

Terms and Conditions for the Supply of Managed Cloud Service

These Terms and Conditions including the Schedules ("**Conditions**") apply between the individual, firm or company named in the Order (the "**Customer**" or "**you**") and Atlas Cloud Limited, a company registered in England and Wales with company number 07297347 whose registered office is at Generator Studios, Trafalgar St, Newcastle upon Tyne NE1 2LA (the "**Supplier**" or referred to as "**us/we/our**").

1. Interpretation

1.1. The following definitions and rules of interpretation apply in these Conditions:

Acceptance Date: has the meaning given in clause 3.4.

Assets: means any Software or other assets used by Supplier exclusively for the delivery of the Managed Service to the Customer.

Assumed Contracts: contracts which the Supplier identifies as part of the Set-up Service and which will be subject to the obligations of clause 3.5.

Business Day: any day which is not a Saturday, Sunday or public holiday in the UK.

Change of Control: the direct or indirect acquisition of either the majority of the voting stock, or of all, or substantially all of the assets, of a party by another entity in a single transaction or a series of transactions.

Cloud Commencement Date is defined in clause 10.

Cloud Services Conditions: the conditions for the supply of Cloud Services set out in Schedule 1.

Cloud Services Fees: Fees for the use of the Cloud Services set out in clause 7 or set out in the Order.

Cloud Services: hosting within a cloud-based environment and any software applications for which the Customer holds valid licences, as well as the Customer Data.

Commencement Date: is defined in clause 2.1.

Confidential Information: information that is proprietary or confidential and which is either labelled as such or else which should reasonably be considered as confidential because of its nature and the manner of its disclosure.

Contract: the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

Customer Data: means, in relation to Managed Service, any information which is provided by Customer to the Supplier as part of Customer's use of the Managed Service, including any information derived from such information, and in relation to Cloud Services means the data inputted by the Customer or the Supplier on the Customer's behalf for the purpose of using the Cloud Services or facilitating the Customer's use of the Cloud Services.

Data Protection Legislation: means any data protection legislation from time to time in force in the UK, and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation (*EU* 2016/679) and any other directly applicable European Union regulation relating to privacy.

Error: non-conformance of the Managed Service to the Specification as set out in clause 3.2.

Fees: the fees payable to the Supplier, as described in clause 7.

Initial Term: means the period of the Contract out in the Order, or if no period is set out in the Order, the period starting on the Commencement Date and ending of 3 (three) year from the Acceptance Date.

Intellectual Property: means any and all intellectual property rights of any nature anywhere in the world, whether registered, registerable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

Implementation Phase: means the period of 90 days following the Order being signed by the Customer.

Managed Service: means the Supplier's managed service described in the Specification.

Normal Business Hours: 8.00 am to 6.00 pm local UK time on a Business Day.

Order: means the Customer's written acceptance of the Proposal, these Terms and Conditions and any other terms expressly incorporated into the agreement between parties.

Proposal: means the Supplier's written outline of the Services provided to the Customer.

Renewal Term: means a renewal period of the Contract as set out in clause 15.1.

Service Credit: means any credits payable to the Customer in accordance with the Service Level Arrangement.

Service Level Arrangement: any service level arrangements for the Managed Service referred to or set out in the Order.

Services: the Set-up Service and the Managed Service and the Cloud Services.

Set-up Service: means any due diligence, configuration and related work to be performed by the Supplier to set up the Managed Service or the Cloud Services.

Set up Service Fee: means the fees for the Set up Services as set out in the Order.

Software: means any software used by Supplier exclusively to provide the Services to the Customer and either provided by the Customer (whether third party software licensed to the Customer or software in which the Customer owns the Intellectual Property rights) (**Customer Software**) or provided by the Supplier (**Supplier Software**).

Specification: means the specification for the Managed Service referred to the Order.

Supplier Equipment: any equipment made available to the Customer by the Supplier to enable the Customer to access the Cloud Services, including thin client computer terminals and laptops.

Term: the term of the Contract being the Initial Term and any Renewal Term(s) and any other renewal or extension of the Contract pursuant to clause 15.

1.2. Clause, schedule and paragraph headings shall not affect the interpretation of these Conditions. A person includes a natural person, or corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns. Words in the singular shall include the plural and vice versa and a reference to one gender shall include a reference to the other genders.

