Dot On Standard Service Agreement
Version: 18
Date: 23/04/2024

1   Definitions and interpretation

1.1   In these Conditions the following definitions apply:

Acceptance Conditions	has the meaning given in clause 6.5;
Acceptable Use Requirements	the acceptable use requirements that You and Your Authorised Users must comply with when Using the Services as set out in Part D to the Schedule;
Administration	means the administration services set out in the Schedule Part A – Service Specific Terms;
Addendum	means an addendum to these Conditions which may be agreed in respect of a specific client;
Affiliate	means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
API	means Application Programming Interface;
Authorised Users	those persons nominated or authorised by You to Use the Beta Software and/or Services, Software or SAAS Applications provided by Us;
Automatic Reoccurring Payment	automatic reoccurring payment, the procedure for which shall be specified in an Order;
Bespoke Works	means any work that You commission Us to undertake that is i) specific to Your business, website, e-commerce shop, or integration; and ii) paid for at an enhanced rate to reflect Your ownership as further described in an Order specifically as Bespoke Works;
Beta Features	means components or features within released Software or Services that are provided by Us on a non-commercial or trial basis whether or not beta, pilot, developer preview, non-production, evaluation or by a description of similar import, whether enabled by You within the product or service description within Your client administration area within the SAAS Services portal, or upon written request, or otherwise;

Beta Software and/or Services	any Software or Services (including without limitation Beta Features components, or features within released Software or Services) provided by Us on a non-commercial or trial basis whether or not beta, pilot, developer preview, non-production, evaluation or by a description of similar import pursuant to an Order;
Business Day	means a day other than a Saturday, Sunday or bank or public holiday in England and/or Wales (as applicable);
Change	has the meaning given in clause 25.1;
Charges	the charges which shall become due and payable by You to Us in respect of subscription to the Services and/or provision of the Deliverables in accordance with the provisions of the Contract, as such charges are set out in the Order;
Client Feedback	shall include feedback provided to Us by You at any time (whether before or after the execution of this Contract) in any format, including without limitation bug reports, feedback, feature requests or suggestions;
Commercially Sensitive Information	means information of a commercially sensitive nature relating to Us, Our Intellectual Property Rights or business or which We have indicated to You that, if disclosed by You, would cause Us significant commercial disadvantage or material financial loss;
Conditions	means Our terms and conditions of supply set out in this document;
Confidential Information	means all confidential information (however recorded or preserved) disclosed by a party or its representatives to the other party and that party's representatives in connection with the Contract, including but not limited to:
	(a) any information that would be regarded as confidential by a reasonable business person relating to: (i) the business, affairs, customers, suppliers or plans of the disclosing party; and (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party;
	(b) any information developed by the parties in the course of carrying out the Contract;

(c) Personal Data; or

(d) any Commercially Sensitive Information;

Configuration means the configuration services performed by Us on the –

(a) SAAS Applications;

(b) Beta Software and/or Services;

(c) Services;

(d) Software; and/or

(e) ICT Environment

(as applicable) once installed to ensure the Requirements are met;

Contract means the agreement between Us and You for the provision of the Services and/or provision of the Deliverables (as applicable) incorporating these Conditions, the Schedule and the Order, together with any Addendum (if agreed);

Contract Period means (subject to earlier termination in accordance with its terms or by operation of Law) the duration of the Contract, as set out in the Order and/or the Specification or, if the Order and/or the Specification does not set out such a duration, a period of twenty four (24) months from the date of the Order until either i) We or You terminate the Contract in accordance with its terms, or ii) a Contract Renewal Period is entered into;

Contract Renewal Period a further period being the same duration as the Contract Period, unless otherwise specified in the Order, from the expiry of the initial Contract Period or any subsequent Contract Renewal Period;

Control means the beneficial ownership of more than fifty per cent (50%) of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and **Controls** and **Controlled** shall be construed accordingly;

Controller shall have the meaning given to it in the UK GDPR;

Core Service	a component of a Service that constitutes a dependency for a Master Service. The component may vary depending upon the nature of the service being undertaken and shall be set out in the Order;
Cybersecurity Requirements	all Laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, industry schemes and sanctions applicable to either party and relating to security of network and information systems and security breach and incident reporting requirements, including the Data Protection Legislation, Commission Implementing Regulation (EU) 2018/151) (as applicable in the domestic law of England and Wales from time to time), the Network and Information Systems Regulations 2018 (SI 506/2018) and Cyber Essentials+, all as amended or updated from time to time;
Data Centres	means one or more data centre system(s) of (including but not limited to) servers, databases, computers, networking, tooling, storage, data analytics, AI and machine learning, services, platforms and other related IT infrastructure, as applicable, that carries out activities including but not limited to processing, running, analysing, transmitting and storing the instances of the SAAS Applications that We provide to You as part of the SAAS Services;
Data Protection Laws	means any applicable Law relating to the processing, privacy and/or use of Personal Data, as applicable to either party or the Services, including:

(a)   the UK GDPR;

(b)   the Data Protection Act 2018;

(c)   any Laws which implement any of the foregoing;

(d)   any Laws that replace, extend, re-enact, consolidate or amend any of the foregoing; and

(e)   all guidance, guidelines, codes of practice and codes of conduct issued by any relevant Data Protection Supervisory Authority relating to such Data Protection Laws (in each case whether or not legally binding);

Data Protection Supervisory Authority	means any regulator, authority or body responsible for administering Data Protection Laws;
Data Subject	shall have the meaning given in applicable Data Protection Laws from time to time;
Deliverables	means the items described as such in the Order;
Domain	the domain specified by Us from time to time through which the SAAS Applications are accessed by Us, You and/or the Authorised Users;
due date	has the meaning given in clause 4.6;
E-Commerce Shop	means the electronic (including without limitation mobile) commerce shops, payment providers or other third parties in respect of or in connection with whom We provide You with Services as may be set out in an Order;
Error	means a reproducible failure of the Bespoke Work, Software and/or SAAS Applications to perform in substantial conformity with any relevant Specification;
Export Control Laws	has the meaning given in clause 33.1;
Force Majeure	means an event or sequence of events beyond any party's reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, storm, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service; malicious damage, compliance with any Law or governmental order, rule, regulation, or direction, breakdown of plant or machinery, failure of suppliers or sub-contractors or material required for performance of the Contract; strike, lockout or boycott or other industrial action;
GBP	means British pounds sterling;
Global CDN	means a content delivery network (CDN) which is a system of distributed servers that delivers, including without limitation, data, pages, and/or other web content to a user, based on the geographic locations of the user, the origin of the webpage and/or application and the content delivery server;

Global Data Centres	means globally distributed Data Centres and/or Global CDN that We provide to You as part of the SAAS Services. For the avoidance of doubt, Global Data Centres are located in countries that are both within and outside of the Primary Data Centre Region;
ICT Environment	Your or Your Authorised Users' or an E-Commerce Shop's or a Partner's computing environment consisting of hardware, software and/or telecommunications networks or equipment or interfaces;
Installation	the installation services (if any) that We shall provide to You whereby We shall install the Software on the ICT Environment and/or SAAS Applications at the Data Centres;
Integration	the integration services (if any) that We shall provide to You whereby We will integrate Your website and/or applications with those of third parties, including but not limited to E-Commerce Shops;
Intellectual Property Rights	means copyright, patents, know-how, trade secrets, trademarks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case:

(a)   whether registered or not;

(b)   including any applications to protect or register such rights;

(c)   including all renewals and extensions of such rights or applications;

(d)   whether vested, contingent or future;

(e)   to which the relevant party is or may be entitled; and

(f)   in whichever part of the world existing;

International Organisation	shall have the meaning given in the applicable Data Protection Laws from time to time;
IPR Claim	has the meaning given in clause 16.4;

Law	any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body, in each case as applicable in England and Wales or in Wales only;
Licence	means the Licence granted pursuant to clause 8.1;
Location	means the address(es) for performance of the Services as set out in the Order (where relevant or applicable);
Maintenance	any Error corrections, updates and upgrades that We may provide or perform with respect to the Services, as well as any other support or training services to be provided to You under these Conditions;
Maintenance Events	scheduled or emergency maintenance or downtime or repair;
Master Services	means the master services that may be specified in an Order, including without limitation Composable Commerce Platform (formally known as Commerce Platform) or other services from time to time;
Modification	has the meaning given in the Schedule, Part A, paragraph 1.1;
Native Software	the Software and/or SAAS Applications that are downloaded and/or installed by You and/or Your Authorised Users on Your ICT Environment which We, You and/or Your Authorised Users use to access Our SAAS Services, SAAS Applications and Services, as applicable. Our Services documentation lists the operating systems (including without limitation macOS, Windows, iOS and Android) and the versions of each individual operating system that are supported by Native Software, as applicable;
Normal Business Hours	means the hours between 9:00am to 5:00pm (GMT or BST as applicable) on a Business Day;
Open Source Documentation	means any documentation accompanying the Open Source Software, including without limitation, any licence terms, restrictions or user manual;

Open Source Software	means any software licensed under any form of open-source licence meeting the Open Source Initiative's Open Source Definition (http://www.opensource.org/docs/definition.php) or any libraries or code licensed from time to time under the General Public Licence (as described by the Free Software Foundation and set out at http://www.gnu.org/licenses/gpl.html), or anything similar, included or used in, or in the development of, Our Software or SAAS Applications, or with which they are compiled or linked;
Order	means the written order document for the provision of the Services and/or Deliverables;
Our Personnel	means all employees, officers, staff, other workers, agents and consultants of Us, Our Affiliates and any of their sub-contractors who are engaged in the performance of the Services from time to time;
Partner	any third-party partner organisation to Us;
Payment Plan	means the plan for payment of the Charges as set out in the Order;
Personal Data	shall have the meaning given in the applicable Data Protection Laws from time to time;
Personal Data Breach	shall have the meaning given in the applicable Data Protection Laws from time to time;
Pre-Existing IPR	has the meaning given in clause 16.2;
Premium Support	has the meaning given in the Schedule, Part A, paragraph 4.4;
Primary Data Centre Region	means the geographic region of the primary Data Centre, which is the UK/European Economic Area (EEA) **unless** expressly specified within Your Order;
processing	has the meaning given in applicable Data Protection Laws from time to time (and related expressions, including **process**, **processing**, **processed**, and **processes** shall be construed accordingly);
Processor	shall have the meaning given in applicable Data Protection Laws from time to time;

