



Terms and Conditions of Service

1. Application

- 1.1 These Terms and Conditions shall apply to the provision of Services by the Supplier to the Client.
- 1.2 In the event of conflict between these Terms and Conditions and any other terms and conditions (of the Client or otherwise), the former shall prevail unless expressly otherwise agreed by the Supplier in writing.

2. Definitions

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:
 - 2.1.1 "Supplier" means Trisoft Ltd, Suite 109, Stanford House, 19 Castle Gate, Nottingham, NG1 7AQ
 - 2.1.2 "Client" means [insert company name, company number and registered address]
 - 2.1.3 "Applicable Laws" means all applicable laws, statutes and regulations from time to time in force.
 - 2.1.4 "Applicable Data Protection Laws" means:

to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

to the extent the EU GDPR applies, the law of the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.
 - 2.1.5 "Client Personal Data" means any personal data which the Supplier processes in connection with this Agreement or a SOW, in the capacity of a processor on behalf of the Client.
 - 2.1.6 "Commencement Date" means the date on which the Services will begin
 - 2.1.7 "Business Day" means" a day (excluding Saturdays or Sundays) on which banks in London are open for the transaction of normal banking business (other than solely for trading and settlement in euros)
 - 2.1.8 "Environment" means an entity of "Hardware", "Software" or "Infrastructure" any of which may be described as an environment in its' own right such as "A software environment", or which may be combined together to create a collective

environment. Any of these entities may be referred to as an “Environment”

Examples of Environments are:

- A single server running an operating system;
- A Single server running a collection of operating systems as virtual environments;
- An application only;
- A local area network comprising networking infrastructure equipment;
- A wide area network comprising of wide area network equipment;
- A single workstation;
- A collection of workstations;
- A collection of workstations, servers and printers;

A Trisoft Ltd Support agreement provides a tailored solution for one or more Environments.

- 2.1.9 “EU GDPR” means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law.
- 2.1.10 “Payment Schedule” means the payment schedule agreed between the parties in writing and annexed to these Terms and Conditions
- 2.1.11 “Services” means those services described in the Service Provision Schedule
- 2.1.12 “Service Provision Schedule” means the schedule of services to be provided by the Supplier as agreed between the parties in writing.
- 2.1.13 “Response time” means the maximum elapsed working time during the support hours from the receipt of a support notification by the Client to a response from a support engineer. If engineers cannot contact the Client directly for any reason within the response time an e-mail response will if possible be sent and shall be accepted as a valid response.
- 2.1.14 “UK GDPR” has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- 2.2 Any reference in these Terms and Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended from time to time.
- 2.3 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.

3. Term

These Terms and Conditions shall commence on the Commencement Date and shall remain in force for 12 months and from year to year thereafter, unless and until terminated in accordance with their terms.

4. The Service

- 4.1 With effect from the Commencement Date the Supplier shall, in consideration of the fees being paid in accordance with these Terms and Conditions, provide the Services and any other services agreed between the parties in writing.
- 4.2 The Supplier will use reasonable care and skill to perform the Services and any other services agreed between the parties in writing.
- 4.3 The Supplier shall use reasonable endeavours to complete its obligations under the Service Provision Schedule.

5. Support

- 5.1 During the continuance of these Terms and Conditions, the Supplier shall provide the Client with all or any of the following support services, which form part of the Services:

- 5.1.11 Helpdesk support: For an urgent problem, the Client can telephone or email the Supplier's Helpdesk which is available during the Normal Support Hours. An urgent problem is degradation or failure of the system, defective network connectivity, or software performance inconsistent with documentation. Problems which do not delay or inhibit system operation will be handled on a lower priority.
- 5.1.12 On-site support: On-site support will be provided by the Supplier if specified in the Service Provision Schedule and where appropriate in the event that telephone or remote support does not resolve the problem.
- 5.1.13 Remote support: The Client shall permit the Supplier secure remote access to the Client's network and authorisation for such access is hereby given.
- 5.1.14 Out-of-Hours support: No Out-of-Hours support is guaranteed unless specified in the Service Provision Schedule.
- 5.1.15 Corrections, assistance: Correction of critical errors or assistance to overcome specific software problems. The Supplier may, in its sole discretion, correct errors by 'patch' or by new version, usually via Microsoft Update or Microsoft Product Support Services.
- 5.1.16 Consultancy: Consultancy advice on IT Strategy development, system enhancements and modifications, together with estimates for the same.
- 5.1.17 When appropriate, the Supplier will endeavour to give an estimate of how long a problem may take to resolve. The Supplier will keep the client informed of the progress of problem resolution. The Supplier's support staff will attempt to solve a problem as soon as reasonably practicable and shall use reasonable endeavours to meet the response times set out in the Service Provision Schedule (excluding Supplier public and national holidays). The Supplier shall use its reasonable endeavours to respond within the timescales defined by the service levels contained in the Service Provision Schedule.

