**SIRE Technology Limited**
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**TERMS AND CONDITIONS FOR THE PROVISION OF HOSTING SERVICES**

1. **Interpretation**

1.1 **Definitions:**

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| **Acceptance** | is as defined in clause 2.8; |
| **Acceptance Tests** | the tests to be carried out by the Supplier on the Hosted Server as provided for in clause 2; |
| **Business Day** | a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business; |
| **Change Control Procedures** | are as set out in the Schedule; |
| **Charges** | the charges payable by the Customer for the supply of the Services which are set out in the schedule to the Supplier's quotation which is the subject of the Order, and which are payable in accordance with clause 5 and the Schedule; |
| **Commencement Date** | has the meaning set out in clause 2.2; |
| **Conditions** | these terms and conditions as amended from time to time in accordance with clause 10.5; |
| **Contract** | the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions; |
| **Customer** | the person or firm who purchases Services from the Supplier, as identified in the quotation provided by the Supplier; |
| **Customer Data** | the data loaded onto the Hosted Server by the Customer or by the Supplier on the Customer's behalf; |
| **Customer Default** | has the meaning set out in clause 4.2; |
| **Data Protection Legislation** | all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR and the Data Protection Act 2018 (and regulations made thereunder) (DPA 2018), and all other legislation and regulatory requirements in force from time to time in any jurisdiction which apply to a party relating to the use of personal data; |

| **Data Subject** | the identified or identifiable living individual to whom the Personal Data relates. |
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| **Hosted Server** | a server or servers provided by a combination of Information Technology, which, depending on the Services, may be a dedicated system or the right to use parts of the Supplier-maintained systems, or a combination of both; |
| **Hosting Software** | application software for the Hosted Server commissioned by the Supplier and, as described in a schedule to the Supplier's quotation which is the subject of the Order, either Stratus, Alto or Cirrus (as these terms are defined in the Schedule); |
| **Information Technology** | hardware, software, licensing and networking provided to the Customer for non-exclusive use, including third party services; |
| **Intellectual Property Rights** | patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world; |
| **Maintenance Window(s)** | the applicable periods of time each day, and as provided for herein or at notified times given by the Supplier to the Customer at not less than 3 days' written notice, to allow the Supplier to perform work which may impact the Services PROVIDED THAT, in the event of an emergency, any emergency Maintenance Windows will be notified to the Customer not less than 24 hours in advance but only to the extent reasonably practicable; |
| **Materials** | content and software provided to the Supplier by the Customer from time to time for incorporation in the Hosted Server or installed by the Customer onto the Hosted Server; |
| **Order** | the Customer's order for the Services as set out in the Customer's written agreement to a quotation by the Supplier; |

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| **Project Plan** | any timetable for setting up the Hosted Server and performing the Services set out in the Supplier's quotation which is the subject of the Order; |
| **Service or Services** | the services to be supplied by the Supplier to the Customer as set out in the Schedule; |
| **Software** | any application that is used by the Customer, or that is installed by the Customer or the Supplier on behalf of the Customer, on the Hosted Server; |
| **Specification** | the specification for the supply of the Services which is set out in the Supplier's quotation which is the |
| **Supplier** | subject of the Order; |
| **UK GDPR** | SIRE Technology Limited; and |
| | has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018. |

1.2    **Interpretation:**

1.2.1    A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.2    Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.2.3    A reference to **writing** or **written** includes email but not fax.

2.    **Basis of Contract and Acceptance**

2.1    The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2    The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order or when the Supplier commences performance of the Services pursuant to the Order, at which point and on which date the Contract shall come into existence (Commencement Date).

2.3    These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.4    Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 20 Business Days from its date of issue.

2.5     The Supplier shall, following the Commencement Date, carry out the Acceptance Tests to test compliance of the Hosted Server with the Specification.

2.6     Acceptance shall occur when the Services have passed or be deemed to have passed the Acceptance Tests in accordance with clause 2.8. The Supplier shall notify the Customer of Acceptance at which point the Supplier shall proceed with the provision of the Services.

