.3 **Time of receipt:** A notice given in the manner:
- (a) specified clause 17.2(a) is deemed received at the time of delivery;
 - (b) specified in clause 17.2(b) is deemed received three Business Days after (but exclusive of) the date of posting;
 - (c) specified in clause 17.2(c) or clause 17.2(d) is deemed (subject to clause 17.4) received:
 - (i) if sent between the hours of 9am and 5pm (local time) on a local working day, at the time of transmission; or
 - (ii) if subclause (i) does not apply, at 9 am (local time) on the local working day most immediately after the time of sending.

For this purpose, "local time" is the time in the place of receipt of the Notice, and a "local working day" is a normal working day in that place.

- 17.4 **Facsimile and email notice:** A Notice given:
- (a) by facsimile, is not deemed received unless (if receipt is disputed) the party giving Notice produces a facsimile transmission report of the device from which the transmission was made which evidence full transmission, free of errors, to the facsimile number of the party given Notice; or

- (b) by email, is not deemed received unless (if receipt is disputed) the party giving Notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given Notice.

17.5 **Addresses:** For the purposes of this clause the address details of each party are:

- (a) the details set out below; or
- (b) such other details as any party may notify to the others by Notice given in accordance with this clause.

Aspirico

Physical Address: Aspirico Limited, Unit 1C, Udaras Business Park, Milltown, Dingle, Co. Kerry. Ireland

Postal Address: as above

Email Address: dkelly@aspirico.com

<PROVIDER NAME>

Physical Address:

Postal Address:

Email Address:

GENERAL

18.1 **Amendments:** No

- (a) amendment to this agreement;
- (b) agreement between the parties for the purpose of, or referred to in, this agreement;
- (c) consent or approval for the purposes of, or referred to in, this agreement;

is effective unless it is in writing and signed (if subclauses (a) or (b) apply) by both parties or (if subclause (c) applies) the party required to give the consent or approval.

18.2 **Counterparts:** This agreement is deemed to be signed by a party if that party has signed or attached that party's signature to any of the following formats of this agreement:

- (a) an original; or
- (b) a facsimile copy; or
- (c) a photocopy; or
- (d) a PDF or email image copy;

and if each party has signed or attached that party's signature to any such format and delivered it in any such format to the other party, the executed formats shall together constitute a binding agreement between the parties.

- 18.3 **Entire agreement:** This agreement constitutes the entire agreement between the parties relating to the subject matter of this agreement and supersedes and cancels any previous agreement, understanding or arrangement whether written or oral.
- 18.4 **Further assurances:** Each party shall make all applications, execute all documents, and do or procure all other acts and things necessary to implement and to carry out its obligations under, and the intention of, this agreement.
- 18.5 **No partnership, joint venture:** Nothing in this agreement shall create or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the parties, and a party may not make, or allow to be made, any representation that any such relationship exists between the parties. A party shall not have authority to act for, or to incur any obligation on behalf of the other party, except as expressly provided for in this agreement.
- 18.6 **Assignment:** This agreement must not be assigned by Aspirico unless <PROVIDER NAME> has provided its prior written consent to that assignment.
- 18.7 **Costs:** Each party shall pay its own costs in respect of this agreement.
- 18.8 **Severance:** If any provision of this agreement is or becomes unenforceable, illegal, or invalid for any reason it shall be deemed to be severed from this agreement without affecting the validity of the remainder of this agreement and shall not affect the enforceability, legality, validity, or application of any other provision of this agreement.
- 18.9 **Waiver:** No failure or forbearance by a party to exercise, or delay in exercising (in whole or in part), any right, power, or remedy under, or in connection with, this agreement shall operate as a waiver of that right, power or remedy. A waiver of any breach of any provision of this agreement shall not be effective unless that waiver is in writing and is signed by the party against whom that waiver is claimed. A waiver of any breach shall not be, or be deemed to be, a waiver of any other or subsequent breach.
- 18.10 **Governing law:** This agreement is governed by the laws of <Country> and the parties submit to the non-exclusive jurisdiction of the Courts of <Country> in respect of any dispute or proceeding arising out of this agreement.

AGREEMENT SCHEDULE – SLA REFERENCE ASPXXX

I have read and understood this SLA and agree to the terms herein and understand that the signing of this agreement constitutes confirmation of procurement and project commencement.

On Behalf of End User Licensee

Name (CAPS)

Position

Organisation (CAPS)

Date

Signature

On Behalf of Aspirico Ltd

Name

Position

Organisation

Date

Signature

When signed, please either scan this page, or if using an electronic signature, return by email to your Aspirico contact/Client Manager.

APPENDIX 1 SOFTWARE SCHEDULE



APPENDIX II IMPLEMENTATION SERVICES SCHEDULE



APPENDIX III: MAINTENANCE AND SUPPORT SCHEDULE

Maintenance and Support Services Charge: Support is calculated at 25% of the Annual Subscription Charge to support the ongoing maintenance, and upgrades to these modules as part of the overall solution.