1.3. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment, and includes any subordinate legislation for the time being in force made under it.

1.4. A reference to **writing** or **written** includes e-mail but not faxes.

1.5. Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. Basis of Contract

2.1. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions and the Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.2. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract. Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.3. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

3. Services

3.1. The Supplier shall perform the Set-up Services in accordance with any timetable set out in the Specification, provided that performance dates set out in the Order shall be estimates only, and time shall not be of the essence of the Contract.

3.2. When the Supplier considers that the Managed Service is ready for activation he shall notify the Customer. Within 5 days of such notification the Customer shall review the operation of the Managed Service to confirm that it functions in material conformance with the Specification. If the Managed Service fails in any material respect to conform to the Specification, the Customer shall give the Supplier a detailed description of any such non-conformance ("**Error**") in writing, within the 5 day review period.

3.3. The Supplier shall use reasonable efforts to correct any Error within a reasonable time and, on completion, re-submit the Managed Service to the Customer. If the Supplier is unable to correct the Error within 30 Business Days, either party may terminate the Contract without further liability to the other.

- 3.4. If:
- 3.4.1. the Customer does not provide any written comments in the initial period described in clause 3.2 above; or
 - 3.4.2. if the Managed Service is found to conform with the Specification; or
 - 3.4.3. if the Customer fails to, or delays the provision of any deliverables set out in the Specification, or fails to meet any other of its requirements under the Specification or the Contract, and such failure causes the Set-up Services to run for a period of more than 90 days from the date of the Contract,
- then in each case the Managed Service shall be deemed accepted, in respect of acceptance pursuant to clause 3.4.1 and 3.4.2 as from the date of the notification by the Supplier pursuant to clause 3.2, and in respect of acceptance pursuant to clause 3.4.3, with effect from the end of the period of 90 days from the date of the Contract ("**Acceptance Date**").
- 3.5. To the extent that the provision of Services requires the Customer to transfer Assets and/or Assumed Contracts to the Supplier, the parties will enter into a separate agreement in this regard, and for the avoidance of doubt the Supplier shall not take on any Assets or Assumed Contracts in the absence of such written agreement.
- 3.6. Subject to termination or expiry of the Contract in accordance with its terms, the Supplier shall provide the Managed Service as from the Acceptance Date. The Service Level Arrangements (if any) shall apply with effect from the start of the first complete calendar month occurring at least 30 days after the Acceptance Date.
4. **Customer Data**
- 4.1. The parties shall comply with the provisions of Schedule 3, "Personal Data".
 - 4.2. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial efforts to restore the lost or damaged Customer Data from the latest backup of such Customer Data maintained by the Supplier. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties subcontracted by the Supplier to perform services related to Customer Data maintenance and back-up).
5. **Supplier's obligations**
- 5.1. The Supplier warrants that the Managed Service will be performed with all reasonable skill and care and that it will be provided substantially in accordance with the Specification. Notwithstanding the foregoing, the Supplier does not warrant that the Customer's use of the Managed Service will be uninterrupted, secure or error free.
 - 5.2. The warranty in clause 5.1 shall not apply to the extent of any non-conformance which is caused by use of the Managed Service contrary to the Supplier's instructions.
 - 5.3. If the Managed Service does not conform to the warranty in clause 5.1, the Supplier will, at its expense, use reasonable commercial efforts to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the warranty in clause 5.1.
 - 5.4. The Supplier may suspend the Services where it reasonably believes that the Services are being used (or will be used) in breach of the Contract, or where it believes such action is necessary to protect its network, other customers or reputation or to comply with any legal or regulatory requirement.
6. **Customer's obligations**
- 6.1. The Customer shall:
 - 6.1.1. pay the Fees when due;
 - 6.1.2. comply with any Supplier policies (including any acceptable use policy) that may be in place from time to time;
 - 6.1.3. provide the Supplier with all information as may be required by the Supplier in order to provide the Managed Service, including Customer Data, security access information and interfaces to the Customer's other business applications, together with such personnel assistance as may be requested by the Supplier;
 - 6.1.4. comply with all applicable laws and regulatory requirements with respect to its activities under the Contract;
 - 6.1.5. take good care of the Supplier's Equipment to prevent damage or loss to such equipment arising from misuse by Customer personnel in accordance with any applicable Supplier policy or instructions of the Supplier from time to time;