Protected Data	means Personal Data received from or on behalf of You, or otherwise obtained in connection with the performance of Our obligations under the Contract;
Replacement SAAS Applications	has the meaning given in clause 11.2;
Requirements	those requirements specified by You as set out in the Order;
Rules	the London Court of International Arbitration Rules referenced in clause 22.5;
Sales Order GMV	Your total revenue including VAT/tax of Your customers' Sales Orders. Sales Order GMV is calculated prior to any Sales Order financial reductions (including but not limited to, sales credits, returns, refunds, sales order adjustments, amendments and exchanges);
Sales Orders	means Your customers' sales orders (including but not limited to sales orders, fulfilment orders, sales invoices and similar);
SAAS Services	means the subscription services provided by Us to You under the Contract accessed via the Domain or Native Software or API or Integration as specified by Us from time to time whereby You and Your Authorised Users may Use the SAAS Applications;
SAAS Applications	those online software applications or Native Software as specified in the Order comprising part of the SAAS Services;
Service Credit	has the meaning given in the Schedule, Part C. paragraph 3.1;
Services	means any and all of the services set out in the Order and/or supplied by Us to You, including without limitation the Master Services and Core Services incorporating where applicable Sub Services;
Service Levels	the service levels set out in the Service Level Agreement;
Service Level Agreement	the Service Levels set out in Part C to the Schedule;

Service Specific Terms	any additional terms relating to specific Service components set out in Part A (Service Specific Terms) to the Schedule;
Schedule	means the schedule to these Conditions;
Specification	means the description or specification of –
	(a) the Deliverables;
	(b) the Bespoke Works;
	(c) the Beta Software and/or Services;
	(d) the Services;
	(e) the Software; and/or
	(f) the SAAS Services,
	as set out or referred to in the Order;
Software	any and all computer programs and computer software (of whatever type and in whatever form or media) that we licence to You or perform Services in respect of, including without limitation the application software, Beta Software, Open Source Software and/or Native Software and SAAS Applications;
Standard Support	has the meaning given in the Schedule, Part A, paragraph 4.4;
Sub-Processor	means any agent, subcontractor or other third party engaged by Us (or by any other Sub-Processor) for carrying out any processing activities in respect of the Protected Data;
Subscription Charges	has the meaning given in clause 4.4;
Sub Services	means any optional services that are agreed to be provided in conjunction with Master Services or Core Services, including without limitation, SAAS Services, Configuration, Installation, Support, Integration and Administration;
Support Services	Our support offering, specified in the Schedule Part A – Service Specific Terms, Maintenance and Support subsection;

Third Party Services	has the meaning set out in clause 20.2;
Trial Information	any information provided by or to Us by any person relating to the Beta Software and/or Services;
Trial Period	the evaluation period of any Beta Software and/or Services;
UK GDPR	means the retained EU law version of the General Data Protection Regulation, Regulation (EU) 2016/679 as it forms part of the domestic law of England and Wales from time to time, including any amendment, re-enactment or replacement of it;
Uptime Service Level	has the meaning given in the Schedule, Part C, paragraph 2.1;
Us; We; Our	means **Dot On Technologies Limited** (company number 06508048) a company registered in England and Wales and Our registered office is at 3rd Floor Agincourt House, 1 Agincourt Square, Monmouth, Monmouthshire NP25 3BT. Our VAT number is GB314842022. We operate the website https://www.doton.io;
Use	in relation to –

(a) Beta Software and/or Services;

(b) Software;

(c) Services;

(d) SAAS Services; and/or

(e) the Deliverables

includes the right to use the Beta Software and/or Services; and/or Software; and/or Services; and/or SAAS Services; and/or Deliverables, to make such copies as are necessary to use the Beta Software and/or Services and/or Software and/or Services and/or SAAS Services; and/or Deliverables on Your ICT Environment or any E-Commerce Shop, (as applicable) and (in respect of Software) to make copies for back-up purposes as well as all other ancillary rights implied by Law, and **Using** and **Used** shall be construed accordingly;

Use Terms	Our or Our licensors' additional terms of Use of the Services or Software;
Variable Subscription Charges	has the meaning given in clause 4.3;
Variable Subscription Minimum Charges	has the meaning given in clause 4.3.1;
VAT	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the provision of the Services;
Virus	any program which contains malicious code or infiltrates or damages a computer system without the owner's informed consent or is designed to do so or which is hostile, intrusive or annoying to the owner or user and has no legitimate purpose;
Vulnerability	a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly;
Warranty Period	shall mean the period that We warrant the Services as set out in clause 11.1;
You; Your	means the business set out in the Order which has contracted with Us for the provision of Our Services; and
Your Data	means data provided to Us or created in, inputting into, transferred to, transmitted to, or stored in the Beta Software and/or Services, Services, Software, SAAS Services, SAAS Applications, Native Software, Data Centres, Our Global CDN, our Global Data Centres, Our incoming webhooks or Our API endpoints by You, Your Authorised Users, Our SAAS Services (SAAS Applications and/or Native Software and/or 3rd-party Integrations) acting on Your behalf or Us acting on Your behalf.

1.2   In these Conditions, unless the context otherwise requires:

1.2.1   a reference to a 'party' means either Us or You and includes that party's personal representatives, successors and permitted assigns;

1.2.2   a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;

1.2.3   a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;

1.2.4   words in the singular include the plural and vice versa;

1.2.5   any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.6   a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;

1.2.7   a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time; and

1.2.8   clause headings do not affect the interpretation of this Contract.

2   Application of these Conditions

2.1   These Conditions apply to and form part of the Contract between Us and You. They supersede any previously issued terms and conditions of purchase or supply.

2.2   Only the then current version of these Conditions shall be displayed on Our website. You are advised to print or save a copy for future reference.

3   Contract Period

3.1   The Contract shall commence on the confirmation of Your Order by Us and (subject to any earlier lawful termination) remain in force for the Contract Period and any subsequent Contract Renewal Period. We may confirm Your Order either by countersigning the Order and providing this signed copy to You, or electronically via email whereupon We shall provide You with credentials to administer Your account on the SAAS Application administration.

3.2   The Contract shall automatically and continuously renew at the end of the Contract Period (or Contract Renewal Period, as the case may be) for the Contract Renewal Period, unless terminated by either party in accordance with the relevant provisions of clause 21.

3.3   During the Contract Period, Services may be added or removed pursuant to the terms of those individual Services. The Contract Period and/or Contract Renewal Period for each Service may be different. This Contract shall remain in force until the last Service is terminated.

4   Charges and payment

4.1   In consideration of the provision of the Services by Us in accordance with these Conditions, You shall pay the Charges to Us in accordance with the Payment Plan.

4.2   We shall invoice You for payment of the Charges at the time the Charges are expressed to be payable in accordance with the Payment Plan. The Payment Plan specifies different payment periods depending upon the nature of Services being performed. All invoices shall be directed to Your authorised representative as notified from time to time.

4.3   Subscriptions - Variable Subscription Charges

Where Charges for subscriptions to Services are assessed based on (i) the quantity of Your Sales Orders processed and/or generated by Our Services; and/or (ii) Your Sales Order GMV processed and/or generated by Our Services; and/or (iii) Your volumetric usage of Our Services as specified within Your Order; and/or (iv) a percentage of Our Charges derived from Your Use of Our Services (in the case of Premium Support or Service Level Agreement (as applicable)) (**Variable Subscription Charges**):

4.3.1   Variable Subscription Charges (incl. minimum fee)

Where a minimum fee and/or base fee applies to Variable Subscription Charges in Your Order (**Variable Subscription Minimum Charges**):

(a)   Where Charges are invoiced quarterly, payment for the Variable Subscription Minimum Charges is in advance and We will take Your first payment upon acceptance of Your Order and will take subsequent payments quarterly in advance (pro rata in respect of subscriptions for Services being taken part way through a quarter). The difference between the Variable Subscription Charges and Variable Subscription Minimum Charges shall be invoiced to You quarterly in arrears as overage fees; or

(b)   Where Charges are invoiced monthly, payment for the Variable Subscription Minimum Charges is in advance and We will take Your first payment upon acceptance of Your Order and will take subsequent payments monthly in advance (pro rata in respect of subscriptions for Services being taken part way through a month). The difference between the Variable Subscription Charges and Variable Subscription Minimum Charges shall be invoiced to You monthly in arrears as overage fees.

For the avoidance of doubt, in the event that the Variable Subscription Charges are less than the Variable Subscription Minimum Charges You shall not be liable for additional overage fees and We shall not be liable to refund to You any   part   of   the   Variable   Subscription   Minimum   Charge.

4.3.2   Calculating Variable Subscription Charges

In order to correctly calculate the Variable Subscription Charges, We shall monitor Your transactions within the SAAS Services. However, We may from time to time require You to submit to Us such information as reasonably requested evidencing Your revenue and/or Sales Orders. You shall promptly submit such information to Us, and no later than five (5) days of any request.

4.3.3   Currency Conversion for Variable Subscription Charges

Where Variable Subscription Charges are assessed based on Your Sales Order GMV processed and/or generated by Our Services and where Your customers' Sales Orders are not in the currency as set out in Your Order, the currency of Your customers' Sales Orders will be converted into the currency set out in Your Order using the exchange rates from fixer.io (exchange rates dated within a 24 hour period of the relevant Sales Order's creation date) for the purposes of calculating these Charges.

4.4   Subscriptions - Fixed Subscription Charges

Where Charges are for subscriptions to Services but are not Variable Subscription Charges (**Subscription Charges**):

4.4.1   Where Charges are invoiced quarterly, payment for the Services is in advance and We will take Your first payment upon acceptance of Your Order and will take subsequent payments quarterly in advance (pro rata in respect of subscriptions for Services being taken part way through a quarter); or

4.4.2   Where Charges are invoiced monthly, payment for the Services is in advance and We will take Your first payment upon acceptance of Your Order and will take subsequent payments monthly in advance (pro rata in respect of subscriptions for Services being taken part way through a month).

4.5   Payment Methods

Unless otherwise specified within Your Order, You will make all payments to Us by bank transfer, except for Services which incorporate Variable Subscription Charges, Variable Subscription Minimum Charges and/or Subscription Charges which will be paid by You by Automatic Reoccurring Payment. If payment is made by any other method, and We incur bank or other charges as a result, We may invoice You for those charges and You will pay them to Us as additional charges.

4.6   Unless an alternative Payment Plan is specified in Your Order, You shall pay Us any sums due under such an invoice no later than thirty (30) days from the date issued (**due date**). Any issues or queries regarding invoiced Charges must be raised promptly by You and in any event within seven (7) days of the date upon which the invoice is received by You. Once the period of seven (7) days from the date of receipt by You has passed, the invoice shall be deemed to be valid and undisputed.

4.7   Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be

determined in accordance with clause 22. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until twenty eight (28) days after resolution of the dispute between the parties.

4.8   The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by You following delivery of a valid VAT invoice.

4.9   The currency for the Charges shall be GBP unless otherwise specified in an Order.

4.10   Any sums referenced in GBP in this Contract shall be converted into the currency set out in Your Order using the exchange rates from fixer.io (exchange rates dated within a 24 hour period of the relevant period of creation of the payment obligation for the purposes of calculating these Charges or expenses).

