

1. DEFINITIONS AND INTERPRETATION

1. In this Schedule the following terms shall have the following meanings:

Affiliates, Charges, Customer, Force Majeure Event, Intellectual Property Rights, Purchase Order and Supplier, shall have the meanings given in the Master Agreement or Terms and Conditions (as applicable);

Availability Service Level means the defined availability of the SaaS as described in clause 2.7;

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

Customer Data means the defined data set, including Personal Data, that is collected, stored, and managed at the request of the Customer;

Equipment means the physical hardware on which the SaaS can be deployed including but not limited to MSite devices, computers, and mobile devices (which may or may not have been supplied directly by the Supplier);

Master Agreement means the agreement for the supply of MSite hardware, software and services entered into between the Parties;

Measurement Period shall mean a calendar quarter during the Term;

Normal Business Hours means 9.00 am to 5.30 pm local UK time, each Business Day;

Service Level Agreement means the Supplier's Service Level Agreement (SLA) detailing its response and resolution timeframes in respect of resolving issues and defects of varying severity in relation to the Supplier's products and services, updated from time to time;

Software as a Service (SaaS) means the MSite platform application software agreed to be licensed to the Customer by the Supplier and made available at the **URL** made known by the Supplier to the Customer from time to time);

Term means the duration of the Master Agreement or Purchase Order as applicable;

Terms and Conditions means the Supplier's Consolidated Hire and Purchase Terms and Conditions;

Viruses mean anything or device (including any software, code, file or program) 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;

Vulnerabilities means any weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact on the confidentiality, integrity, or availability of the SaaS.

2. SaaS

1. The Supplier hereby grants to the Customer a non-exclusive, non-transferable right and licence to permit its employees (including permanent and non-permanent staff, and employees of the Customer's Affiliates), contractors of any tier (and their employees) and agents (the "**Authorised Users**") to use the SaaS during the Term including any updates issued by the Supplier solely for the Customer's business operations. The SaaS may only be used by Authorized Users of the Customer, who may be designated by the Customer and changed, added or removed by the Customer or the Supplier from time to time.
2. The Customer shall not access, store, distribute or transmit any Viruses, or any material during its use of the SaaS that:
 1. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 2. facilitates illegal activity;
 3. depicts sexually explicit images;
 4. promotes unlawful violence;
 5. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 6. is otherwise illegal or causes damage or injury to any person or property;

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

3. The Supplier shall provide SaaS to the Equipment and the Customer's access to a database platform system to upload user details, manage the Customer workforce and/or call-off reports on data relating to the use of the Equipment. The Supplier shall use reasonable endeavours to ensure that the SaaS and platform on which the SaaS and Customer Data is hosted has the industry standard cyber security safeguards and protection in relation to security, integrity, and confidentiality of any electronic data and/or information submitted by the Customer and/or uploaded and/or hosted on the platform.
4. Customer Data shall be available and searchable via the SaaS for the duration of the Term.
5. The Supplier shall provide an online data archive and retrieval service during, and for a period of up to 12 (twelve) months after the end of, the applicable Term at no additional cost to the Customer.
6. The Supplier shall provide an off-line data archive and retrieval service during the period of between 12 (twelve) and 24 (twenty-four) months after the end of the applicable Term in such format as agreed in writing by the Parties and with a 1 (one) week response provision for any off-line data requests at no additional cost to the Customer. Any offline data archive and retrieval service thereafter is subject to a separate written agreement by the Parties

(which shall include the charges payable in respect thereof) and will be in a readily available format.

7. The Supplier shall use commercially reasonable efforts to make the SaaS available 24 (twenty-four) hours a day, 7 (seven) days a week except for:
 1. planned maintenance carried out during the maintenance window of 7 pm – 2 am and the Supplier shall use reasonable endeavours to give the Customer at least 14 (14) working days' notice in advance.
 2. unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 48 (forty-eight) hours' notice in advance;
 3. urgent unscheduled maintenance which is required due to unforeseen circumstances, and which will be performed immediately but only after the Supplier has used reasonable endeavours to give the Customer 1 (one) hours' notice in advance;
 4. SaaS unavailability caused by events outside of the direct control of the Supplier, including any Force Majeure Event, the failure or unavailability of Customer's systems, the Internet, and the failure of any other technology or Equipment used to connect to or access the SaaS.
8. The Supplier will use reasonable efforts to make the SaaS available at least [99%] of the time, measured quarterly (the "**Availability Service Level**"). If the Supplier does not meet the Availability Service Level, and so long as the Customer's account is current and all charges due are paid in full, the Customer will be eligible to receive the credits set out in clause 2.8. The Customer acknowledges and agrees that these credits are the Customer's sole and exclusive remedy for any failure by the Supplier to meet the Availability Service Level.
9. The Supplier and the Customer hereby agree as follows:
 1. Any instance of unavailability will be calculated in minutes: from the point in time (within Normal Business Hours) at which the Customer informs the Supplier of the unavailability of the SaaS through the submission of a support ticket to the Supplier support services; until the Supplier confirms to Customer that the unavailability has been resolved and the ticket is in a resolved status.
 2. The total number of minutes of unavailability in each quarter shall be added together to determine the total amount of unavailability during each month and such total shall be measured against the Availability Service Level to determine if the Availability Service Level has been achieved or not.
 3. For each whole 1% of unavailability below the Availability Service Level, the Customer shall be entitled to 1% credit from the relevant Master Agreement or Purchase Order in the Measurement Period for SaaS services.
 4. If the Customer claims a service credit pursuant to clause 2.7 and clause 2.8, it shall not also be entitled to claim any service credits to which it may be entitled under the Service Level Agreement as a result of any issue or defect which contributed as the

sole or as an aggregate reason for the Supplier's failure to achieve the Availability Service Level.

