

Sapienza Consulting Limited Schedule to Master Services Agreement ("Service Terms")

Last updated: 12 June 2019

1 APPLICATION

1.1 These Service Terms contain the terms and conditions relating to

- (a) the licensing terms for the Software; and
- (b) specific Services to be provided by Sapienza Consulting Limited to the Customer for the Software.

These Service Terms are supplementary to the Master Services Agreement ("**Conditions**"). In these Service Terms the definitions in Definitions Schedule are used. These Service Terms shall apply to the extent that the relevant Services have been selected and agreed to be provided pursuant to a Contract. Where specifically agreed in a Contract:

- 1.2 Basic Support shall be provided in accordance with Part A of the Service Terms;
- 1.3 Enhanced Support shall be provided in accordance with Part B of the Service Terms; and
- 1.4 Consultancy and Training shall be provided in accordance with Part C of the Service Terms;
- 1.5 The Services shall be provided in relation to the Software selected and identified in the Contract, such services and software being "Services" and "Software" under the Contract.
- 1.6 Any items not specifically selected and identified as Software are excluded from the scope of the Contract, including without limitation any other software, hardware, middleware or other systems on which the Software (or any part of it) is hosted.
- 1.7 In the event of any conflict between these Service Terms and the Conditions, the Conditions shall prevail.

2 LICENCE TERMS

2.1 In consideration of the annual Licence Fee paid by the Customer to the Company, the Company grants the Customer **one or more** of the following licences as specified in the Order Form:

- (a) a Corporate Licence; or
- (b) an Instance Licence;

subject to the applicable terms for such licence set out below in Part X or Y of this paragraph 2.

PART X – CORPORATE LICENCE TERMS

2.2 The Company grants to the Customer a non-exclusive, non-transferable, revocable licence to use the Software only for the Customer's internal business purposes and for the number of permitted Users and modules specified in the Order Form, and provided that the Software is installed on servers/virtual machines owned or controlled exclusively by the Customer at its sites or hosted and managed by a third party on behalf of the Customer for use only for the purposes of the

Customer, subject at all times to the conditions set out in paragraph 2.3 below (the "**Corporate Licence**") for the Period.

2.3 The Corporate Licence is subject to the following conditions:

- (a) a licence of the Software is only for those separate modules of that Software, as detailed in (and subject to the terms and conditions set out in) the Proposal and the Contract (including the Order Form), for which the required number of single instances granting a Corporate Licence (which grant unlimited instances to be deployed by the Customer) actualises and a separate annual Corporate Licence Fee is payable for each module;
- (b) the Software may only be used in executable machine readable code form to run the Software for the purpose of processing the Customer's Data for its internal business use only;
- (c) the Customer shall ensure that the number of persons using the Software does not exceed the number of permitted Users in the Order Form regardless of whether any copies of the Software are made in accordance with the terms of the Customer's licence;
- (d) the Customer may not use the Software other than as specified in this Contract without the prior written consent of the Company, and the Customer acknowledges that additional fees may be payable on any change of use approved by the Company;
- (e) the Customer may make two (2) backup copies of the Software as may be necessary for its lawful use in accordance with the terms of the Customer's licence;
- (f) the Customer is entitled to make and install further copies of the Software on servers/virtual machines located only at the sites where such servers/virtual machines are owned or controlled exclusively by the Customer for the purposes of the Customer in accordance with the Contract (including the Order Form);
- (g) the Customer may appoint a (sub)contractor to:
 - (i) make two (2) further back-up copies of the Software as may be necessary for its use in accordance with these Service Terms;
 - (ii) make and install further copies of the Software on its servers/virtual machines as required by the Customer for use only for the purposes of the Customer in accordance with the Contract (including the Order Form);
 - (iii) host and manage the Software on the subcontractor's servers/virtual machines for use only for the purposes of the Customer in accordance with the terms of the Customer's licence;provided that the Customer remains fully responsible for any breach by such (sub)contractor and that the (sub)contractor:
 - (iv) enters into and complies with a duly binding written agreement containing a revocable, non-transferable and non-exclusive sub-licence to perform the duties contained in this paragraph 2.3(g); and
 - (v) expressly agrees that it shall not use the Software for any other purpose;