6. Excluded Support and Maintenance

- 6.1 The Supplier shall be under no obligation to provide support in respect of:
 - 6.1.11 Any items specifically listed in the "Unsupported Items" schedule as referenced on page 5 of this agreement under the section "Related Documentation"
 - 6.1.12 Problems resulting from any modifications or customisation of any software or the equipment which are not authorised in writing by the Supplier.
 - 6.1.13 Any software other than that listed in the Service Provision Schedule.
 - 6.1.14 Incorrect or unauthorised use of the software or operator error where these are defined as use or operation not in accordance with the documentation as provided by the manufacturer.
 - 6.1.15 Unlicensed, pirate or illegal software or content deemed to be of an illegal nature.
- 6.2 The Supplier reserves the right to discontinue the support for any prior version of the supported software if a superseding version has been available to the Client and the software is no longer supported, as defined by 'The Originating Software Vendors End of Life' policy or a statement made by the originating software vendor.
- 6.3 The Supplier shall not be obliged to make modifications to software, other than 'maintenance updates' and 'patches' provided for normal distribution by the software manufacturers and for which suitable installation programs have been provided by the original software manufacturer.

7. Data Protection

- 7.1 For the purposes of this clause 7, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the UK GDPR.
- 7.2 Both parties will comply with all applicable requirements of the Applicable Data Protection Laws. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.
- 7.3 The parties have determined that for the purposes of Applicable Data Protection Laws the Supplier shall process the personal data as set out in the Service Provision Schedule.
- 7.4 Should the determination in clause 7.3 change, the parties shall use all reasonable endeavours

make any changes that are necessary to this clause and the Service Provision Schedule.

7.5 Without prejudice to clause 7.2, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Client Personal Data to the Supplier and/or lawful collection of the same by the Supplier for the duration and purposes of these Terms and Conditions.

7.6 In relation to the Client Personal Data, the Service Provision Schedule sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject.

7.7 Without prejudice to clause 7.2, the Supplier shall, in relation to Client Personal data:

7.7.1 process that Client Personal Data only on the documented instructions of the Client unless the Supplier is required by Applicable Laws to otherwise process that Client Personal Data (Purpose). Where the Supplier is relying on Applicable Laws as the basis for processing Client Personal Data, the Supplier shall notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Client on important grounds of public interest. The Supplier shall inform the Client if, in the opinion of the Supplier, the instructions of the Client infringe Applicable Data Protection Laws;

7.7.2 implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Client Personal Data and against accidental loss or destruction of, or damage to, Client Personal Data, which are 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;

7.7.3 ensure that any personnel engaged and authorised by the Supplier to process Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

7.7.4 assist the Client insofar as this is possible (taking into account the nature of the processing and the information available to the Supplier), and at the Client's cost and written request, in responding to any request from a data subject and in ensuring the Client's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

7.7.5 notify the Client without undue delay on becoming aware of a personal data breach involving the Client Personal Data;

7.7.6 at the written direction of the Client, delete or return Client Personal Data and copies thereof to the Client on termination of the agreement unless the Supplier is required by Applicable Law to continue to process that Client Personal Data. For the purposes of this clause 7.7.6, Client Personal Data shall be considered deleted where it is put beyond further use by the Supplier; and

7.7.7 maintain records to demonstrate its compliance with this clause 7, and allow for reasonable audits by the Client or the Client's designated auditor, for this purpose, on reasonable written notice.

7.8 The Client provides its prior, general authorisation for the Supplier to:

7.8.1 appoint processors to process the Client Personal Data, provided that the Supplier:

(a) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause 7;

(b) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and

(c) shall inform the Client of any intended changes concerning the addition or replacement of the processors, thereby giving the Client the opportunity to object to such changes provided that if the Client objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Client shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.

7.8.2 transfer Client Personal Data outside of the UK as required for the Purpose, provided that the Supplier shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Client shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the EU Commission from

time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).