2.7     In the event of any failure to pass the Acceptance Tests resulting from an act or omission of the Customer, or one of the Customer's sub-contractors or agents for whom the Supplier has no responsibility, the Services shall be deemed to have passed the Acceptance Tests notwithstanding such failure. The Supplier shall provide assistance as reasonably requested by the Customer in remedying any defect resulting from such act or omission by supplying additional services or products. If so requested by the Supplier, the Customer shall pay the Supplier in full for all such additional services and products at its then current fees and prices.

2.8     Acceptance shall be deemed to have taken place upon the occurrence of any of the following events:

          (a)     the Acceptance Tests have been passed to the reasonable satisfaction of the Supplier; or

          (b)     the Customer uses any part of the Service for any revenue-earning purposes or to provide any services to third parties other than for test purposes; or

          (c)     the Customer unreasonably delays the start of the relevant Acceptance Tests or any re-tests for a period of 7 Business Days from the date on which the Supplier is ready to commence running such Acceptance Tests or re-tests or

          (d)     clause 2.7 applies.

3.     **Supply of Services**

3.1     The Supplier shall provide the Services to the Customer.

3.2     The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

3.3     The Supplier warrants to the Customer that the Services will perform substantially in accordance with the Specification for a period of 90 days from Acceptance. If the Services do not so perform, the Supplier shall, for no additional charge, carry out any work necessary in order to ensure that the Services substantially so comply.

3.4     The Supplier will provide reasonable maintenance and support in relation to the Services, and will work reasonably with the Customer to set up monitors and alerts that the Services are not performing in accordance with the Specification, although the Supplier gives no undertaking or guarantee that any problem will be rectified within a particular time-period. The Supplier shall have no obligation under this clause to the extent that any failure of the Services to perform substantially in accordance with the Specification is caused by the Software or any Materials or during Maintenance Windows.

3.5     The Supplier shall update the Hosted Server with Materials provided from time to time by the Customer, but no more than once in any month during the term of the Contract.

3.6     In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the archiving procedure. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up).

3.7     The Supplier warrants that the specifications of the Hosted Server will be sufficient to perform the Services, in accordance with the Specification, as at the date of Acceptance. The Supplier does not so warrant the specifications of the Hosted Server at any point after Acceptance. For the avoidance of doubt, the Supplier shall not be responsible for any failure or decrease in performance of the Hosted Server to the extent this arises as a result of, or is exacerbated by, any software installed on the Hosted Server by the Customer or any additional users authorised by the Customer.

4.      **Customer's obligations**

4.1     The Customer shall:

4.1.1     at all times ensure the accuracy and completeness of the Materials;

4.1.2     co-operate with the Supplier in all matters relating to the Services;

4.1.3     provide the Supplier, its employees, agents, consultants and sub-contractors, with access (whether physically or remotely) to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier, including to access Information Technology;

4.1.4     provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;

4.1.5     obtain and maintain all necessary licences, permissions and consents which may be required before the Commencement Date, including in relation to the Materials;

4.1.6     take all reasonable precautions to protect the health and safety of the Supplier's employees, agents and sub-contractors while on the Customer's premises;

4.1.7     not, for the duration of this Contract, and for a period of 6 months following termination, directly or indirectly induce or attempt to induce any employee or contractor of the Supplier who has been engaged in the provision, receipt, review or management of the Services to leave the employment of or engagement by the Supplier;

4.1.8     ensure that the Materials do not infringe any applicable laws, regulations or third party rights (such as material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third party Intellectual Property Rights) ("Inappropriate Content");

4.1.9     indemnify the Supplier in full from and against all damages, losses, liabilities, costs and expenses arising as a result of any action or claim that the Materials or

any other material posted to, or linked to, the Hosted Server by or on behalf of the Customer constitutes Inappropriate Content;

4.1.10   where Information Technology is provided by the Supplier and is located within the custody of the Customer or one of the Customer's suppliers, insure and keep it insured against accidental harm not arising from the Supplier's fault or negligence (and shall provide the Supplier with a copy of such insurance details on request);

4.1.11   not dispose of or use any Information Technology other than in accordance with the Supplier's prior written instructions or authorisation; and

4.1.12   be wholly responsible for the use, access and security of the Materials, use commercially reasonable efforts to prevent unauthorised access to, or use of, the Services and notify the Supplier of any known or suspected unauthorised use of the Services.

