

TERMS AND CONDITIONS

These terms and conditions (**Terms**) apply to the written quote(s) (**Quote**) agreed between Ministry of Ideas Registered Limited with registered address at Bridge House, The Waterfront, Brierley Hill, West Midlands, DY5 1XR (**MOI**), and the company detailed in the Quote (**you**), in relation to the supply by MOI to you of one or more of the following solution elements (**Solution**):

- the **Software** - the desktop (rich) client software, web client software, mobile device software, database, API, reports and associated technology
- the **Data Services** - third party data and services accessed via supplier API and measured by transaction
- the **Documentation** - user manuals, training manuals, release notes, statement of works, project plans, import templates and all similar documents produced to assist with delivery and use of the Solution
- the **SaaS Service** – the multi-tenant platform supplied by MOI and detailed more fully in the SaaS Service Description document available by request
- the **Hardware** – the third-party hardware units.
- the **Professional Services** – any service sold by day or part day on a fixed or time and materials basis, including development, training, consulting, deployment, project management and other similar services.
- the **Support Service** (for Software and / or Hardware) – the provision of a problem tracking and software/hardware maintenance, repair and update services as described in paragraph 1 of Schedule 1 and paragraph 2 of Schedule 2.

For the avoidance of doubt, the Quote must be formally accepted by MOI in order for it to be binding on MOI.

1. LICENCE TO USE SOFTWARE AND DOCUMENTATION

Grant of licence

- 1.1. In consideration of the payment of the fee included in the Quote (**Fee**), MOI hereby grants to you a non-exclusive and non-transferable (other than in accordance with clause 10) right to use the Software, the SaaS Service and the Documentation in accordance with these Terms.
- 1.2. MOI does not sell the Software or Documentation to you, and MOI remains at all times the owner of the Software and Documentation.
- 1.3. You may:
 - a) download, install (as appropriate) and use the Software for your internal business purposes only;
 - b) use the Software only as reasonably contemplated by these Terms; and
 - c) use any Documentation in support of the use permitted under these Terms and make only necessary copies of the Documentation as is reasonably necessary for your lawful use, provided such copies are treated as confidential materials at all times.
- 1.4. When using the Solution, you will be allowed to upload, submit, store, send or receive content and/or data in so far as this content and/or data does not breach clause 1.15.
- 1.5. Where the Solution that MOI has agreed to supply to you is:
 - a) a SaaS service, then MOI may apply automatic updates or require you to update the Software from time to time, or
 - b) an on-premises solution, then any agreed updates will take place at a time agreed between the parties acting reasonably and in good faith.
- 1.6. Notwithstanding the preceding clause, if you choose not to upgrade to the most recent release of the current Latest Major Version or the preceding Latest Major Version, MOI will only be obliged to use reasonable endeavours to support you and may not be able to issue you with the latest patch (**Service Pack**).
- 1.7. In these terms, **Affiliate** shall mean a holding company and/or subsidiary company (as defined by the Companies Act 2006) and **Outsource Provider** shall mean a sub-contractor or supplier to the relevant party.
- 1.8. Your **Affiliates** and **Outsource Providers** shall also be entitled to benefit from the Solution, provided that:
 - a) you procure the necessary licences and consents to enable your Affiliates and Outsource Providers to use the Solution in accordance with these Terms;
 - b) you agree to ensure that your Affiliates and Outsource Providers comply with these Terms at all times, and you will be responsible for the acts and omissions of your Affiliates and Outsource Providers as though they were your acts and omissions;
 - c) in the event a company ceases to be an Affiliate, you must notify MOI immediately. You will continue to be responsible for the Affiliate pursuant to clause 1.8(b) until such time as the Affiliate ceases to use the Solution, or MOI enters into a new and separate agreement with the Affiliate, or until agreed otherwise with MOI; and
 - d) at your request, MOI shall not unreasonably refuse to extend the definition of Affiliate to include one or more identified joint venture and/or special purpose vehicles in which you or any Affiliate is involved.

MOI's rights

- 1.9. You must allow MOI and its representatives to inspect and have remote and/or physical access to any server on which the Software is kept or used at all reasonable times and on reasonable advance notice.
- 1.10. If MOI notifies you in writing that you are in breach of these Terms in any way with respect to usage requirements, you must remedy the breach within 14 days of such notification.
- 1.11. In addition, where you breach any of the restrictions in clause 1.15, MOI reserves the right, without liability to you and at its absolute discretion, to suspend access to the SaaS Service or to withdraw the Support Service and/or Professional Services:
 - a) immediately where the breach threatens the security and integrity of MOI's Software and/or its proprietary systems; and
 - b) on 7 days' notice in all other circumstances.

- 1.12. For any unauthorised usage by you, your Affiliates or Outsource Providers, MOI reserves the right to levy additional fees to reflect the Fees that would have been payable had the usage been approved in advance by MOI.
- 1.13. The Software may contain functionality that allows MOI to analyse your use of the Software for the purpose of verifying your compliance with the terms of this Agreement and for collecting anonymous user and system activity for benchmarking and support purposes (**Usage Data**).
- 1.14. You grant MOI a royalty-free, irrevocable, perpetual, world-wide licence to any Usage Data to enable MOI to provide benchmarking and other reports to you and other clients and to publish such reports in the trade press and on MOI's website. All data used for this purpose will be aggregated and anonymised and will not contain any Personal Data (as defined in Schedule 3 (Data Protection)).

Restrictions

- 1.15. Except as expressly set out in these Terms or as permitted by any applicable law, you undertake not to:
 - a) attempt to copy the Software (except where such copying is incidental to normal use of the Software or where it is necessary for the purpose of back-up or operational security) or the Documentation other than as permitted by clause 1.3;
 - b) modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation and/or any other part of the Solution (as applicable) in any form or media or by any means;
 - c) attempt to de-compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
 - d) access all or any part of the Solution in order to build a product or service which competes with the Solution;
 - e) use the Solution to provide an 'ASP' or bureau service to third parties without MOI's prior written consent;
 - f) allow or suffer any subscription to be used by more than one individual user unless it has been reassigned in its entirety to another individual user, in which case the original user shall no longer have any right to access or use the Solution;
 - g) license, sell, rent, lease, transfer, assign, distribute, or otherwise make the Solution available to any third party other than as permitted by clause 1.8, clause 10 or clause 0;
 - h) access, store, distribute or transmit any viruses, or any material during the course of its use of the Software that: is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or causes damage or injury to any person or property; nor
 - i) permit the Software or any part of it to be combined with, or become incorporated in, any other programs, other than for the purpose of creating and maintaining third party application interfaces designed and maintained by MOI or by you with MOI's prior written consent.
- 1.16. The integrity of the Solution may be protected by technical protection measures (TPM) so that the intellectual property rights, including copyright, in the Software of MOI are not misappropriated. Whether TPM is in place or otherwise, you must not attempt in any way to remove or circumvent such TPM, nor to apply, manufacture, import, distribute, sell, let for hire, offer, expose or advertise for sale for hire or have in your possession for private or commercial purposes, any means whose sole reasonable purpose is to facilitate the unauthorised removal or circumvention of such TPM.