4.11   Where sums due under the Contract are not paid in full by the due date:

4.11.1 We shall be entitled to suspend Our performance of all or part of the Services without penalty pending payment; and

4.11.2 to compensate Us for loss from Your breach, You shall pay on the sum overdue interest (before and after judgment) on a daily basis until payment in full at the rate of eight per cent (8%) per annum above the Bank of England's base rate from time to time. This remedy shall be without prejudice to any other rights that We have under the Contract, including without limitation, the ability to suspend provision of the Services without penalty whilst sums remain unpaid.

4.12   Where provision of the Services require travel, You shall reimburse Us for all actual, reasonable travel expenses including, but not limited to, airfare, hotel and meals incurred by Us in performance of the Services. We shall use reasonable endeavours to agree with You expenses in excess of one hundred and fifty GBP (£150) per expense in advance.

4.13   In respect of any recurring subscriptions to the Services, We reserve the right to amend Our fees or Charges in respect of renewal. We shall give You notice in advance of any changes to pricing. You shall be entitled to terminate the affected Service(s) if You do not agree with the revised pricing from the renewal date.

4.14   Where any suppliers to Us who are necessary for Us to perform the Services increase their charges to Us by more than ten per cent (10%) We shall be entitled to revise the fees or Charges that are levied to You for the Service at any time upon reasonable prior written notice, which shall not be less than thirty (30) days. If You do not agree with the increase, You may terminate the affected Service upon thirty (30) days written notice to Us.

5   **Delivery and performance**

5.1   We shall deliver and/or perform the Deliverables and/or Services:

5.1.1   in such a manner as ensures that the Specification is met;

5.1.2   at all times in accordance with any Requirements;

5.1.3   at all times in accordance with these Conditions; and

5.1.4   in compliance with the Law.

5.2   The Services shall be performed by Us at the Location (where relevant) on the date(s) specified in the Order.

5.3   The Deliverables may be delivered by or performed in instalments unless otherwise agreed in an Order or otherwise in writing.

5.4   All dates, timelines and timescales within Your Order, or given by any other means (including without limitation via verbal or email means), are estimates only and not guaranteed, unless marked as guaranteed within Your Order. Accordingly, time of delivery or performance (as the case may be) is not of the essence unless otherwise specified in an Order. If so specified and We fail to perform the Services by the date specified in the Order, You shall (without prejudice to Your other rights and remedies) be entitled to terminate the Contract in whole or in part.

5.5   The provisions of clause 5.4 shall not apply to the extent You fail to make the Location available or any reasonable assistance that is required by Us for performance of the Services.

6   Ordering and Acceptance

6.1   The completion of an Order is an offer by You to purchase one or more of the Services as specified and detailed in the Order and shall be subject to these Conditions. Our order process allows You to check and amend any errors before submitting Your Order to Us. Please check the Order carefully before submission. You are responsible for ensuring that Your Order submitted by You is complete and accurate.

6.2   Where We accept Your offer We shall accept Your Order and confirm to You by either email confirmation or by countersigning an electronic document or PDF of Your Order; at which point a contract will be formed between us. Acknowledgement of Your Order does not constitute acceptance. If We cannot accept Your Order We will notify You of this, and refund any payments already made.

6.3   On delivery of each Deliverable, You shall be able to access the Deliverable online. Within five (5) days of Our delivery to You of any Deliverable, You shall review the Deliverable to confirm that it functions in material conformance with the applicable portion of the Specification. If any Error is present in the Deliverable, You shall give Us a detailed description of any such Error in writing, within the five (5) day review period.

6.4   With respect to any Errors contained in any Deliverables delivered to You by Us, We shall use reasonable endeavours to correct any such Error within a reasonable time and, on completion, submit the corrected Deliverable to You. The provisions of this

clause 6.4 shall then apply again, up to three (3) additional times. If We are unable to correct such Error after three (3) attempts, either party may terminate the relevant portion of the Service without further liability to the other party. If You do not provide any written comments in the five (5) day period described above, or if the Deliverable is found to conform with the Specification, the Deliverable shall be deemed accepted.

6.5   The **Acceptance Conditions** are that:

6.5.1   for Services, the Services have been performed at the Location;

6.5.2   for Software or SAAS Services that they meet such test criteria as provided by Us to You or as otherwise agreed between the parties; and

6.5.3   You have notified Us in writing that the Deliverables have been delivered or performed (as the case may be) in compliance with the provisions of the Contract,

and in the absence of acceptance or rejection within seven (7) days of delivery or performance, the Acceptance Conditions shall be deemed to be met.

6.6   You shall be entitled to reject any Deliverables which are not in full compliance with these Conditions. Any acceptance of defective, late or incomplete Deliverables or any payment made in respect thereof, shall not constitute a waiver of any of Your rights and remedies, including Your right to reject. If Software or SAAS Services fail to pass the tests referred to in clause 6.5 You shall notify Us of such failure. We shall within fourteen (14) days following notification of the relevant failure at Our own expense correct the Errors in the Software or SAAS Services and notify You that it is ready to repeat the tests. Such tests shall be repeated within fourteen (14) days after such notice at a time mutually convenient to both parties.

6.7   If the Deliverables fail to pass the repeat tests referred to in clause 6.6, You shall notify Us and You shall be entitled either (in each case by notice in writing) to –

6.7.1   terminate this Contract; or

6.7.2   require Us by written notice to correct the Errors within fourteen (14) days of such notice, and in the event of Our failure to correct the relevant Errors within such time, You may terminate this Contract by giving notice in writing.

7   Title and risk

7.1   Subject to 7.3 below, Risk in the Deliverables shall pass to You on delivery and when You have accepted the Deliverables as conforming substantially with the Contract. Notwithstanding the foregoing, risk in the Software shall pass to You when it is downloaded to the ICT Environment as specified in the Order, or as otherwise requested by You.

7.2   Title to the Deliverables shall only pass to You –

7.2.1 where the Deliverables relate to Bespoke Works; and

7.2.2 upon Our receipt of payment in full by You for such Deliverables.

7.3 Notwithstanding the remainder of this clause 7, in respect of SAAS Services (including SAAS Applications) only , title and risk shall remain with Us and ownership shall not pass to You.

7.4 The passing of title shall not prejudice any other of Your rights and remedies, including Your right to reject.

8   Licence

8.1 We grant (subject to the terms of this Contract) You the non-exclusive right to Use and for Your Authorised Users to Use the Software and/or Use and access the SAAS Applications for the following purposes:

8.1.1 any activity in the course of Your day to day functions;

8.1.2 the provision of hardware or software facilities management, support, maintenance, development, disaster recovery, back-up, information processing, network or other services relating to the Software;

8.1.3 the use and storage of data within any database comprised in the Software or the SAAS Services and the extraction and re-utilisation of data therefrom, and the amendment or merging of the data or database; and

8.1.4 use in connection with any associated or interconnected networks, including the internet or intranet.

8.2 You may make such copies of the Software as are reasonably necessary for Use in accordance with the Licence and for the purposes of backup and security. You have no right to make, or authorise the making of, any other copies of the Software.

8.3 Except as permitted under clause 30 (Assignment) or any other clause in this Contract, You shall not sub-license, rent, lend, assign or transfer in any other way the Licence to any person without Our prior written consent.

8.4 Where We have licensed Software from a third party, We warrant that We are authorised to grant a licence to You (subject to the terms of licence agreed by Us with such third party from time to time).

8.5 In the event that additional Use Terms apply in respect of the Software or the SAAS Applications, We shall provide such terms to You and such terms shall be incorporated within this Contract provided that such terms do not conflict with the terms of this Contract, in which case the conflicting terms shall prevail.

8.6 You grant to Us the non-exclusive, royalty free right to use and for any sub-contractors authorised by Us to use Your Data and Your Intellectual Property Rights in the performance of the Services.

9 Security and Monitoring

9.1 Notwithstanding Our warranty at clause 11, You acknowledge that where Our Services involve transmission of Your Data over networks that are not owned, operated or controlled by Us and/or through Third Party Services, We cannot and shall not be responsible for any loss of, damage to, alteration of, or interception of Your Data whilst it is not within Our control.

9.2 Notwithstanding Our warranty at clause 11, You acknowledge that where You install applications or Software provided by Us on Your ICT Environment, You shall be responsible for and take all reasonable measures to ensure the integrity and security of the applications or Software and the data processed or stored within them, including but not limited to using up to date anti virus software.

9.3 Furthermore, We cannot guarantee that Our security procedures will be error-free, that transmissions of Your Data will always be secure or that unauthorised third parties will never be able to defeat Our security measures or those of Our third party service providers.

9.4 We reserve the right to monitor and access Your account in order to support, manage and protect the integrity of the Services (including but not limited to ensuring the Acceptable Use Requirements are complied with).

9.5 We reserve the right to monitor Your account activity and transaction flows for the purposes of billing and capacity modelling.

9.6 We shall have the right to collect and analyse data and other information in relation to Your Use, provision and performance of the Services, including transaction flows and We shall be permitted (subject to clause 18) to (i) use such data and information for billing, account management and capacity modelling purposes; (ii) use such data and information in an aggregated and anonymised form to create reports, to improve, develop and enhance the Services, for diagnostic and corrective purposes in connection with the Services, and for developing other services; and/or (iii) disclose data and information on an aggregated and anonymised basis to third parties including aggregated volume revenue and transaction data.

10 Requirements and Specification

10.1 Requirements and Specifications shall exclude Services documentation provided, if any, and You acknowledge that Services documentation provided is for information purposes only and may contain errors and omissions for which We shall not be liable to You.

10.2 You agree that any third party hyperlinks within Services documentation or provided by Us by any other means including but not limited to emails, telephone calls, chat messages, in person meetings or video meetings, are utilised at Your sole risk and Your discretion and We shall not be liable for any losses or damages or responsible for the content at such third party hyperlinks.

11   Our Obligations

11.1   We warrant and represent that, for a period of ninety (90) days from acceptance (the **Warranty Period**), the Deliverables shall:

   11.1.1 conform to their description and to the Specification;

   11.1.2 comply with all applicable Law, standards and good industry practice;

   11.1.3 be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13;

   11.1.4 comply with the Requirements;

   save that in respect of any Deliverable incorporating Beta Software and/or Services, any Open Source Software or any material provided by a third party, the provisions of clauses 13, 14 and 20 shall apply as applicable.

11.2   As new versions of operating systems and operating system versions are released by third parties, We may at Our sole discretion support these operating systems and/or operating system versions within Our SAAS Applications, Native Software and/or Services, as applicable. Under no circumstances are we obligated to support any particular operating system or operating system version within Our SAAS Applications, Native Software and/or Services, as applicable. We may discontinue support for any operating systems and/or operating system versions, provided reasonable notice of no less than thirty (30) days is provided to You and replacement SAAS Applications, Native Software and/or Services are provided to You, as applicable (**Replacement SAAS Applications**). Under no circumstances may you terminate this agreement in respect of Replacement SAAS Applications.

