

ASITE MASTER SERVICES AGREEMENT

Asite Terms and Conditions

This framework agreement is entered into as of the Effective Date (set out below) between **Asite Solutions Limited**, a company registered and incorporated in England and Wales whose registered number is 04040122 and whose registered office is at 7th Floor, Leconfield House, London, W1J 5JA, United Kingdom ("**Asite**"), and "**Customer**" as detailed below.

Customer Full Legal Name:	
Registered Office:	
Business/Delivery Address (if different):	
Phone Number:	
Customer Representative(s) (name(s) and titles):	
Email address:	
Agreement Term:	
Effective Date:	

The agreement between Customer and Asite, where Customer may request certain products and services from Asite, incorporates and consists of the following Parts (as applicable and which as may be amended or modified from time to time, together comprise the "**Agreement**"):

FRONT PAGE. Asite Terms and Conditions

PART A. General Terms and Conditions

PART B. Configuration Services

Schedules:

- 1. Order Form**
- 2. Pricing and Fees**
- 3. Service Level Agreement**

By signing below, you acknowledge that (i) as the Customer's authorised representative, you have read and understood the terms of this Agreement and (ii) that the Customer agrees to pay the Fees.

Asite will not be bound to perform any obligations under this Agreement until this Agreement has been signed by both parties. You hereby warrant and represent that you are duly authorised to execute this Agreement on behalf of the Customer and that the information provided herein is complete and accurate.

CUSTOMER:	ASITE:
Signature:	Signature:
Name:	Name:
Position:	Position:
Date of Customer Signature:	Date of Asite signature:

PART A - General Terms and Conditions

1. Interpretation In this Agreement, unless the context otherwise requires the following terms have the following meanings:

“**Affiliates**” means any entity, whether incorporated or not, that is controlled by or under common control with Customer and its successors, and “control” (or variants of it) shall mean the ability whether directly or indirectly to direct the affairs of another by means of ownership, contract or otherwise.

“**Application**” or “**Applications**” means Asite’s Platform and/or such other application services or solutions as may be provided by Asite from time to time.

“**Asite Platform**” means the Software as a Service solution available through the Site by which Customers and Authorised Users can access and utilise the platform.

“**Authorised Users**” means the Customer together with its Affiliates who are set up with access to all or specific parts of the Asite Platform, subject to this Agreement and such of their colleagues, suppliers and customers as are nominated for the Customer to deliver in its ordinary course of business.

“**Confidential Information**” means: information of a confidential nature concerning the trade secrets or business dealings, methods of business, transactions, products, plans or affairs of the disclosing party or a Third Party Provider (as the case may be); any information relating to the methods or techniques used by the disclosing party in developing, implementing, providing, operating or using the Services; any document or information marked “Confidential” or otherwise expressly designated as confidential.

“**Consultancy Services**” means any consultation work and services performed by Asite.

“**Content**” means all data, information and content including (without limitation) personal information, photographs, graphics, written information, video or audio information and materials to be displayed on the Asite Platform.

“**Customer Representative(s)**” means the individual(s) appointed by Customer, from time to time, who serve(s) as the primary contact(s) for Asite in relation to Customer’s activities under this Agreement as initially listed in the Order Form.

“**Configuration Services**” means the set up and integration services that Asite provides in order that Customer’s (and where relevant, Authorised Users’) business and systems can integrate with the Asite Platform.

“**Deliverable**” means a defined level of functionality or other specified item agreed to be provided by Asite as part of the Configuration Services.

“**Documentation**” means any Asite operating manuals, user instructions, technical literature and all other related materials in eye-readable form supplied to Customer (or Authorised User) whether in electronic or paper form.

“**Escalation Procedure**” means the escalation process for disputes or complaints as set out in more detail at Schedule 3 (Service Level Agreement, Definition of Priority).

“**Fees**” means the fees and charges payable to Asite under this Agreement, as set out in the Order Form.

“**Good Faith Dispute**” means a good faith dispute by Customer of amounts invoiced under this Agreement. A Good Faith Dispute will be deemed to exist only if: (1) Customer has given written notice of the dispute to Asite within 14 days after receiving the invoice; and (2) the notice explains Customer’s position in reasonable detail. A Good Faith Dispute will not exist as to an invoice in its entirety merely because certain amounts on the invoice have been disputed.

“**Implementation Services**” means the set up and integration services that Asite provides in order that Customer’s (and where relevant, Authorised Users’) business and systems can integrate with the Asite Platform.

“**Initial Subscription Term**” is the minimum duration specified in the Order Form.

“**Intellectual Property Rights**” means any rights to patents, petty patents, copyrights, database rights, utility models, design rights, semiconductor topography rights trade secrets, trade names or trademarks, know-how, moral rights, business names and domain names (whether registered or unregistered and including any application), together with rights in any software and all rights in the nature of unfair competition rights or rights to sue for passing off. These rights include all rights in all applications to register these rights, and all renewals and extensions of these rights;

“**Means of Access**” user identifications and passwords or other means by which Customer/Authorised User or their employees, agents or representatives may access and use the Asite Platform and Applications (as may also be modified by the User or any Authorised Persons from time to time);

“**Order Form**” means the initial Order Form set out in Schedule 1 together with any supplemental order(s) agreed between the parties;

“**Services**” means the Configuration Services, Consultancy Services, Implementation Services, provision of the Asite Platform and Applications or all other services that Asite is to provide in relation to this Agreement from time to time, as applicable (given the context in which the term “Services” is used).

“**Service Level Agreement**” means the Service Level Agreement at Schedule 3.

“**Site**” means the Asite website currently located at the URL www.asite.com, or as may be updated or amended from time to time.

“**Statement of Work**” means the document signed by the Customer that describes the Consultancy Services and Configuration Services and training to be provided hereunder;

“**Subscription Fees**” means the recurring fees for the Services as detailed on the Order Form.

“**Term**” means the duration of this Agreement as stated in Clause 11.1.

“**Third Party Services**” means any third party software or services provided by Third Party Providers as part of the Asite Services.

“**Third Party Provider(s)**” means provider(s) of Third Party Services on the Asite Platform.

“**User Data**” means the proprietary information or data supplied, posted or input by Customer or Authorised Users to the Asite Platform and/or Applications in the course of using the Services.

“**Virus**” means anything or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

“**Vulnerability**” means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be interpreted accordingly.

In this Agreement: a reference to a “**person**” includes a natural person, company, corporation, firm, partnership, co-operative company, unincorporated or incorporated association, government, state, statutory authority, foundation and trust; a reference to a document is a reference to that document as from time to time varied or supplemented; a reference to legislation is interpreted as referring to such legislation as amended and in force from time to time and/or which re-enacts or consolidates such legislation; Clause or Section headings do not affect construction or interpretation; references to the singular shall include the plural and vice versa; the words “**include**”, “**includes**”, “**including**”, “**in particular**” or any similar words or any general words introduced by the word “**other**” do not limit the words preceding or following.

2. APPLICATION & SCOPE

- 2.1. **Application.** These General Terms and Conditions apply to provision of all Services in relation to this Agreement.
- 2.2. **Background.** Asite has developed and hosts an online suite of data logistics Services designed to streamline customers’ business and project management processes. Through Asite’s provision of Consultancy Services and Configuration Services, Customer will be set up so that both Customer and Authorised Users can utilise the Asite Platform and Applications to conduct and coordinate business operations.

3. PROVISION OF SERVICES

- 3.1. **Supply of Services.** In consideration of payment of the relevant Fees, Asite will supply Services under the terms and conditions of this Agreement.
- 3.2. **Provision of Applications.** Applications will be provided in accordance with these General Terms and Conditions and the specific Section of this Agreement applicable to the Applications. Asite may offer further Services or additional Applications from time to time which will be provided subject to this Agreement and also any specific additional terms and conditions agreed by the parties.
- 3.3. **Due Care and Skill.** Services shall be performed by Asite under this Agreement by suitably qualified personnel using reasonable skill and care as could be reasonably expected of a competent provider of services similar to those being provided by Asite under this Agreement.
- 3.4. Asite may, from time to time and with reasonable written notice where such changes are substantial to the Asite Platform, change the Services in order to comply with any applicable safety, regulatory or statutory requirements. For the avoidance of doubt, such notice shall not apply to regular software updates and patches.