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- (h) the Customer shall record the number and location of all copies of the Software and shall provide such details to the Company promptly after any such copies have been made and shall take all necessary steps to prevent unauthorised copying of the Software;
- (i) the Customer's right to use the Software is personal and does not extend to any other legal entity, including any of the Customer's Affiliates (except as expressly allowed for at paragraph 2.3(g) of these Service Terms);
- (j) except as expressly stated in this paragraph 2.3, the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part:
 - (i) where any reduction of the Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Customer, this action is permitted; provided that
 - (ii) the Customer shall not be entitled to carry out acts under paragraph 2.3(j)(i) where the Company is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Company to carry out such action or to provide such information (and shall meet the Company's reasonable costs in providing that information) and shall allow Company a reasonable time in which to respond to such request before undertaking any such reduction;
- (k) the Customer, its Associates, service providers, suppliers and users may not use any such information provided by the Company or obtained by the Customer during any such reduction permitted under paragraph 2.3(j) above to create any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it;
- (l) except as expressly stated in this paragraph 2.3 the Customer shall not:
 - (i) sub-license, assign, novate or otherwise deal with the benefit or burden of this licence in whole or in part or use the Software to provide software-as-a-service to any party;
 - (ii) allow the Software to become the subject of any charge, lien or encumbrance; without the prior written consent of the Company;
- (m) the Customer shall comply with its obligations in paragraph 3.9; and
- (n) the Customer shall at all times remain liable for and shall indemnify the Company and hold the Company harmless for the acts or omissions of its (sub)contractors in breach or contrary to the requirements of this paragraph 2.3.

2.4 The Customer shall:

- (a) ensure that it has in place the Hardware and Software Platform at all times;

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- (b) keep a complete and accurate record of the Customer's copying and disclosure of the Software and its users, and produce such record to the Company on request from time to time;
 - (c) notify the Supplier as soon as it becomes aware of any unauthorised use of the Software by any person and/or for any purpose outside the permitted scope of use;
 - (d) pay, for broadening the scope of the licences granted under this Contract to cover the unauthorised use, an amount equal to the fees which the Company would have levied (in accordance with its normal commercial terms then current) had it licensed any such unauthorised use on the date when such use commenced together with interest at the rate provided for in clause 3.7 of the Master Services Agreement, from such date to the date of payment.
- 2.5 The Customer shall permit the Company to inspect and have access to any premises (and to the computer equipment located there) at or on which the Software is being kept or used or has at any time been installed and have access to any records kept in connection with the Contract, for the purposes of ensuring that the Customer is complying with the terms of this Contract, provided that such inspections shall take place at reasonable times and the Company shall ensure that any of its representatives who undertake any such inspection are bound by confidentiality undertakings which it considers appropriate.

PART Y - INSTANCE LICENCE TERMS

- 2.6 The Company grants to the Customer a non-exclusive, non-transferable, revocable licence to use the Software for the Customer's internal business purposes at any site only subject at all times to the conditions set out in paragraphs 2.3, 2.4 and 2.5 but subject also to the exception in paragraph 2.7 below (the "**Instance Licence**") for the Period.
- 2.7 Paragraphs 2.3(f) and 2.3(g)(ii) do not apply to the Instance Licence. The Company reserves the right to restrict or terminate the use of an Instance Licence where the Customer aggregates other sites, business units or organisational structures in a single Instance Licence in case such aggregation will result in degraded software performance and in an excessive number of users or will add unmanageable service complexity as determined by the Company at its sole discretion.

3 SERVICES

PART A - BASIC SUPPORT TERMS

- 3.1 The Company shall provide the Customer with the following basic support services in relation to the Software ("**Basic Support**"):
- 3.2 **E-mail Support and Tracking System**
- (a) If the Customer believes that the Current Release fails to conform to any part of the Specification then the Customer (by acting through the Customer's Representative or any other individuals authorised by the Customer) shall notify the Company by e-mail or login into the designated tracking system of the defect, error or non-compliance ("Support Issue") in question and provide the Company with a documented example of such Support Issue. Such support shall be available in accordance with the remainder of paragraph 3 of this Part A below.