 - 6.1.6. maintain adequate policies of insurance which provide cover for the Supplier's Equipment when located at the Customer's premises against the normal risks which the Customer could reasonably be expected to insure against in respect of its own equipment;
 - 6.1.7. not store, distribute or transmit any material through the Managed Service that is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;
 - 6.1.8. take all reasonable precautions against unauthorised access to and loss of data and ensure that its data is backed up;
 - 6.1.9. shall use all reasonable endeavours to procure that it and any necessary third party shall execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to the Contract; and
 - 6.1.10. where applicable and appropriate, comply (and shall procure that any end users shall comply) at all times with the terms of any end user software licences as notified by the Supplier to the Customer from time to time, including the terms of the end user licence agreement set out in Schedule 2 to these Conditions.
7. **Fees**
- 7.1. The Fees for the provision of the Services will be as set out or referred to in the Order, provided that if no Fees are set out there, then the Fees for the Services shall be the Supplier's list prices as in force at the time of the Contract.
 - 7.2. Save where other payment terms are set out in the Order, and save for the Set-up Service Fee payable in accordance with clause 7.3, all fees will be payable by direct debit. The Customer shall provide the Supplier with valid up-to-date and complete payment information and direct debit authority. The Supplier will invoice the Customer monthly in advance in respect of the Fees, and shall be entitled to take this amount via direct debit on the dates set out in the Order.
 - 7.3. The Customer shall pay the Set-up Service Fee upon execution of the Contract, subject to having receipt of an invoice for the same.
 - 7.4. Unless otherwise set out in the Order or agreed in writing, the Customer shall reimburse the Supplier for all actual, reasonable travel expenses including, airfares, hotels and meals incurred by the Supplier in performance of the Services.
 - 7.5. All amounts and Fees stated or referred to in this Contract are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.
 - 7.6. If we do not receive payment of an invoice when due to us, then we may charge interest on any overdue amounts at the rate of 6% over the base lending rate of the Supplier's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after the judgment.
 - 7.7. The Fees for the Managed Service are payable with effect from the Acceptance Date.
8. **Software**
- 8.1. The Customer warrants that licence terms of each application within the Customer Software permit the Supplier to use the Customer Software to provide the Managed Service and that the use of the Supplier of the Customer Software, the Customer Data and any other materials or assets provided by the Customer to the Supplier under the Contract will not infringe third party Intellectual Property rights.
 - 8.2. The Customer grants the Supplier a royalty-free licence or sub-licence (as appropriate) to use the Customer Software and any for the purpose of providing the Managed Service to the Customer for the Term.
 - 8.3. The Customer shall fully indemnify and hold harmless the Supplier from and against any losses, damages, costs (including all legal fees) and expenses incurred by or awarded against the Supplier as a result of, or in connection with, the breach by the Customer of clause 8.1.
9. **Change control**
- 9.1. If either party wishes to change the scope of the Services (including Customer requests for additional services), it shall submit details of the requested change to the other in writing. The Supplier shall, within a reasonable time of such request, provide a written estimate to the Customer of the likely time required to implement the change, any variations to the Fees arising from the change, the likely effect of the change on the Order, and any other impact of the change on the terms of the Contract and whether a variation need be recorded in writing. If the Supplier requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it. The

Supplier is under no obligation to proceed with a change proposed by the Customer.

10. **Cloud Services**

If the Customer wishes to subscribe to the Supplier's Cloud Services, and if the parties shall agree in writing, to the provision of the Cloud Services with effect from an agreed date ("**Cloud Commencement Date**"), then the Cloud Services Conditions shall apply to such provision. In the event of any discrepancy or difference between the provisions of this Contract and the Cloud Services Conditions, the Cloud Services Conditions shall prevail.

11. **TUPE**

- 11.1. In this clause, TUPE means the Transfer of Undertaking (Protection of Employment) Regulations 2006 as may be amended from time to time. If the contract of employment of any employee is found, or alleged, to have effect after the Commencement Date as if originally made with the Supplier pursuant to TUPE, the Supplier will terminate the employment of the individual concerned within one month of the date of such finding or allegation and the Customer will indemnify and keep the Supplier indemnified against all claims, demands, costs, liabilities and losses (including all interest, penalties and legal and other professional costs and expenses) arising or connected with such finding or allegation and/or termination.