4. CUSTOMER OBLIGATIONS

- 4.1. **Co-operation.** As a condition of Asite performing its obligations, Customer shall provide Asite with (a) reasonable cooperation (in good faith) and access to such information as may be reasonably required by Asite in order to render the Services and provide access to the Asite Platform to Customer and Authorised Users; (b) provide such personnel and assistance, including access to Customer Representatives and other personnel, as may be reasonably requested by Asite from time to time; and (c) in a timely manner, carry out all other Customer responsibilities as set forth in this Agreement.
- 4.2. **Customer Systems.** Customer (and each Authorised User) shall be responsible, at its own expense, for procuring, maintaining and entering into appropriate agreements for the computer hardware, systems software (and other third party software), data feeds, telecommunications, networks, peripherals and other items and services, which comprise the required user configuration to use the Services.
- 4.3. **Customer Representatives.** The Customer Representative shall have the authority to provide day-to-day operational directions, necessary including but not limited to operational guidance, day-to-day instructions, routine directives, daily oversight, task-specific instructions and project-level guidance in connection with the performance of the Customer’s obligations under the terms of this Agreement. However, it is agreed between the parties that the Customer Representative shall be expressly prohibited from making any financial commitments on behalf of the Customer. Any decision in relation

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to any financial commitment must be authorised by at least one director acting on behalf of the Customer who will have the authority to bind the Customer. Notwithstanding the foregoing, any such authorisation shall be required for the commitment to be valid and enforceable against the Customer. Unless such written approval by the concerned director is not received no Fee related actions shall be taken or deemed binding. For avoidance of doubt this clause shall survive even if the concerned director ceases employment with the Customer.

- 4.4. The Customer agrees not to use, store, distribute, transmit or operate any Virus or Vulnerabilities during the course of its use of the Services that:-

- 4.4.1. Is libellous, slanderous, offensive (including racial or ethnic) or abusive, defamatory, threatening, infringing, harassing or obscene;
- 4.4.2. Facilitates illegal activity;
- 4.4.3. Depicts sexually explicit images;
- 4.4.4. Promotes unlawful violence;
- 4.4.5. Is discriminatory based on race, gender, colour, religious, belief, sexual orientation, disability; or
- 4.4.6. Is otherwise illegal or causes damage or injury to any person or property.

And Asite reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

- 4.5. **Restrictions.** Customer shall not attempt to duplicate, modify, alter, loan, distribute, rent, assign, sub-licence, reverse compile, disassemble, reverse engineer or otherwise reduce to human perceivable form (in any form or media or by any means) all or any portion of the Applications and/or Documentation, except as expressly allowed by applicable law which is incapable of exclusion.
- 4.6. **Prohibited competitive access.** The Customer shall not access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or Documentation.
- 4.7. **Use of Platform.** Customer shall ensure and shall procure that each Authorised User use the Asite Platform and Applications only in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement. Customer may copy the Documentation to the extent reasonably necessary for use of the Asite Platform within the scope of this Agreement.

5. THIRD PARTY SERVICES

- 5.1. **Third Party Services.** Customer acknowledges that some of the Services provided under this Agreement may be provided by Third Party Providers to the extent that hosting partners are required by Asite for the purpose of providing the Services but Asite warrants that it will only use third parties in the provision of any development activity where it is assured of the high level of skill, experience and care of those third parties and can provide the Services in accordance with the standards required under the Service Level Agreement. In the event that the Customer raises reasonable challenge to the use of any third party and any such challenge results in a dispute then the parties agree to use reasonable endeavours to resolve such dispute and in the absence of agreement the parties will pursue the Escalation Procedure (from level 2).

6. SCOPE OF USE

- 6.1. **Assumed Scope of Use.** Asite hereby grants Customer a revocable, nonexclusive, non-transferable license to allow Authorised Users to access the Applications and to use each Application solely for the purpose of facilitating the activities expressly permitted in relation to each Application as set out in this Agreement. Customer shall be responsible for ensuring that it, its employees and Authorised Users when accessing and using Applications at all times comply and abide with the terms of this Agreement. Customer and Authorised Users may use the Asite Platform and Documentation in the ordinary course of its business operations and for its own internal business purposes only. The Asite Platform and Documentation must not be used to provide outsourcing, bureau, time-sharing, Application Service Provider (ASP) or similar services to third parties other than Asite acknowledges that the Customer is in the business of outsourced facilities agreement and as such services and projects that the Customer delivers to the Customer's customers may be included in the Customer's ordinary course of business operations. Customer and Authorised Users shall use the Services and the Asite Platform in accordance with assumed limits on usage, data processed and other items as set out in the relevant Order Form. Any increase by the Customer and the Authorised User in the usage, data processing shall be dealt in accordance with the terms of the Agreement and in particular clause 7.5, 11.1, 14.8, 14.9 and Schedule 1.
- 6.2. **Notice of Increases.** The Customer is authorised to use the following Asite product family groups as detailed under Schedule 2 together with any enhancements thereof as at the Effective Date of this Agreement. If the Customer wishes to use any product enhancements or additional products over and above the Services opted under the terms of this Agreement, such use will require a written amendment to this Agreement signed by both parties and shall result in the implementation of additional Fees. Notwithstanding the foregoing, either party shall give as much prior written notice as practicable (and in any event or not less than thirty (30) days notice to the other party should there be a material increase in the scope of use. In such event:

- 6.2.1. Asite shall investigate the impact of such increase and within five (5) days inform the Customer of the effect of implementing such a change to this Agreement and the Services, including any Additional Services that may be required and associated Fees;
- 6.2.2. If the Customer decides to proceed with the increase and/or Additional Services, then it shall inform Asite as soon as practicable and the parties shall enter into an amendment to this Agreement (in such form as Asite provides in writing).

7. FEES AND EXPENSES.

- 7.1. **Payment.** Customer shall pay the Fees set out in Schedule 2. The Subscription Fee includes access to the Asite online and/or telephone customer support service, as defined in the Service Level Agreement in Schedule 3, at no additional charge.
- 7.2. **Expenses.** Customer shall reimburse Asite for reasonable out-of-pocket expenses incurred by Asite in performance of the Services, subject to Asite obtaining Customer's prior written consent to incurring such expenses, on a case-by-case basis, such expenses include but are not limited to travel, accommodation and meals. Such expenses shall comply with the Customer's expense policy, if any.
- 7.3. **Currency/VAT.** All amounts stated or referred to in this Agreement are quoted in UK pounds (£) sterling and exclusive of VAT and other applicable supply taxes, which shall be added to Asite's invoice(s) at the appropriate rate. If Asite is required to pay any other duties or taxes based on the Services or Deliverables (other than taxes based on Asite's net income), such duties or taxes shall also be invoiced to and payable by Customer. All amounts payable under this Agreement are exclusive of any currency conversion charges. Where any payments are made in a currency different from the invoicing currency specified in the relevant Order Form, the Customer shall bear all costs associated with the conversion of such payments, including any bank or intermediary charges, conversion charges or other related fees arising from such payments. For the avoidance of doubt, Asite shall be entitled to receive the full invoiced amount in the invoicing currency, free from any deduction or reduction on account of conversion or related banking charges.
- 7.4. **Asite Rates.** The Asite Standard Consultancy Rates set out in Schedule 2 are valid for 36-months' from the Effective Date and will be increased by RPI (Retail Price Index)/ CPI (Consumer Price Index) (where applicable) or such other amount as the parties may agree each year thereafter and shall be subject of increase in line with clause 7.5, 11.1, 14.8 and 14.9 under the terms of this Agreement.
- 7.5. Without prejudice to clause 7.4, Asite reserves the right to adjust the Fees in the event:
 - 7.5.1. where such changes are enforced on Asite by regulatory or governmental authorities impose any additional fees, taxes, levies or other financial obligations; and
 - 7.5.2. if the costs associated with data centre storage services including but not limited to data storage, data archiving, data housing, hosting costs increase due to the factors beyond Asite's control, the reasonable evidence of which shall be provided by Asite.