12   Your obligations and the obligations of Authorised Users

12.1   You shall:

   12.1.1   provide Us with:

      (a)   all necessary co-operation in relation to this Contract; and
      (b)   all necessary access to such information, materials and Your Data as may be required by Us;

      in order to render the Services, including but not limited to Your Data, security access information and (where applicable) software interfaces to Your business applications;

   12.1.2 provide such assistance as may be reasonably requested by Us from time to time, including making personnel available as required;

   12.1.3 ensure those persons from whom We obtain instructions shall have the authority to bind You contractually;

12.1.4 Ensure that You are authorised to provide Us with copies of Your Data and ensure that We can use, store, transmit and/or process Your Data in the provision of the Services to You;

12.1.5 without affecting Your other obligations under this Contract, comply with all applicable Law and regulations with respect to Your activities under this Contract;

12.1.6 carry out all other responsibilities set out in this Contract in a timely and efficient manner. In the event of any delays in Your provision of such assistance as agreed by the parties, We may adjust any timetable or delivery schedule set out in this Contract or any Order as reasonably necessary; and

12.1.7 comply with the Acceptable Use Requirements.

12.2 In executing this Contract, You warrant that Your signatory is an authorised representative and that they are duly authorised by You and able to bind You to the terms and conditions of this Contract.

13 **Beta Software and/or Services**

13.1 Where an Order specifies that Software or Services are provided as Beta Software and/or Services; this clause 13 shall apply and take precedence over any conflicting terms within these Conditions.

13.2 Beta Software and/or Services (a) are provided for trial or evaluation purposes only; (b) may not be suitable for production use; (c) may not be relied on by You for production use; (d) may not be supported; (e) may be subject to additional terms; (f) may contain bugs, defects or Errors that We shall not be obligated to correct; and (g) may not perform as specified or expected.

13.3 We hereby grant to You a personal, non-transferable, non-exclusive licence to Use and for Your Authorised Users to Use the Beta Software and/or Services during the Trial Period solely for the purposes of evaluation. You acknowledge and agree that the Beta Software and/or Services will, or may, cease to operate at the end of the Trial Period or at such time they are discontinued.

13.4 Beta Software and/or Services are provided at no cost to You, unless otherwise specified in an Order. Notwithstanding the foregoing, We may require Your participation in a Client Feedback programme, including without limitation, providing Trial Information or feedback in order for Us to improve the Beta Software and/or Services. We shall be entitled to use the Trial Information for any purpose without restriction or fee. We may levy fees or Charges in respect of any professional services required to implement the Beta Software and/or Services, including but not limited to Configuration, or Installation as may be specified in the Order.

13.5 Unless otherwise stated in the Order or otherwise agreed between the parties in writing from time to time, the Beta Software and/or Services Trial Period will expire

on the date that a version of the Beta Software and/or Services becomes generally available to Our customers or is discontinued.

13.6 We are under no obligation to nor do We represent, warrant or undertake to make Beta Software and/or Services generally available. However, as soon as Beta Software and/or Services are made generally available to Our customers and cease to be beta, fees or Charges will apply as specified in Your Order or per Our price list in force at the relevant time. We shall notify You of the change and the date when fees or Charges shall be applied. You may terminate the Beta Software and/or Services upon five (5) Business Days written notice to Us.

13.7 We may discontinue the Beta Software and/or Services or terminate the licence at clause 13.3 for any reason at any time upon written notice to You. You may terminate the Beta Software and/or Services evaluation (including the licence at clause 13.3) upon written notice to Us.

13.8 Where discontinuation/termination is not followed by a full licence, You shall within five (5) Business Days return to Us all copies of all or part of the Beta Software and/or Services on any tangible medium and any documents containing any item of the Trial Information and shall completely delete all electronic copies of all or any part of the Beta Software and/or Services and/or the Trial Information resident in the ICT Environment or elsewhere.

13.9 Beta Software and/or Services are provided "as is" and "as available" and no representations, conditions, warranties or other terms of any kind are given in respect of the Beta Software and/or Services, and all statutory warranties and conditions are excluded to the fullest extent possible.

13.10 Save for death or personal injury caused by Our negligence, We shall have no liability of any kind in any circumstances whatsoever to You or to any other person in respect of the Beta Software and/or Services. In particular, We shall have no liability in any circumstances whatsoever for any data loss or corruption and You agree that You have sole responsibility for protecting Your Data, including without limitation, any configuration or customisation during evaluation of the Beta Software and/or Services.

13.11 For the avoidance of doubt, the limitations and exclusions set out at clauses 13.9 and 13.10 shall extend to any Deliverables, Software, SAAS Applications and/or Services incorporating Beta Software and/or Services notwithstanding the fact that such Deliverables, Software, SAAS Applications and/or Services may otherwise be generally released.

14   Open Source

14.1 Any Open Source Software provided by Us may be used according to the terms and conditions of the specific licence under which the relevant Open Source Software is distributed, but is provided "as is" and expressly subject to the disclaimer in clause 14.2.

14.2 Any express or implied warranties or conditions, including implied warranties or conditions of satisfactory quality and fitness for a particular purpose, in relation to the use of Open Source Software in this Contract are disclaimed. Without limitation, We specifically deny any implied or express representation that Software or SAAS Applications will be fit:

14.2.1 to operate in conjunction with any hardware items or software products other than with those that are identified in the Open Source Documentation as being compatible with the Software or SAAS Applications; or

14.2.2 to operate uninterrupted or Error-free.

15 Disclaimer and Liability

15.1 We provide the Services "as is" and "as available". We do not warrant that Your Use of the Services will be uninterrupted or Error-free or that the Services will meet Your requirements.

15.2 This clause 15 sets out Our entire financial liability (including any liability for the acts or omissions of Our employees, agents, service providers and sub-contractors) to You:

15.2.1 arising under or in connection with this Contract;

15.2.2 in respect of any Use made by You of the Services, the Software, the SAAS Applications and/or the Deliverables or any part of them (and subject always to clause 13.10); and

15.2.3 in respect of any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this Contract (whether made or arising prior to the entry into this Contract or subsequently).

15.3 Subject to clauses 15.4, 15.5 and 15.6, Our total aggregate liability for any and all causes of action arising (whether arising from contract, tort (including negligence), breach of statutory duty, regulation or otherwise but excluding causes of action as described in clause 15.6), arising out of or in respect of this Contract will be one hundred and ten per cent (110%) of the fees or Charges paid by You to Us under the Contract during the twelve (12) months preceding the date on which the claim arose (or, if more than one claim is made at any time during the Contract Period plus any Contract Renewal Period, the twelve (12) months preceding the date on which the first claim arose).

15.4 Neither party will be liable to the other party for:

15.4.1 any loss of profit, loss of contract or revenue or loss of turnover; or

15.4.2 any special, indirect or consequential losses, costs, damages, or charges, including without limitation loss of business, loss of opportunity, loss or

depletion of goodwill or reputation, anticipated savings, loss or corruption of data or information.

15.5 We shall have no liability in any circumstances whatsoever for any data loss or corruption in respect of Your Data stored on Your ICT Environment caused by or resulting from Your and/or Your Authorised Users' use of Our Native Software, SAAS Applications and/or Services, as applicable, and You agree that You have sole responsibility for protecting Your Data, including without limitation, any configuration or customisation that is stored on Your ICT Environment in relation to the Services or otherwise.

15.6 Our total aggregate liability for any and all causes of action or any other matter whatsoever arising out of or in connection with any breach or alleged breach of the Data Protection Laws (including any decision or recommendation of the Data Protection Supervisory Authority) shall not in any circumstances exceed the sum of two million GBP (£2,000,000).

15.7 Where Service Levels apply to Your Order, Your remedy for Our breach of any Service Level Agreement constitutes Your full and exclusive right and remedy, and Our only obligation and liability in respect of, the performance and/or availability of Software, SAAS Applications or a Service, or their non-performance and non-availability, shall be limited to the remedy set out in the Service Level Agreement.

15.8 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

15.8.1 death or personal injury caused by negligence;

15.8.2 fraud or fraudulent misrepresentation;

15.8.3 any other losses which cannot be excluded or limited by applicable Law;

15.8.4 any losses caused by wilful misconduct.

15.8.5 any indemnity;

to which no limit applies.

15.9 Except as expressly and specifically provided in this Contract:

15.9.1 You assume sole responsibility for results obtained from the Use of the Software, SAAS Applications and the Services by You or Your Authorised Users, and for conclusions drawn from such Use. We shall have no liability for any damage caused by errors or omissions in any information, instructions, scripts or source code provided to Us by You or any third party in connection with the Services, or any actions taken by Us at Your direction;

15.9.2 We make no warranty or representation that the Software, SAAS Applications and the Services will be secure or comply with any Cybersecurity Requirements and You assume sole responsibility for compliance with the same; and

15.9.3 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable Law, excluded from this Contract.

15.10 You agree that the limitations of liability set out in this clause 15 are fair and reasonable provisions to include in this Contract in the context of its value and the obligations assumed by both parties.

16   Intellectual property rights

16.1 You acknowledge and agree that We and/or Our licensors own all Intellectual Property Rights in the Beta Software and/or Services, Software, Services, SAAS Applications, Deliverables and Client Feedback, unless otherwise indicated in an Order, and You shall do all such things upon demand by Us that may be necessary to procure title vests with Us. Except as expressly stated herein, this Contract does not grant You any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Beta Software and/or Services, Software, Services, SAAS Applications and Deliverables or any related documentation.

16.2 Save as specified in clause 16.1 above, nothing in this Contract affects either party's rights in pre-existing Intellectual Property Rights (including pre-existing Intellectual Property Rights of either party contained in or relating to Confidential Information) (**Pre-Existing IPR**).

16.3 We acknowledge and agree that You own and retain all rights, title and interest in and to i) Your Data supplied by or on behalf of You or the Authorised Users; and ii) any Bespoke Work (that You have paid for).

16.4 We shall indemnify You from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by You as a result of or in connection with any action, demand or claim that Use or possession of any of the Intellectual Property Rights in the Beta Software and/or Services, Software, Services, SAAS Applications or Deliverables (but excluding Your Data) infringes the Intellectual Property Rights of any third party (an **IPR Claim**) provided that:

16.4.1 We are given prompt notice of any such claim;

16.4.2 You provide reasonable co-operation to Us in the defence and settlement of such claim, at Our expense; and

16.4.3 We are given sole authority to defend or settle the claim.

16.5 If any IPR Claim is made or is reasonably likely to be made against You, We shall promptly and at Our own expense either:

16.5.1 procure for You the right to continue using and possessing the relevant Intellectual Property Rights; or

16.5.2 modify or replace the infringing part of the Intellectual Property Rights and without adversely affecting the functionality of the Intellectual Property Rights as set out in the Contract so as to avoid the infringement or alleged infringement,

provided that if, having used reasonable endeavours, neither of the above can be accomplished on reasonable terms, We may (without prejudice to the indemnity above) terminate the Contract without further liability to You. The foregoing shall be Your sole and exclusive rights and remedies, and Our entire obligation and liability to You.