3. CUSTOMER DATA

1. The Customer shall own all rights, titles, and interests in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
2. To the extent the Supplier processing of Customer Data contains Personal Data, the Customer agrees to enter into the applicable Data Processing Agreement or Data Protection Clauses.
3. The Supplier shall follow its archiving procedures for Customer Data as set out in its Back-up Policy/Disaster Recovery Policy which shall be made available to Customer on request. This document may be amended by the Supplier at its sole discretion from time to time provided that no amendment will lead to a lower standard being applied to the provision of the SaaS than is currently provided in the Back-up Policy/Disaster Recovery Policy.

4. SUPPLIER'S OBLIGATIONS

1. The Supplier warrants and represents to the Customer on an ongoing basis that:
 1. it will perform the SaaS and any updates with reasonable care and skill and follow generally recognised commercial practices and standards in the industry for similar services;
 2. the SaaS and any updates will materially conform with all written or documented descriptions and specifications provided to the Customer by the Supplier;
 3. the SaaS and any updates will be provided in accordance with all Applicable Laws;
 4. it has the right to license the SaaS to the Customer pursuant to and in accordance with these SaaS Terms;
 5. it has put in place the necessary measures to comply with its current Back-up Policy/Disaster Recovery Policy (in force from time to time) and shall comply with such policy for the Term;
 6. it has obtained and will maintain for the duration of these SaaS Terms all permissions, licences and consents necessary to perform and provide the SaaS.
2. The Supplier does not warrant that:
 1. the Customer's use of the SaaS will be uninterrupted or error-free;
 2. that the SaaS and/or the information obtained by the Customer through the Services will meet the Customer's requirements; or

3. the SaaS will be free from Vulnerabilities or Viruses.

3. If the SaaS does not conform with the foregoing warranties, the Customer's sole remedy and Supplier's liability will be for the Supplier, at its expense, to use all reasonable commercial endeavours to correct any such non-conformance promptly or provide the Customer with an alternative means of accomplishing the desired performance as soon as reasonably possible.

4. Any updates shall be delivered in the same manner and on the same terms as the SaaS unless otherwise agreed between the Parties.

5. CUSTOMER'S OBLIGATIONS

1. The Customer shall:

1. provide the Supplier with all reasonably necessary information and cooperation in relation to these SaaS Terms in order to provide the SaaS, including but not limited to Customer Data, security access information and configuration services;

2. comply with all Applicable Laws relating to its use of the SaaS;

3. ensure that the Authorised Users use the SaaS in accordance with the terms and conditions of these SaaS Terms;

4. ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and

5. be, to the extent permitted by law and except as otherwise expressly provided in these SaaS Terms, solely responsible for procuring, maintaining, and securing its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

2. The Customer shall not:

1. except as may be allowed by any applicable law:

1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the SaaS in any form or media or by any means; or

2. attempt to de-compile, reverse compile, disassemble, reverse engineer, or otherwise reduce to human-perceivable form all or any part of the SaaS;

2. access all or any part of the SaaS in order to build a product or service which competes with the SaaS;

3. use the SaaS to provide services to third parties;

4. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the SaaS available to any third party except the Authorised Users;
 5. attempt to obtain, or assist third parties in obtaining, access to the SaaS; or
 6. introduce or permit the introduction of, any Virus or Vulnerability into the SaaS or the Supplier's network and information systems.
3. If the Supplier's performance of its obligations under these SaaS Terms is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, the Supplier shall be permitted an extension of time to perform its obligations equal to the delay caused by the Customer.

6. PROPRIETARY RIGHTS

1. The Customer acknowledges and agrees that the Supplier and/or its licensors shall at all times retain ownership of all rights, title and interest, including all Intellectual Property Rights in and with respect to the SaaS, materials and documentation.
2. Except as expressly stated herein, these SaaS Terms do not grant the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other Intellectual Property Rights or other rights or licences in respect of the SaaS.
3. Except to the extent expressly permitted in the Master Agreement or required by law on a non-excludable basis, the licence granted by the Supplier to the Customer prohibits the Customer from the following activities: (a) modify the SaaS or separate out any of its components for use with other software; (b) permit another person other than the Customer's Authorised Users to use the SaaS; (c) decompile, disassemble, or otherwise reverse engineer the SaaS; (d) remove, obscure or alter any notice of copyright, trademark or other proprietary right present on or in the SaaS or (e) resell the SaaS or provide the SaaS to or on behalf of other entities. The Customer understands that the SaaS is licensed to the Customer and not sold.
4. The Supplier confirms that it has all the rights in relation to the SaaS and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, these SaaS Terms.