Additional obligations

- 1.17. In addition, you undertake:
 - a) to supervise and control use of the Solution and ensure that your employees, representatives and other authorised users access and use the Solution in accordance with these Terms;
 - b) to limit the number of users that you allow to access and use the Solution to the number of subscriptions you have purchased for that element of the Solution;
 - c) to include MOI's copyright notice on all entire and partial copies you make of the Software and/or Documentation on any medium;
 - d) to ensure that all passwords and other security information are kept secure and confidential in accordance with industry best practise, including applying appropriate password policies (including frequency of change); and
 - e) to ensure that you maintain up to date and appropriate antivirus precautions in accordance with industry best practice.

Third party software

- 1.18. Where MOI maintains a third-party interface for you, you will notify MOI in advance of any change to the third-party system and agree a plan to test any changes before they are applied into the supported production system.
- 1.19. Any third-party software supplied to you as part of the Solution are licensed to you under the terms of the original licensor's agreement which is supplied with such third-party software (including the restrictions on use, warranty, and support) and:
 - a) you shall comply with the terms of the original licensor's agreement at all times;
 - b) in the event you are required to accept a third party's end user licence agreement, you will do so promptly upon MOI's request; and
 - c) in the event the licensor substantially increases its fees during the term of our agreement, MOI (acting reasonably) reserves the right to pass on that increased cost to you in return for your continued use of the third-party software as part of the Solution. Should MOI do so, you shall have the right to terminate your use of that third-party software by giving MOI not less than 90 days' written notice. Such termination shall not affect the continuance in force of these Terms in relation to the rest of the Solution.

2. SUPPLY OF SUPPORT SERVICES AND PROFESSIONAL SERVICES

- 2.1. Subject to payment of the applicable Fees, MOI shall provide the Support Services and/or the Professional Services (**Services**) to you.
- 2.2. You agree to comply with the additional Support Services terms and conditions set out in Schedule 1 to these Terms.
- 2.3. The parties will agree mutually convenient times for the delivery of the Professional Services. Where such dates are booked in advance, you understand that you are required to commit appropriate resources to allow MOI to perform the Professional Services.

- 2.4. For any advance bookings for Professional Services which are cancelled by you, MOI will not make any refund of pre-paid Fees where fewer than five business days' notice are given.
- 2.5. The Services shall be delivered with a level of care and skill consistent with IT industry best practice.
- 2.6. For Services delivered at your site(s), You undertake to:
 - a) provide MOI with all necessary information, support and co-operation in a timely manner;
 - b) provide to MOI at no charge adequate office accommodation, a secure work space, access to telephone services, internet services and facilities; and
 - c) allow MOI at no charge to use the computers, equipment, operating systems and software and any other relevant items at your site(s), and access all relevant areas of your site(s),
 in each case, as may be reasonably required by MOI in order to carry out the Services provided always that
 - d) all access shall be strictly limited to that part of your site(s) or your computer system, software, hardware or firmware (as the case may be) as is required for proper performance of MOI's obligations under these Terms; and
 - e) MOI and MOI's personnel who carry out the Services shall comply with your procedures and requirements as notified in writing to MOI from time to time in relation to such access.
- 2.7. In addition, each party undertakes to:
 - a) ensure that the site(s) at which the Services are to be carried out comply at all times with all applicable law and best practice, including any relevant regulations regarding health and safety;
 - b) carry and maintain public liability insurance and employer's liability insurance, in amounts no less than £5m and provide evidence of such insurance policy cover on request from the other party; and
 - c) will abide by all reasonable requests and instructions whilst on the other party's site(s).
- 2.8. Furthermore, MOI will carry and maintain Professional Indemnity insurance, in amounts no less than £5m and provide evidence of such insurance policy cover on request from you.

3. **SUPPLY OF HARDWARE**

- 3.1. The quantity and description of the Hardware shall be as set out in the Quote.
- 3.2. You agree to comply with the additional Hardware terms and conditions set out in Schedule 2 to these Terms.
- 3.3. MOI shall use reasonable endeavours to transfer to you the benefit of any warranty or guarantee given to MOI by the Hardware manufacturer.
- 3.4. Title to the purchased Hardware will pass to you upon receipt by MOI of the purchase price in cleared funds but title in any rented Hardware will not pass to you.
- 3.5. Any Hardware shall be at your risk following delivery to you.
- 3.6. You may not cancel nor return an order for purchased Hardware once it has been accepted by MOI. If requested by you in writing, MOI will use reasonable endeavours to have items re-stocked with the manufacturer.
- 3.7. Once an order for rented Hardware has been accepted by MOI, you may not terminate the order nor return the rented Hardware within the initial 12 months of the rental period. After the initial 12 months, you may terminate the order in accordance with clause 8.2. If you fail to return the rented Hardware after termination or at the end of the rental period, MOI will invoice you for the total purchase price of such Hardware at the prevailing rate.
- 3.8. Should you notify MOI that any Hardware does not correspond with these Terms or the description set out in the Quote, you agree to allow MOI to inspect the Hardware. MOI's liability in respect of the Hardware is limited to (at MOI's discretion) returning any defective Hardware to the manufacturer for processing under the manufacturer's warranty or guarantee, or replacing any defective Hardware on a like for like basis.

4. **PAYMENT**

- 4.1. Unless otherwise stated in the Quote, MOI's payment terms are:
 - a) for Software, Support Services and SaaS Services, in advance of the agreed subscription period which commences on the first day of the first full month following approval of the Quote;
 - b) for Data Services, transaction bundles, Professional Services, third-party software licences or Hardware, payment in advance of delivery.
- 4.2. If you do not make payment by the due date for payment and still have not made payment within 14 days of MOI notifying you of the default in writing, then without prejudice to MOI's other rights and remedies:
 - a) MOI may, without liability to you, disable your password, account and access to all or part of the Software and/or SaaS Services and the MOI shall be under no obligation to provide the Services or any or all of the Solution while the invoice(s) concerned remain unpaid; and
 - b) interest will accrue on a daily basis on such due amounts in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 4.3. If you wish to provide MOI with a specific email address for notification of payment default, you must do so by sending an email to the MOI Finance team: Finance@innovise.com. It is your responsibility to notify and update this contact address with MOI at all times.
- 4.4. MOI or any other Group company may, to the extent permitted by applicable law, deduct from and set off against any amounts owed by you under these terms against any amounts paid by you to any Group company from time to time. You shall remain liable for any part of the payment obligation not satisfied through such deduction and setoff. **Group** means in relation to MOI, Innovise and any subsidiary or

any holding company from time to time of Innovise, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a member of the Group.