4.2   If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer, its employees, agents, consultants and sub-contractors or failure by the Customer to perform any relevant obligation (Customer Default):

4.2.1   the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

4.2.2   the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and

4.2.3   the Customer shall reimburse the Supplier on written demand for any reasonable costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

4.3   The Customer agrees that the Supplier has no control over any content placed on the Hosted Server by the Customer and does not purport to monitor the content of the Hosted Server. The Supplier may remove content from the Hosted Server where it reasonably believes such content is Inappropriate Content. The Supplier shall notify the Customer if it becomes aware of any allegation that content on the Hosted Server may be Inappropriate Content.

4.4   Where the Services are provided through a shared environment, the Customer is not permitted to utilise any licenses provided to the Customer by Microsoft ("Direct Licences") in such environment, except for those which are provided by the Supplier. The Customer shall inform the Supplier prior to the Commencement Date whether it has any Direct Licences and during the term of this Contract shall immediately advise the Supplier if any Direct Licences are used in relation to the Services. In the event that the Customer uses such Direct Licences, the Customer shall indemnify the Supplier from and against any liabilities, claims, costs, expenses or losses which the Supplier suffers as a result of the use of the Direct Licences (including without limitation the cost of any audit carried out by the Supplier which identifies the use of such Direct Licences).

4.5   Where the Services are provided through a dedicated environment, the Customer may be permitted to utilise Direct Licences, provided that the Customer complies in all respects with

the terms of such Direct Licences and any requirements on the use of such Direct Licences imposed by Microsoft or the Supplier. In the event that the Customer fails to comply with the terms of such Direct Licences or any requirements on the use of such Direct Licences imposed by Microsoft or the Supplier, the Customer shall indemnify the Supplier against any liabilities, claims, costs, expenses or losses which the Supplier suffers as a result of the use of the Direct Licences (including without limitation the cost of any audit carried out by the Supplier which identifies the failure to comply with the terms of such Direct Licences or any requirements on the use of such Direct Licences imposed by Microsoft or the Supplier).

5.      **Charges and payment**

5.1     The Charges shall include travelling expenses, hotel costs, subsistence and any associated expenses.

5.2     The Customer shall pay each invoice submitted by the Supplier:

    5.2.1      within 30 days of the date of the invoice; and

    5.2.2      in full and in cleared funds to a bank account nominated in writing by the Supplier, and

    and time for payment shall be of the essence of the Contract.

5.3     All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

5.4     If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 3% per cent per annum above HSBC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

5.5     The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

6.      **Intellectual property rights and Data Protection**

6.1     All Intellectual Property Rights in any works arising in connection with the performance of the Services by the Supplier ("Works") shall be owned by the Supplier.

6.2     The Customer retains all Intellectual Property Rights in the Software and the Materials, and grants the Supplier a licence to use such Intellectual Property Rights to the extent required to perform the Services.

6.3     The Customer shall indemnify the Supplier against all damages, losses, costs and expenses arising as a result of any action or claim that the Software or the Materials infringe any Intellectual Property Rights of a third party.

6.4     The Supplier shall indemnify the Customer against all damages, losses, costs and expenses arising as a result of any action or claim that the Works infringe the Intellectual Property Rights of a third party in the UK.

6.5     The indemnities in clause 6.3 and clause 6.4 shall not apply to the extent that the action or claim arises out of the indemnifier's compliance with any designs, specifications or instructions of the indemnified party.

6.6     Both the Supplier and the Customer will comply with all applicable requirements of the Data Protection Legislation. This clause 6.6 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. The Supplier and the Customer acknowledge that, for the purposes of the Data Protection Legislation, the Customer is the Data Controller and the Supplier is the Data Processor in respect of any Customer Data (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).

6.7     Without prejudice to the generality of clause 6.6, the Supplier shall, in relation to any Personal Data (as defined in the Data Protection Legislation), or any part of such Personal Data, in respect of which the Customer is the Data Controller and which is processed by the Supplier in connection with the performance by it of the Services ("Customer Personal Data"):

   (a)     process that Customer Personal Data only on the written instructions of the Customer unless the Supplier is required by any applicable laws to process Customer Personal Data. Where the Supplier is relying on the laws of a member of the European Union or European Union law as the basis for processing Customer Personal Data, it shall promptly notify the Customer of this before performing the processing required by such laws unless those laws prohibit it from so notifying the Customer;