16.6 We shall have no liability if the alleged infringement is based on:

16.6.1 a modification of the Beta Software and/or Services, Software, SAAS Applications, Services or Deliverables by anyone other than Us;

16.6.2 Your Use of the Beta Software and/or Services, Software, SAAS Applications, Services or Deliverables in a manner contrary to the instructions given to You by Us; or

16.6.3 Your Use of the Beta Software and/or Services, Software, SAAS Applications, Services or Deliverables after notice of the alleged or actual infringement from any person.

16.7 You shall indemnify Us from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Us as a result of or in connection with any action, demand or claim that use or possession of any of the Intellectual Property Rights in the use of Your Data or any materials provided by You or by any person acting on Your behalf to Us to perform or in the performance of the Services infringes the Intellectual Property Rights of any third party provided that:

16.7.1 You are given prompt notice of any such claim;

16.7.2 We provide reasonable co-operation to You in the defence and settlement of such claim, at Your expense; and

16.7.3 You are given sole authority to defend or settle the claim.

17   Confidentiality and announcements

17.1 The parties shall keep confidential all Confidential Information of the other and shall only use the same as required to perform or obtain the benefit from the Contract. The provisions of this clause shall not apply to:

17.1.1 subject to clause 17.4, any information which was in the public domain at the date of the Contract;

17.1.2 subject to clause 17.4, any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;

17.1.3 subject to clause 17.4, any information which is independently developed by the recipient without using information supplied by the disclosing party; or

17.1.4 any disclosure required by Law or a regulatory authority or otherwise by the provisions of the Contract.

17.2 This clause 17 shall remain in force for a period of ten (10) years from the date of termination or expiry of the Contract.

17.3 Subject to clauses 17.4 and 17.5, a party shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by Law or regulatory authority.

17.4 To the extent any Confidential Information is Protected Data such Confidential Information may be disclosed or used only to the extent such disclosure or use does not conflict with the provisions of clause 18.

17.5 Notwithstanding the foregoing, You agree to allow Us to identify You as a customer, to use Your trading names and websites domain names in connection with proposals to Our prospective customers, to hyperlink to Your website, provide a general description of Your relationship with Us and to display Your logos on Our website(s), and to otherwise refer to You in print or electronic form for marketing purposes. You also agree for Us to compile case studies and press releases for use within marketing through in print or electronic forms.

17.6 You acknowledge that the Beta Software and/or Services, the Software, the SAAS Applications and the Services including any tests thereof constitute Our Confidential Information.

17.7 We acknowledge that Your Data shall be Your Confidential Information save where Your Data is provided for publication by Us or by a third party (such as but not limited to a third party ecommerce platform site).

18 Processing of data (including Your Data and Personal Data)

18.1 The parties agree that You shall own Your Data. You shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of Your Data.

18.2 You are responsible for ensuring that You maintain adequate and up to date backup copies of Your Data provided to Us (including without limitation downloading Your Data via Our SAAS Application administrative panel or Native Software) and We do not warrant that copies of Your Data will be recoverable in the event of loss or damage to or corruption of Your Data and We shall not be liable to You in respect of Your Data, including to recover Your Data. In the event of any loss or damage to Your Data, Your sole and exclusive remedy against Us shall be for Us to use reasonable commercial

endeavours to restore such of Your Data as may be lost or damaged from the latest back-up of such of Your Data maintained by Us. We shall not be responsible for any loss, destruction, alteration or disclosure of Your Data caused by any third party (except those third parties sub-contracted by Us to perform services related to Your Data maintenance and back-up for which We shall remain fully liable for the acts or omissions of such third party as if they were Our acts or omissions).

18.3 You warrant that You are authorised to permit Our use of the Intellectual Property Rights and other proprietary rights in Your Data to enable Us to provide the Services. You grant Us a non-exclusive, fully sub-licensable and transferrable, worldwide, royalty-free right to collect, use, copy, reproduce, store, combine with other works, transmit, distribute, display, perform, modify and create derivative works of Your Data to the extent necessary to provide the Services.

18.4 The parties agree that You are a Controller and that We are a Processor for the purposes of processing Protected Data pursuant to the Contract.

18.5 Each party shall, and We shall ensure Our Sub-Processors shall, at all times comply with all Data Protection Laws in connection with the processing of Protected Data and the provision of the Services and in Our case, Your reasonable instructions.

18.6 You shall ensure that You have all necessary consents or other lawful basis to permit the transfer and use of Protected Data for the purposes of the Contract.

18.7 We shall only process the Protected Data in accordance with the Contract and Your written instructions from time to time (including when making any transfer) except where otherwise required by applicable Law (and in such a case shall inform You of that legal requirement before processing, unless applicable Law prevents Us from doing so on important grounds of public interest). We shall immediately inform You if any instruction relating to the Protected Data infringes or may infringe any Data Protection Law.

18.8 We shall at all times implement and maintain appropriate technical and organisational measures to protect Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access. Such technical and organisational measures shall be at least equivalent to the technical and organisational measures set out in Part B of the Schedule and shall reflect the nature of the Protected Data.

18.9 We shall:

18.9.1 ensure that access to Protected Data is limited to the authorised persons who need access to it to supply the Services;

18.9.2 prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a binding written contract containing substantially the same obligations as under this clause 18 in respect of Protected Data that (without prejudice to, or limitation of, the above):

(a) includes providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing of the Protected Data will meet the requirements of all Data Protection Laws; and

(b) is enforceable by Us; and

18.9.3 remain fully liable to You under the Contract for all the acts and omissions of each Sub-Processor and each of the Our Personnel as if they were Our own.

18.10 We shall (at Our own cost and expense):

18.10.1 promptly provide such reasonable information and assistance (including by taking all appropriate technical and organisational measures) as You may require in relation to the fulfilment of Your obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the UK GDPR (and any similar obligations under applicable Data Protection Laws); and

18.10.2 provide such reasonable information, co-operation and other assistance to You as You reasonably require (taking into account the nature of processing and the information available to Us) to ensure compliance with Your obligations under Data Protection Laws, including with respect to:

(a) security of processing;

(b) data protection impact assessments (as such term is defined in Data Protection Laws);

(c) prior consultation with a supervisory authority regarding high risk processing; and

(d) any remedial action and/or notifications to be taken in response to any Personal Data Breach and/or any complaint or request relating to either party's obligations under Data Protection Laws relevant to the Contract, including (subject in each case to Your prior written authorisation) regarding any notification of the Personal Data Breach to supervisory authorities and/or communication to any affected Data Subjects.

18.11 We shall (at no cost to You) record and refer all requests and communications received from Data Subjects or any Data Protection Supervisory Authority to You which relate (or which may relate) to any Protected Data promptly (and in any event within three (3) days of receipt) and shall not (save for any acknowledgement) respond to any without Your express written approval and strictly in accordance with Your instructions unless and to the extent required by Law.

18.12 Subject to clauses 18.12.1 to 18.12.4 (inclusive), We shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the Primary Data Centre Region or to any International Organisation without Your prior written consent (unless required by Law). Pursuant to the foregoing You acknowledge and agree that:

18.12.1   We use Global Data Centres for Our incoming webhooks and API endpoints for Our third-party Integrations. We cannot control which country Our Global Data Centres will receive Personal Data from (Our Global Data Centres will then process the third-party API request and/or HTTP/HTTPS request and forward this Personal Data on to Our Data Centres that are within the Primary Data Centre Region); and

18.12.2   We use Data Centres that are within the Primary Data Centre Region for Our third-party Integrations. However, You acknowledge and agree that We cannot control in which country any such third-party will receive and/or process and/or store (through API endpoints, incoming webhooks or otherwise) Personal Data from Our third-party Integrations (the Data Centres that are within the Primary Data Centre Region will transfer this Personal Data on to any such third-party API endpoint, that may be located within or outside of the Primary Data Centre Region). You further acknowledge and agree that where You choose third-party Integrations we are merely acting as a technical facilitator and that You shall enter into contracts with those third parties and the provisions of clause 20 below shall apply; and

18.12.3   We use Data Centres that are within the Primary Data Centre Region for HTTP/HTTPS servers and API endpoints for Our SAAS Services (including SAAS Applications and Native Software). We cannot control in which country You and/or Your Authorised Users are geographically located when:

(a)   sending and/or transmitting and/or transferring Personal Data to Our SAAS Services (including SAAS Applications and Native Software) (the Data Centres that are within the Primary Data Centre Region will then process You and/or Your Authorised Users API request and/or HTTP/HTTPS request); and

(b)   accessing and/or receiving and/or downloading and/or storing Personal Data from Our SAAS Services (including SAAS Applications and Native Software) (the Data Centres that are within the Primary Data Centre Region will transfer this Personal Data through API requests and/or HTTP/HTTPS requests on to You and/or Your Authorised Users' ICT Environment that may be located within or outside of the Primary Data Centre Region); and

(c)   authenticating, transmitting, accessing, receiving and/or downloading Personal Data with and/or from third-party API endpoints and/or HTTP/HTTPS servers within Our SAAS Services (including SAAS Applications and Native Software) in order to install and/or configure Integrations. We cannot control in which country any such third-party will receive and/or process and/or transmit (through API endpoints, HTTP/HTTPS servers or otherwise) such Personal Data; and

18.12.4   We use a Partner/sub-contractor to provide monitoring/logging/diagnostics services for Our Data Centres and/or SAAS Services (including SAAS Applications and Native Software) and whilst such services are primarily concerned with aggregated and anonymised data and

not Protected Data, Your Data (including some Protected Data) is processed and accordingly We cannot control in which country any such Partner/sub-contractor processes Personal Data within their services; and

18.12.5 therefore, Protected Data may be transferred and processed outside the Primary Data Centre Region for the purposes set out in clauses 18.12.1 to 18.12.4 inclusive. In order for Us to perform the Services, You shall procure that We shall be permitted to transfer data for these purposes as set out in clause 18.12 above during the currency of this Contract lawfully and defend, indemnify and hold harmless Us against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising in any jurisdiction out of or in connection with any failure by You to procure the aforementioned permissions.

18.13 You acknowledge that Your accessing, storing or transmitting Personal Data via the Native Software is subject to the configuration of Your device and the Native Software. Accordingly, You agree to ensure that Your device security settings and the configuration of the Native Software are appropriate to the nature and volume of Personal Data that You choose to be processed.

18.14 We shall maintain complete, accurate and up to date written records of all categories of processing activities carried out on behalf of You. Such records shall include all information necessary to demonstrate compliance with this clause 18, the information referred to in Articles 30(1) and 30(2) of the UK GDPR and such other information as You may reasonably require from time to time. We shall make copies of such records available to You promptly (and in any event within seven (7) days) on request from time to time.

