

SPECIAL TERMS – SAAS SERVICES

These Special Terms – SaaS Services apply to the MSA between the Customer and the Company where SaaS Services are purchased. These Special Terms – SaaS Services apply in addition to the terms of the MSA in relation to the SaaS Services only.

1. Definitions

1.1 All terms in capitals used herein shall have the meaning given to them below unless defined otherwise in the main terms of the MSA.

“Bug”	means an unwanted or unintended property of the Solution that can be reproduced and causes the Solution to malfunction but does not affect the availability of the Solution;
“Current Version”	means the Version of the Solution available to the Customer on the Commencement Date or subsequently any new Version which replaces it during the Term of the MSA;
“Documentation”	means the training materials and user manuals relating to the use of the Solution or Services, as well as any additional documentation that the Company specifically creates for the Customer or otherwise provides to assist in the correction of any issue with the Solution or Services;
“Emergency Maintenance”	means maintenance, Upgrades, Updates, repairs to hardware and software related to resolving immediate problems causing instability in the Solution;
“Feedback”	means feedback, innovations or suggestions created by a Customer or Authorised Users regarding the attributes, performance or features of the Solution or Services;
“Functional Description”	means the description of the SaaS Services set out in the Order Form;
“Illegal Content”	means any data or content which is defamatory, or constitutes a breach of the IPR or legal rights of any third party;
“Incident”	means a malfunction of the Solution which can be reproduced, is not a Bug and whose root cause is found in the hosting service, network, hardware or third party software components;
“Initial Term”	means the initial term set out in each Order Form for the SaaS Services;
“Planned Maintenance”	means maintenance, Upgrades, Updates, installation of new Releases or Versions and repairs which are non-critical and not urgent, to hardware and software;
“Release”	means an Upgrade to the functionality of the Solution which results in a change in the Release number;
“Renewal Term”	means the renewal term set out in each Order Form for the SaaS Services;
“Services”	means the hosting, maintenance and support services set out in the SLA;
“Solution”	means the software application described in more detail in the Functional Description;
“Statistical Data”	means aggregated, anonymised data derived from a Customer or Authorised User using the Solution or Services which does not include any personal data or their Confidential Information;
“Term”	means the term set out in each Order Form for the provision of the SaaS Services;
“Travel Fees”	means all reasonable costs associated with any travel and subsistence expenses incurred by the Company (or its employees, permitted subcontractors or agents) in performing its obligations under the MSA;

“Update”	means any new or updated applications services or tools (including any software programmes) made available by the Company to correct a Bug(s) in the Solution or Services during the Term of the MSA;
“Upgrade”	means any new or updated applications services or tools (including any software programmes) made available by the Company to improve the functionality of the Solution or Services during the Term of the MSA;
“Version”	means an Update of the Solution which results in a change in the Version number.

2 Services and Solution

- 2.1 The Customer engages the Company and the Company agrees to provide the Solution, Services and Documentation to the Customer in accordance with the terms of the MSA from the Commencement Date for the Term of the MSA.
- 2.2 The Company shall use all reasonable endeavours to meet any provisioning dates for providing the Solution and Services, but any dates shall be estimates only and time shall not be of the essence for the provision of the Solution and Services.
- 2.3 The Company shall have the right to make any changes to the Solution and Services which are necessary to comply with any applicable law, regulation or safety requirement, or which do not materially affect the nature or quality of the Solution and the Services, and the Company shall notify the Customer in any such event.