   (b)     ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer if the Customer so requires, to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Customer Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Customer Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

   (c)     ensure that all personnel who have access to and/or process Customer Personal Data are obliged to keep the Customer Personal Data confidential;

   (d)     not transfer any Customer Personal Data outside of the UK or the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

   (i)  the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;

   (ii)  the Data Subject has enforceable rights and effective legal remedies;

   (iii)  the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Customer Personal Data that is transferred; and

   (iv)  the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Customer Personal Data;

  (e)  assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

  (f)  notify the Customer without undue delay on becoming aware of a breach of Data Protection Legislation in relation to Customer Personal Data;

  (g)  at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of this agreement unless required by applicable law to store the Customer Personal Data; and

  (h)  maintain complete and accurate records and information to demonstrate its compliance with this clause 6.7.

6.8  The Customer acknowledges that the Supplier is reliant on the Customer for direction as to the extent to which the Supplier is entitled to use and process the Customer Personal Data. Consequently, the Supplier will not be liable for any claim brought by a Data Subject arising from any act or omission by the Supplier, to the extent that such act or omission resulted from Customer instructions.

6.9  The Customer consents to the Supplier appointing a third party as a third-party processor of Customer Personal Data under this agreement if it so requires. The Supplier confirms that it will enter with any third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 6.9.

6.10  Either party may, at any time on not less than 30 days' notice, revise clauses 6.6 to 6.9 by replacing any part of them with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

7.  **Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

7.1  Nothing in the Contract shall limit or exclude the Supplier's liability for:

  7.1.1  death or personal injury caused by its negligence, or the negligence of its employees, agents or sub-contractors;

  7.1.2  fraud or fraudulent misrepresentation; or

7.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

7.2 Subject to clause 7.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

7.2.1 loss of profits;

7.2.2 loss of sales or business;

7.2.3 loss of agreements or contracts;

7.2.4 loss of anticipated savings;

7.2.5 loss of use or corruption of software, data or information;

7.2.6 loss of damage to goodwill; and

7.2.7 any indirect or consequential loss.

7.3 Subject to clause 7.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the amount of the Charges.

7.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

7.5 The Supplier does not warrant that the Services will cause any Software to operate without error or interruption either generally or for a specified period of time.

7.6 This clause 7 shall survive termination of the Contract.

8. **Termination**

8.1 Without limiting its other rights or remedies, either party may terminate the Contract by giving the other party not less than 30 days' written notice, to expire on the first anniversary of the Commencement Date or any subsequent anniversary thereof.

8.2 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

8.2.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 21 days of that party being notified in writing to do so;

8.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or,

if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

8.2.3    the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

8.2.4    the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

8.3    Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 21 days after being notified in writing to make such payment.

8.4    Without limiting its other rights or remedies, the Supplier may suspend provision of the Services under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 8.2.2 to clause 8.2.4 or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

9.    **Consequences of termination**

On termination of the Contract:

9.1.1    the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

9.1.2    (save where the Contract is terminated by the Supplier pursuant to clause 8.2), the Supplier shall provide such assistance as is reasonably requested by the Customer to transfer the provision of the Services to the Customer or another service-provider, subject to payment of the Supplier's reasonable expenses for this;

9.1.3    the Customer shall return all Information Technology within 7 days;

9.1.4    the Supplier shall promptly return to the Customer the Materials;

9.1.5    within 7 days of termination, all Hosted Servers, Hosted Software, Materials and Customer Data will be deleted by the Supplier;

9.1.6    any licences granted by the Supplier pursuant to the Contract will terminate immediately;

9.1.7    the accrued rights, remedies, obligations and liabilities of the parties as at termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and

9.1.8    clauses which expressly or by implication survive termination shall continue in full force and effect.

10.     **General**

10.1    **Force majeure.** Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

10.2    **Assignment and other dealings.**

    10.2.1    The Supplier may at any time assign, transfer, mortgage, charge, sub-contract or deal in any other manner with all or any of its rights under the Contract and may sub-contract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

    10.2.2    The Customer shall not, without the prior written consent of the Supplier, not to be unreasonably withheld or delayed, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

10.3    **Confidentiality.**

    10.3.1    Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 10.3.2.