For avoidance of doubt, Asite will provide the Customer with at least sixty (60) days advance prior written notice of any such increase in the Fees and the new applicable Fees. The Customer shall have thirty (30) days to raise any objections in line with such increase in the Fee. Failure to object within the foregoing term period, the new applicable Fees will be deemed as acceptance of the new fee structure.
 - 7.5.3. in line with clause 11.1 of this Agreement.
- 7.6. **Invoices.** Asite shall invoice Customer for the Fees detailed in Schedule 2, annually in advance. All invoices are due and payable thirty (30) days after the invoice date. If Asite has not received payment by the due date (without prejudice to its other remedies) (excluding any amounts disputed in good faith) interest will accrue on past due amounts at the rate of 2% over the base lending rate of Asite's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

8. PROPRIETARY RIGHTS.

- 8.1. **Ownership.** Customer acknowledges that save as expressly set out in this Agreement, Asite and/or its licensors own all Intellectual Property Rights in the Asite Platform, Services and any Deliverables. Except as expressly stated herein, this Agreement does not grant Customer (or any Authorised Users), any Intellectual Property Rights or any other proprietary rights, interest or licence in respect of the Asite Platform, Applications, Services and any Deliverables or in any related documentation.
- 8.2. **Conversion of User Data.** As part of the Services, Asite will convert User Data provided to it for use on the Asite Platform. In relation to such data conversion, and without prejudice to Customer's or Authorised Users' proprietary rights in the User Data itself, Asite shall own:
 - 8.2.1. all applicable copyright and database rights in the compilation or the conversion of that User Data for use on the Asite Platform and within the Applications; and

- 8.2.2. all other applicable Intellectual Property Rights in any of the techniques, methods or programs used to convert that User Data for use as part of the Asite Services.

9. CONFIDENTIALITY.

- 9.1. **Exchange of Confidential Information.** By virtue of this Agreement, the parties may have access to each other's Confidential Information which is disclosed or made available by one party ("**Disclosing Party**") to another party ("**Receiving Party**") in relation to this Agreement.
- 9.2. **Provisions of Agreement.** The provisions of this Agreement shall be deemed the Confidential Information of both parties and neither party will disclose such information except to such party's affiliates, professional advisors, investors (and prospective investors), prospective acquirers, who are themselves bound by confidentiality obligations or as required by any governmental agency or recognised securities or stock exchange in a relevant jurisdiction.
- 9.3. **Restrictions.** The parties agree to hold each other's Confidential Information in confidence and, unless required by mandatory law or expressly permitted under this Clause 9, not to make each other's Confidential Information available to any third party or to use each other's Confidential Information for any purpose other as permitted under this Agreement. Each party agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees, agents or Authorised Users in violation of the terms of this Agreement. Customer acknowledges that (without prejudice to the generality of the foregoing) for purposes of this Agreement, the Applications constitute Asite's Confidential Information.
- 9.4. **Exceptions.** The restrictions in Clause 9.3 shall not apply to information that: (a) is or becomes publicly known otherwise than through a breach of a duty of confidence by the Receiving Party; (b) was in the Receiving Party's lawful possession prior to the disclosure; (c) is lawfully disclosed to the Receiving Party by a third party without breaching any duty of confidence; or (d) is independently developed by the Receiving Party, which can be shown by written evidence.
- 9.5. **Residuals.** "Residuals" shall not be subject to the confidentiality obligations contained in this Agreement, provided that the parties shall maintain the confidentiality of the Confidential Information as provided above. The term "residuals" as used in this Agreement means non-tangible ideas, concepts, know-how or techniques that may be generated, developed or conceived by Asite in connection with the provision of the Services and which may arise from reviewing Customer's Confidential Information. Neither party shall be obliged to limit or restrict the assignment of its personnel or to pay royalties for any work resulting from the use of Residuals.
- 9.6. **Publicity.** Asite may make reasonable references to the Customer (including the use of the Customer's logo) as a consumer of the Services in its advertising and/or promotional literature, on its website, and in other materials. Asite may also publish on its website and issue to the media a new business press release, subject to the Customer's written approval of its content together with the Customer's logo and a brief description of the Customer's business. Customer may make reasonable references to Asite (including the use of Asite's logo) when in its advertising or promotional literature.

10. WARRANTY.

- 10.1. **Performance Warranty.** Asite warrants that the Asite Platform and each Application shall perform in accordance with its relevant Documentation during the term of this Agreement; provided that, such warranty shall not apply to the extent any non-conformance is caused by:
- 10.1.1. use of the Services (including Asite Platform and Applications) contrary to the terms of this Agreement;
- 10.1.2. support or modification of the Asite Platform or Applications by any party other than Asite or Asite's authorised agents.
- 10.2. **Service Level Agreement.** In the event of non-conformance with the foregoing warranty, Asite shall, at its expense, promptly correct any such non-conformance or provide Customer with an alternative means of accomplishing the desired level of performance in accordance with the Service Level Agreement. Subject to clause 11.7 such correction or substitution under the Service Level Agreement constitutes Customer's sole and exclusive remedy for any breach of the warranty contained in this Clause 10. Notwithstanding the foregoing and save as set out in the Service Level Agreement, Asite does not warrant that: (a) the Customer's use of the Applications and services shall be completely uninterrupted or error-free but it does warrant that it will use all reasonable endeavours to deliver a completely uninterrupted or error-free service; (b) the Services, Documentation and/or information obtained by the Customer will meet the Customer's requirements or (c) the Asite Platform or Services will be free from any Virus or Vulnerabilities.
- 10.3. **Additional Asite Warranties.** Asite further warrants to Customer that:
- 10.3.1. the provision and use of the Services in accordance with this Agreement does not infringe any Intellectual Property Rights of any third party in any country;
- 10.3.2. it has and will maintain all necessary insurance, licences, consents, and permissions necessary for the performance of its obligations under this Agreement;
- 10.3.3. the execution and performance of this Agreement is within Asite's power and authority; and

- 10.3.4. it is not responsible for any delays, delivery failures, or any other losses or damage resulting from the transfer of data over communications network and facilities, including the internet, and the Customer acknowledges that the Services and the Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 10.4. **Responsibility for Results.** Customer shall be responsible for checking results that it or any Authorised User obtains from using the Asite Platform, Applications and Services and promptly reporting any errors to Asite in accordance with the Service Level Agreement. Except to the extent expressly provided for in this Clause 10, Customer and the Authorised Users assume responsibility for, and for business conducted through, the Asite Platform and Asite shall have no liability whatsoever for any damage or loss caused by errors or omissions in any information, instructions or scripts provided by Customer in connection with the Asite Platform, Applications or Services or any actions taken by Asite at Customer's direction.
- 10.5. **No Other Warranties.** Asite gives no warranties, conditions or other terms, express or implied (whether by statute, collaterally or otherwise), as to merchantability, fitness for a particular purpose, satisfactory quality, non-infringement or any other matter, other than the express warranties contained in this Agreement. No representation or statement shall be binding upon Asite as a warranty or otherwise unless expressly contained in this Agreement.