3 Licence to use the Solution and Services

- 3.1 Subject to the payment of the Fees, the Customer is granted a non-exclusive, non-transferable licence to permit the Customer and Authorised Users to use the Solution and Services (including any associated IPR and Confidential Information of the Company) from the Commencement Date for the Term of the MSA for their business operations. Such licence permits the Customer to make copies of software or other information necessary for the Customer to receive the Solution and Services via the Internet. Where open source or third party software is used as part of the Services, such software use by the Customer will be subject to the terms of the open source or third party licences. No additional implied rights are granted beyond those specifically mentioned in this clause 3.1.
- 3.2 Notwithstanding the Customer’s statutory rights, no right to modify, adapt, or translate the Solution or Services or create derivative works from the Solution or Services is granted to the Customer.
- 3.3 Nothing in the MSA shall be construed to mean, by inference or otherwise, that the Customer has any right to obtain source code for the software comprised within the Solution or Services. Disassembly, decompilation or reverse engineering and other source code derivation of the software comprised within the Solution or Services is prohibited. To the extent that the Customer is granted the right by law to decompile such software in order to obtain information necessary to render the Solution or Services interoperable with other software the Company will provide access to any relevant source code or information provided that the Customer makes a written request identifying the relevant details of the Solution or Services with which operability is sought and the nature of the information needed. The Company has the right to impose reasonable conditions including but not limited to the imposition of a reasonable fee for providing such access and information.
- 3.4 Unless otherwise specified in the MSA, the Solution and Services are provided and may only be used in conjunction with:
 - 3.4.1. Existing systems and applications in order to facilitate communications between Authorised Users and emergency services;
 - 3.4.2. Providing access to the Solution and Services solely to Authorised Users; and
 - 3.4.3. Accessing and using the Documentation as necessary to enable use of the Solution and Services.
- 3.5 The Customer may not:
 - 3.5.1. Lease, loan, resell, assign, licence, distribute or otherwise permit access to the Solution and Services; or

- 3.5.2. Use the Solution or Services to provide ancillary services related to the Solution or Services; or
- 3.5.3. Permit access to or use of the Solution or Services by or on behalf of any third party; except as permitted in the MSA.
- 3.6 The Company reserves the right to electronically monitor the use of the Solution and Services.

4 Intellectual Property Rights

- 4.1 All IPR and title to the Solution, Services and Documentation (save to the extent these incorporate any Customer Data, non-Company IPR or third party owned item) shall remain with the Company and/or its licensors and subcontractors. No interest or ownership in the Solution, Services, Documentation, IPR or otherwise is transferred to the Customer under the MSA.
- 4.2 The Customer shall retain sole ownership of all rights, title and interest in and to Customer Data and its pre-existing IPR and shall have the sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data. The Customer grants the Company a non-exclusive, licence to use Customer Data, its IPR and any third party owned item from the Commencement Date for the Term of each Order Form to the extent required for the provision of the Solution and Services.
- 4.3 The Customer is not allowed to remove any proprietary marks or copyright notices from the Solution or Services.
- 4.4 The Customer grants the Company a non-exclusive, non-transferable, revocable licence to display its name, logo and trademarks, as designated and/or amended by the Customer from time to time and as required in the creation of correspondence, documentation and website front ends in the provision of the Solution and Services.
- 4.5 The Customer assigns all rights, title and interest in any Feedback to the Company. If for any reason such assignment is ineffective, the Customer shall grant the Company a non-exclusive, perpetual, irrevocable, royalty free, worldwide right and licence to use, reproduce, disclose, sublicense, distribute, modify and exploit such Feedback without restriction.
- 4.6 The Customer grants the Company the perpetual right to use Statistical Data and nothing in the MSA shall be construed as prohibiting the Company from using the Statistical Data for business and/or operating purposes, provided that the Company does not share with any third party Statistical Data which reveals the identity of the Customer or Authorised Users, or their Confidential Information.
- 4.7 The Company may take and maintain technical precautions to protect the Solution and Services from improper or unauthorised use, distribution or copying.

5 Term and Termination

- 5.1 The licence to access and use the Solution and Services shall commence on the Effective Date set out in each Order Form for the SaaS Services and continue for the duration of the Initial Term set out in the Order Form for the SaaS Services. On expiry of the Initial Term, each licence will automatically renew for successive Renewal Terms as set out in the Order Form and continue until either party terminates the licence by giving the other at least 60 days notice at any time.
- 5.2 The Customer may terminate any licence under an Order Form, without cause, during the Initial Term of an Order Form, but shall remain liable to pay all Fees for the remainder of the original Initial Term. Such termination shall be effective upon expiry of the Initial Term. If the Solution and Services are used after termination, the Customer shall be charged re-deployment fees and monthly subscription fees for a minimum of 3 months in addition.
- 5.3 In addition to any other right of termination, the Company may terminate the licence to use or access the Solution and Services or the provision of any Services with immediate effect if:
 - 5.3.1 The Customer has used or permitted use of the Solution and Services other than in accordance with these Special Terms – SaaS Services; or
 - 5.3.2 The Company is prohibited under applicable law, or otherwise from providing the Solution or Services.
- 5.4 Upon termination of the MSA, the Company shall:

- 5.4.1 Cease providing the Solution and Services to the Customer;
- 5.4.2 At the option of the Customer, following receipt of a request from the Customer delete (in accordance with the terms of the DPA) or return all Customer Data stored in the Company's database in its then current format, free of charge, provided that such request is made within 30 days of termination. If the Customer requires any Customer Data to be returned in a different format the Company reserves the right to charge for this additional service on a Time and Materials Basis.