5. WARRANTIES

- 5.1. You acknowledge and agree that you have selected the Software and the Hardware on the basis that you consider it to be fit for your intended purpose, that you have carried out all necessary due diligence to ensure that it is suitable for your requirements and you have not relied on any statement made by MOI other than as set out in these Terms.
- 5.2. Consequently, all terms and conditions which would otherwise be implied into these Terms by statute, common law or otherwise are expressly excluded. In particular, MOI gives no warranty that the Solution will be uninterrupted, or that any part of the Solution will be error-free or fit for your intended purpose.
- 5.3. MOI warrants that during the period of 90 days after the date you first access the Software and after each subsequent update or release of a Latest Major Version or a Latest Minor Version of the Software (but not a Service Pack) (**Warranty Period**), the Software and/or Solution will perform substantially in accordance with the description in the relevant release Documentation (provided that the Software is properly used on the computer and with the operating system for which it was designed as referred to in the Documentation); and
- 5.4. If you notify MOI in writing within the Warranty Period that the Software and/or Solution fails to comply with the warranty at clause 5.3.3, and such failure does not result from you having made any unauthorised modifications to, or improper installation of, the Software or used it in contravention of these Terms, MOI will at its sole option, repair or replace the Software and/or Solution, provided that you make available all the information that may be necessary to assist MOI in resolving the defect or fault that caused the failure, including sufficient information to enable MOI to recreate that defect or fault. To the extent permissible by law, the remedies in this clause 5.4 shall be MOI's sole liability for any claims in respect of the warranty at clause 5.1.
- 5.5. Furthermore, MOI warrants that:
 - a) it shall perform the Services and provide the Solution in accordance with all applicable laws;
 - b) it has, and will continue to have, all necessary rights in and to any Intellectual Property Rights (as defined in clause 9 below) in the Solution (and any modification or upgrade to it), which are used to perform MOI's obligations under these Terms; and
 - c) it has and shall continue to hold all consents and permissions necessary for it to provide the Solution in accordance with these Terms.
- 5.6. The Parties warrant that they will not deliberately or recklessly insert or enter into any systems, including any computer programme or code, which is intended by any person to, is likely to, or may:
 - a) impair the operation of any computer systems or programs, or
 - b) cause loss of, or corruption or damage to, any program or data or any other computer systems or programs.
- 5.7. In addition, each party warrants that it uses antivirus software and will continue to use antivirus software in accordance with standard industry practise.

6. LIABILITY

- 6.1. Nothing in these Terms excludes or limits the liability of either party for:
 - a) death or personal injury caused by MOI's negligence;
 - b) fraud or fraudulent misrepresentation;
 - c) a breach of clause 18 (Bribery and Corruption / Modern Slavery);
 - d) any determination of the Information Commissioner's Office (ICO) in respect of the Data Protection Legislation (as defined in Schedule 3); or
 - e) any other liability that cannot be excluded or limited under the applicable law.
- 6.2. Subject to clause 6.1, MOI shall not in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:
 - a) loss of profits or anticipated savings;
 - b) loss of business, goods, contract or use;
 - c) depletion of goodwill or similar losses;
 - d) loss or corruption of data or information; or
 - e) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 6.3. Subject to clauses 6.1 and 6.2, MOI's total liability in contract, tort (including, without limitation, negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance of the Solution shall be limited to:
 - a) the remedy stated in clause 3.8 in respect of any Hardware that does not correspond with these Terms or the description set out in the Quote;
 - b) £1 million with regards to MOI's breach of clause 7 (Confidential Information);
 - c) £1 million with regards to any damage to tangible property caused by MOI; and
 - d) in all other circumstances, an amount equal to 125% of the Fees paid by you for the relevant element of the Solution in the twelve months prior to any such liability arising.
- 6.4. Subject to clauses 6.1 and 6.2, your total liability in contract, tort (including, without limitation, negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with these Terms: shall be limited to:
 - a) £1 million with regards to Your breach of clause 7 (Confidential Information);
 - b) £1 million with regards to any damage to tangible property caused by You; and
 - c) shall not be limited with regards to your infringement of our or our licensors' Intellectual Property Rights; and

- d) in all other circumstances, an amount equal to 125% of the Fees payable by you for the Solution in the twelve months prior to any such liability arising.

7. **CONFIDENTIAL INFORMATION**

- 7.1. **Confidential Information** shall mean all information disclosed to or obtained by one party (which, in your case, shall include an Affiliate) from other party that would appear to a reasonable person to be confidential or proprietary or which is either labelled or identified as such, including any information relating to MOI's or your business, operations, intentions, know-how and customers.
- 7.2. A party's Confidential Information shall not be deemed to include information that:
- is or becomes publicly known other than through any act or omission of the receiving party;
 - was in the other party's lawful possession before the disclosure;
 - is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 7.3. Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these Terms, for a period of seven years from disclosure of the Confidential Information.
- 7.4. Each party shall ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in breach of these Terms.
- 7.5. The parties agree that:
- the use of each other's names and logos can be used in the regular course of business. This includes but is not limited to portals (employee and customer facing), presentation materials and custom documentation;
 - (notwithstanding clause 7.5(a), provision of a testimonial, case study, reference or endorsement of any kind will be strictly subject to separate agreement between the parties, including the establishment of authorised resellers, value added resellers, development partners and other similar relationships.
- 7.6. This clause shall survive termination of these Terms, however arising.

