

MSite SaaS TERMS & CONDITIONS

1 AGREED TERMS

- 1.1 **Software as a Service (SaaS)** means the MSite application software agreed to be licensed to the Customer by the Supplier;
- 1.2 **Customer Data** means the defined data set, including personal data, that is collected, stored and managed at the request of the Customer;
- 1.3 **Equipment** means the physical hardware on which the SaaS can be deployed including but not limited to MSite Touch devices (and associated turnstiles), computers and mobile devices (which may or may not have been supplied directly by the Supplier).

2 SaaS

- 2.1 The Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit its employees (including permanent and non-permanent staff, and employees of the Customer's Affiliates), Sub-contractors of any tier (and their employees) and agents (the "**Authorised Users**") to use the SaaS and the Documentation during the Term including any updates issued by the Supplier solely for the Customer's business operations and external customer project purposes.
- 2.2 The Supplier shall provide SaaS to the Equipment and the Customer's access to a database platform system in order to upload user details, manage the Customer workforce and/or call-off reports on data relating to use of the Equipment in accordance with service levels set out in this Schedule. The Supplier shall ensure that the SaaS and platform on which the SaaS and Customer Data is hosted has the necessary and appropriate cyber security safeguards and protection in relation to security, integrity and confidentiality of any electronic data and/or information submitted by the Customer and/or uploaded and/or hosted on the platform.
- 2.3 For each Purchase Order, all Customer Data shall be available and immediately searchable via the SaaS for the duration of the Purchase Order.
- 2.4 The Supplier shall provide an on-line data archive and retrieval service during, and for a period of up to 12 (twelve) months after the end of, the applicable Purchase Order Term at no additional cost to the Customer.
- 2.5 The Supplier shall provide an off-line data archive and retrieval service during the period of between 12 (twelve) and 24 (twenty four) months after the end of the applicable Purchase Order in such format as agreed in writing by the Parties and with a one week response provision for any off-line data requests at no additional cost to the Customer. Any off-line data archive and retrieval service thereafter is subject to separate written agreement by the Parties (including as to the reasonable charges payable in respect thereof) and will be in a format that is readily available.
- 2.6 The Supplier shall make the SaaS available 24 (twenty-four) hours a day, seven days a week and will use reasonable efforts to achieve a Quarterly Uptime Percentage of at least 99%. If Supplier does not meet the SLA, and so long as Customer's account is current with Supplier, Customer will be eligible to receive the credits described below. These credits are Customer's exclusive remedy for any failure by Supplier to meet the SLA. Supplier and Customer hereby agree as follows:
 - 2.6.1 "Downtime" means the time in which the SaaS are not capable of being accessed or used by the Customer, as monitored by Supplier.
 - 2.6.2 Unavailability will be calculated in minutes. Unavailability shall be calculated by subtracting from 100% the percentage of minutes during the month in which the SAAS Services were recorded as unavailable by the hosting provider.

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2.7 The following are excluded as Downtime for the purpose of calculating Quarterly Uptime Percentage:

2.7.1 Service unavailability caused by planned / unscheduled / urgent unscheduled maintenance of the SaaS; or

2.7.2 Service unavailability caused by events outside of the direct control of Supplier, including any force majeure event, the failure or unavailability of Customer's systems, the Internet, and the failure of any other technology or Equipment used to connect to or access the service.

2.8 Supplier may deliver planned / unscheduled / urgent unscheduled maintenance during the Term, and will conform to the below requirements:

2.8.1 Planned maintenance will only be carried out during the maintenance window of 7pm – 2am and the Supplier has used reasonable endeavours to give the Customer at least 14 (fourteen) working days' notice in advance;

2.8.2 Unscheduled maintenance shall be performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 48 (forty-eight) hours' notice in advance;

2.8.3 Urgent Unscheduled maintenance which is required due to unforeseen circumstances will be performed immediately but only after the Supplier has used reasonable endeavours to give the Customer one hours' notice in advance.

2.9 If availability falls below the Uptime Service Level in a given calendar quarter commencing on the third month of the Initial Term (a "Service Delivery Failure"), the supplier will credit Customer's account the amount calculated by the following metrics:

Quarterly Cumulative Downtime (Minutes)	Service Credits (% of Quarterly fee)
120 - 180	2.5%
180 – 360	5%
360 – 540	10%
540 – 720	25%
720 - 900	55%
900 +	75%

3 CUSTOMER DATA

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

3.2 The Supplier shall follow its archiving procedures for Customer Data as set out in its Back-up Policy/Disaster Recovery Policy. This document may be amended by the Supplier at its sole discretion from time to time provided that no amendment will lead to a lower standard being applied to the provision of the SaaS than is currently provided in the Back-up Policy/Disaster Recovery Policy.

4 SUPPLIER'S OBLIGATIONS

4.1 The Supplier warrants and represents to the Customer on an ongoing basis that:

4.1.1 it will perform the SaaS and any updates with reasonable care and skill and in accordance with generally recognised commercial practices and standards in the industry for similar services;

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- 4.1.2 the SaaS and any updates will conform with all descriptions and specifications provided to the Customer by the Supplier, including the provisions of the SaaS Specification;
 - 4.1.3 the SaaS, any updates and any Deliverables will be provided in accordance with all Applicable Laws;
 - 4.1.4 the SaaS and any updates will be performed in such a way as not to cause any fault or malfunction in any systems or software of the Customer and so as not to cause any interruption to the business processes of the Customer (other than any agreed and unavoidable interruption which is required in order to perform the SaaS and any updates in accordance with this Agreement);
 - 4.1.5 it will not introduce any Viruses onto the Customer's systems through the SaaS;
 - 4.1.6 it has the right to license the SaaS to the Customer pursuant to and in accordance with the terms of this Agreement;
 - 4.1.7 it has put in place the necessary measures to comply with the Back-up Policy/ Disaster Recovery Policy and shall comply with the Back-up Policy/ Disaster Recovery Policy for Purchase Order term;
 - 4.1.8 it has obtained and will maintain for the duration of this Agreement all permissions, licences and consents necessary to perform and provide the SaaS; and
 - 4.1.9 if any software is being provided to the Customer as part of the SaaS, that:
 - 4.1.9.1 the software and the media on which it is delivered will be free from Viruses;
 - 4.1.9.2 the media on which such software is delivered will be free from defects;
- 4.2 If the SaaS does not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance as soon as reasonably possible.
- 4.3 Any updates shall be delivered in the same manner and on the same terms as the SaaS unless otherwise agreed between the parties.

5 CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

- 4.1.1 provide the Supplier with all reasonably necessary information and co-operation in relation to this Agreement in order to provide the SaaS, including but not limited to Customer Data, security access information and configuration services; and
- 4.1.2 ensure that the Authorised Users use the SaaS and the Documentation in accordance with the terms and conditions of this Agreement;

5. PROPRIETARY RIGHTS

- 5.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all Intellectual Property Rights in the SaaS and the Documentation.

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- 5.2 Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other Intellectual Property Rights or other rights or licences in respect of the SaaS or the Documentation.
- 5.3 The Supplier confirms that it has all the rights in relation to the SaaS and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

END OF DOCUMENT