11. TERM AND TERMINATION.

- 11.1. **Term.** This Agreement shall commence on the Effective Date and shall continue in full force for the Agreement Term unless otherwise terminated as provided for in this Clause 11 ("**Term**"). At the end of the Term, this Agreement shall be eligible for renewal by agreement between the parties ("**Renewal Term**"), unless either party notifies the other in writing of its intention not to renew at least ninety (90) days prior to the expiry of the then current Renewal Term. Effective of the first day of each Renewal Term, the Fees under this Agreement shall be adjusted (referred to as "**New Fees**"). For the avoidance of doubt, the New Fees shall be communicated to the Customer at least sixty (60) days prior to the commencement of the Renewal Term. If either party wishes to negotiate the New Fees, such negotiations must be carried out thirty (30) days prior to the implementation of the Renewal Term. In the event if the Customer fails to notify Asite of its intention to not renew the Agreement within the given time period, it is agreed between the parties that the terms of the Agreement shall continue in full force and effect along with the implementation of the New Fees for the Renewal Term.
- 11.2. **Termination for Cause.** Either party may terminate this Agreement upon written notice:
- 11.2.1. if the other party materially breaches this Agreement and fails to correct such material breach within thirty (30) days following written notice specifying the breach and requiring its remedy;
- 11.2.2. if the circumstances set out in Clause 17.6 (Force Majeure) persist for longer than thirty (30) days and performance has not recommenced.
- 11.3. **Termination or Suspension for Non-payment.** Asite may terminate this Agreement or (at its option) on notice of 2 weeks suspend the provision of the whole or any part of the Service, Application or access to the Asite Platform in the event that Customer has not paid any overdue sum (that is not subject to a Good Faith Dispute) payable under this Agreement (including any applicable interest) within thirty (30) days of Asite having served a written notice in accordance with clause 17.4 on Customer demanding payment of such overdue amount and citing this agreement and this clause.
- 11.4. **Termination for Liquidation.** Either party may terminate this Agreement if the other enters into liquidation whether compulsory or voluntary (other than for the purposes of amalgamation or reconstruction where the emerging company assumes the obligations of that Party entering liquidation), compounds with its creditors or has an administrator, administrative receiver (or other encumbrancer) appointed over its assets, or threatens to do any of the foregoing.
- 11.5. **Termination for prohibited uses.** Asite reserves the right to suspend or terminate Customer's use of the Asite Services under the following circumstance: (a) Violation of prohibited use: if the Customer engages in any activity that contravenes the prohibited use and (b) Other breaches: for any other material breach of this Agreement or conduct that, in Asite's reasonable opinion, could adversely affect its Services, reputation or compliance with applicable laws. Before taking such action, Asite shall: (a) Provide the Customer with written notice detailing the alleged violation or breach; (b) Allow the Customer a reasonable time period (not less than five (5) business days) to respond to the allegations and, if possible, remedy the breach to Asite's reasonable satisfaction. If the Customer fails to provide an adequate response or remedy within the specified time, Asite may proceed with suspension or termination of the services. This clause does not limit Asite's right to take immediate action, including suspension, where necessary to prevent significant harm to its services, infrastructure, or compliance with legal or regulatory obligations.
- 11.6. **Consequences of Termination.** The rights and obligations of Asite and Customer contained in Clauses: 4.3 (Customer Representatives), 7 (Fees and Expenses), 8 (Proprietary Rights), 9 (Confidentiality), 10 (Warranty), 11.1 (Term), this Clause 11.6 (Consequences of Termination), 12 (Indemnity), 13 (Limitation of Liability), and 17 (General) shall survive any termination of this Agreement. Upon termination, all permissions and/or licenses granted hereunder shall promptly terminate and each party shall return and make no further use of any of the equipment, software, property, materials and other items (and all copies thereof) belonging to the other party. Asite shall co-operate with the Customer to promptly export all User Data in a format usable to the Customer and only following this export may securely destroy or otherwise dispose of any copies of the User Data in its possession. On receipt by Asite, no later than thirty (30) days after the

termination date or expiration of this Agreement, a written request for the delivery to Customer of the then-most recent back-up of the User Data, the parties will act in good faith to close out the delivery of the back-up of the User Data.

- 11.7. **Termination Assistance and Data Repatriation.** Upon termination or expiry of this Agreement for any reason, Asite shall provide the Customer with such reasonable assistance as may be necessary to facilitate the orderly transition of all or part of the Services from Asite to the Customer. Such assistance shall include, the delivery to the Customer of back-ups of all User Data within thirty (30) days following Asite's receipt of a written request from the Customer. Such assistance shall be provided at a charge based on per project basis as set out in Schedule 2, which shall cover (i) the fee in relation to archiving and retrieving of the relevant project and (ii) the provision to the Customer of a secure, access-controlled chrome link through which such archived project may be accessed. The Customer shall be entitled to export such User Data in a commonly used, machine-readable format, and Asite shall ensure that all the encryption, authentication and access controls remain fully effective and operational throughout the such period. The transfer of User Data to the Customer shall be undertaken in a secure, and controlled manner, consistent with industry best practices. Upon completion of the data repatriation process, Asite shall irreversibly delete and purge all copies of the Customer's User Data from its production systems, test environments, disaster recovery environments, and all back-up media, in full compliance with the UK GDPR. Notwithstanding the foregoing, Asite may retain (a) such copies of the User Data as strictly required to be retained under any applicable law or regulation (including for tax, audit or regulatory compliance purposes); and (b) anonymised and/or Aggregated Data which does not identify, and cannot reasonably be re-identified, provided that any such retained data shall (i) remain subject to ongoing confidentiality, security, and data protection obligations set out in this Agreement; (ii) be used solely for the purposes of complying with any legal, regulatory, security or audit obligations. Such deletion shall be performed in a strict adherence to internationally recognised secure data erasure standards, including ISO/IEC 27040 (Security techniques — Storage security) and NIST SP 800-88 "Guidelines for Media Sanitization". Within thirty (30) days of such deletion, Asite shall provide the Customer with a certificate of completion (or equivalent written confirmation) evidencing that the Customer's User Data has been securely and permanently deleted in accordance with this clause.
- 11.8. **Termination for Chronic Service Outage:** Termination for Chronic Service Outage: In addition to the service credits set forth in Schedule 3, if the availability of the Applications falls below an uptime availability requirement of 99% over a calendar month for (i) three (3) months in a rolling six-month period or (ii) four (4) months in a rolling nine-month period during the Term (each situation, a "Chronic Service Outage"), Customer may, in its sole discretion, terminate the Agreement upon no less than 30 days' prior written notice to Asite and Asite shall refund to Customer any prepaid subscription fees covering the remainder of the Subscription Term of the affected subscription after the effective date of termination. For clarity, a failure to meet the monthly uptime requirement of 99% (without it arising to the level of a Chronic Service Outage) shall not entitle Customer to terminate this.

12. INDEMNITY.

- 12.1. **Customer Indemnity.** Subject to Clause 13, Customer shall defend, indemnify and hold harmless Asite, its officers, directors and employees, against all claims, actions, costs, damages, expenses (including reasonable legal fees), liabilities and/or proceedings ("**Claims**"), arising out of or in connection with Claims by any third party (including Authorised Users) arising out of or in connection with:

- 12.1.1. use of the Asite Platform, Applications, Services or Third Party Services in breach of this Agreement;
- 12.1.2. unauthorised access to or the misuse of the Asite Platform or Services by an Authorised User;
- 12.1.3. provision of User Data or Content by Customer or Authorised User that is illegal or infringes the rights of any third party,

The above indemnity is conditional on Asite (a) giving Customer prompt notice of such Claim; (b) making no admission or settlement (without Customer's express written approval); (c) providing reasonable cooperation to Customer in the defence and settlement of such Claim, at Customer's expense and (d) granting Customer sole authority to defend or settle the Claim at its own expense.

- 12.2. **Asite Indemnity.** Subject to Clause 13, Asite shall defend and indemnify Customer, its officers, directors and employees, against all Claims arising out of or in connection with

any claim made against Customer by a third party arising out of or in connection with the Asite Platform, Applications or provision of Services infringing any Intellectual Property Rights,

The above indemnity is conditional on Customer (a) giving Asite prompt notice of such Claim; (b) making no admission or settlement (without Asite's express written approval); (c) providing reasonable cooperation to Asite in the defence and settlement of such Claim, at Asite's expense; and (d) granting Asite sole authority to defend or settle the Claim.

- 12.3. In the defence or settlement of the Claim or if it appears to Asite that such a Claim may be threatened, Asite will be given the opportunity (at its discretion) to obtain for Customer the right to continue using the Asite Platform, Applications or Services or replace or modify the same so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement refunding such portion of the Fees as have been paid in advance for unexpired portion of the Agreement remaining and without further liability to Customer.
- 12.4. Asite shall have no liability to Customer if the Claim is based on:

- 12.4.1. modification of the Asite Platform, Applications or Services by anyone other than Asite;
- 12.4.2. Customer's or an Authorised User's use of the Asite Platform, Applications or Services in a manner contrary to this Agreement or any instructions given by Asite; or
- 12.4.3. use of the Asite Platform, Applications or Services after notice of the Claim or an alleged infringement from Asite or any appropriate authority; or
- 12.4.4. delays in implementation of the Asite Platform or Services to the extent that such delays are caused by the Customer's failure to meet the systems required for Asite to implement the Asite Platform and/or Services in accordance with clause 4.2.