12. **Intellectual Property**

- 12.1. The Customer acknowledges and agrees that, as between the parties, the Supplier and/or its licensors own all Intellectual Property in all materials connected with the Services and in any material developed or produced in connection with the Contract by the Supplier, its officers, employees, subcontractors or agents. Except as expressly stated in clause 12.2, these Conditions do not grant the Customer any rights to such Intellectual Property.
- 12.2. The Supplier hereby grants the Customer a non-exclusive, non-transferrable, not sub-licensable, revocable licence to use its Intellectual Property rights for the sole purpose of receiving and using the Services during the Term.

13. **Confidentiality**

- 13.1. Each party undertakes that it shall not disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party save that each party may disclose the other party's Confidential Information to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract and as may be required by law, court order or any governmental or regulatory authority. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with this clause 13.1.
- 13.2. No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under the Contract and each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is secure. This clause 13 shall survive termination of the Contract, however arising.

14. **Limitation of liability**

- 14.1. Except as expressly and specifically provided in these Conditions:
- 14.1.1. the Customer assumes sole responsibility for results obtained from the use of the Services, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by any acts, omissions or delays of the Customer, or the Customer's breach or negligent performance of the Contract, or any actions taken by the Supplier at the Customer's direction; and
- 14.1.2. all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Contract; and
- 14.1.3. the Cloud Services are provided to the Customer on an "as is" basis.
- 14.2. Nothing in these Conditions excludes or limits the liability of the Supplier for death or personal injury caused by the Supplier's negligence; fraud or fraudulent misrepresentation; or any other liability which cannot lawfully be excluded or limited.
- 14.3. The Service Level Arrangements state the Customer's full and exclusive right and remedy, and the Supplier's only obligation and liability in respect of, the performance and/or availability of the Managed Service, or its non-performance and non-availability.
- 14.4. Subject to clause 14.2 and clause 14.3:
- 14.4.1. the Supplier shall not be liable for any loss of profits, loss of business, loss of data, depletion of goodwill or similar losses, whether direct or indirect, or any pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising; and

14.4.2. the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall, in respect of damage to tangible property be limited to the sum of £500,000 per occurrence or series of related occurrences, and shall in all other respects be limited to the price paid for the Services during the 3 months preceding the date on which the claim arose.

15. **Term and termination**

- 15.1. Subject to clause 15.2 below the Contract shall continue, unless otherwise terminated as provided in these Conditions, until expiry of the Initial Term. Thereafter the Contract shall automatically renew for successive yearly periods (each a "**Renewal Term**"), unless either party terminates by notice in writing to the other, such notice to be given at least 120 days before the end of the then-current term, and to be effective only at the end of that term.
- 15.2. If at any time within the Initial Term or any Renewal Term under clause 15.1 above the Customer agrees to the supply of Cloud Services in accordance with clause 10, the Term of the Contract shall be extended by a period of 3 years from the Cloud Commencement Date, and thereafter any renewals shall be in accordance with clause 15.1 above.
- 15.3. Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Contract without liability to the other if:
- 15.3.1. the other party commits a material breach of any of the terms of these Conditions and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;
- 15.3.2. an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other party;
- 15.3.3. an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);
- 15.3.4. a receiver is appointed of any of the other party's assets or undertakings, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of, or sells, the other party's assets;
- 15.3.5. the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt;
- 15.3.6. the other party ceases, or threatens to cease, to trade, there is a Change of Control of the other party, or the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.
- 15.4. On termination of the Contract for any reason:
- 15.4.1. the Supplier shall immediately cease provision of the Managed Service but may provide transitional services for a further period subject to commercial terms being agreed between the parties for the provision of such services;
- 15.4.2. any Supplier Equipment located at the Customer's premises or within the Customer's possession at expiry or termination of the Contract shall be promptly returned by the Customer to the Supplier, and the parties shall cooperate to make appropriate arrangements for the Supplier to uplift the Supplier Equipment, at the Supplier's cost;
- 15.4.3. each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;
- 15.4.4. the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession unless the Supplier receives, no later than ten days after the effective date of the termination or expiry of the Contract, a written request for the delivery to the Customer of the most recent backup of the Customer Data. The Supplier shall use reasonable commercial efforts to deliver the backup to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at, and resulting from, termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Customer Data; and