18.15 We shall promptly (and in any event within 24 hours):

18.15.1 notify You if We (or any of Our Sub-Processors or Our Personnel) suspect or become aware of any suspected, actual or threatened occurrence of any Personal Data Breach in respect of any Protected Data; and

18.15.2 provide all information as You reasonably require to report the circumstances referred to in clause 18.15.1 to a Data Protection Supervisory Authority and to notify affected Data Subjects under Data Protection Laws.

18.16 We shall (and shall ensure that each of the Sub-Processors and Our Personnel shall) without delay (and in any event within a reasonable period), at Your written request, either securely delete or securely return all the Protected Data to You in such form as You reasonably request after the earlier of:

18.16.1 the end of the provision of the relevant Services related to processing of such Protected Data; or

18.16.2 once processing by Us of any Protected Data is no longer required for the purpose of Our performance of Our relevant obligations under the Contract,

and securely delete existing copies (except to the extent that storage of any such data is required by applicable Law and, if so, We shall inform You of any such requirement).

18.17   Notwithstanding the foregoing, We shall be permitted to retain a copy of Your Data (which may include Protected Data) for regulatory purposes and pursuant to Our archival policy. In particular, We may retain all Orders, invoices, records of payments made and received, and/or any other records or documents relating to the performance of or payment for the Services under this Contract, for a period of seven (7) years.

18.18   This clause 18 shall survive termination or expiry of the Contract for any reason.

19   Indemnity

19.1   You shall defend, indemnify and hold harmless Us against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with i) any breach of this Contract by You; or ii) Your Use of the Beta Software and/or Services, Software or Services, provided that:

19.1.1 You are given prompt notice of any such claim;

19.1.2 We provide reasonable co-operation to You in the defence and settlement of such claim, at Your expense; and

19.1.3 You are given sole authority to defend or settle the claim.

20   Third Party Links or Integrations

20.1   The Services We provide may contain links or integrations to third-party websites, including, but not limited to, online payment providers (such as PayPal, Sage Pay, Elavon, Stripe, etc.) that are not owned or controlled by Us. We make no representation and assume no responsibility for the content, terms and conditions, privacy policies, or practices of any third-party websites and use of any third-party website or link to third-party website shall be at Your risk. We accept no liability of any kind from Your use of or link to any third-party website and You shall indemnify Us from any act or omission (including negligence), claim, demand, suit, damage, judgment, liability, loss, expense or cost incurred by You or any third party in relation to the use of or link to third-party website.

20.2   The Services We provide may integrate with services provided by third parties, including but not limited to, application programming interfaces, applications, mobile applications, software and/or platforms software (**Third Party Services**). These integrations may include but are not limited to bespoke e-commerce store builds (including website chat, IP location information, email marketing signup). Such services are not owned or controlled by Us. Where You opt to use Third Party Services We make no representation and assume no responsibility for (i) the content, terms and conditions, privacy policies, or practices of any Third Party Services; (ii) the suitability of the Third Party Services; and/or (iii) the operability of the Third Party

Services with Our Services. Your use of Third Party Services shall be at Your risk. We accept no liability of any kind from Your use of any Third Party Services and You shall indemnify Us from any act or omission (including negligence), claim, demand, suit, damage, judgment, liability, loss, expense or cost incurred by You, or any third party in relation to Third Party Services.

21   Suspension, Termination and Effects of Termination

21.1   We may suspend the provision of the Services at any time in the event that:

21.1.1   You commit a material breach of the Contract;

21.1.2   in Our opinion We consider it necessary to safeguard Our computing environment consisting of hardware, software and/or telecommunications networks or equipment or interfaces from any denial of services attack, Virus or Vulnerability, or from an overly high load;

21.1.3   We become aware of any legal or regulatory reason; and/or

21.1.4   in Our reasonable opinion any other reason that appears to Us to be reasonable in the circumstances.

21.2   You may terminate the Contract in whole or in part at any time with immediate effect by giving notice in writing to Us if:

21.2.1   We commit a material breach of the Contract and such breach is not remediable;

21.2.2   We commit a material breach of the Contract which is not remedied within thirty (30) days of receiving written notice of such breach; and/or

21.2.3   any consent, licence or authorisation held by Us is revoked or modified such that We are no longer able to comply with Our obligations under the Contract.

21.3   We may terminate the Contract in whole or in part at any time with immediate effect by giving notice in writing to You if:

21.3.1   You commit a material breach of the Contract and such breach is not remediable;

21.3.2   You commit a material breach of the Contract which is not remedied within thirty (30) days of receiving written notice of such breach; and/or

21.3.3   any consent, licence or authorisation held by You is revoked or modified such that either You or We are no longer able to comply with Your or Our obligations (as applicable) under the Contract.

21.4   Either party may terminate the Contract at any time with immediate effect by giving notice in writing to the other if the other party:

21.4.1 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the notifying party reasonably believes that to be the case;

21.4.2 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;

21.4.3 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;

21.4.4 has a resolution passed for its winding up;

21.4.5 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;

21.4.6 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven (7) days of that procedure being commenced;

21.4.7 has a freezing order made against it;

21.4.8 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items;

21.4.9 is subject to any events or circumstances analogous to those in clauses 21.4.1 to 21.4.8 in any jurisdiction;

21.4.10 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 21.4.1 to 21.4.9 including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.

21.5 Either party may terminate the Contract without penalty in whole or in part at any time by giving not less than three (3) months' notice in writing to the other. Termination shall be effective from the end of the relevant Contract Period or Contract Renewal Period in which the notification expires.

21.6 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the parties at any time up to the date of termination.

21.7 Termination of part of the Contract shall not affect the validity of the remainder of the Services contracted, unless it is impossible or uneconomic for Us to continue to provide the remainder of the Services or if another Service is dependent upon the terminated part in which case We shall be entitled to terminate the Contract in whole upon notice to You.

21.8 Where expressly permitted under any term of these Conditions, You may terminate a Service. Upon termination of any Services, We will refund pro rata any fees or Charges paid in advance in respect of the terminated Service. In addition, where a Sub Service is a SAAS Service (but not otherwise), You may terminate such Sub Service at any time upon notice to Us. Where a Sub Service is expressed as having a minimum term, You shall continue to be responsible for payment of any minimum fees or Charges for the minimum term.

21.9 On termination of the Contract:

21.9.1 Your subscription under any SAAS Services shall automatically terminate and You and Your Authorised Users shall cease to Use the SAAS Services;

21.9.2 All licences granted under this Contract shall immediately terminate;

21.9.3 We shall, subject to Our data retention period and subject to clause 18.17, either delete or return any data (at Our discretion), including without limitation, Your Data, Personal Data, or materials provided to Us by or on behalf of You save where required for a regulatory purpose;

21.9.4 each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;

21.9.5 We shall (providing that all fees or Charges are paid) provide all reasonable assistance, in consideration of a reasonable fee using Our then in force standard charges, to You to permit an orderly transition of the Services to You or to a replacement supplier (for the avoidance of doubt note that this does not entitle You to a licence to continue to Use Our SAAS Applications and/or Software and/or Beta Software and/or Services on Your or any third party's ICT Environment); and

21.9.6 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced.

22 Dispute resolution

22.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 22.

22.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.

22.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:

22.3.1 Within fourteen (14) days of service of the notice, the contract managers of the parties shall meet in person or by video (at Our discretion) to discuss the dispute and attempt to resolve it.

22.3.2 If the dispute has not been resolved within seven (7) days of the first meeting of the contract managers, then the matter shall be referred to the chief executives or managing directors (or persons of equivalent seniority) of each party. The chief executives (or equivalent) shall meet in person or video (at Our discretion) within fourteen (14) days to discuss the dispute and attempt to resolve it.

22.4 The specific format for the resolution of the dispute under clause 22.3.1 and, if necessary, clause 22.3.2 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.

22.5 If the dispute has not been resolved within fourteen (14) days of the first meeting of the chief executives (or equivalent) under clause 22.3.2 then the matter shall be referred to mediation in accordance with the London Court of International Arbitration Rules ("Rules"), which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English.

23   Notices

23.1 Any notice or other communication given by a party under these Conditions shall:

23.1.1 be in writing;

23.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and

23.1.3 be sent to the relevant party at the address set out in the Contract using one of the methods set out in clause 23.2 below.

23.2 Notices may be given, and are deemed received:

23.2.1 by hand: on receipt of a signature at the time of delivery;

23.2.2 by post (using registered or tracked postal service): at 9.00 am on the second Business Day after posting; and

23.2.3 by email: on receipt of a delivery email from the correct address (provided that, if the email is sent outside Normal Business Hours, it shall be deemed to be received at 9:00 am on the next Business Day).

23.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 23.1 and shall be effective:

23.3.1 on the date specified in the notice as being the date of such change; or

23.3.2 if no date is so specified, five (5) Business Days after the notice is deemed to be received.

23.4 All references to time are to the local time (which in the case of Us is GMT or BST as applicable) at the place of deemed receipt.

23.5 This clause 23 does not apply to notices given in legal proceedings or arbitration.

24   Rights and Remedies

Except as expressly provided in this Contract, the rights and remedies provided under this Contract are in addition to, and not exclusive of, any rights or remedies provided by Law.

25   Change

25.1 A party may request a change to the scope or execution of the Services (a **Change**) at any time. We shall, within a reasonable time, provide a written estimate to You of:

25.1.1   the likely time required to implement the Change;

25.1.2 any variations to the fees or Charges arising from the Change;

25.1.3 the likely effect of the Change on other Services or timetables; and

25.1.4 any other impact of the Change on the terms of this Contract.

25.2 If We request a Change to the scope of the Services, You shall not unreasonably withhold or delay consent to it.

25.3 If You wish Us to proceed with the Change, We have no obligation to do so. Where We consider making the Change, We shall have no obligation to do so unless and until the parties have agreed in writing the necessary variations to the Charges, any project plan and any other relevant terms of this Contract to take account of the Change.

26   Time

Unless stated otherwise, time is not of the essence for any date or period specified in the Contract save in respect of Your payment obligations.

27   Further assurance

The parties shall at the request of the other, and at their own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

28   Entire agreement

28.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between the parties, whether in

writing or oral in respect of its subject matter. For the avoidance of doubt, any services that are provided by other agreements between us, such as the Dot On Bespoke Store Agreement shall remain unaffected.

28.2   Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

28.3   Nothing in these Conditions purports to limit or exclude any liability for fraud.

29   Variation

We reserve the right to change, vary or modify these Conditions and/or the Contract from time to time. Any such change, variation or modification shall be effective immediately upon posting to Our website at "https://www.doton.io/terms". We may (but are not obliged) to notify You by email of any such change, variation or modification and Your continued Use of the Services shall constitute Your acceptance to any such change, variation or modification. If You do not agree to such change, variation or modification, Your sole and exclusive remedy will be to cancel the affected part of the Services (if severable) in accordance with clause 22.