6 Fees and Invoicing

- 6.1 The Company shall invoice the Customer the Fees set out in the Order Form for the provision of the Solution and Services.
- 6.2 All Fees shall be invoiced as set out in the Order Form.
- 6.3 Travel Fees, incidental costs and other expenses shall be invoiced in addition to the Fees in arrears, as and when they arise.

7 Payment Terms

- 7.1 The Customer shall pay the Company the Fees for the provision of the Solution and Services under the MSA as set out in each Order Form.

8 Representations and Warranties

- 8.1 The Company warrants and represents that:
 - 8.1.1 It has the right to licence the Solution and Services;
 - 8.1.2 The Services shall be performed with reasonable skill and care and in a professional manner in accordance with good industry practice and that the Services will be provided in accordance with the SLA;
 - 8.1.3 The Solution will operate to provide in all material respects the facilities and functions implemented by the Company as set out in the Functional Description. If there is a breach of this warranty, the Company shall use reasonable commercial endeavours, to correct any material defect or to replace the defective Solution. Notwithstanding the aforesaid, the Company shall only be obliged to remedy any material defect if: (i) the Company is notified immediately in writing upon discovery of the defect; and (ii) following the Company's examination of the Solution, it is established that such a defect exists.
- 8.2 The warranties given in clause 8.1 do not cover deficiencies or damages relating to:
 - 8.2.1 Any third party components not provided by the Company; or
 - 8.2.2 Any third party provided connectivity necessary for the provision or use of the Solution and Services; or
 - 8.2.3 Compliance with third party software or products, non-Company programmes or data used in combination with the Solution or Services except as agreed in writing with the Company; or
 - 8.2.4 A failure of the Solution to conform with the Functional Description caused by the use or operation of the Solution with an application or in an environment other than that set out in the MSA; or
 - 8.2.5 Modifications made to the Solution not carried out by the Company.
- 8.3 No warranty is made regarding the results that can be achieved from using the Solution and Services or that the Solution and Services will operate uninterrupted or error free.
- 8.4 The Customer warrants and represents that:
 - 8.4.1 It rightfully owns the necessary user rights, copyrights and ancillary copyrights and permits required for it to fulfil its obligations under the MSA;
 - 8.4.2 The Customer and Authorised Users shall maintain reasonable security measures (as may change over time) covering, without limitation, confidentiality, authenticity and integrity to ensure that the access to the Solution and Services granted under the MSA is limited as set out under the MSA. In particular the Customer and Authorised Users shall

treat any identification, password or username or other security device for use of the Solution and Services with due diligence and care and take all necessary steps to ensure that they are kept confidential, secure and are used properly and are not disclosed to unauthorised persons. Any breach of the above shall be immediately notified to the Company in writing. The Customer shall be liable for any breach of the MSA by an Authorised User;

8.4.3 The Customer shall ensure that their networks and systems comply with the relevant specifications provided by the Company from time to time and that they are solely responsible for procuring and maintaining their network connections and telecommunications links from their systems to the Company's data centres and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the Internet.

8.5 All third party content or information provided by the Company via the Solution or Services, for example prices is provided "as is". The Company provides no warranties in relation to such content or information and shall have no liability whatsoever for use or reliance upon such content or information.

9 Liability

9.1 The Customer shall be liable for any breaches of the MSA caused by the acts, omissions or negligence of any Authorised User who access the Services and Solutions as if such acts, omissions or negligence had been committed by the Customer itself.