The foregoing states Customer's sole and exclusive rights and remedies, and Asite's entire obligations and liability, for patent, copyright, or other proprietary rights infringement or misappropriation.

13. LIMITATION OF LIABILITY.

- 13.1. Neither party excludes or limits its Liability to the other:
 - 13.1.1. for death or personal injury caused by its negligence or the negligence of its employees, agents or sub-contractors;
 - 13.1.2. for any matter which it would be illegal for it to exclude or to attempt to exclude its liability;
 - 13.1.3. for any indemnities offered under this Agreement;
 - 13.1.4. for breach of confidentiality; or
 - 13.1.5. for its fraud (including, without limitation, fraudulent misrepresentation).
- 13.2. Subject to Clause 13.1 above, neither party shall have any Liability to the other for (i) any indirect or consequential loss or (ii) any of the following types of loss (where indirect): pure economic loss, loss of production, loss of profits or of contracts, loss of business, depletion of goodwill and like loss), and in all cases howsoever caused arising out of or in connection with any Defaults.
- 13.3. **Liability Cap.** Subject to Clause 13.1, neither party's liability arising out of this Agreement, whether based in contract, tort or any other legal theory, even if advised of the possibility of such damages shall in no event exceed an aggregate of 100% of the Fees which shall become payable to Asite during the 12-month period immediately preceding the date on which the applicable claim arose.
- 13.4. The parties acknowledge that the provisions of this Clause 13 reasonably allocate the risks between the parties and the limitation of liability specified herein.

14. AUTHORISED USERS.

- 14.1. **Procuring Compliance.** Customer shall use reasonable endeavours to procure that Authorised Users are made aware of any reasonable instructions given by Asite regarding use of the Services. Customer also acknowledges that any breach or suspected breach of this Agreement shall entitle Asite to immediately suspend or terminate Customer and/or an Authorised User's right to access or use (all or part of) the Asite Platform, Application or Services (without liability to the Customer or Authorised User and without prejudice to Asite's other rights or remedies) but only on prior written notice giving at least 5 (five) days' notice of such breach in accordance with clause 17.4 and affording the Customer the opportunity to put right any alleged or other breach.
 - 14.1.1. If Asite determines in its reasonable commercial judgment that immediate suspension is necessary to protect Asite or its other customers from imminent and significant security risk, then suspension under this Clause 14 may commence without notice. Where suspension under this clause is due to an imminent and/or significant legal risk Asite shall be obliged to provide Customer with notification substantiating the action within 4 business hours of taking such action, including providing any formal notification and/or documentation reasonably required by Customer. In the event that Asite wrongfully applies its rights under this clause the Customer shall be entitled to claim for direct costs, damages, expenses and losses caused by such outage and to such extent clause 13.2 shall be disapplied.
- 14.2. **Further Warranties.** In furtherance of Clause 14.1, Customer warrants and undertakes that:
 - 14.2.1. any obligations that it enters into with Authorised Users regarding use of the Asite Platform will be consistent with this Agreement;
 - 14.2.2. it shall not provide any warranties or make any representations to Authorised User or third party regarding any of the Services provided under this Agreement (save to the extent that these have been previously authorised by Asite by prior written notice);
 - 14.2.3. it shall take reasonable steps to ensure that the use of the Asite Platform and Applications by Authorised Users complies with the authorised use.

- 14.3. **Monitoring of Site.** Asite reserves the right (but is not obliged) to monitor use of the Site or Asite Platform or any part of it and to remove for any reason without notice any Content the publication, distribution or use of which breaches any of the provisions of this Agreement. Asite shall use all reasonable endeavours to provide the Authorised User with prior written notice of any such removal.
- 14.4. **Content on Asite.** The Customer is authorised to download, reproduce and make available Content on the Asite Platform for the purpose of using Asite Services and the Customer agrees not to remove or amend any trademark, copyright or other proprietary notices. Any Content provided by Customer or Authorised Users, including (without limitation) personal information, photographs, graphics, written information, video or audio information and materials to be displayed on the Asite Platform, must be the proprietary to the Customer or its Authorised Users and must not infringe on any third party's rights. All Content and the Customer's use of the Asite Services must not to harass, abuse, insult, harm, defame, offend, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, or disability. The Customer shall also not submit, store, upload, transmit (a) false or misleading information; (b) upload or transmit Viruses or Vulnerabilities or any other type of malicious code that will or may be used in any way that will affect the functionality or operation of the Asite Services; (c) collect or track the personal information of others; (d) spam, phish, pharm, pretext, spider, crawl, or scrape, for any obscene or immoral purpose or to interfere with or circumvent the security features of the Asite Services. Asite reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause, provided that Asite serves the Customer with written notice of not less than seven (7) days in advance before disabling the Customer's access.
- 14.5. Where Customer supplies, posts, inputs or makes any Content available through the Asite Services, Customer grants Asite a worldwide non-exclusive, royalty free licence to make such Content available on the Asite Platform or through the Asite Services as applicable to other users authorised on behalf of the Customer to access such Content.
- 14.6. Asite does not screen, edit, or review Content prior to its appearance on the Asite Platform (although Asite reserves the right to monitor such Content). To the fullest extent permitted by applicable laws, Asite excludes all responsibility and liability for the Content or for any damages, losses or expenses resulting from the use and/or appearance of the Content on the Asite Platform.
- 14.7. Customer hereby represents and warrants that Customer has all the necessary rights in and to all Content that Customer supplies, submits or provides and that such Content is complete, materially accurate and up to date.
- 14.8. **Fair Usage.** Asite operates on the principles of fair usage such that all the customers of Asite can access its services fairly and no customer's usage disproportionately affects the quality or performance or availability of services for other customers. The Customer acknowledges that the Asite Platform is designed for collaborative project and/or built asset management and related business activities and is not intended for the purposes such as video streaming, related bulk transfer or equivalent high-volume activities data streaming or file transfers or large-scale data migration which is intended for non-project purposes (**non-project purposes**). The Customer shall not use the Asite Platform (a) for activities that may degrade or compromise the performance, reliability or the availability of Asite's Services for other customers of Asite due to such non-project purposes; and (b) in any manner that violates any laws, regulations or third-party rights. Asite reserves the right to monitor the Customer's usage pattern of the Services to ensure compliance with this clause. In the event if the Customer breaches this clause, Asite reserves the right to serve upon the Customer thirty (30) days written notice which shall include the details of such breach under this clause and any corrective actions required, within such period. If the Customer continues to exceed the usage from the expiry of the foregoing written notice, Asite reserves the right, without prejudice to any other rights which Asite may have, to adjust the Fees in connection with excessive usage for non-project purposes, by further serving a thirty (30) days written notice upon the Customer.
- 14.9. **Data Cap.** The Data Cap means the maximum allowable amount of data a customer is permitted to store on the Asite Platform. This cap, includes but not limited to, bandwidth usage, storage capacity or other resource constraints imposed by Asite to ensure fair and efficient use of the Services. In accordance with the terms of the Agreement, the cumulative sum of the initial data capacity as provided under Schedule [2] and any additional data capacity as requested by the Customer in accordance with Schedule [2] throughout the Term is the Customer's aggregate Data Cap (**Aggregate Data Cap**). In the event if the Customer exceeds its Aggregate Data Cap, Asite shall serve the Customer with a written notice which shall include the details of the excessive usage over and above the Customer's Aggregate Data Cap. Without prejudice any other rights which Asite may have, Asite further reserves the right to adjust the Fees arising out of or in connection with this Agreement, by serving a written thirty (30) days-notice on the Customer to reflect any excessive usage exceeding the Aggregate Data Cap, in accordance with Schedule [2] of the Agreement, in the event if, (a) the Customer has requested to increase the Data Cap, or (b) if the Customer exceeds its Aggregate Data Cap and fails to reduce such excessive usage back to the Aggregate Data Cap.