8. **TERMINATION**

- 8.1. Unless otherwise expressly stipulated in the Quote, or otherwise agreed between the authorised representatives of the parties, these Terms shall continue in force for a period of twelve months from the start of the SaaS Service, any Hardware rental period or Support Services (as appropriate) as set out in the Quote and thereafter will automatically continue until either party has given the other not less than ninety days' written notice of termination.
- 8.2. Unless otherwise expressly stipulated in the Quote, or otherwise agreed between the authorised representatives of parties, you may remove certain parts of the Solution, including any rented Hardware, supplied under these Terms after the initial period of twelve months by giving not less than ninety days' written notice of such removal (in which case these Terms shall continue in force in respect of the remaining Solution element(s)).
- 8.3. Either party may terminate these Terms immediately on written notice to the other party if:
- that other party fails to pay any amount due under these Terms on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
 - that other party commits a material or persistent breach of these Terms which it fails to remedy (if remediable) within 30 days after the service of written notice requiring it to do so;
 - that other party becomes insolvent or unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), enter into liquidation, whether voluntary or compulsory (other than for reasons of bona fide amalgamation or reconstruction), pass a resolution for winding-up, have a receiver or administrator manager, trustee, liquidator or similar officer appointed over the whole or any part of its assets, make any composition or arrangement with its creditors or take or suffer any similar action in consequence of debt, or become unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986).
- 8.4. Either party may terminate these Terms pursuant to clause 23.4 (Force Majeure) where that party is the Unaffected Party.
- 8.5. MOI may terminate these Terms by giving 30 days' notice in writing if MOI requests information or assistance from you in order to perform its obligations under these Terms and you fail to provide that information or assistance for a period of three months thereafter.
- 8.6. Upon termination for any reason, including where MOI terminates these Terms pursuant to clause 8.3, from the effective date of termination:
- all rights granted to you under these Terms shall cease;
 - you must cease all activities authorised by these Terms;
 - you must immediately delete or remove the Software from all computer equipment in your possession and destroy or return to MOI (at MOI's option) all copies of the Software and Documentation then in your possession, custody or control and, in the case of destruction, certify to MOI that you have done so;
 - you must immediately return to MOI any rented Hardware;
 - MOI shall comply with the terms set out in paragraph 1.15 of Schedule 3; and
 - you must pay MOI immediately any sums due to MOI under these Terms, including any unpaid amounts in respect of the period between the date of termination and the expiry of the twelve-month initial term or ninety-day notice period (whichever expires later) as described in clause 8.1.
- 8.7. Any provision of these Terms that expressly or by implication is intended to continue in force after termination of these Terms shall remain in full force and effect.
- 8.8. Termination shall not affect any rights, remedies, obligations or liabilities that have accrued up to the date of termination.

- 8.9. Save for where MOI has terminated the Terms under clauses 8.3(a) or 8.3(b), immediately after notice in writing has been received, you can request reasonable assistance from MOI to ensure an orderly handover of Data Services and/or SaaS Services to a successor supplier (the **Transition Services**), such Transition Services being provided on MOI's standard rates. MOI will use reasonable efforts to provide any Transition Services with minimum disruption to you.
- 8.10. Where MOI has terminated the Terms under clauses 8.3(a) or 8.3(b), you may still request Transition Services but MOI may, at its sole discretion, refuse to provide such Transition Services or require payment in advance in respect of the same and/or take other reasonable measures to protect MOI's interests.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. For the purposes of these Terms, **Intellectual Property Rights** means all copyright, rights in relation to databases, design rights, registered designs, patents, trade and service marks (registered and unregistered), know-how, rights in or relating to confidential information or any other intellectual property rights of a similar nature anywhere in the world, whether subsisting now or will subsist in the future.
- 9.2. You acknowledge that all Intellectual Property Rights in the Software and the Documentation belong to MOI (or where relevant third parties from which MOI has licensed such rights), and that you have no rights in or to any part of the Solution other than the right to use it in accordance with these Terms.
- 9.3. All other Intellectual Property Rights associated with any ideas, concepts, techniques, inventions, processes or works of authorship developed or created by MOI or its personnel or contractors during the course of performing the Professional Services, the SaaS Services or the Support Services or delivering the Hardware (if configured by MOI) shall belong exclusively to MOI.
- 9.4. MOI shall indemnify you against any claim made against you for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with your use of the Software and/or the Solution, provided that:
- MOI is given prompt notice of any such claim;
 - you provide reasonable co-operation to MOI in the defence and settlement of such claim;
 - you take all reasonable steps to mitigate any loss you may suffer or incur; and
 - MOI is given sole authority to defend or settle the claim.
- 9.5. This indemnity will not cover you to the extent that a claim under it results from your negligence, wilful misconduct, your failure to comply with these Terms or your use of the Software and/or Solution other than in accordance with these Terms.
- 9.6. In the defence or settlement of any claim, MOI may procure the right for you to continue using the Software and/or Solution, replace or modify the Software and/or Solution so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 3 days' notice you without any additional liability or obligation to pay liquidated damages or other additional costs to the you.

10. TRANSFER OF RIGHTS AND OBLIGATIONS

- 10.1. These Terms are binding on the parties and their respective successors and assigns.
- 10.2. Neither party should transfer, assign, charge or otherwise attempt to dispose of these Terms, or any of their rights or obligations arising under it that without providing notice to the other, nor, in respect of the following only, without prior written permission:
- to a competitor of the other;
 - to an entity which is not financially viable; nor
 - in the case of you, to an entity who is currently or has previously been in breach of an agreement between that entity and MOI.
- 10.3. The parties acknowledge and agree that MOI may appoint sub-contractors, suppliers or agents to deliver elements of the Solution, and either party may appoint sub-contractors, suppliers or agents to manage the Solution.
- 10.4. Each party shall ensure their sub-contractors, suppliers and agents will comply with these Terms at all times, and will be responsible for the acts and omissions of such sub-contractors, suppliers or agents as though they were the acts and omissions of the party that appointed them.

11. WAIVER

- 11.1. If a party fails, at any time, to insist upon strict performance of any of their obligations under these Terms, or fails to exercise any of the rights or remedies to which it is entitled under these Terms, this shall not constitute a waiver of such rights or remedies and shall not relieve them from compliance with such obligations. A waiver by a party of any default shall not constitute a waiver of any subsequent default. No waiver of any part of these Terms shall be effective unless it is expressly stated to be a waiver and is communicated in writing.

12. VARIATION

- 12.1. MOI operates a digital/e-signature ordering system for customers and you hereby agree to make use of that system such that Quotes managed using that system are subject to these Terms. In the event that you change the Software licensed from MOI, the changes to charges will take immediate effect, unless otherwise stated in the Quote.
- 12.2. These Terms apply to the exclusion of any other terms that you seek to impose or incorporate, including any terms set out on your purchase order, and any other terms that are implied by trade, custom or practice.
- 12.3. No variation of these Terms shall be effective unless agreed in writing or digitally-signed by a director of Innovise or MOI.

13. SEVERANCE

13.1. If any of these Terms are or become invalid or unenforceable, such term shall be deemed modified to the minimum extent necessary to make it valid and enforceable. If such modification is not possible, such term will to that extent be severed from the remaining terms, which will continue to be valid to the fullest extent permitted by law.

14. ENTIRE AGREEMENT

14.1. These Terms (and any documents expressly referred to in it) represent the entire agreement between the parties in relation to the provision of the Solution and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing. Both parties acknowledge that, in entering into these Terms, neither party has relied on any representation, undertaking or promise given by the other or which can be implied from anything said or written in negotiations between the parties prior to entering into these Terms except as expressly stated in these Terms.