- (b) The Company shall thereupon investigate the Support Issue and thereafter use its reasonable endeavours to correct such Support Issue (where it in its absolute discretion believes correction is necessary). Attempts to resolve the Support Issue shall be provided e-mail support, or remote access connectivity at the sole discretion of the Company.
- (c) The Company shall determine if the Support Issue is Major based on how substantially it hinders or prevents the Customer from using a material part of the functionality of the Software and the number of Users affected ("Major Support Issue"). The Company shall respond to a notice of a Support Issue deemed Major during the Business Day following receipt of such notice.
- (d) If, for any reason, the Company has not in its reasonable opinion been able to rectify the Support Issue, it shall notify the Customer. Where the Support Issue is deemed Major and it continues for more than forty (40) Business Days, the Customer or the Company shall be entitled to terminate this Agreement with immediate effect by giving written notice to the other.

3.3 Availability

Where the Customer wishes to notify the Company in accordance with paragraph 3.2(a) it shall contact the Company E-Mail or Tracking System of the Support Centre. This will be available during Business Hours which are for the purposes of this Agreement the hours between 8.30 a.m. and 5.30 p.m. CET on a Business Day.

3.4 How to notify the Company Support Centre

E-mail to the Company Support Address (or login and report in the prescribed tracking system) and a support consultant will contact the Customer. The Company E-mail Support Address is: Eclipse-support@sapienzaconsulting.com. Upon signature of this Agreement a dedicated Company hosted Ticketing System shall be provided for the Customer submissions.

A reference number will automatically be allocated to the message for tracking purposes.

3.5 Supplying Information

- (a) When notifying the Company Support Centre by e-mail or via the designated tracking system, the Customer must prepare a succinct description of the problem which accurately describes the problem to the Company.
- (b) If the Company's support representative does not understand the problem the Customer's Representative will become involved. If the Customer's Representative is involved and the Company's support representative still does not adequately understand the problem the Customer will re-assess the problem and having carried out a further investigation prepare a new description of it. The Company shall ensure that its support representatives are reasonably skilled and trained to provide helpdesk services.
- (c) It is the Customer's responsibility to provide the following information when notifying the Company Support Centre:
 - (i) The relevant background of the issue or problem to be reported;
 - (ii) An exact and accurate description of the issue or problem being reported;

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- (iii) What the particular user was doing at the time the issue or problem arose;
- (iv) How the issue or problem was identified;
- (v) What affect the issue or problem is having on the Customer;
- (vi) Symptoms of the issue or problem;
- (vii) Details of any message or warnings displayed on screen.

3.6 The foregoing error correction service shall not include the provision of Basic Support in respect of:

- (a) defects or errors resulting from any modifications of the Software or Software Documentation made by any person other than the Company without the Company's prior written consent;
- (b) any release of the Software other than the Current Release or any use of the Software without application of all published Patches;
- (c) use of the Software or Software Documentation other than strictly in accordance with the Software Documentation or defects or errors due to operator error;
- (d) a situation where such a defect or error can be avoided by consideration of all information contained in the Software Documentation, even if such consideration depends on the interpretation of such information;
- (e) any defect or error in the Hardware and Software Platform, the Environment or in any programs used in conjunction with the Software;
- (f) defects or errors caused by the use of the Software on or with equipment other than the Hardware and Software Platform recommended;
- (g) defects or errors caused by the use of the Software in an environment other than the Environment;
- (h) defects or errors caused by the malicious or negligent activities of the Customer, its employees, agents, or subcontractors or any other third parties;
- (i) defects or errors in any way related to the Customer not affording the Company proper access to the Software via remote access or for on-site assistance or otherwise or where the defect or error is caused in any way by the Customer not being contactable or not following instructions correctly whether given by telephone, email, fax or otherwise or caused by or related to any breach by the Customer of its obligations under this Contract (including but not limited to its obligations pursuant to clause 8 of the Master Services Agreement and paragraph 3.9 of the Service Terms);
- (j) a situation where the Customer ceases for whatever reason to have the legal right to use the Software;
- (k) defects or errors caused by a Force Majeure Event.