10 Indemnities

10.1 The Company shall at its own expense, defend or at its own option settle any claim brought against the Customer by a third party on the basis of an infringement of any IPR by the Solution or Services (excluding any claim deriving from any Customer or Authorised User provided item) and pay any final judgment entered against the Customer on such issue or any settlement thereof, provided that:

10.1.1 The Company is promptly notified of each such claim;

10.1.2 The Company is given sole control of the defence and/or settlement; and

10.1.3 The Customer fully co-operates and provides all reasonable assistance to the Company in the defence or settlement.

10.2 If all or part of the Solution or Services becomes, or in the opinion of the Company may become, the subject of a claim or suit of infringement, the Company shall at its own expense and sole discretion:

10.2.1 Procure for the Customer the right to continue to use the Solution or Service or the affected part thereof;

10.2.2 Replace the Solution or Service or affected part with another suitable non-infringing service or software;

10.2.3 Modify the Solution or Services or affected part to make the same non-infringing.

10.3 The Company shall have no obligations under clauses 10.1 and 10.2 above to the extent that a claim is based on:

10.3.1 A modification of the Solution or Services by anyone other than the Company;

10.3.2 The combination, operation or use of the Solution or Services with other services or software not provided by the Company if such infringement would have been avoided in the absence of such combination, operation or use; or

10.3.3 The use of the Solution or Services in any manner inconsistent with the MSA; or

10.3.4 The negligence or wilful misconduct of the Customer.

10.4 Clauses 10.1 to 10.3 state sole and exclusive rights and remedies of the Customer and the Company's entire obligations and liability for any claims made under these clauses.

- 10.5 The Customer shall defend, indemnify and hold the Company and its employees, sub-contractors or agents harmless from and against any costs, losses, liabilities and expenses, including reasonable legal costs arising from any claim relating to or resulting directly or indirectly from:
- 10.5.1 Any claimed infringement or breach by a Customer or Authorised User of any IPR with respect to use of the Solution or Services outside of the scope of the MSA; or
 - 10.5.2 Use by the Company of any Customer Data or a Customer or Authorised User provided item, in particular storage or publication on the Internet of any Illegal Content; or
 - 10.5.3 Any access to or use of the Solution or Services by an Authorised User or a third party;
 - 10.5.4 Breaches of data protection law or regulations or the terms of the DPA by a Customer or Authorised User; and
 - 10.5.5 Any breach of the terms of the MSA by an Authorised User;

and the Company shall be entitled to take reasonable measures in order to prevent Illegal Content from being published on the Internet or breaches of third party rights from continuing.

- 10.6 Subject to clauses 10.1 to 10.5 inclusive, each party (“**the first party**”) indemnifies and undertakes to keep indemnified the other party, its officers, servants and agents (“**the second party**”) against any costs or expenses (including the cost of any settlement) arising out of any claim, action, proceedings or demand that may be brought, made or prosecuted against the second party under any indemnity contained in clause 10. Such indemnity extends to and includes all costs, damages and expenses (including legal fees and expenses) reasonably incurred by the second party in defending any such action, proceeding claim or demands.

11 Security

- 11.1 The Company shall permit the Customer to specify which Authorised Users may access the Services and Solution through its standard application security options.
- 11.2 The Customer and Authorised Users must ensure that each password is only used by the user to which it has been assigned. The Customer is responsible for any and all activities that occur under the Customer’s account and via the Customer’s passwords. The Customer will immediately notify the Company if the Customer becomes aware of any unauthorised use of its account or passwords or breach of security. The Company shall have no liability for any loss or damage arising from the Customer’s failure to comply with these requirements.
- 11.3 The Company may suspend access to the Solution and Services, or portion thereof, at any time, if in the Company’s sole reasonable discretion, the integrity or security of the Services or Solution is in danger of being compromised by acts of a Customer or Authorised Users. The Company shall where possible give the Customer 24 hours written notice, before suspending access to the Services and Solution, giving specific details of its reasons.

12 Contacts

- 12.1 The Customer shall provide a designated application support contact who will be responsible for and have sufficient information to respond to support questions.
- 12.2 The Customer shall provide a designated billing contact with all relevant contact information to respond to billing and payment questions regarding the SaaS Services.

13 Miscellaneous

- 13.1 In the event of any inconsistency between the content of these Special Terms – SaaS Services and the remainder of the terms of the MSA, the terms of the Order Form shall prevail followed by these Special Terms – SaaS Services in relation to the SaaS Services, followed by the main terms of the MSA and then the appendices.