The maintenance and support service for iplanit includes the following:

- iplanit help desk access for nominated contacts within provider.
- iplanit support including issue logging, tracking and resolution
- Post implementation client management contact
- Access to general iplanit training webinars
- Access to iplanit good practice webinars
- Iplanit Learning Centre content and updates. The iplanit Learning Centre is an online resource for subscribing iplanit provider users where service users, supporters, and management where you can access relevant support materials by role. It is available as part of the annual Aspirico iplanit support service.

(a)

1. Support Service

The iplanit help desk support service consists of the following items.

- (b) <PROVIDER NAME> agrees to designated number of contacts to communicate directly with iplanit support desk. All user issues will be channelled through this nominated contact list.
- (c) Aspirico shall provide prioritised, maintenance and software support services to be accessed by the <PROVIDER NAME> contacts via telephone, on-line issue logging system or email. Help Desk standard hours are between the hours of 09.00 and 17.30 GMT Monday through Friday (excluding Ireland public holidays) with additional 1st line support within <Country>
- (d) Access to the iplanit support ticketing system is made available 24*7 basis and (Aust/NZ) regional daytime 1st and second line support access is provided by the regional (NZ/Australia) iplanit team. Aspirico and <PROVIDER NAME> agree that the source of this support may be changed following consultation between the parties and agreement on any new arrangements.
- (e) The <PROVIDER NAME> nominated client manager shall be available to agree additional out of hours, client management calls on a prearranged basis.
- (f) Aspirico shall provide code corrections which are available from Aspirico as required to correct Licensed Software malfunctions in order to bring such Licensed Software into substantial conformity with the capabilities as outlined in proposal documentation in line with the following procedure: (i) if <PROVIDER NAME> encounters a problem in the usage of Licensed Software by one of its authorised end users, <PROVIDER NAME> nominated support contacts will notify the iplanit help desk. Help desk contacts will respond by resolving the issue or alternatively escalate to Aspirico engineers who will use reasonable efforts to diagnose the problem. <PROVIDER NAME> will report problems in sufficient detail to permit Aspirico to understand the problem; and (ii) if it is mutually determined by <PROVIDER NAME> and Aspirico that the problem represents an error in the Licensed Software, Aspirico will use reasonable efforts to provide a software fix to <PROVIDER NAME>.
- (g) Aspirico shall make available to <PROVIDER NAME> all Licensed Software upgrades, which Aspirico, at its discretion, deems to be logical improvements or extensions to the Licensed Software and that have been released for general commercial distribution. Upgrades are point releases by Aspirico (e.g., 4.2 to 4.3). Releases referred to by Aspirico .com as .100-point releases (e.g., 4.22 to 4.23) are not considered upgrades for the purposes of this Support Agreement but rather they are considered as fix releases which must be requested by <PROVIDER NAME>.
- (h) The iplanit service represents an ongoing development investment to continue to offer best practices and new innovations to the subscriber base. As such Aspirico may issue new functionality as part of periodic upgrades / releases of the iplanit service. <PROVIDER NAME> will be informed of any such improvements and will have the opportunity to avail of these as they are developed.
- (i) <PROVIDER NAME> agrees that for technical /consulting services required by <PROVIDER NAME> in addition to those outlined above <PROVIDER NAME> shall be charged Aspirico's then current list price for such services (unless otherwise agreed in writing).
- (j) Where relevant/requested by Aspirico, <PROVIDER NAME> shall provide network facilities to permit electronic delivery of maintenance and software support services.

1.1. All problems reported by customer will be categorised and prioritised as detailed in table 1 below. Issue responses will include:

- **Technical response:** Aspirico client management has performed an initial analysis of the issues and will provide the Customer with a solution or workaround, or if required, a request for more supporting information (log files etc) to aid troubleshooting of the issue; and
- **Target resolution:** Aspirico has assigned the necessary resource to actively investigate the issue. This may involve detailed analysis of the cause and/or suggesting a technical workaround or providing a software patch. This does not commit Aspirico to deliver a software fix to the Customer. In general, Aspirico will make reasonable commercial efforts to resolve issues in the next major release of the Aspirico service and will attempt to hot fix issues of a critical or serious nature.

1.2. Issue response times are described in Table 2: Response Times

Table 1: Priority Levels

Priority Level	Description	Target Resolution
Priority 1 – (Critical)	An issue is classified as critical when the software is unusable or inaccessible in the customers live production environment.	For priority 1 issues the resolution target is to provide technical support that will allow the customer to re-establish accessibility and usability of the software.
Priority 2 – (Serious)	An issue is classified as serious if the software has a major functional issue that makes some critical part of the application unusable or inaccessible in the customers live production environment.	For priority 2 issues the resolution target is to provide technical support that will allow the customer to re-establish accessibility and usability of the software component that is inaccessible.
Priority 3 – (Minor)	An issue is classified as minor if the software has a functional issue that does not significantly affect the normal running of the system and a workaround can be provided to the customer.	For priority 3 issues the resolution to provide a technical workaround, if possible, to the reported issues and to notify the customer when a full technical solution will be available via next support patch or next scheduled release.
Priority 4 – (Cosmetic)	An issue is classified as cosmetic if it does not significantly affect the usage of the software.	For priority 4 issues the resolution target is to provide a technical workaround if possible and also to notify the customer in what scheduled release a solution will be provided to address the issue.