- 15.4.5. the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.
16. **General**
- 16.1. **Force majeure.** The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in, performing its obligations under this Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of part of the power grid, utility service or transport network, significant failure of the internet, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors, provided that the Customer is notified of such an event and its expected duration.
- 16.2. **Waiver** A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given. Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.
- 16.3. **Severance** If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 16.4. **Assignment** The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner, with all or any of its rights or obligations under the Contract without the consent of the Customer.
- 16.5. **No Partnership or Agency** Nothing in this Contract is intended to, or shall be deemed to, establish any partnership, joint venture or agency between any of the parties. No party shall be authorised to enter into any commitments for or on behalf of any other party except as expressly provided in the Contract.
- 16.6. **Third-Party Rights** The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit or be enforceable by anyone else.
- 16.7. **Notices** Any notice required to be given under the Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its registered address, or sent by email to the email address specified in the Order, or such other address as may have been notified by that party for such purposes. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been delivered at 9am on the next Business Day following its transmission.
- 16.8. **Governing Law and Jurisdiction** This Contract and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England. The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract.

Schedule 1: Cloud Services Conditions

1. Interpretation

The definitions and rules of interpretation in this paragraph apply in these conditions in addition to those defined terms as set out in the Terms and Conditions for the Supply of Managed Service, which shall apply equally in these conditions:

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Cloud Services and the Documentation, as further described in paragraph 2.2.

Business Day: any day which is not a Saturday, Sunday or public holiday in the UK.

Cloud Services: the subscription services provided by the Supplier to the Customer via the Atlas Cloud portal or any other website notified to the Customer by the Supplier from time to time, as more particularly described in the Documentation [including the Support Services].

Documentation: the Supplier's documentation with instructions for its customers as to how to use the Cloud Services.

Subscription Fees: the subscription fees payable by the Customer to the Supplier for the User Subscriptions, as set out in the Order or if not set out in the Order, at the Supplier's list prices from time to time.

User Subscriptions: the user subscriptions purchased by the Customer pursuant to paragraph 3 which entitle Authorised Users to access and use the Cloud Services in accordance with these terms.
 2. User Subscriptions
 - 2.1. Subject to the Customer purchasing the User Subscriptions in accordance with paragraph 3, the restrictions set out in this paragraph 2 and the other terms and conditions of the Contract, the Supplier grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Cloud Services during the Term solely for the Customer's internal business operations.
 - 2.2. In relation to the Authorised Users, the Customer undertakes that:
 - 2.2.1. the maximum number of Authorised Users that it authorises to access and use the Cloud Services shall not exceed the number of User Subscriptions it has purchased from time to time;
 - 2.2.2. it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Cloud Services;
 - 2.2.3. each Authorised User shall keep a secure password for his use of the Cloud Services that such password shall be changed no less frequently than monthly and that each Authorised User shall keep his password confidential;
 - 2.2.4. it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times;
 - 2.2.5. it shall permit the Supplier to audit the Cloud Services in order to establish the name and password of each Authorised User. Such audit may be conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;
 - 2.2.6. if any of the audits referred to in paragraph 2.2.5 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and
 - 2.2.7. if any of the audits referred to in paragraph 2.2.5 reveal that the Customer has underpaid Subscription Fees to the Supplier, the Customer shall pay to the Supplier an amount equal to such underpayment within 10 Business Days of the date of the relevant audit.
 - 2.3. The Customer shall not access, store, distribute or transmit any viruses, or any material during the course of its use of the Cloud Services that:
 - 2.3.1. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 2.3.2. facilitates illegal activity;
 - 2.3.3. depicts sexually explicit images;
 - 2.3.4. promotes unlawful violence;
 - 2.3.5. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or
 - 2.3.6. causes damage or injury to any person or property;
 - 2.4. The Customer shall not:
 - 2.4.1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties, and except to the extent expressly permitted under these terms, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software (as applicable) in any form or media or by any means; or
 - 2.4.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
 - 2.4.3. access all or any part of the Cloud Services in order to build a product or service which competes with the Cloud Services; or
 - 2.4.4. use the Cloud Services to provide services to third parties; or
 - 2.4.5. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Cloud Services available to any third party except the Authorised Users, or
 - 2.4.6. attempt to obtain, or assist third parties in obtaining, access to the Cloud Services and/or Documentation, other than as provided under this paragraph 2; and
 - 2.5. The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Cloud Services and, in the event of any such unauthorised access or use, promptly notify the Supplier.
 - 2.6. The rights provided under this paragraph 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.
3. Additional User Subscriptions
 - 3.1. Subject to paragraph 3.2 and paragraph 3.3, the Customer may, from time to time during any Subscription Term, request additional User Subscriptions in excess of the original number, by giving the Supplier written notice. The Customer is not entitled to add or remove User Subscriptions by more than 25% of the original number of User Subscriptions save where expressly agreed by the Supplier in writing.
 - 3.2. The Supplier shall evaluate the Customer's request for additional User Subscriptions and grant or refuse the request (in its sole discretion).
 - 3.3. If the Supplier approves the Customer's request to purchase additional User Subscriptions, the Customer shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the relevant fees for such additional User Subscriptions and, if such additional User Subscriptions are purchased by the Customer part way through the Term, such fees shall be pro-rated for the remainder of the Term.
 4. Cloud Services
 - 4.1. The Supplier shall provide the Cloud Services to the Customer on and subject to these terms.
 - 4.2. The Supplier shall use commercially reasonable endeavours to make the Cloud Services available 24 hours a day, seven days a week, except for:
 - 4.2.1. planned maintenance carried out during the maintenance window as published performed outside Normal Business Hours; and
 - 4.2.2. unscheduled maintenance performed during Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer as much notice as is reasonable practicable in the circumstances.
 - 4.3. The Supplier shall be entitled to increase the Cloud Services Fees at the start of any renewal period for the Cloud Services upon 90 days' prior written notice to the Customer.
 - 4.4. The Supplier shall be entitled to increase the Cloud Services Fees upon 30 days' prior written notice to the Customer. In addition, the Supplier shall be entitled to increase the costs for any third party products provided as part of the Cloud Services in circumstances where that third party provider has notified the Supplier of an increase in its own licence costs, provided that the Supplier's increase shall be proportionate to the increase in those licence costs.
 5. Third party providers