14.2. Subject to clause 6.1(b), neither party shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date MOI entered into these Terms and the other party's only remedy shall be for breach of contract as provided in these Terms. These Terms applies to the exclusion of any other terms that you may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

15. ESCROW

15.1. An escrow arrangement can be added to the SaaS service to ensure that source code is deposited with a third party. You may nominate your preferred ESCROW agent and MOI will work with that party to agree an appropriate source code agreement. For the avoidance of doubt, the release event conditions will be limited to an MOI business failure. No other release event criteria will be available. The full cost of the agreement will be paid by you and MOI will charge on a time and materials basis (Schedule 1, Additional Fees) for the effort required to submit and satisfy the ESCROW provider. These fees will be repeated for each upgrade of the Solution to ensure appropriate versions of the software are maintained in the deposit.

16. DATA PROTECTION

16.1. The parties agree to comply with the data processing terms set out in Schedule 3.

17. NOTICES

17.1. Any notice of termination given by you to MOI must be sent by registered post to MOI's registered office, or sent by email to Finance@innovise.com, in each case marked for the attention of The Finance Director. Notwithstanding clause 17.2, a notice sent to MOI by email shall not be deemed to have been received by MOI until and unless MOI acknowledges receipt.

17.2. All other notices or communications given to a party under or in connection with these Terms shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause and shall be sent by registered post or commercial courier, or alternatively sent by email to such email address as that party may specify from time to time. A notice or other communication shall be deemed to have been received: if sent by registered post, at 9.00 am on the second business day after posting; or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one business day after transmission.

18. COMPLIANCE WITH REGULATIONS

18.1. You shall not export, directly or indirectly, any technical data acquired from MOI under these Terms (or any part of the Solution incorporating such data) in breach of any applicable laws or regulations relating to export control. Each party shall comply with all applicable laws relating to anti-bribery, anti-corruption and modern slavery, including the Bribery Act 2010 and the Modern Slavery Act 2015, and shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 or sections 1, 2 or 4 of the Modern Slavery Act if such activity, practice or conduct had been carried out in the UK.

19. NO PARTNERSHIP OR AGENCY

19.1. Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between you and MOI, or between MOI and any Affiliate, nor constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other.

20. NON-SOLICITATION

20.1. The parties agree that neither of them will either on their own account or in partnership or association with any person, firm, company or organisation, or otherwise and whether directly or indirectly during, or for a period of twenty four months from the end of the performance of the Services, solicit or entice away or attempt to entice away or authorise the taking of such action by any other person, any employee of the other party who has been involved with the delivery of the Services provided under these Terms at any time.

20.2. In the event that a party breaches the terms of this clause, such party shall be liable to pay the other party an amount equal to twelve months' salary of the employee by way of liquidated damages. Nothing in this clause shall prevent either party from employing any person who has applied for a role in the ordinary course of business by responding to a publicly advertised position.

21. LAW AND JURISDICTION

- 21.1. Each party shall use their best efforts to negotiate in good faith and settle amicably any dispute that may arise relating to the Solution or these Terms. If any such dispute cannot be settled amicably through ordinary negotiations by appropriate representatives of the parties, the dispute shall be referred to each party's chief executive (or similar) officer who shall meet in order to attempt to resolve the dispute.
- 21.2. If any such meeting fails to result in a settlement, either party may refer the dispute by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. The commencement of a mediation will not prevent the parties commencing or continuing court proceedings.
- 21.3. These Terms, their subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English courts.

22. DIVESTED ENTITIES

- 22.1. **Divested Entity** means any business or undertaking which, at any time during the term of the licence granted by these Terms is, or becomes, an Affiliate and which, in the case of a company, then ceases to be an Affiliate, or, in the case of a business division or undertaking, ceases to be owned by You or any Affiliate
- 22.2. Where an Affiliate becomes a Divested Entity then, on receipt of notification from you MOI will:
 - a) Agree to treat the Divested Entity as a Outsource Provider for the purposes of these Terms; and
 - b) during the 90 day period from the date of notice, either seek to enter into a new agreement with the Divested Entity, or
 - c) agree a transition plan for the Divested Entity.
- 22.3. Until such agreement is completed, you shall indemnify MOI fully in respect of any claims in connection with any acts or omissions of your Divested Entities.

23. FORCE MAJEURE

- 23.1. **Force Majeure Event** means an event beyond the reasonable control of a party (the **Affected Party**) which is not attributable to its fault or negligence, including acts of God, strikes or other industrial action, war, hostilities, rebellion, terrorist activity, local or national emergency, or other catastrophes. Force Majeure Event does not include any event affecting a subcontractor or supplier of the Affected Party, unless that event is itself a Force Majeure Event.
- 23.2. Neither party shall be responsible for any failure to carry out any of its duties under the Agreement to the extent that the failure is directly caused by a Force Majeure Event, provided that the Affected Party:
 - a) takes reasonable steps to overcome and mitigate the effects of the Force Majeure Event as soon as reasonably practicable, including actively managing any problems caused or contributed to by third parties and liaising with them;
 - b) on becoming aware of the Force Majeure Event, promptly notifies the other party (the **Unaffected Party**) that something has happened which is a Force Majeure Event, giving details of the Force Majeure Event, together with a reasonable estimate of the period during which the Force Majeure Event shall continue; and
 - c) tells the Unaffected Party when the Force Majeure Event has stopped.
- 23.3. If a Force Majeure Event results in the suspension of part or all of the provision of the Solution, you shall not be liable to pay for that part of the Fees during that period.
- 23.4. If the Force Majeure Event prevents the Affected Party from complying with its obligations under these Terms and the Force Majeure event continues for more than 30 days, the Unaffected Party may terminate the affected element of the Solution by giving at least 10 days written notice to the Affected Party.

SCHEDULE 1 – SUPPORT TERMS AND CONDITIONS

1. PROVISION OF SUPPORT SERVICES

MOI support can be contacted as follows:

By Telephone +44(0)370 626 0400 or
+1-289-205-1000 for United States (US) & Canada only

By Email support@innovise.com

MOI shall also provide an error correction and software updating service. MOI shall endeavour to comply with the anticipated target response times and target fixes shown at the end of Schedule 1.

For Priority Level, MOI shall provide a telephone-based help-desk for the Software and technical support for the Software and the SaaS Service, available 365 days a year and 24 hours a day. For lower priority issues, MOI will provide support during **Standard hours of operation**.

MOI define Standard hours of operation as 0800-1700 local UK time, every weekday excluding English public and bank holidays, and for US and Canada 0800-1700 Eastern Standard time, every weekday excluding English public and bank holidays.

During the agreement MOI will:

- 1.1. Make available a 24x7 Support Desk, that shall accept incident reports from the appointed super users at all times during the service period.
- 1.2. Ensure that the Incident Management System is regularly updated with the details of actions taken and current status of the incident in order to provide an audit trail for future reference.
- 1.3. utilise remote diagnostics, if available, to expedite the resolution of the incident.
- 1.4. provide an initial incident response for all P1 incidents affecting multiple clients, and provide updates at appropriate intervals based upon incident priority.