3.7 Nothing in this Contract shall impose any obligation on the Company to provide Basic Support in respect of any defect, error or circumstance arising due to any of the exclusions referred to

in paragraph 3.6. Basic Support shall not under any circumstances include any hardware, electrical or other environmental work. No guarantee is given that any fault can be remedied within a specific timescale.

3.8 Releases

- (a) The Company may deliver to the Customer a Release of the Software which the Company shall from time to time make generally available to its licensees and the Customer shall use such new Release promptly and in any event within 90 Business Days. Once accepted, such Release shall become the Current Release and the Customer shall have no right to use the previous Release.
- (b) In reasonable time (two (2) weeks target) prior to the delivery of a new Release the Company shall endeavour to make available to the Customer all amendments to the Specification and the Software Documentation which are necessary to describe the operability and the facilities and functions of the new Release.
- (c) All Releases within the expected evolution of the Software, including Major Releases, shall be included as part of the Basic Support, subject to the payment of the Charges. For the avoidance of doubt, the Company has absolute discretion to determine how the Software evolves and whether or not to issue a Major Release. If requested by the Customer, the Company may provide installation and training for Releases. Any such request (unless such request is covered by an agreed Contract for Enhanced Support) shall be the subject of a separate Contract for Consultancy and Training as set out in the Order Form and provided in accordance with the Conditions and Part C of the Service Terms on a consultancy time and materials basis (or as otherwise may be defined in this Contract). The Customer shall use all reasonable efforts to ensure that such installation and training can take place within 30 days of delivery by the Company of a new Release.
- (d) Within three (3) weeks of the Customer receiving the new Release the Customer shall test the new Release and shall notify the Company of any non-compliance of the new Release with the amended Specification as delivered to the Customer pursuant to paragraph 3.8(b). On receipt of such notification, the Company shall verify the non-compliance and, where it in its sole discretion determines such non-compliance exists, it shall correct the non-compliance and re-deliver the new Release for retesting by the Customer.
- (e) If within three (3) weeks after any delivery or redelivery of such new Release no notification of non-compliance is received by the Company then the Customer shall be deemed to have accepted the new Release which shall then become the Current Release.
- (f) Upon acceptance of the new Release, the Customer shall return to the Company if required by the Company the previous Current Release and any part of the Software Documentation which has been superseded and all copies of the whole or any part thereof, or, if required by the Company, shall destroy the same and certify in writing to the Company that they have been destroyed and that the Customer has complied with this paragraph 3.8(f).

- (g) The Company shall not be relieved of its obligations to support the Current Release until delivery or deemed delivery of the new Release in accordance with paragraph 3.8(e) of these Service Terms.
- (h) The Customer may notify the Company of a Support Issue in the Software, in which case the Company shall verify such Support Issue. The Company shall in its sole discretion determine whether to issue a Patch for any Support Issue notified to it by the Customer or as otherwise may be identified by the Company. If the Company create such a Patch they will offer it to the Customer for use with the Software. All Patches must be applied to the Software within 30 days of notice by the Company of such Patch.

3.9 **Customer Obligations**

During the continuance of this Agreement the Customer shall:

- (i) use only the Current Release and Patches strictly in accordance with paragraph 3.8 above;
- (j) ensure that the Software and the Hardware and Software Platform or programs used with the Software are used only in accordance with the Software Documentation and by competent trained employees only or by persons under their supervision;
- (k) make as many back-up copies of the Customer's databases and computer records as may be necessary in accordance with best computing practice and as regularly and fully as the Customer deems necessary for its business practices;
- (l) not alter or modify the Software or the Software Documentation in any way whatever nor permit the Software to be combined with any other programs;
- (m) co-operate fully with the Company's personnel in the diagnosis of any error or defect in the Software or the Software Documentation;
- (n) provide continuous and uninterrupted remote access to the Company or its employees or subcontractors to the Software through any firewalls or any other barriers protecting the Software as required by the Company for the purpose of providing the Services.