    10.3.2    Each party may disclose the other party's confidential information:

        (a)    to its employees, officers, representatives, sub-contractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, sub-contractors or advisers to whom it discloses the other party's confidential information comply with this clause 10.3; and

        (b)    as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

    10.3.3    Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

10.4    **Entire agreement.**

    10.4.1    This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

    10.4.2    Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement or the Order. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

10.5 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives) or effected in accordance with the Change Control Procedures.

10.6 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

10.6.1 waive that or any other right or remedy; or

10.6.2 prevent or restrict the further exercise of that or any other right or remedy.

10.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

10.8 **Notices.**

10.8.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service or commercial courier or by email.

10.8.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 10.8.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; and if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed ;if sent by email, upon transmission if there is satisfactory evidence thereof.

10.8.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

10.9 **Information Technology**. Any Information Technology provided by the Supplier to the Customer will remain the property of the Supplier unless transferred by separate agreement.

10.10 **Customer Data.** The Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

10.11 **Third parties.** No one other than a party to the Contract shall have any right to enforce any of its terms.

10.12 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with, the law of England and Wales.

10.13    **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.


SCHEDULE
## The Services

### Definitions

"Alto" means a Hosted Server as detailed in the Order with a guarantee of Services outside the Maintenance Windows which are between 18.00pm and 08.00am.

"Cirrus" means a Hosted Server as detailed in the Order with a guarantee of Services outside the Maintenance Windows which are between midnight and 04.00am.

"Stratus" means a Hosted Server as detailed in the Order with a guarantee of Services outside the Maintenance Windows which are between 17.30pm and 09.00am.

### Description

Hosted Server and related services, to include: -

1.  Hosting Set-Up
    a.  The set-up phase of the Services includes those services provided by the Supplier or its contracted third parties to design, install, configure and test the Services, as well as the Hosting Software and internet connectivity.
2.  Installation and Configuration
    a.  The Supplier shall procure, install and configure the Hosting Software to provide access to the Hosted Server.
    b.  Quantities of compute, storage, and memory as detailed in the Order.
3.  Facility
    a.  The Hosted Server shall be installed in a rack-mounted configuration inside a professional facility designed for such use.
    b.  The facility shall be equipped with access security, climate control, fire suppression, and managed power supply with UPS and generator back-up.
4.  Internet Connectivity
    a.  The Supplier shall provide internet connectivity through an internet service provider at the Hosted Server.
    b.  The connectivity shall include multiple, diversely routed high-speed connections, and a firewall for security.
    c.  The Customer shall, and shall ensure that its users shall, make their own arrangements for internet access in order to access the Hosted Server.
    d.  The Supplier shall supply burstable bandwidth connectivity services. The connectivity shall include multiple connections and a network operations centre that monitors servers, the network platform and internet access.
5.  The Supplier shall perform daily image backups keeping a minimum of two copies, provide routine and emergency data recovery and manage the backup technology. In the event of data loss, the Supplier shall provide recovery services to try to restore the most recent back-up.
6.  The Supplier shall have the right to audit the Hosted Server at any time for the purposes of ensuring that the Customer is complying with its obligations under the Contract. Such audit may be carried out by the Supplier or by a person appointed by the Supplier. The Customer

shall supply on request all information and credentials necessary for such audit to be carried out.

7. **Continuing Services**. The Continuing Services provided by the Supplier or its contracted third parties, which allow for availability of the Hosted Server, include internet connectivity (as detailed above), load distribution management, security services, monitoring, back-up, release management and change control, and administration services.

8. The Supplier will operate and maintain anti-virus technologies on the Hosted Server to protect where possible the operating system and data files. The protection does not guarantee total protection and it is the Customer's responsibility to take reasonable care when opening and running programs and attachments from emails.

9. **Load Distribution Management.** The Supplier shall provide load-balancing services to distribute load and redundancy across application servers.

10. **Security Services.** The Supplier shall provide security services as follows:
    a. facility access shall be limited to the Supplier and contracted third-party personnel;
    b. the facility shall be monitored 24 hours a day, 7 days a week through closed circuit video surveillance and shall require identification for access; and
    c. data access security shall be provided through managed firewall services with security on all web pages, a private network path for administration and monitoring, and fully hardened servers.