If the Software and/or solution is provided either fully or partly as a Service (**SaaS**) MOI will:

- 1.5. need to apply Patching and Updates. Patching and updates may be applied at any time by MOI in a non-disruptive manner. However, application of emergency patches and updates to address security concerns may necessitate users being logged out of systems without warning.
- 1.6. need to carry out Planned Maintenance. The production platform will require periodic routine maintenance in order to maintain performance and security at optimum levels. Routine maintenance will normally be carried out during a planned maintenance window for which a minimum of 48 hour's notice will be given. For the avoidance of any doubt, planned maintenance may be during normal working hours if MOI deems this the least disruptive, or lowest risk window for the work.
- 1.7. may need to carry out Emergency maintenance. Under exceptional circumstances MOI may carry out emergency maintenance on the production platform at other times. MOI will endeavour to give 24 hours advance notice of any such work, however, MOI reserves the right to carry out such work without notice if there is a significant perceived risk associated with delaying such work.
- 1.8. will undertake to provide product releases. Release management and Application upgrades will be deployed to the production platform in line with the product development release cycle; this is normally one release per calendar quarter.

MOI is responsible for implementing application upgrades and will provide information about the new release features in the form of general release marketing material (emails, social groups and webinars) and product release notes. MOI will pre-schedule upgrades as part of its standard roll-out program. The Customer can choose to delay or opt-out of an upgrade by agreement, subject at all times to the Customer remaining within no less than the version before the latest version (LV-1).

Where MOI determine a change needs prior agreement and a period of notice, or, a Change Advisory Board requires, MOI will endeavour to provide at least 5 working days email notice in advance of deploying any application upgrade.

2. ADDITIONAL CHARGES

MOI will levy additional charges for out of hours calls (**OOH**) and which are not Priority Level 1 unless otherwise agreed in writing. Additional charges will also be levied where MOI is requested to investigate faults which are outside the scope of the Support Services (**OOS**).

OOH calls are defined as calls not made during **Standard hours of operation**, namely:

Additional charges for OOH calls and OOS, unless otherwise stated in the Quote, attract an initial charge of £100, and thereafter £100 per hour or part of an hour.

3. COMPANY REQUIREMENTS

It is a condition of these Terms that you report Software and SaaS Service faults as required below:

When calling MOI Support teams:

- 2.1. You will report suspected Priority Level 1 and Priority Level 2 incidents by telephone to MOI support on the telephone number advised.
- 2.2. You will log incidents with MOI support, by online support case form, email or by phone, giving the calls a priority, and acting reasonably, for which you will receive a call logging number or case number and this case number will be quoted on all follow up communications.
- 2.3. You will ensure that any incidents are reported to MOI in a timely manner.
- 2.4. You will provide full details of the incident including location, contact number, contact name, and description of the incident and details of the type of user device involved, as appropriate.
- 2.5. You will ensure that all communication relating to the reported incident is directed via MOI support.

- 2.6. You will test and confirm that an incident has been fixed as quickly as possible after notification by MOI to allow the incident to be closed.
- 2.7. Upon request by MOI, to make changes to the software or hardware as required to eliminate any adverse impact on performance or security of the SaaS service.
- 2.8. You recognise that MOI reserves a right to reprioritise the rating of the fault as MOI considers appropriate.

For those who need to call support you will ensure that:

- 2.9. You have trained one or more super-users and you will ensure that any normal day-to-day system administration requirements have been undertaken by those super users, e.g. user administration.
- 2.10. You will only allow super-users to call or email MOI support and ensure that they have made reasonable attempts to diagnose the incident to ensure it is caused by issues under the control of MOI and covered by the Services.
- 2.11. You will maintain versions of browsers, compatible hardware (e.g. mobile OS) and other technical parameters within your domain in accordance with MOI's stipulations.

4. INTERFACES

Where calls relate to the interface with other software packages or environments, or similar issues where the fault cannot be diagnosed as being clearly caused by the supported Software or SaaS Service, MOI will use its reasonable endeavours to assist you in finding a resolution to the problem, subject to the acceptance by you of the additional charges for OOS to be levied, as outlined in paragraph 2 above.

5. LIMITATIONS AND EXCLUSIONS

MOI will use all reasonable endeavours to respond to calls from you for the Support Services and provide updates of status and possible remedies reasonably promptly. However, no guarantee or warranty is given of any times for response or that MOI will be able to rectify the problem within a given time-scale.

- 6.1 MOI endeavours to respond to all faults by remote means within the time-scales set out on the table below.
- 6.2 Where required and as determined by MOI as the appropriate response, a site visit will be arranged within 72 hours of a fault rated as Priority Level 1 and 120 hours for all other faults.
- 6.3 Any modification or error correction to the Software will be delivered by appropriate mechanism, including platform upgrade, executable file provided by secure FTP or email, but does not cover delivery by other means, for example by a courier. Any other such delivery can however be arranged at your cost.
- 6.4 Where you use the SaaS Services (partially or entirely):
 - a) MOI's obligation to provide the Support Services is conditional upon the proper use of the Software and SaaS Service and MOI shall be under no obligation to provide the Support Services where the faults arise from any of the following: deliberate or reckless misuse, incorrect use of or damage to the Software from whatever cause, failure to maintain the necessary environmental conditions for use of the Software; use of the Software in combination with any equipment or software not provided by MOI or not approved by MOI, or any fault in any such equipment or software; any breach of your obligations under these Terms; any modification to the Software which is not expressly authorised by MOI; or operator error.
 - b) You hereby agree that MOI has the right to implement a new version of the Software into the SaaS Services at a time to suit MOI, subject always to the provision of reasonable notice of any change. Wherever possible such notice shall be no less than 10 business days. MOI shall not be obliged to undergo any Company specific change control or other release processes, unless expressly agreed otherwise in writing.
- 6.5 Where you use on-premise Software;
 - a) MOI's obligation to provide the Support Services is conditional upon the proper use of the Software and MOI shall be under no obligation to provide the Support Services where the faults arise from any of the following: deliberate or reckless misuse, incorrect use of or damage to the Software from whatever cause, including failure or fluctuation of electrical power; failure to maintain the necessary environmental conditions for use of the Software; use of the Software in combination with any equipment or software not provided by MOI or not designated by MOI, or any fault in any such equipment or software; any breach of the Company's obligations under these Terms; any modification to the Software which is not expressly authorised by MOI; or operator error.
 - b) You hereby agree that you will be responsible for the timing of and implementation of any new version of the Software made available by MOI.