7.9 Either party may, at any time on not less than 30 days' notice, revise this clause 7 (Data protection) by replacing it 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 these Terms and Conditions).

7.10 The Supplier's liability for losses arising from breaches of this clause 7 is as set out in clause 14.

8. Remote Access

If the Supplier has remote access to any part of the Client's equipment in the course of performing the Services, the following provisions shall apply:

8.1 The Supplier will:

- a) only use a remote access method approved by the Supplier and the Client.
- b) ensure that any computer used by its personnel to remotely access the Client's equipment will not simultaneously access any other third-party network while logged on to the Client's equipment;
- c) ensure, where appropriate, that named individuals will sign an applicable confidentiality clause.

8.2 The Supplier will ensure that its personnel will not remotely access the Client's Equipment from a networked computer unless the network is protected from all third-party networks by a firewall.

9. Price

9.1 The Client agrees to pay the fees in accordance with the terms of payment as specified in the Payment Schedule.

9.2 In addition, the Supplier shall be entitled to recover from the Client its reasonable incidental expenses for travel, subsistence, materials used and for third party goods and services supplied in connection with the provision of the Services and any other services agreed between the parties in writing.

9.3 The Client will pay the Supplier for any additional services provided by the Supplier that are not specified the Service Provision Schedule in accordance with the Supplier's then current, applicable daily rate in effect at the time of the performance or such other rate as may be agreed.

9.4 All sums payable by either party pursuant to these Terms and Conditions are exclusive of any value added tax.

10. Payment

10.1 All payments for support services will be paid in advance and in accordance with the periodic charge listed in the Payment Schedule. Invoices will be sent by the Supplier to the Client along with confirmation that payments are being collected.

10.2 All payments for other products and services required to be made pursuant to these Terms and Conditions by either party shall be made within 7 days of the date of the relevant invoice in GBP Pounds Sterling in cleared funds to such HSBC bank as the other party may from time to time nominate, without any set-off, withholding or deduction except such amount (if any) of tax as that party is required to deduct or withhold by law.

10.3 The time of payment shall be of the essence of these Terms and Conditions. If the Client fails to make any payment on the due date in respect of the price or any other sum due under these Terms and Conditions then the Supplier shall, without prejudice to any right which the Supplier may have pursuant to any statutory provision in force from time to time, have the right to charge the Client interest at the rate of 3% above the Bank of England rate in place at that time on any sum due and not paid on the due date and/or may at their discretion withhold performance of the Services until payment is made in full.

11. Variation and amendments

- 11.1 If the Client wishes to vary any details of the Service Provision Schedule it must notify the Supplier in writing as soon as possible. The Supplier shall endeavour to make any required changes and any additional costs thereby incurred shall be invoiced to the Client.
- 11.2 Variations to the Services will be allowed solely at the discretion of the Supplier and shall be documented in writing between the parties.
- 11.3 If, due to circumstances beyond the Supplier's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify the Client forthwith. The Supplier shall endeavour to keep such changes to a minimum.

12. Termination

- 12.1 The Supplier may terminate these Terms and Conditions forthwith if:
 - 12.1.11 the Client is in breach of any of its obligations hereunder and (where the breach is capable of remedy) fails to remedy such breach within 7 days of being notified by the Supplier to do so; or
 - 12.1.12 the Client has entered into liquidation (other than for the purposes of a bona fide amalgamation or reconstruction) whether compulsory or voluntarily or compounds with its creditors generally or has an administrator, administrative receiver or receiver appointed over all or a substantial part of its undertaking or assets; or
 - 12.1.13 the Client has become bankrupt or shall be deemed unable to pay its debts by virtue of Section 123 of the Insolvency Act 1986; or
 - 12.1.14 the Client ceases or threatens to cease to carry on business; or
 - 12.1.15 any circumstances whatsoever beyond the reasonable control of the Supplier (including, but not limited to, any circumstances that necessitate the termination of the provision of the Services.
- 12.2 In the event of termination under clause 12.1:
 - 12.2.11 the Supplier shall retain any sums already paid to it by the Client without prejudice to any other rights it may have whether at law or otherwise;
 - 12.2.12 the Client 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 may submit an invoice, which shall be payable immediately on receipt;
 - 12.2.13 any provision of these Terms and Conditions that expressly or by implication is intended to come into or continue in force on or after termination or expiry of these Terms and Conditions shall remain in full force and effect; and
 - 12.2.14 termination or expiry of these Terms and Conditions shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of these Terms and Conditions which existed at or before the date of termination or expiry.
- 12.3 Either party may terminate these Terms and Conditions on the anniversary of the Commencement Date by giving written notice no less than 90 days prior to the anniversary of the Commencement Date.