15. SECURITY.

- 15.1. **Maintenance of Security.** Customer (consulting with Asite, if necessary) shall maintain and procure that Authorised Users maintain adequate technical and procedural access controls and system security in connection with its use of the Asite Platform as necessary for data privacy and confidentiality, data integrity, user authorisation and authentication.

- 15.2. **Means of Access.** Asite shall provide to Customer and Authorised Users (whose identities shall be notified in writing (email) to Asite) from time to time with Means of Access. Customer shall (and will ensure that each Authorised User shall) treat such Means of Access as Confidential Information of Asite and shall exercise all reasonable care and due diligence in maintaining the security of all Means of Access to the Site and in relation to this, shall comply with all reasonable directions or recommendations of Asite. Customer shall comply with all reasonable security directions or recommendations given by Asite and inform Asite immediately if it becomes aware of or suspects any unauthorized use of the Asite Services or Secure Access, or if the Secure Access becomes available to an unauthorized party. Without prejudice to Asite's other rights and remedies, Asite may upon notice suspend access to the Asite Services (or any Product or Service) without liability, if in Asite's reasonable opinion, such action is necessary for safeguarding the security of the Asite Services. For the avoidance of doubt, "Secure Access" refers to the controlled and protected means by which the Customer and Authorized Users gain entry to the Asite's Application, including but not limited to the use of usernames, passwords, multi-factor authentication (MFA), encryption keys, digital certificates, or any other security credentials or mechanisms provided by Asite which shall be maintained in accordance with good industry practices and Asite's security policies.
- 15.3. **Notification of Issues.** Customer shall promptly notify Asite if it becomes aware of or has grounds to suspect any unauthorised access to the Asite Platform or issues surrounding use (or potential misuse) of any Means of Access.
- 15.4. **Viruses and Vulnerabilities.** Customer warrants that effective procedures, software and systems are put in place to prevent the introduction or permit the introduction of any software Viruses or Vulnerabilities, Trojan horses, worms, time bombs, cancel bots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information to the Asite Platform which may adversely affect the Asite Platform or any of the Services or Asite's network and information systems.
- 15.5. **Access to Data.** Customer acknowledges that by performing the Services, Asite shall have access to User Data, and various information (including Confidential Information and "**Personal Data**" within the meaning of the Data Protection Act 2018 and Directive 95/46/EC, the EU General Data Protection Regulation 2016/679 and any successor legislation.) relating to Customer, Authorised Users and/or its or their activities ("**Activity Data**"). By entering into this Agreement Customer consents to the processing of Activity Data in accordance with this Clause.
- 15.6. **Licence.** Subject to Clause 9 (Confidentiality) Customer grants to Asite the following non-exclusive, non-transferable, royalty-free licence and right to:
- 15.6.1. process (or have processed on its behalf) Activity Data where reasonably incidental to the performance of Asite's obligations hereunder; and
 - 15.6.2. process Activity Data to create data which is grouped for the purposes of statistical analysis (but which excludes any information or data which may be associated with a particular person, transaction or series of transactions) ("**Aggregated Data**") and to use or licence the use of such Aggregated Data in connection with the creation and/or exploitation of new services, functionality, software or database products (including adaptations and enhancements thereof); and
 - 15.6.3. process and capture drawings and other design elements, including their corresponding room outlines, for the purpose of improving, enhancing and calibrating Asite's machine-learning algorithms. Such processing is strictly intended to improve the accuracy, efficiency, performance and functionality of Asite's Services, thereby ensuring a better user experience.
Asite is committed to: (a)safeguarding the Customer's privacy; (b)implementing robust and advanced security measures and protocols to ensure the protection and confidentiality of User Data; and (c)handling all User Data securely and in compliance with applicable privacy laws and regulations. Any data collected by Asite will not be shared with third parties except as necessary to deliver the services or comply with legal obligations. For further information on how User Data is managed, please refer to Asite's Privacy Policy.

16. DATA PROTECTION.

- 16.1. In relation to any Personal Data processed in performance of the Services, each party shall comply with its respective obligations under the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679, Directive 95/46/EC and any successor legislation ("Data Protection Laws") (as amended). In this regard, Asite acts as Customer's or Authorised Users 'data processor' (the terms 'data processor', 'data sub processor' and 'data controller' having the meaning given to the term "controller" and "processor" (respectively) in Article 4 of the UK GDPR with the Customer's Customer acting as the data controller, the Customer acting as the data processor and Asite acting as sub processor). Both parties will ensure that any data and/or any Personal Data processed pursuant to this Agreement (including where any third parties are used to process any Personal Data) is so processed in conformance with:
- 16.1.1. Asite's technical and security measures (which policies shall be available in electronic form within the Site from time to time) to protect such Personal Data against accidental loss or unlawful destruction, alteration, disclosure or access;
 - 16.1.2. Customer's or Authorised User's express instructions (provided they are reasonable and in accordance with applicable law); and

- 16.1.3. All data held by the Asite platform is held securely in data centres based in the United Kingdom.
- 16.2. Asite shall at all times implement and maintain appropriate technical and organisational measures to protect Personal Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.
- 16.3. Asite shall (at its own expense) promptly provide such information and assistance as the Customer may reasonably require in relation to the fulfilment of the Customer's obligations to respond to requests for exercising the data subject's rights under Chapter III of the General Data Protection Regulation (EU) 2016/679 (and any similar obligations under applicable Data Protection Laws).
- 16.4. Asite shall indemnify and keep indemnified at its own expense the Customer against all claims, liabilities, damages, administrative fines, costs or expenses incurred by the Customer or for which the Customer may become liable due to any failure by Asite (as sub-processor or its subcontractors, agents or personnel) to comply with any of its obligations under this agreement or under the Data Protection Laws including but not limited to any data breaches. Notwithstanding the provision under this clause 16.4, the liability of Asite in respect of all claims under this clause shall be limited to £1,000,000 (one million pounds).
- 16.5. Asite shall indemnify Customer against all claims, liabilities, damages, administrative fines, costs or expenses incurred by the Customer due to loss or damage or corruption or destruction of data resulting from any act or omission of Asite or any malfunction if its platform.
- 16.6. Asite shall maintain complete, accurate and up-to-date written records of all categories of processing activities carried out on behalf of the Customer and such records shall be made available to Customer upon written reasonable request.

17. GENERAL.

- 17.1. **Non-exclusivity** This Agreement shall not prevent either party from entering into similar agreements with other customers or third parties, or from independently developing, using, selling or licensing materials, products or services which are similar to those provided hereunder.
- 17.2. **Governing law/Jurisdiction** This Agreement and any dispute or claim arising out of or in connection with its subject matter of formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales. The parties irrevocably submit to the exclusive jurisdiction of the English Courts in respect of any matter, claim or dispute arising under, out of or in connection with this Agreement (including as to its validity) or the legal relationships established by this Agreement.
- 17.3. **Waiver.** The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.
- 17.4. **Notices.** All notices, including notices of address change, required to be sent hereunder shall be in writing and sent by letter (delivered personally; or sent pre-paid recorded delivery or registered post) or by email to the addresses as set out on the first page of this Agreement, if served by Asite on the Customer and if served by the Customer to Asite, then finance@asite.com (or such change of address as is duly notified in writing). Any such notice shall be deemed to be received (having been correctly addressed),
- 17.4.1. if delivered personally at the time of delivery;
- 17.4.2. if sent by pre-paid recorded delivery or registered post 48 hours from the date of posting or in the case of registered airmail, 5 days from the date of posting; or
- 17.4.3. in the case of email at the time of transmission to the correct email address provided that the notice is confirmed by successful transmission report.
- If receipt or deemed receipt of a notice occurs before 9am on a day that the banks are usually open for business in London ("Business Day") the notice shall be deemed to have been received at 9am on that day, and if deemed receipt occurs after 5pm on a Business Day or on a day which is not a Business Day, the notice shall be deemed to have been received at 9am on the next Business Day.
- 17.5. **Invalidity.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.
- 17.6. **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except in relation to the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labour conditions, earthquakes, material shortages, or any other cause (whether or not similar to any of the foregoing) beyond the reasonable control of such party, provided it gives written notice of such occurrence relied upon to the other party and uses all reasonable efforts to remove the cause of such non-performance as soon as possible. Any reliance on this provision for longer than thirty (30) days (where performance has not recommenced) shall entitle the other party to terminate this Agreement.
- 17.7. **Compliance with Laws.** Each party agrees to comply with all applicable laws and regulations with respect to its activities hereunder, including but not limited to any export laws and regulations of any relevant jurisdiction (including the United Kingdom and European Economic Area).