7. SERVICE AVAILABILITY

Availability for MOI SaaS Services is targeted to be 99.9%. Availability is measured on a rolling annual basis considering the total number of Downtime Minutes. Downtime Minutes exclude time that the Customers are unable to access the Service due to any of the following:

- a) System Planned Maintenance time
- b) Any systemic Internet or other third-party communication system failures
- c) Customer's own Internet service provider problems and/or bandwidth restrictions
- d) Any failure in the Customer's hardware, software or network connection
- e) Customers acts or omissions
- f) Any force majeure event

Target Response times:

Priority Level	Business Impact	Target Response	Target Fix
1	'HIGH' – where your business operations are significantly affected. The Software or major components of the Software are inoperable or not working correctly and no work-around exists.	1 business hour	Emergency Service Pack
2	'MEDIUM' – where a minor component or function of the Software is inoperable or not working correctly, or a problem exists in a major component, but a temporary work-around is available.	1 business day	Next planned release
3	'LOW' – where a problem in the Software is detected which has minimal impact on your daily business operations, or for which a permanent work-around or fix is available.	2 business days	Next planned major release
4	'NONE' – a cosmetic change is proposed, or a new feature is requested.	5 business days	Next user group review

SCHEDULE 2 – MOI SUPPLIED HARDWARE SUPPORT TERMS AND CONDITIONS (UK & IRELAND ONLY)

1. PROVISION OF SERVICES

Is defined as per Schedule 1, save that Hardware is only supported during **Standard hours of operation**.

Hardware is only supplied under three types of agreement:

- purchase with Support Services
- rental - which includes Support Services
- purchase without Support Services (whereupon paragraph 2 below shall not apply)

MOI does not support hardware under the manufacturer's warranty terms. Any Hardware subject to Support Services will be detailed on the Quote.

2. SUPPORT SERVICE

MOI shall endeavour to comply with the anticipated target response times and target fixes shown at the end of this Schedule.

Upon receipt of a support request from you, MOI shall carry out diagnosis remotely by telephone and remote access link (where remote access is available) of any fault reported in Hardware as defined in the Quote.

3. ADDITIONAL CHARGES

For all purchased Hardware with Support Services, it is supplied on a return to base arrangement.

MOI will levy additional charges for call outs, fault handling of Hardware deliberately damaged and for all repairs, acting reasonably at all times.

Additional charges attract an initial charge of £100, then £100 per hour or part of an hour plus parts and accessories.

For rental Hardware, user guidance and limited site-based support is provided, MOI at its sole discretion will determine if a site / engineer visit is required and you are required to support MOI's investigation of the fault to the fullest extent possible.

4. YOUR OBLIGATIONS

It is a condition of these Terms that you report Software and SaaS Service faults as required below:

When calling MOI Support teams:

- 4.1. You will log incidents with MOI support, by online support case form, email or by phone, giving the calls a priority, and acting reasonably, for which you will receive a call logging number or case number and this case number will be quoted on all follow up communications.
- 4.2. You will ensure that any incidents are reported to MOI in a timely manner.
- 4.3. You will provide full details of the incident including location, contact number, contact name, and description of the incident and details of the type of user device involved, as appropriate.
- 4.4. You will ensure that all communication relating to the reported incident is directed via MOI support.
- 4.5. You will test and confirm that an incident has been fixed as quickly as possible after notification by MOI to allow the incident to be closed.
- 4.6. Upon request by MOI, to make changes to the hardware as required
- 4.7. You recognise that MOI reserves a right to reprioritise the rating of the fault as MOI considers appropriate.

For those who need to call support you will ensure that:

- 4.8. You have trained one or more super-user and you will ensure that any normal day-to-day system administration requirements have been undertaken by those super users, e.g. user administration.
- 4.9. You will only allow super-users to call or email MOI support and ensure that they have made reasonable attempts to diagnose the incident to ensure it is caused by issues under the control of MOI and covered by the Services.
- 4.10. You will maintain versions of browsers, compatible hardware (e.g. mobile OS) and other technical parameters within your domain in accordance with MOI's stipulations.

5. LIMITATIONS AND EXCLUSIONS

MOI will use all reasonable endeavours to respond to calls from you for the Support Services and provide updates of status and possible remedies reasonably promptly.

- 5.1 If the Hardware is subject to installation on a site/location, MOI or its appointed engineers must have installed it or supervised directly its installation, for Support Services to be available.
- 5.2 Call outs and engineer visits cannot be guaranteed, and all calls or visits are excluded from any estimation of service availability or compliance.
- 5.3 Where required and as determined by MOI as the appropriate response, a site visit will be arranged.
- 5.4 Any replacement, modification or error correction to the Hardware that is required will need to be conducted by an authorised engineer appointed by the manufacturer.
- 5.5 You will not attempt to remedy the fault other than as directed by MOI or the manufacturers engineer (as appropriate).
- 5.6 MOI's obligation to provide the Support Services is conditional upon the proper use of the Hardware and MOI shall be under no obligation to provide the Support Services where the faults arise from any of the following:
 - a) deliberate or reckless misuse,

- b) incorrect use of or damage to the Hardware from whatever cause, including failure or fluctuation of electrical power;
- c) failure to maintain the necessary environmental conditions for use of the Hardware;
- d) use of the Hardware in combination with any equipment or software not provided by MOI or not designated by MOI,
- e) where an operator or user has tampered with the hardware, or,
- f) operator error.

Target Response times:

Priority Level	Business Impact	Target Response	Target Fix
3	'MEDIUM' – where the Hardware is operating/failing intermittently, or the fault is only affecting some users.	1 business day	5 days + supplier repair time

Hardware failure is not deemed by MOI a Priority Level 1 or Level 2.

Hardware support for Priority level 4 is not supported by Manufacturers warranty.

SCHEDULE 3 – DATA PROTECTION

INTERPRETATION

- 1.1 The following definitions apply in Schedule 3:
- **Access Requests** - requests made by a data subject to exercise any rights of data subjects under the Data Protection Legislation in relation to Personal Data.
 - **Appropriate Safeguards** - such legally enforceable mechanism(s) for transfers of Personal Data as may be permitted under the Data Protection Legislation from time to time.
 - **Controller** - has the meaning given to that term (or the term 'data controller') in the Data Protection Legislation.
 - **Data Breach** - any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Personal Data.
 - **Data Protection Legislation** - all applicable privacy and data protection laws including the General Data Protection Regulation ((EU) 2016/679) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data and the privacy of electronic communications, including the Data Protection Act 2018, Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426).
 - **data subject** - an identified or identifiable natural person.
 - **Personal Data** - any information relating to a data subject received by MOI from or on behalf of the Company in connection with the performance of MOI's obligations under these Terms.
 - **GDPR Date** - 25 May 2018 (or such other date on which the General Data Protection Regulation first has binding legal effect in the United Kingdom).
 - **Processor** - has the meaning given to that term (or the term 'data processor') in the Data Protection Legislation.
 - **Sub-Processor** - another Processor engaged by MOI for carrying out processing activities in respect of Personal Data on behalf of the Company.
- 1.2 Schedule 3 shall survive termination or expiry of these Terms and continue:
- (a) indefinitely in the case of paragraphs 1.1, 1.2 and 1.15; and
 - (b) until 12 months following the termination or expiry of these Terms in the case of all other paragraphs.