11. **Monitoring Services.** The Supplier shall provide, 24 hours a day and 7 days a week, monitoring of the computing, operating and networking infrastructure to detect and correct abnormalities. This includes environmental monitoring, network monitoring, load-balancing monitoring, web server and database monitoring, firewall monitoring, and intrusion detection.

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

13. **Administration Services.** The Supplier shall supply administrative services, which include the installation and administration of additional hardware, operating system and other software, and other resources as necessary to maintain the Services. Any Customer requested increase or decrease in services, where the Order increases or decrease in one or more component quantities, compute (CPU), memory (RAM) or storage (HDD), the Supplier will change the quantities to the Customer's request as long as:
    a. in respect of disk changes, disk amount is divisible by 100GB (100GB being the smallest unit).
    b. the technical capabilities of the operating system or underlying infrastructure support such change.

Back-up services

The Charges for the Services do not comprise any payment for on-site and/or off-site storage and back-up services which must be agreed separately between the Customer and the Supplier if required by the Customer. Accordingly, the Supplier shall have no liability whatsoever in relation to any loss, damage, claim, cost or expense suffered or incurred by the Customer or any third party to the extent such loss, damage, claim, cost or expense arises as a result of or in connection with any computer system back-up or storage issues or any failure or defect in the provision of any computer system back-up or storage (Back-Up Event). The Customer shall indemnify and keep the Supplier indemnified in full against all costs, expenses, claims, damages and losses, including any interest, fines, legal and other professional fees and expenses, awarded against or incurred or paid by the Supplier, to the extent arising as a result of or in connection with any Back-Up Event. This provision shall survive termination of this Agreement.

### Charges

1. Unless agreed otherwise by the Supplier in writing, the Supplier shall invoice the Customer for the Charges monthly in advance.

2. Any Change in Services, where the Order increases one or more component quantities, compute (CPU), memory (RAM) or storage (HDD), the Supplier will invoice pro-rate from the date of increase presented to the Customer.

3. For the avoidance of doubt, any licences provided by the Supplier are invoiced on a calendar month basis. If the Customer increases or decreases its number of users during any month, such addition or reduction in users shall be invoiced as if they had been users for the whole of that month and the Supplier shall not pro-rate the charges in respect of such users for their actual period of use.

4. Where the Customer requests Change resulting in decreases of one or more component quantities, compute (CPU), memory (RAM) or storage (HDD) detailed in the Order, the Supplier will credit the next invoice with any pro-rated reduction of costs. Any such Change will be limited to the operating system software or any other limitations which the Supplier has informed the Customer of.

### Change Control

1. Any request to change the scope of the Services shall be processed in accordance with the Change Control Procedure set out below.

2. The Supplier and the Customer shall discuss any change to the Services (Change) proposed by the other and such discussion shall result in either:

   (a)    a written request for a Change by the Customer; or

   (b)    a written recommendation for a Change by the Supplier.

3. If neither the Customer nor the Supplier wishes to submit a request or recommendation, the proposal for the Change will not proceed.

4. Where a written request for a Change is received from the Customer, the Supplier shall, unless otherwise agreed, submit a Change Request (CR) to the Customer within the period agreed between them or, if no such period is agreed, within 5 Business Days from the date of receipt of such request for a Change, or inform the Customer that the Supplier is not able to comply with such written request for a Change.

5. A written recommendation for a Change by the Supplier shall be submitted as a CR direct to the Customer at the time of such recommendation.

6. Each CR shall contain:

   (a)    the title of the Change;

   (b)    the originator and the date of the request or recommendation for the Change;

   (c)    the reason for the Change;

   (d)    the full details of the Change, including any specifications and user facilities;

(e)     the price, if any, of or associated with the Change;

(f)     a timetable for implementation, together with any proposals for acceptance of the Change;

(g)     the impact, if any, of the Change on other aspects of this agreement, including the charges, the contractual documentation, staffing resources; and

(h)     the date of expiry of validity of the CR (which shall not be less than 10 Business Days).

7.   For each CR submitted, the Customer shall, within the period of validity of the CR as provided for above, evaluate the CR, and as appropriate either:

(a)     request further information; or

(b)     approve the CR in writing; or

(c)     notify the Supplier of the rejection of the CR

8.   Once approved by the Customer in writing, the Change shall be immediately effective and the Customer and the Supplier shall perform their respective obligations on the basis of the agreed amendments.