PART B - ENHANCED SUPPORT

3.10 Where specifically agreed in the Contract, the Customer may request the following Services in accordance the terms set out in this Part B ("Enhanced Support"):

- (a) services that do not qualify under the Basic Support:
 - (i) due to any of the exclusions referred to in paragraph 3.6(a) - (k) of Part A of the Services above or otherwise;
 - (ii) because the Customer has not complied with its obligations pursuant to clause 8 of the Master Services Agreement or paragraph of 3.9 these Service Terms;
- (b) services requested by the Customer but which the Company finds are not necessary;
or
- (c) where the Company provides on-site assistance not envisaged under Basic Support in this Contract.

The Company shall not be obliged to provide any such services except if agreed in a Contract pursuant to clause 7 of the Master Services Agreement.

3.11 Enhanced Support requests shall be provided either:

- (a) as part of a work package (including pre-paid support); or
- (b) on demand on a time and materials basis in accordance with clause 3.3 of the Master Services Agreement;

as specified in the Order Form and shall be charged in accordance with the Pricing Schedule and as agreed between the parties in the accepted Order Form.

3.12 In the event that the Customer requires on demand Enhanced Support then (subject to agreement of a Contract), Enhanced Support will be provided in accordance with clause 3.3 of the Master Services Agreement in 30-minute units as on-demand services and in 15-minute units as part of a work package off-site, or four-hour units for Services to be provided on-site, subject to payment of any subsistence, travelling and other ancillary expenses reasonably incurred in connection with the provision of such on-site Services. Incomplete hours will be accumulated by the Company and rounded up to the nearest half hour on a weekly basis. If the Enhanced Support Services is provided for over eight (8) hours on any Business Day, the additional time will be charged at the overtime rate in accordance with clause 3.3(c) of the Master Services Agreement.

3.13 The Company shall in its sole discretion determine whether to issue a Patch to resolve Support Issues that are the subject of an Enhanced Support Request. If the Company create such a Patch they will offer it to the Customer for use with the Software. All Patches must be applied to the Software within 30 days of notice by the Company of such Patch.

3.14 When supplying information to the Company in relation to a Support Issue that is the subject of an Enhanced Support Request, the Customer shall:

- (a) provide the following information:
 - (i) the relevant background of any issue or problem to be reported;
 - (ii) an exact and accurate description of any issue or problem being reported;
 - (iii) what the particular user was doing at the time the issue or problem arose;
 - (iv) how the issue or problem was identified;
 - (v) what affect the issue or problem is having on the Customer;
 - (vi) symptoms of the issue or problem;
 - (vii) details of any message or warnings displayed on screen.
- (b) notify the Company if any Support Issue that is the subject of the Enhanced Support Request is due (in whole or part) to:
 - (i) defects or errors resulting from any modifications of the Software or Software Documentation made by any person other than the Company without the Company's prior written consent;
 - (ii) any release of the Software other than the Current Release or any use of the Software without application of all published Patches;

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- (iii) use of the Software or Software Documentation other than strictly in accordance with the Software Documentation or defects or errors due to operator error;
- (iv) a situation where such a defect or error can be avoided by consideration of all information contained in the Software Documentation, even if such consideration depends on the interpretation of such information;
- (v) any defect or error in the Hardware and Software Platform, the Environment or in any programs used in conjunction with the Software;
- (vi) defects or errors caused by the use of the Software on or with equipment other than the Hardware and Software Platform;
- (vii) defects or errors caused by the use of the Software in an environment other than the Environment;
- (viii) defects or errors caused by the malicious or negligent activities of the Customer, its employees, agents, or subcontractors or any other third parties;
- (ix) defects or errors in any way related to the Customer not affording the Company proper access to the Software via remote access or for on-site assistance or otherwise or where the defect or error is caused in any way by the Customer not being contactable or not following instructions correctly whether given by telephone, email, fax or otherwise or caused by or related to any breach by the Customer of its obligations under this Contract (including but not limited to its obligations pursuant to clause 8 of the Master Services Agreement and paragraph 3.9 of the Service Terms);
- (x) a situation where the Customer ceases for whatever reason to have the legal right to use the Software;
- (xi) defects or errors caused by a Force Majeure Event.