The Customer acknowledges that the Cloud Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. The Supplier makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any

transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not the Supplier. The Supplier recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Supplier does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Cloud Services.

6. Supplier's obligations
 - 6.1. The Supplier will perform the Cloud Services with reasonable skill and care.
 - 6.2. The Supplier:
 - 6.2.1. does not warrant that the Customer's use of the Cloud Services will be uninterrupted or error-free; nor that the Cloud Services, and/or the information obtained by the Customer through the Cloud Services will meet the Customer's requirements; and
 - 6.2.2. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that it, and not the Supplier, is responsible for the Customer's internet and other network connections to the Cloud Services and that the Cloud Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
 - 6.3. The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these terms.
7. Customer's obligations
 - 7.1. The Customer shall:
 - 7.1.1. ensure that the Authorised Users use the Cloud Services in accordance with these terms and shall be responsible for any Authorised User's breach of these terms;
 - 7.1.2. obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under these terms;
 - 7.1.3. ensure that its network, data communication lines and systems comply with the relevant specifications provided by the Supplier from time to time; and
 - 7.1.4. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier'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. Indemnity
 - 8.1. The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Cloud Services provided that:
 - 8.1.1. the Customer is given prompt notice of any such claim;
 - 8.1.2. the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
 - 8.1.3. the Customer is given sole authority to defend or settle the claim.
 - 8.2. In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
 - 8.2.1. a modification of the Cloud Services by anyone other than the Supplier; or
 - 8.2.2. the Customer's use of the Cloud Services in a manner contrary to the instructions given to the Customer by the Supplier; or
 - 8.2.3. the Customer's use of the Cloud Services after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
 - 8.3. The foregoing states the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

Schedule 2: End User Licence

END USER LICENSE TERMS

TERMS AND CONDITIONS REGARDING USE OF MICROSOFT SOFTWARE

This document governs the use of Microsoft software, which may include associated media, printed materials, and "online" or electronic documentation (individually and collectively, "Products") provided by Atlas Cloud Limited (hereinafter referred to as "Customer"). Customer does not own the Products and the use thereof is subject to certain rights and limitations of which Customer must inform you. Your right to use the Products is subject to the terms of your agreement with Customer, and to your understanding of, compliance with, and consent to the following terms and conditions, which Customer does not have authority to vary, alter, or amend.