30   Assignment

30.1   You may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without Our prior written consent which We may withhold or delay at Our absolute discretion. We may assign, subcontract or encumber any right or obligation under the Contract, whether in whole or in part.

30.2   Notwithstanding clause 30.1, We may perform any of Our obligations and exercise any of Our rights granted under the Contract through any Affiliate provided that We give You prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate.

31   Set off

You shall pay all sums that You owe to Us under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by Law.

32   No partnership or agency

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

33   Export

33.1   Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Contract (or any products, including software, incorporating any such data) in breach of any applicable Laws or regulations (**Export Control Laws**), including United States export Laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.

33.2   Each party undertakes:

33.2.1   to oblige contractually any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out in clause 33.1; and

33.2.2   if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

34   Severance

34.1   If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

34.2   If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

35   Waiver

35.1   No failure, delay or omission by Us in exercising any right, power or remedy provided by Law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

35.2   No single or partial exercise of any right, power or remedy provided by Law or under the Contract by Us shall prevent any future exercise of it or the exercise of any other right, power or remedy by Us.

35.3   A waiver of any term, provision, condition or breach of the Contract by Us shall only be effective if given in writing and signed by Us, and then only in the instance and for the purpose for which it is given.

36 Conflicts within Contract

36.1 If there is a conflict between the terms contained in the Conditions and the terms of the Addendum (if agreed), Order, Schedules, appendices or annexes to the Contract, the order of precedence to be applied shall be as follows –

36.1.1 the Addendum (if agreed);

36.1.2 the Conditions;

36.1.3 the Schedules;

36.1.4 any appendices or annexes to the Contract; and

36.1.5 the Order.

36.2 Subject to the order of priority between documents set out in clause 36.1 above, later versions of documents shall prevail over earlier ones if there is any conflict or inconsistency between them.

37 Costs and expenses

The parties shall pay their own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).

38 Third party rights

38.1 Except as expressly provided for in clause 38.2, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

38.2 Any Affiliate of Us shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.

39 Force majeure

39.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:

39.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and

39.1.2 uses reasonable endeavours to minimise the effects of that event.

39.2 If the period of delay or non-performance due to Force Majeure continues for six (6) months, the party not affected may terminate this Contract by giving thirty (30) days' written notice to the other party.

40   Governing law and jurisdiction

40.1   The Contract shall be construed as being made in Wales 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 construed in accordance with and governed by the Laws of England and Wales, as they are applied in Wales.

40.2   Any and all Services and/or work whatsoever provided by Us and/or any performance of our obligations under or in connection with this Contract shall be deemed to have been provided or performed in England and Wales and neither party shall claim that they were provided or performed in any other jurisdiction.

40.3   Subject to clause 22, the parties irrevocably agree to submit to the exclusive jurisdiction of the Courts of England and Wales sitting in Cardiff (subject only to the ability of the Cardiff Courts to deal with any matter).

THE SCHEDULE

Part A – Service Specific Terms

1.   GENERAL APPLICABILITY

1.1   We reserve the right to improve or modify (**Modification**) the Services from time to time. Unless the Modification materially interferes with Your enjoyment of the Services or materially affect the functionality, You will not be entitled to terminate the Contract and it shall not be regarded as a Change for the purposes of clause 25 of the Conditions.

1.2   We will use reasonable endeavours to notify You of material Modifications in advance.

1.3   Where Modifications materially impact the functionality of the Services or Your enjoyment of them and We are unable to provide You with a suitable alternative within a reasonable period, the Change process at clause 25 of the Conditions may be invoked. If a Change cannot be agreed, You may terminate that part of the Services on thirty (30) days' notice to Us, whereupon the parties shall discuss in good faith amending the fees or Charges for the remaining Services that shall continue to be provided. For the avoidance of doubt, unless the affected Service is required for the operation of Master Services, Core Services or other Sub Services, those Master Services, Core Services or other Sub Services shall remain unaffected. If the parties are unable to agree, We shall (at Our discretion) offer You an option to terminate the Contract or the matter shall be referred to dispute resolution in accordance with clause 22 of the Conditions.

1.4   The Services are provided subject to Maintenance Events. Whilst We will use Our reasonable endeavours to schedule downtime to minimise disruption to Our customers, We do not guarantee the availability of the Services and shall not be liable to You or any person for any claims, losses or damages resulting from or in connection with such non availability unless set out in the Service Level Agreement.

1.5   You shall be responsible for providing any hardware or software or services required to access the Services.

1.6   The Services shall comprise of Master Services, which shall comprise of one (1) Core Service. A number of Sub Services may be provided. The Master Services, Core Services and Sub Services shall be set out in Your Order.

2.   INSTALLATION

2.1   We shall perform the Installation in accordance with the timetable set out in the Order (if any). However, all dates, timelines and timescales within Your Order, or given by any other means (such as but without limitation verbal, or via email or other electronic means), are estimates and not guaranteed unless expressly referenced as being guaranteed. If no timetable is specified then We shall use Our reasonable endeavours to perform the Installation in a timely manner, but in both cases time shall not be of the essence.

2.2 The parties shall co-operate with regard to Installation, implementation and roll out of the Services per any specified project plan.

3. CONFIGURATION

3.1 We shall develop a configuration of hosting servers in conjunction with any third parties designed to provide access to the Software and SAAS Services. The design shall include redundancy across application servers, database servers, mail and DNS servers and switches in order to allow for continued service in the event of certain component malfunctions.

3.2 We shall perform the Configuration in accordance with the timetable set out in the Order (if any) however all dates, timelines and timescales within Your Order, or given by any other means (such as but without limitation verbal, or via email or other electronic means), are estimates and not guaranteed unless expressly referenced as being guaranteed. If no timetable is specified then We shall use Our reasonable endeavours to perform the Configuration in a timely manner but in both cases time shall not be of the essence.

3.3 Where required by Us to perform the Services, You will provide Us with Your Data in electronic format in such file format or technical specification as may be required by Us from time to time. You must only provide Us with Your Data that You are entitled to use and provide to Us.

4. MAINTENANCE AND SUPPORT

4.1 In providing Support Services We shall correct Errors and bugs, provide updates and minor or major upgrades to the functionality or performance of the SAAS Applications from time to time i) as specified as part of the Support Services; and ii) to ensure the SAAS Applications continue to meet the Requirements.

4.2 Notwithstanding paragraph 4.1 above, Our roadmap or indications of new features, including any timescales or dates given, (however communicated), are indicative only and upgrades to the functionality or performance are not guaranteed to be undertaken.

4.3 In performing the Support Services in respect of the SAAS Services, We shall promptly upgrade the SAAS Applications to the latest version available to Our customers as and when such upgrades become available. However, there is no obligation that such upgrade will be made available.

4.4 Your Order specifies the Support Services level, method of access and days/times Support Services are available through either: (i) support portal ticketing and email (**Standard Support**); or (ii) support portal ticketing, email, chat and phone (**Premium Support**). For the Services provided to You, Standard Support provides billing and basic technical support cases and Premium Support provides billing and advanced technical support cases. Regardless of whether time frames, including but not limited

to, diagnostics and resolution, are provided or documented by any means or not at all, time shall not be of the essence in the performance of Our Support Services obligations. Support Services are only provided in the English language.

4.5   Upon requesting Support Services You agree to: (i) provide reasonable and sufficient information about the technical issue, including but not limited to the scenario, error message, date and time; and (ii) provide Us with access to Your ICT Environment for the affected Service to carry out Our obligations; and (iii) provide reasonable assistance and information in a timely manner to aid resolution works; and (iv) only report reproducible Errors.

4.6   Support Services shall be limited to the Services that We provide and shall exclude issues outside the scope of the Services, including but not limited to: (i) for any software, hardware or other element of Your environment not provided by Us; (ii) if You have not Used the Services in accordance with the Acceptable Use Requirements, any Services documentation or instructions provided by Us, including failure to follow implementation procedures; (iii) for any Third Party Services; (iv) for Services training (training may be quoted for upon request); or (v) for Beta Software and/or Services. Limited Beta Software and/or Services support may be provided at Our sole discretion on a reasonable endeavours basis only and may be discontinued at any time.

4.7   You agree it is at Our sole discretion as to whether a technical support case/issue falls within the scope of Standard Support or Premium Support and You agree Our decision (acting reasonably) is final.

4.8   We shall use reasonable endeavours to process Standard Support and Premium Support requests, issue trouble ticket tracking numbers if necessary, determine the source of the problem and respond to You within the priority periods specified in paragraph 4.9 below.

4.9   We shall determine the priority of any incident in accordance with the following table and use reasonable endeavours to respond and resolve the incident in accordance with the priority and target times set out below:

Standard Support: We shall endeavour to respond to and resolve all Standard Support requests however they shall have no priority (or resolution or response associated with it).

Premium Support: We shall use reasonable endeavours to respond to and resolve all Priority Support requests within the time periods specified in the table below, according to priority, however, this is not guaranteed.

Priority	Description	Initial response target	Resolution time target
Priority 1	The entire SAAS Services are completely inaccessible; or	Within two (2) Normal Business Hours.	Four (4) Normal Business Hours after response. Continuous

	Software is non-functional. Priority 1 incidents shall be reported by telephone and followed up by the raising of a support ticket via Our support portal.		effort after initial response and with Your co-operation.
Priority 2	Operation of the SAAS Services and/or Software is severely degraded, or major components of the Services are not operational and work cannot reasonably continue. Priority 2 incidents shall be reported by telephone and followed up by the raising of a support ticket via Our support portal.	Within four (4) Normal Business Hours.	Within two (2) Business Days after initial response.
Priority 3	Certain non-essential features of the SAAS Services or Software are impaired while most major components of the Services remain functional.	Within twelve (12) Normal Business Hours.	Within seven (7) Business Days after initial response.
Priority 4	Errors that are non-disabling or cosmetic and clearly have little or no impact on the normal operation of the Services.	Within twenty-four (24) Normal Business Hours.	When reasonably possible.

4.10   We shall monitor the computing, operating and networking infrastructure to detect and correct abnormalities.

5.   SAAS SERVICES

5.1   We shall perform the SAAS Services through the use of the Data Centres.

5.2   We and Our service providers shall procure, install and configure the Data Centres equipment to provide access to the SAAS Applications and Software. This includes the rack mounting of servers and related equipment, installation of system and database software components, configuration of clustering and cross-connects, installation of the Software and SAAS Applications, and loading of initial version of Your Data.

5.3   Any third party provider of hosting services shall be a professional hosting provider whose facilities, security and load balancing services shall conform to applicable security standards.