13. Sub-Contracting

Neither party may sub-contract the performance of any of its obligations under these Terms and Conditions without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed. Where either party sub-contracts the performance of any of its obligation under these Terms and Conditions to any person, that party shall be responsible for every act or omission of the sub-contractor as if it were an act or omission of the party itself.

14. Liability

- 14.1 Nothing in these Terms and Conditions limits or excludes the Supplier's liability for (a) death or personal injury caused by its negligence; (b) fraud; or (c) any other liability which cannot be limited or excluded by law.
- 14.2 Subject to clause 14.1, the Supplier will not have any liability to the Client, whether in contract, tort, for breach of statutory duty or otherwise, arising in connection with these Terms and Conditions, for (a) any loss of profits; (b) any loss of any sales, business, agreements or contracts; (c) any loss of anticipated savings; (d) any loss of (or damage to) goodwill; or (e) any indirect or consequential loss.
- 14.3 Subject to clauses 14.1 and 14.2, the Supplier's liability to the Client, in contract, tort, for breach of statutory duty or otherwise, in connection with these Terms and Conditions, will be limited to the amount of the aggregate fees paid by the Client to the Supplier in accordance with these Terms and Conditions.
- 14.4 The Client shall indemnify the Supplier against all damages, costs, claims and expenses suffered by the Supplier arising from loss or damage to any equipment (including that of third parties) caused by the negligence of the Client, or its agent or employees.
- 14.5 The Supplier shall not be liable for any loss or damage caused by any loss of data which has not been backed up correctly or appropriately by the Client or by a third party on behalf of the Client.
- 14.6 Where the Client consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Client shall be joint and several obligations of such persons.

15. Force Majeure

- 15.1 Neither the Supplier nor the Client shall be liable to the other or be deemed to be in breach of these Terms and Conditions by reason of any delay in performing, or any failure to perform, any of its obligations, if the delay or failure was due to any cause beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control: -
- 15.1.11 act of God, explosion, flood, tempest, fire or accident;
- 15.1.12 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 15.1.13 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 15.1.14 import or export regulations or embargoes;
- 15.1.15 strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of either the Supplier or the Client or of a third party);
- 15.1.16 the Client's failure in power, internet, cloud services or breakdown in machinery.

16. Waiver

- 16.1 No waiver by the Supplier of any breach of these terms and conditions by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of this agreement shall be effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which the waiver is given.
- 16.2 No failure or delay on the part of any party in exercising any right, power or privilege under this agreement shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of or the exercise of any other right, power or privilege.

17. Severance

If any provision or part-provision of these Terms and Conditions 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 17 shall not

affect the validity and enforceability of the rest of these Terms and Conditions.

18. Notices

18.1 Any notice given to a party under or in connection with these Terms and Conditions shall be in writing and shall be:

18.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

18.1.2 sent by email to the address specified by each party to the other from time to time.

18.2 Any notice shall be deemed to have been received:

18.2.1 if delivered by hand, at the time the notice is left at the proper address;

18.2.2 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; or

18.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 18.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

18.3 This clause 18 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

19. Third Party Rights

These Terms do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

20. Assignment and other dealings

The Supplier may assign, transfer, novate, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under these Terms and Conditions at any time without the Client's prior written consent. The Client shall not assign, transfer, novate, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under these Terms and Conditions without the Supplier's prior written consent.

21. Confidentiality

20.1 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 this clause 20.

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

(a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under these Terms and Conditions. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 20; and

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

20.3 Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under these Terms and Conditions.

22. Intellectual Property Rights

The Supplier reserves all intellectual property rights which subsist in the products of, or in connection with, the provision of the Supplier's Services or facilities. The Supplier reserves the right to take such actions as may be appropriate to restrain or prevent infringement of such intellectual property rights.

23. Entire Agreement and Variation

These Terms and Conditions constitute the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into these Terms and Conditions it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms and Conditions. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms and Conditions. No variation of these Terms and Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

24. **Applicable Law and Jurisdiction**

These Terms and Conditions, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them or their subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales. 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 these Terms and Conditions or their subject matter or formation.