3.15 No guarantee is given that any fault can be fixed within a specific timescale.

PART C – CONSULTANCY SUPPORT AND TRAINING

3.16 All Training and Consultancy services shall be purchased in advance of delivery. The Company will invoice for such Training and Consultancy services upon receipt of a valid Order Form from the Customer, which is accepted to form a Contract pursuant to the Conditions.

3.17 Such services will be delivered on mutually agreed dates as agreed and set out in the Contract.

3.18 The Company will make reasonable efforts to deliver these services on the dates and at the locations requested by Customer and will within reason allow rescheduling of any such request at a minimum advance notice of five Business Days, subject to the Customer paying all charges arising as a result of such rescheduling (including without limitation any costs for cancelled travel arrangements). However such services, once a Contract has been agreed, may not be cancelled in their entirety without liability and the Customer shall indemnify the Company for all fees, charges, and expenses arising pursuant to any rescheduling or cancellation of services.

3.19 Training

A variety of standard public, private and custom training courses are available for which rates, course outlines and course schedules can be quoted on request.

PART D – HOSTING SERVICES

- 3.20 Where specifically agreed in the Order Form, the Company shall provide hosting services ("Hosting Services") on the following terms for the Software identified in the Order Form:
- (a) in addition to the obligations of the Customer as otherwise specified in the Contract, the Customer represents and warrants that it shall be solely responsible for ensuring that any Customer's Data do not infringe any applicable laws, regulations or third party rights (such as material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights) ("Inappropriate Content");
 - (b) the Customer represents and warrants that it shall use the Hosting Services in a matter consistent with all applicable laws and regulations;
 - (c) the Customer acknowledges that the Company has no control over any Customer's Data stored by the Customer and does not purport to monitor such Customer's Data. The Company has the right (but not the obligation) to cease hosting any Customer's Data where it reasonably suspects such Customer's Data is Inappropriate Content. The Company shall notify the Customer if it becomes aware of any allegation that any Customer's Data may be Inappropriate Content;
 - (d) the Customer shall indemnify the Company against all damages, losses and expenses arising as a result of any action or claim that the Customer's Data constitutes Inappropriate Content;
 - (e) the Customer acknowledges that it may be necessary for either the Company or its service provider to maintain the node at which the Software is hosted from time to time ("Scheduled Maintenance") and that the Hosting Services will not be available during such Scheduled Maintenance. The Company shall use reasonable efforts to provide, where reasonably practicable, at least two (2) Business Days' notice in advance of any Scheduled Maintenance being carried out;
 - (f) the Hosting Service is not a back-up service, and the Customer is solely responsible for backing up its own Customer's Data;
 - (g) the Customer shall report any faults in the Hosting Service in the manner specified for Basic Support;
 - (h) the Customer acknowledges that the Company is dependent on third party subcontractors in providing the Hosting Services. The Company shall seek to ensure availability of the Hosting Services subject to the terms of the Company's agreements with its third party hosting services subcontractors from time to time. The Company shall provide details of its hosting service subcontractor's relevant service terms and the service levels it provides on request. Notwithstanding any other provision of this Contract, the Company does not undertake or agree to provide the Hosting Services at a service level which exceeds those provided to the Company by its applicable subcontractors. In the event that the Company provides or fails to provide the Services in breach of this Contract as a result of acts or omission of third parties, including any of the Company's hosting service subcontractors, the Company shall not be liable for such failure but shall, as the Customer's sole and exclusive remedy, use its reasonable

endeavours to enforce the terms of the Company's contract with its hosting service subcontractor; and

- (i) on termination of the Contract for any reason, the Company may delete any of the Customer's Data without liability.