1. DEFINITIONS.

"Client Software" means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

"Device" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone," server or other electronic device.

"Server Software" means software that provides services or functionality on a computer acting as a server.

"Software Documentation" means any end user document included with server software.

"Redistribution Software" means the software described in Paragraph 4 ("Use of Redistribution Software") below.

2. OWNERSHIP OF PRODUCTS. The Products are licensed to Customer from an affiliate of the Microsoft Corporation (collectively "Microsoft"). All title and intellectual property rights in and to the Products (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the Products) are owned by Microsoft or its suppliers. The Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Products does not transfer any ownership of the Products or any intellectual property rights to you.

3. USE OF CLIENT SOFTWARE. You may use the Client Software installed on your Devices by Customer only in accordance with the instructions, and only in connection with the services, provided to you by Customer. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during your use of the Client Software.

4. USE OF REDISTRIBUTION SOFTWARE. In connection with the services provided to you by Customer, you may have access to certain "sample," "redistributable" and/or software development ("SDK") software code and tools (individually and collectively "Redistribution Software"). YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS ("SPUR") APPLICABLE TO CUSTOMER, WHICH TERMS MUST BE PROVIDED TO YOU BY CUSTOMER. Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by Customer.

5. COPIES. You may not make any copies of the Products; provided, however, that you may (a) make one copy of Client Software on your Device as expressly authorized by Customer; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Customer, upon notice from Customer or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Products.

6. LIMITATIONS ON REVERSE ENGINEERING, DECOMPIATION AND DISASSEMBLY. You may not reverse engineer, decompile, or disassemble the Products, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

7. NO RENTAL. You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Products to any third party, and may not permit any third party to have access to and/or use the functionality of the Products except for the sole purpose of accessing the functionality of the Products in the form of software services in accordance with the terms of this agreement and any agreement between you and Customer.

8. TERMINATION. Without prejudice to any other rights, Customer may terminate your rights to use the Products if you fail to comply with these terms and conditions. In the event of termination or cancellation of your agreement with Customer or Customer's agreement with Microsoft under which the Products are licensed, you must stop using and/or accessing the Products, and destroy all copies of the Products and all of their component parts.

9. NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT. ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY CUSTOMER AND NOT BY MICROSOFT, ITS AFFILIATES OR SUBSIDIARIES.

10. PRODUCT SUPPORT. Any support for the Products is provided to you by Customer and is not provided by Microsoft, its affiliates or subsidiaries.

11. NOT FAULT TOLERANT. THE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND ARE NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

12. EXPORT RESTRICTIONS. The Products are subject to U.S. export jurisdiction. Customer must comply with all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.

13. LIABILITY FOR BREACH. In addition to any liability you may have to Customer, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

Schedule 3 – Personal Data

- 1.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Schedule 3 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this Schedule 3, "**Applicable Laws**" means (for so long as and to the extent that they apply to the Provider) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and "**Domestic UK Law**" means the UK Data Protection Legislation and any other law that applies in the UK.
- 1.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation). The Supplier's data protection policy, privacy policy and the Specification set out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, **Personal Data**) and categories of Data Subject. The Supplier's data protection policy and privacy policy may be amended by the Supplier from time to time. Copies of these policies are available on request.
- 1.3 Without prejudice to the generality of paragraph 1.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this agreement.
- 1.4 Without prejudice to the generality of paragraph 1.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by it of its obligations under this agreement:
- (a) process that Personal Data only on the written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
 - (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - (d) not transfer any Personal Data outside of the European Economic Area unless, in doing so it complies with all Applicable Laws, including by fulfilling the following conditions:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
 - (e) assist the Customer, at the Customer's cost, subject to the Customer and the Supplier agreeing a fee for such assistance (including where the same relates to assistance in interrogation of the Customer's systems), in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the Customer without undue delay on becoming aware of a Personal Data breach; and
 - (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless it is required or

otherwise justifiable by Applicable Law to store the Personal Data.

- 1.5 The Customer consents to the Supplier third-party processors of Personal Data under this agreement in so far as necessary to provide the Services, and the Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it.