Table 2: Response Times

Aspirico support personnel will make best efforts to meet the following targets as part of this agreement:

Severity	Technical Response	Target Resolution
Priority 1	1 Business Day	1 Business Day
Priority 2	1 Business Day	2 Business Days
Priority 3	2 Business Days	4 Business Days
Priority 4	3 Business Days	5 Business Days

1.3. The iplanit support service is available through support@aspirico.com and you will be provided contact details for your client manager and to access the iplanit online support ticketing system, JIRA.

For the avoidance of doubt, Aspirico shall not be responsible for a failure to meet the technical response timeframes in respect of Priority Levels One to Four to the extent that such failure is a result of a failure of the <PROVIDER NAME> direct hosted service.

DATA PROCESSING AGREEMENT (ADDENDUM) TO SLA

As per the requirements of the General Data Protection Regulations (GDPR) and prevailing Data Protection Legislation, this Data Processing Agreement (DPA) is agreed between the data controller (customer) and the data processor (Aspirico). It forms part of the above Service Level Agreement.

Data Processor Aspirico Limited

Data Controller <PROVIDER NAME>

Purpose of Processing To support the delivery of safe, compliant care that provides both accountability and transparency for the provider team, the individual and family.

Description of the Data Types of personal data managed on iplanit include profile data (name, address, age, gender etc), healthcare data, data relating to people's support plans such as outcomes, support circle, actions, risks, incidents, and care calendar data.

Obligations & Rights of the Processor

1. The data processor complies with GDPR Principles and ensures that all processing meets relevant Data Protection Laws
2. Will only act on the written instructions of the Controller.
3. Ensures that anyone processing data are subject to a duty of confidence and do not process Controller data except on instructions from the Controller
4. Uses its best endeavours to safeguard and protect all personal data from unauthorised or unlawful processing, including (*but not limited to*) accidental loss, destruction or damage and will ensure the security of processing through the demonstration and implementation of appropriate technical and organisational measures
5. Ensures that where a sub-processor is used, they only engage a sub-processor with the prior consent of the data Controller. Any changes or replacements of sub-processors will be on the basis of prior consent of the data Controller.

6. Understands that where any sub-processor is used on their behalf, that any failure on the part of the sub-processor to comply with the Data Protection Laws or the relevant data processing agreement, the initial processor remains fully liable to the Controller for the performance of the sub-processor's obligations.
7. Assists the data Controller in providing subject access and allowing data subjects to exercise their rights under the Data Protection Laws, if required
8. Assists the data Controller in meeting its data protection obligations in relation to the security of processing, data protection impact assessments (DPIA), data audits and the investigation and notification of personal data breaches
9. Delete or return all personal data to the Controller as requested at the end of the contract
10. The Processor will make available to the Controller, in the form of a data audit, all information necessary to demonstrate compliance with the obligations laid down by the applicable Data Protection Laws and allow for, and contribute to audits, including inspections, conducted by the Controller or another auditor mandated by the Controller
11. Tell the Controller immediately if they have done something (*or are asked to do something*) that infringes a data protection law
12. Co-operate with the applicable Data Protection Supervisory Authorities, in relation to a Supervisory Authority investigation
13. Notify the controller of any personal data breaches immediately. The Controller must investigate and make a data privacy risk decision to report the breach to the Supervisory Authority, within 72 hours.
14. Confirm the contact details responsible for data protection in the event of an issue.
15. Where applicable, appoint (*in writing*) a representative within the EU. (In this instance, not required)
 16. Nothing within this agreement relieves the Processor of their own direct responsibilities, obligations, and liabilities under Data Protection Laws.
 17. The processor is responsible for ensuring that each of its employees, agents, subcontractors, or vendors are made aware of its obligations regarding the security and protection of the personal data and the terms set out in this agreement.
 18. Any transfers of personal data to a third country or an international organisation shall only be carried out on documented instructions from the Controller, unless required to do so by Union or Member State law. Where such a legal requirement exists, the Processor shall inform the Controller of that legal requirement before processing

Obligations and Rights of the Controller

19. The Controller is responsible for verifying the validity and suitability of the processor and named sub-processors before entering a business relationship
20. The Controller shall carry out adequate and appropriate onboarding and due diligence checks for all Processors, with a full assessment of the Data Protection Law requirements
21. The Controller shall verify that the Processor has adequate and documented processes for data breaches, data retention and data transfers in place
22. The Controller shall obtain evidence from the processor as to the verification and reliability of the employees used by the processor, certificates, accreditations, and policies as referred to in the [due diligence procedure, if applicable]
23. Ensure technical and operational measures are in place.
24. Ensure procedures in place for allowing data subjects to exercise their rights, including (but not limited to), subject access requests, erasure & rectification procedures, and restriction of processing measures.
25. Where the Controller has authorised the use of any sub-processor by the initial Processor, the details of the sub-processor must be added to this agreement