- 17.8. **No Partnership.** Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship between the parties.
- 17.9. **Assignment.** Neither party may assign this Agreement without the other party's written consent not to be unreasonably withheld or delayed except that in the event that Asite proposed to assign this Agreement to any wholly-owned UK incorporated subsidiary company it may establish then there is a rebuttable presumption that such consent shall be granted provided that any such subsidiary company has appropriate financial standing and funding and is sufficiently financially robust to stand by Asite's obligations pursuant to this agreement. Where consent is granted then from an agreed date of notice Customer shall release Asite from further performance and be bound to the UK company in all respects in the same way as it was to Asite) and/or in the event of a Change of Control (as defined below). Any assignment in violation of this Clause will be null and void. "**Change of Control**" means, with respect to a party: (a) the direct or indirect acquisition of either (i) the majority of voting shares of such party or (ii) all or substantially all of the assets of such party, by another entity in a single transaction or a series of transactions; or (b) the merger of such party with another entity provided that where a Change of Control means that the incoming party is a competitor to the Customer the Customer may at its absolute discretion refuse any such assignment and may terminate the agreement on 60 days' notice and recovery that element of the annual subscription fee as is unused at the date of termination using a pro rata calculation of the annual charges versus the contract year. Subject to the foregoing restrictions, this Agreement shall inure to the benefit of the successors and assigns of the parties.
- 17.10. **Third Parties.** The warranties and other obligations provided by Asite under this Agreement run only to Customer, but not to its affiliates, partners, customers, Authorised Users, or any other persons. Customer acknowledges that:
- 17.10.1. Asite is not a party to, third party beneficiary of, or a guarantor of performance with respect to any agreement between Customer and any third party concluded in relation to or through the Asite Platform, and Asite has no liability in relation to the same;
- 17.10.2. This Agreement is not intended to confer any third party beneficiary rights on any affiliate, partner, clients of Customer or any Authorised User, none of whom shall have any right to enforce any term of this Agreement against Asite or have any right to be consulted in connection with any amendment to this Agreement (even where the same are provided with access to the Services).
- 17.11. **Subcontracts.** Asite shall be entitled to sub-contract all or part of the performance of this Agreement to one or more third parties from time to time, but shall remain liable to Customer for the acts and omissions of any such sub-contractors as if they were those of Asite itself. Asite warrant that any contractors that they use to deliver services to the Customer are of sufficient experience and standard of service.
- 17.12. **Third Party Rights.** For the avoidance of any doubt, this Agreement is not intended to confer benefits on anyone other than Asite or Customer and the Contract (Rights of Third Parties) Act 1999 shall not apply.
- 17.13. For the purpose of this Clause 17.13, the meaning of adequate procedures and foreign public official shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. Both Parties shall: a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; c) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010; d) promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Agreement; and e) warrant that they have no foreign public officials as officers, employees or direct or indirect owners at the Effective Date of this Agreement and agree to immediately notify the other Party if during the validity of this Agreement a foreign public official becomes an officer or employee or acquires a direct or indirect interest.
- 17.14. **Entire Agreement.** This Agreement together with the Schedules and Order Form(s) and any appendices and attachments hereto attached constitutes the entire agreement between the parties and supersedes all prior or contemporaneous agreements or representations (save in relation to fraudulent representations), written or oral, concerning the subject matter of this Agreement.
- 17.15. **Variation.** This Agreement may not be modified or amended or varied except in writing signed by a duly authorised representative of each party.
- 17.16. **Counterpart.** This Agreement may be executed in two or more counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same instrument. No counterpart shall be effective until each party has provided to the other at least one executed counterpart.

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

PART B - Configuration Services

These are the additional terms on which Asite will provide Configuration Services to Customer. These terms are in addition to the General Terms and Conditions, and in the event of conflict between this Part B and any other part of this Agreement, this Part B shall prevail.

1. INITIAL CONFIGURATION & TRAINING.

- 1.1. In consideration of the relevant Fees and New Fees, Asite shall provide the Configuration Services, including agreed assistance with data conversion and assistance with any other implementation activities.
- 1.2. In accordance with Clause 6 of this Part B, Asite may provide extra or additional Services to Customer (“**Additional Services**”).
- 1.3. Asite shall provide initial Training. Such Initial Training shall include basic training in the use of the Asite Platform for an agreed number of Customer's employees as specified in the respective Statement of Work.
- 1.4. Asite may agree to provide Customer with additional training (“**Additional Training**”) where this is reasonably requested by Customer in accordance with Clause 6 of this Part B.

2. CONFIGURATION SERVICES.

- 2.1. Configuration Services shall be provided by Asite under this Agreement by suitably qualified personnel and using such due skill and care as could be reasonably expected of a competent provider of services similar to those being provided under this Agreement.
- 2.2. Configuration Services shall be provided at the locations agreed by the parties from time to time.

3. CUSTOMER RESPONSIBILITIES.

- 3.1. Customer agrees to:
 - 3.1.1. provide all office facilities, information and assistance reasonably required by Asite in order that Asite can properly perform the Configuration Services in a timely and efficient manner including computer facilities and internet access, telecommunications lines, print outs, data preparation, office facilities and typing and photocopying (free of charge).
 - 3.1.2. procure that all consents, permissions and licences (including software licences) necessary for Asite to perform the Services, are obtained and maintained.
 - 3.1.3. provide a secure and safe working environment for Asite employees or representatives and information on relevant safety procedures.

4. ASITE'S PERFORMANCE.

- 4.1. Under the terms and conditions of this Agreement, Asite will perform the Configuration Services in order to provide Customer with access to the Asite Platform, Applications and other agreed Deliverables.
- 4.2. Asite is responsible for any disruption or delays in providing the Configuration Services or failure to meet estimated timescales caused by any acts, omissions or delays by Asite.
- 4.3. Upon completion of the Configuration Services, Asite will indicate when the Asite Platform, Applications and associated Deliverables are ready for Customer review and testing (“**Ready for Testing Date**”).

5. ACCEPTANCE PROCEDURES.

- 5.1. Where test data is provided by Customer, Customer warrants that it shall be materially accurate and complete.
- 5.2. Within a period of fourteen (14) days of the Ready for Testing Date, Customer will review and test the Asite Platform, Applications and all associated Deliverables to confirm that these function in material conformance with their relevant Documentation. If any aspect of these does not materially conform to the applicable Documentation, Customer shall notify Asite in writing, within the fourteen (14) day review period, providing a detailed description of any such non-conformance (“**Error**”). The Services will be deemed to be accepted if no notification to the contrary is received by Asite.
- 5.3. With respect to any Errors contained in any Deliverables delivered to Customer, Asite shall use all reasonable efforts to correct any such Error as soon as reasonably practicable and, upon completion, Customer shall be informed (this being the new “Ready for Testing Date”). The provisions of this Clause 5 shall then apply again up to three (3) additional times.

6. ADDITIONAL SERVICES.

- 6.1. At Customer's reasonable request and subject to the reasonable availability of Asite's personnel, Asite may agree to provide to Customer Additional Services and Additional Training, (including consulting services, custom modification programming and support relating to custom modifications, assistance with data transfers, assistance in the use of the Asite Platform and other support services).
- 6.2. Such Additional Services or Additional Training will be provided subject to Asite receiving an Order from the Customer at Asite's then current Standard Consultancy Rates.