5.4   In relation to Authorised Users:

5.4.1   Your access to the SAAS Services shall be limited to such number of individual Authorised Users as may be defined in the Order, being Your employees or independent contractors. For the avoidance of doubt, this restriction refers to those persons You authorise to Use the Services and not persons browsing Your website, Integrations or applications or undertaking transactions on it;

5.4.2   You shall maintain a written list of current Authorised Users, and You shall provide the list to Us as may be reasonably requested by Us from time to time;

5.4.3   You shall ensure that each Authorised User keeps a secure password for their Use of the Software and/or SAAS Services, that such password is periodically changed and that each Authorised User keeps their password confidential; and

5.4.4   We reserve the right to refuse to supply authentication details to Authorised Users.

6.   ADMINISTRATION SERVICES

6.1   These Services include ancillary services in order to maintain the Services, such as domain purchase, administration.

6.2   Where Our Charges are unpaid or partially paid, We may withhold the transfer of any domain that We have purchased on Your behalf in order to perform the Services to You and if any Charges remain unpaid for fourteen (14) days after written notification by Us that such Charges are overdue, We shall be entitled to dispose or surrender such domain name at Our discretion without recourse to You.

Part B – Data Processing Details

Processing of the Protected Data by Us under the Contract as a Controller shall be for the subject-matter, duration, nature and purposes and involve the types of Personal Data and categories of Data Subjects set out in this Part B.

1. **Subject-matter of the processing:**

   Protected Data will be processed by Us in order for Us to perform Our obligations under this Contract.

2. **Duration of the processing:**

   Protected Data will be processed by Us for the durations set out in this Contract.

3. **Nature and purpose of the processing:**

   The purpose of the processing is to allow Us to supply the Services to You in accordance with Our obligations under this Contract.

4. **Type of Personal Data:**

   The Personal Data set out below under 'Specific processing instructions' relating to Your customers and potential customers.

5. **Categories of Data Subjects:**

   Your customers and potential customers.

6. **Specific processing instructions:**

   6.1. The processing of Protected Data will be to the extent necessary in order for Us, including Our Sub-Processors, to perform Our obligations under this Contract, which may include, but is not limited to, the following:

   Services

   6.1.1. Whilst carrying out Our obligations under this Contract, We process and store Personal Data relating to Your customers and potential customers. Protected Data may include, but not limited to:

   6.1.1.1. **Contact information**

   contact information, including but not limited to, title, names, telephone numbers, mobile telephone numbers, email addresses,

faxes, addresses, social media profiles, gender, company name and job title;

6.1.1.2. **Orders & Transactions**

sales orders and transactions data, including but not limited to, third party payment gateways and payment providers transaction unique identifiers, payment methods and payment statuses, and any other Protected Data necessary to process sales and purchase documents within the Services, including but not limited to abandoned orders, quotations, draft orders, orders, fulfilments, invoices, credits, returns, transactions, incoming payments, outgoing payments, exchanges and refunds;

6.1.1.3. **Communications**

communications via, including but not limited to, email, phone, chat and social media, which may include, but not limited to, data, messages, content, information and contact information, provided within such communications;

6.1.1.4. **User Unique identifiers**

Unique identifiers within Services for Your Data Subjects;

6.1.1.5. **Monitoring Data**

user sessions and monitoring information and data for Services, including but not limited to IP addresses, browser cookies, local and session storage, hostnames, locations, languages, dates and times, referral sources and campaigns data, page load speeds, devices used, browsers and operating systems, networks, events, engagement and interactions;

6.1.1.6. **Any other data provided by Data Subjects**

any other Protected Data or information that Your Data Subjects provide, You or Your Authorised Users provide on behalf of Your Data

Subjects, or We provide on behalf of Your Data Subjects under Your instruction; and/or

6.1.1.7. **Regulatory & Other**

any other Protected Data necessary for Our obligations under this Contract for Services, or for regulatory, VAT or taxation purposes.

7. **Minimum technical and organisational security measures**

7.1. Without prejudice to Our other obligations, We shall implement and maintain at least the following technical and organisational security measures to protect the Protected Data:

7.1.1. In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Protected Data to be carried out under or in connection with the Contract, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, We shall implement appropriate technical and organisational security measures appropriate to the risk, including as

appropriate those matters mentioned in Articles 32(1)(a) to 32(1)(d) (inclusive) of the UK GDPR;

7.1.2. **SAAS Applications**

7.1.2.1.   Within the SAAS Applications:

7.1.2.1.1.   Protected Data is encrypted during transit and whilst at rest; and

7.1.2.1.2.   API credentials are encrypted using Key Management Services (KMS) and/or secret manager services (encrypted storage system);

7.1.3. **Our employees**

7.1.3.1.   Our employees:

7.1.3.1.1.   have restricted access to Protected Data unless access is required for their duties in order for Us to perform Our obligations under this Contract;

7.1.3.1.2.   utilise password management software with automatic password generation and password complexity policies and, where possible, incorporate multi factor authentication (MFA);

7.1.3.1.3.   have completed Disclosure and Barring Service (DBS) checks; and

7.1.3.1.4.   undertake regular security training in line with Our security policies.

Part C – Service Level Agreement

1. **SERVICE LEVEL APPLICABILITY**

    1.1. Where provided for and You elect to purchase a Service Level Agreement within the Order, We agree to the following Service Levels and remedies.

    1.2. The Service Levels shall apply with effect from the start of the month after both the following have occurred –

    1.2.1. the SAAS Services have met the Acceptance Conditions in accordance with clause 6.5 of the Conditions; and

    1.2.2. the Support Services have been satisfactorily undertaken or completed.

2. **SERVICE AVAILABILITY**

    2.1. We shall provide at least a ninety-nine point five per cent (99.5%) uptime service availability level (**Uptime Service Level**) for the SAAS Services.

    2.2. The SAAS Services shall be considered as unavailable only:

    2.2.1. during periods of Priority 1 or Priority 2 incidents in accordance with Paragraph 4 of Part A to the Schedule; and/or

    2.2.2. during periods of unplanned Maintenance in accordance with Paragraph 4 of Part A to the Schedule.

    2.3. For the avoidance of doubt, the SAAS Services shall not be considered as "unavailable" during Maintenance Events as described in Paragraph 4 of Part A to the Schedule, outages or disruptions caused by You or third parties, or outages or disruptions attributable in whole or in part to Force Majeure within the meaning of clause 39 of the Conditions.

3. **SERVICE CREDITS**

    3.1. If availability for the SAAS Services falls below the Uptime Service Level in a given calendar month, We shall credit Your account by an amount (**Service Credit**) calculated as the product of the total cumulative downtime (expressed as a proportion of the total possible uptime minutes in the month concerned) and the total monthly fees or Charges owed for that month.

    3.2. A Service Credit shall not be payable unless You request it within forty (40) Business Days of the end of the calendar month in respect of which the Uptime Service Level was not met. The maximum Service Credit allowable in respect of a given month is limited to twenty per cent (20%) of the total monthly fees or Charges payable for that month.

    3.3. You acknowledge and agree that the terms of this Part C to the Schedule relating to Service Credits do not operate by way of penalty and are proportionate when

considering Your legitimate interest to avoid any delay in provision of the SAAS Services.

3.4. Service Credits shall be Your sole remedy for breach of Service Levels.

Part D – Acceptable Use Requirements

1. You shall, and shall procure that Your Authorised Users shall not store, distribute, introduce or transmit through the SAAS Services:

    1.1. any Virus,

    1.2. any Vulnerability;

    1.3. any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities; or

    1.4. a high volume of electronic mail or other messages that may reasonably be regarded as "spamming".

2. You shall:
    2.1. ensure that any information or data provided to Us is complete, accurate, kept up to date and that You retain a copy of such information or data;
    2.2. only use the Services for lawful purposes;
    2.3. ensure that Your website and Your Data comply at all times with all relevant Laws;
    2.4. not interfere with or disrupt the integrity or performance of the Services or any third-party technology contained therein;
    2.5. not attempt to gain unauthorised access to any of Our Data Centres, systems or networks or Our service providers' data centres, systems or networks;
    2.6. not permit direct or indirect access to or Use the Services in a way that circumvents a usage or capacity limit of the Services or Use the Services to access or Use any of Our Intellectual Property Rights except as permitted under this Contract;
    2.7. not reproduce, duplicate, copy, exploit, transfer, sell, resell, sublicense, distribute, redistribute, rent, or lease any portion of the Services;
    2.8. not access the Services or Use the Services documentation to develop a competitive product or service;
    2.9. not alter, remove or obscure any copyright, trademark or other proprietary or confidentiality notices on the Services;
    2.10. not, and shall not permit or induce a third party to, reverse engineer, decompile, disassemble or otherwise attempt to derive the source code, techniques, processes, algorithms, know-how or other information from the binary code portions of the Services save as specified in this Contract. If such information is necessary for the operation of Your own or third party software with the Services We may, upon reasonable request, acting reasonably, make such information available (for a fee or otherwise) under such terms and conditions agreed between us;
    2.11. ensure that the latest versions of Our SAAS Applications, Native Software and Services, as applicable, are (a) in use by You and/or Your Authorised Users within Your ICT Environment; and (b) Your hardware, software, services and/or ICT Environment are suitable for and compatible with such latest versions of Our SAAS Applications, Native Software and Services, as applicable;

2.12.   ensure that, where Native Software and/or SAAS Applications and/or Your Data is downloaded and/or transferred onto Your ICT Environment by You or Your Authorised Users, such Native Software and/or SAAS Applications and/or Your Data are security scanned consistent with good industry practice to ensure there are no Viruses or Vulnerabilities being introduced into Your ICT Environment. We shall have no liability in any circumstances whatsoever for the impact that Viruses and/or Vulnerabilities have on Your ICT Environment, hardware, systems or software where You fail to comply with this requirement;

2.13.   implement and maintain adequate data backup and archival procedures consistent with good industry practice to ensure that a copy of Your Data shall be available;

2.14.   procure that Your Authorised Users keep confidential any login credentials that We provide to You. You must notify Us promptly in the event of any actual or reasonable suspected security breach;

2.15.   procure that login credentials are only issued to individual Authorised Users and are not utilised by more than one person;

2.16.   procure that You and any Authorised Users only Use the Services in accordance with any documentation or user guide that We may provide to You from time to time;

2.17.   procure that You and any Authorised User treat Our Personnel with courtesy. We do not tolerate verbal, physical, written or any other abuse or threats of abuse or retribution directed towards any of Our Personnel;

2.18.   be responsible for using commercially reasonable efforts to prevent unauthorised access to or use of the Services utilising credentials supplied to You or Your Authorised Users or through Your hardware or software;

2.19.   immediately notify Us of any unauthorised access or use of the Services by any person other than Your Authorised Users who have been issued with login credentials; and

2.20.   not falsely imply any sponsorship or association with Us.

3. Breach of these Acceptable Use Requirements may be regarded by Us as a material breach, and may result in any or all of the following:

3.1. Our issuing a warning to You;

3.2. Our removing all or some of Your Data from Our servers;

3.3. Our suspending Your access to the Services without penalty to Us;

3.4. Our terminating the Contract in whole or in part (at our discretion) without penalty to Us; and/or

3.5. Our notifying law enforcement agencies and/or issuing legal proceedings against You.