CONTROLLER AND PROCESSOR

- 1.3 You are the Controller and MOI is the Processor in respect of any Personal Data.
- 1.4 MOI shall process the Personal Data in compliance with the obligations of Processors under the Data Protection Legislation.
- 1.5 You warrant that:
- (a) you shall comply with all Data Protection Legislation in connection with the exercise and performance of your rights and obligations under these Terms;
 - (b) all Personal Data to be used in connection with these Terms, prior to such data being provided to MOI, shall comply in all respects with the Data Protection Legislation;
 - (c) all instructions given by you to MOI in respect of the Personal Data shall be in accordance with the Data Protection Legislation; and
 - (d) you are satisfied that MOI's processing operations are suitable to able MOI to process Personal Data, and MOI has sufficient expertise, reliability and resources to implement technical and organisational measures that meet the requirements of the Data Protection Legislation.

INSTRUCTIONS AND DETAILS OF PROCESSING

- 1.6 Where MOI processes Personal Data on your behalf, MOI shall:
- (a) process the Personal Data only in accordance with your documented instructions (unless required to do otherwise by the Data Protection Legislation);
 - (b) notify you if the Data Protection Legislation require MOI to process Personal Data other than in accordance with your documented instructions; and
 - (c) notify you if MOI believes that an instruction infringes the Data Protection Legislation.
- 1.7 MOI's processing of Personal Data shall consist of:
- (a) storing and applying business process rules to data including; personal contact details, financial information including bank account details, National Insurance numbers, dates of birth, next of kin, qualifications and historic employment/work records including third party references, personal preferences, cases, incidents, proof of presence, photographs, voice recordings, work history and associated employment records, tasks and duties and related payment and billing records.
 - (b) relating to your employees and representatives, employees of your subcontractors and agents, employees and representatives of your customers, candidates, victims, witnesses, suspects and offenders;

- (c) which shall be processed for the duration of these Terms and for a maximum period of 30 days thereafter in order to allow for an orderly wind-up and/or transfer and/or cessation of the relevant services; and
- (d) for the purpose of performing its obligations under these Terms.

TECHNICAL AND ORGANISATIONAL MEASURES

1.8 MOI shall implement and maintain appropriate technical and organisational measures:

- (a) in relation to the processing of Personal Data by MOI; and
- (b) as from the GDPR Date, taking into account the nature of the processing, to assist you insofar as is possible in the fulfilment of your obligations to respond to Access Requests relating to Personal Data.

USING STAFF AND OTHER PROCESSORS

1.9 MOI shall:

- (a) not engage any Sub-Processor for carrying out any processing of Personal Data without your authorisation;
- (b) appoint Sub-Processors only under a written contract containing materially the same obligations as in Schedule 2; and
- (c) as from the GDPR Date, ensure that all MOI personnel authorised to process Personal Data are subject to binding written contractual obligations to keep the Personal Data confidential (except where disclosure is required in accordance with the Data Protection Legislation).

The following service specific Sub-Processors have been authorised by you: Microsoft, Oracle Netsuite, Google, Call Credit, Experian, CIFAS, Companies House, Crafty Clicks, Adobe, eSignLive, FastSMS, Twilio, SendGrid, Gamma Telecom, VoipTalk TelAppliant, together with any third-party hosting service provider that MOI shall engage in the course of its business. The services provided by each Sub-Processor is reviewed to ensure compliance with industry best practice and a summary document describing each service is available on request.

ASSISTANCE WITH COMPANY'S COMPLIANCE AND DATA SUBJECT RIGHTS

1.10 MOI shall refer all Access Requests it receives to you without undue delay and, in any event, MOI shall endeavour to do so no later than 7 days after receipt.

1.11 As from the GDPR Date, MOI shall provide such reasonable assistance as you reasonably require (taking into account the nature of processing and the information available to MOI) to you in ensuring compliance with your obligations under Data Protection Legislation with respect to:

- (a) security of processing;
- (b) data protection impact assessments;
- (c) prior consultation with a supervisory authority regarding high-risk processing; and
- (d) notification to the supervisory authority and/or communications to data subjects by you in response to a Data Breach;

provided you shall pay MOI for providing the assistance on a time and materials basis in accordance with MOI's then-current standard daily rates.

INTERNATIONAL DATA TRANSFERS

1.12 You agree that MOI may transfer Personal Data to any country from which you or a data subject accesses the Personal Data for the purpose of making that Personal Data available to you or that data subject in accordance with these Terms, provided that all such transfers shall (to the extent required by Data Protection Legislation) be protected by way of Appropriate Safeguards and be in accordance with the Data Protection Legislation. The provisions of these Terms (including Schedule 3) shall be your documented instructions.

1.13 Subject to paragraph 1.12, MOI shall not transfer any Personal Data:

- (a) relating to a data subject resident in the United Kingdom to any country outside the United Kingdom; or
- (b) relating to a data subject resident in the European Union, but outside the United Kingdom, to any country outside the European Economic Area.

RECORDS, INFORMATION AND AUDIT

1.14 MOI shall, in accordance with Data Protection Legislation:

- (a) maintain written records of all categories of processing activities carried out on your behalf; and
- (b) make available to you such information as is reasonably necessary to demonstrate MOI's compliance with the obligations of Processors under Data Protection Legislation, and allow for and contribute to audits, including inspections, by you for this purpose, subject to you:
 - (i) giving MOI reasonable prior notice of such information request, audit and/or inspection being required by you;

- (ii) ensuring that all information obtained or generated by you in connection with such information requests, inspections and audits is kept strictly confidential (save for disclosure to the supervisory authority or as otherwise required by applicable laws);
- (iii) ensuring that such audit or inspection is undertaken during Standard hours of operation (as defined in Schedule 1) with minimal disruption to MOI's or any Sub-Processor's business; and
- (iv) paying MOI for assisting with the provision of information and allowing for and contributing to inspections and audits on a time and materials basis in accordance with MOI's then-current standard daily rates.

BREACH NOTIFICATION

1.14 In respect of any Data Breach involving Personal Data, MOI shall act reasonably at all times and promptly notify you, and provide you with details, of the Data Breach.

DELETION OR RETURN OF PERSONAL DATA

1.15 MOI shall, at your written request, either delete, securely destroy or return all the Personal Data to you in such form as you may reasonably request: within [30] days after the earlier of:

- (a) the end of the performance of the relevant services or the end of the subscription, support period or rental, whichever is sooner; or
- (b) once processing by MOI of any Personal Data is no longer required for the purposes of these Terms;

and MOI shall delete existing copies (unless storage of any data is required by applicable laws, or unless MOI is a Controller in relation to that data at the relevant time).