SCHEDULE 1
Order Form

Date Created:

Customer name:

Account Contact:

**Business/Delivery
Address:**

Scope of Engagement:

Geographical Scope:

Start Date:

End Date:

Order Number:

Billing Contact:

Email:

**Exclusions and Client
Responsibilities:**

DESCRIPTION OF SERVICES

PRODUCT NAME	DESCRIPTION	CONTRACT TERM	TOTAL COST (GBP) (exclusive of Taxes)
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TOTAL FEE

GBP £

Signature:

Name: _____

Job Title: _____

Date: _____

SCHEDULE 2

Pricing and Fees

Except as otherwise set forth below, the capitalised terms shall have the same meaning as such terms in the Agreement. In the event of a conflict between this Order Form and the Agreement, this Order Form shall control.

SERVICE DESCRIPTION

<i>Scope of services</i>	
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FEES

<i>License Fees</i>	
<i>Consultancy Services Rate</i>	
<i>End of Agreement Archive Fee</i>	

<i>Subscription Period</i>	
<i>Billing frequency</i>	
<i>Start date</i>	

STORAGE

<i>Initial data capacity</i>	
<i>Additional data capacity</i>	

BILLING INFORMATION

Billing Company Name	Contact Name
Billing Email	Contact Number
Billing Address	
Purchase Order Number	VAT Number

SPECIAL TERMS

SCHEDULE 3

Service Level Agreement

Asite provides maintenance services that include access to Asite's dedicated support team to raise incident tickets for the purpose of fault investigation, diagnosis and resolution together with preventative and corrective maintenance that includes all regularly scheduled bug fixes, software updates, and those upgrades limited to improvements to features described in the Documentation. Asite aims to schedule software updates every 6-10 weeks but if a development is key to our continuous growth Asite will take ad hoc approach to our development release schedule, all details can be found on the company website (<https://www.asite.com/product-updates>).

Maintenance Events. Maintenance of the Asite Platform, Applications or other maintenance activities shall, as far as practicable, be performed outside of normal business hours ("Normal Business Hours" are 6am-10pm local UK time, Monday to Friday, except public holidays in England).

Scheduled Maintenance shall be performed during a "Scheduled Maintenance Window" on Sundays from 10am to 4pm local UK time. Emergency Maintenance shall be performed during the daily window of 10pm to 2am local UK time. Unscheduled Maintenance shall be performed outside of normal business hours and Asite, will where practical, give Customer at least two (2) days' notice in advance of such maintenance. Any Maintenance Events which occur during normal business hours and which were not requested by Customer shall be considered downtime.

Asite will at all times endeavour to keep any Service interruptions to a minimum.

Availability Commitment Asite will provide at least a 99.9% uptime service availability level ("Uptime Service Level"). This Uptime Service Level availability refers to an access point on the Asite hosting provider's backbone network. It does not apply to the portion of the circuit that does not transit the hosting provider's backbone; Customer is responsible for its own ability to access the internet. In addition, the Uptime Service Level availability will not include Maintenance Events as defined above or Customer-caused outages or disruptions; or outages or disruptions attributable in whole or in part to force majeure events within the meaning of clause 17.6 of the Agreement to which this is an exhibit.

Availability Measurement: Asite shall measure the availability of the Application at 5 minute intervals beginning on the first day of the calendar month following use by the Customer if the Service. Measurements of availability will not include Customer caused outages or disruptions (such as the unavailability of Customer-controlled back-office systems), or Maintenance Events that fall outside of the Normal Business Hours. Availability Measurement is based on the monthly average percent availability, calculated at the end of each calendar month as the total actual uptime minutes divided by total possible uptime minutes in the month.

Service Credits. If availability falls below the Uptime Service Level in a given calendar month commencing on the third month of the Initial Term (a "Service Delivery Failure"), Asite will credit Customer's account the amount calculated by the following metrics:

Monthly Cumulative Downtime (Minutes)	Service Credits (% of the monthly Subscription Fee)
45 – 60	5%
60 – 120	10%
120 – 180	20%
180 – 240	30%
240 – 300	55%
300 +	100%

Asite shall provide a service credit for any Service Delivery Failure(s) within five (5) business days of the service affecting event(s) in order to receive a Service Credit. Maximum Service Credit allowable in a given month is limited to the total Subscription Fee owed for that month.

Both parties acknowledge and agree that the terms of this Service Level Agreement do not operate by way of penalty and constitute a genuine attempt to pre-estimate loss to Customer.

Technical Support Services.

Asite Technical Support. Asite technical support will accept voice-mail, email, and web form-based request for help/support 24 hours a day, 7 days a week ("24 x 7"). Each request has a specific ticket number for tracking purposes.

Definition of Priority.

Each support call/email will go into support team where the handler determines the priority based on the severity of the problem described by the Customer representative. These will be identified by either, full failure, partial, work arounds.

In the event that the Customer does not agree with the priority given to a support request (or any number of linked support requests) then the parties agree to follow the Escalation Procedure.

Escalation Procedure

Escalation level	Timeframe	Customer	Asite
Level 1	24 hours	Customer Representative	Support Handler
Level 2	24 hours	Customer Representative Line Manager / Disputing Manager	Customer Success Consultant
Level 3	24 Hours	Commercial Director	Customer Success Director

The above escalation procedure also applies to any disagreements between the parties regarding use of third parties pursuant to clause 5.

The priority of any defect is made using one of following priorities:

Priority	Description	Target First Time Response Time	Target Resolution Time
Priority 1	The entire Application is 'down' and not accessible. P1 incidents must be reported by phone.	Within 2 business hours.	4 business hours: there will be a continuous effort after initial response to resolve the problem with Customer cooperation.
Priority 2	Operation of the Application is severely degraded, or major components of the Applications are not operational and work cannot reasonably continue. P2 incidents must be reported by phone.	Within 4 business hours.	Within 2 business days after initial response.
Priority 3	Certain non-essential features of the Application are impaired while most major components of the Application remain functional.	Within 24 business hours.	Within 5 business days after initial response.
Priority 4	Problems that are, generally, non-disabling or cosmetic. There is clearly little or no impact to the user.	Within 3 business days.	Next available Scheduled Maintenance Window.

Escalation. If no progress has been made on a Priority 1 or Priority 2 incident within the Target Resolution Time, the incident will be escalated in writing to the Manager of Technical Services. If the incident is not then resolved after a further incremental period equivalent to the Target Resolution Time, the incident may then be escalated to the Asite Technology Director. The Customer can also escalate via their dedicated Customer Success Consultant who will act on their behalf to try and resolve the issue in the targeted timescales.

Monitoring and incident reporting. Asite will provide monitoring of its Applications and Services. Asite use all reasonable endeavours to notify Customer of Maintenance Events that may affect the availability of the Applications.

Customer support obligations. Customer's designated Customer Success Consultant may contact Asite Technical Support in order to report problems from Authorised Users that Customer's designated Consultant cannot resolve themselves after a reasonable level of diagnosis has been performed.

Changes to Integration Interfaces. Before Asite or Customer makes changes to integration interfaces between the Asite Platform and Customer's internal data stores or systems, Asite or Customer will provide notice to the other in order to ensure the continued operation of any integration interfaces affected by such changes. Asite will provide Customer CSRs, or Customer will provide Asite NSEs, with at least 60 days advance notice of such changes. Such notice will include at least the new interface specifications and a technical contact to answer questions on these changes. Asite or Customer will also provide up to 15 days of integration testing availability to ensure the smooth transition from the prior interfaces to the new interfaces.

Exclusions. Asite will be under no obligation to provide the support services and shall not be liable for failure to perform the obligations in this Service Level Agreement and/or achieve the Service Levels to the extent attributable to:

- defects or errors in the Applications have resulted from any unauthorised modifications (or attempted modifications) made by any person other than Asite;
- unauthorised use of the Asite Platform, Applications or use by any party who is not an Authorised User;
- use of the Applications otherwise than in accordance with this Agreement, the Documentation, or continued use contrary to any reasonable written instructions provided by Asite;
- any fault in Customer's equipment or operating environment on which the Software is installed and used;
- input errors or omissions by Customer or Authorised Users (including inaccurate, incomplete or corrupt User Data);
- defects or errors caused by the use of the Applications on a configuration for use of the Applications as set out in this Agreement or otherwise approved by Asite.
- Any of the events as described in Clause 17.6 of the Agreement.