1. INTRODUCTION

1.1. Purpose and Objectives
This Agreement outlines the terms and conditions under which the Supplier will provide managed license services (collectively referred to as the "**Services**") to the Client and its Affiliates. The objective is to provide a basis and framework for the delivery of services to the Client in accordance with this Agreement.

1.2. Commencement Date
This Agreement will commence on date documented in the Managed License Services Schedule (the "**Commencement Date**").

1.3. Non--exclusive Agreement
It is understood and agreed that this Agreement does not grant to the Supplier any exclusive rights to do business with the Client and also that the Client may contract with other Supplier for the procurement of similar services. Nothing in the Agreement prevents the Supplier from marketing, developing, using and performing similar services or products to other potential clients subject to the confidentiality provisions set out in clause 9.2.

1.4. Definitions

"Affiliate" means a subsidiary organisation, sister organisation or an organisationally connected entity to either party.

"Annual Fee" means any annual charges due to the Supplier for the provision of the Services which amount is set out in the Managed License Service Schedule.

"Client" means the owner, lessee or renter of the equipment to be maintained under this Agreement (and its group companies and affiliates who shall have the benefit of this Agreement.

"Default" means any material breach of the obligations of the relevant party or its sub--contractors or any other default, act, omission, negligence or statement of the relevant party, in connection with or in relation to the subject matter of this Agreement and in respect of which such party is legally liable to the other in accordance with applicable law.

"Disclosing party" means the party who has disclosed confidential information to the other party.

"Intellectual property rights" means patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get--up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know--how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"Managed License Service Schedule" A document to accompany these terms and conditions which outlines the key components of the support agreement including dates, products, hours of support and key contacts.

"Monthly Fee" means the charges, other than reimbursable expenses, due to the Supplier for the provision of the Services which amount is set out in the Managed License Services Schedule.

"Receiving party" means the party who has received confidential information from the other party.

"Renewal Term" means consecutive periods of 12 months, each starting on the anniversary of the Commencement Date.

"Services" means the Standard Services and the Non--Standard Services accepted by the parties in accordance with this Agreement.

"Supplier" means Metaphor IT Limited, a company registered in England (number 09599268)

"Supplier Personnel" means any directors, employees and/or consultants, of the Supplier who are engaged by the Supplier in the provision of the Services.

"Term" means the period from the Commencement Date until the date of expiry or termination of this Agreement.

"**Third Party Personnel**" means the service personnel of any third party engaged by the Supplier to provide any of the Services. For the avoidance of doubt this includes the subcontractors of the Supplier.

2. SCOPE OF SERVICES

The Supplier shall deliver the Standard Services in accordance with this Agreement. In the event that the Client requires Non--Standard Services the parties shall agree their purchase at the relevant time.

2.1. Standard Services
Standard services to be delivered under this Agreement are as listed, described and specified in the Managed License Service Schedule.

2.2. Non-Standard Services
Non--standard services will not be delivered under this Agreement. Non-standard services include but are not limited to: installation of new products or services; project work; implementation of new products or services; purchases of new technologies.

2.3. Changes to Services
From time to time the Supplier or Client may find it necessary or advantageous to change the agreement outside of the changes permitted in the rest of the document. Either party may propose changes to the scope, nature or time schedule of the Services being performed under this Agreement.

The parties will mutually agree to any proposed changes, including adjustments to fees and expenses as a result of any changes to the Services. All changes are to be subject to the change control procedures and must be approved in writing by both parties.

If either party should wish to implement a change they will provide the other with notification in writing at the others registered address. The other party agrees to respond to this request within ten working days.

Both parties shall meet within 20 working days of the delivery of the change request notice to discuss the request. Neither party is obliged to accept requested changes.

2.4. Delays to Services
The Supplier shall not be liable for any delays in the provision of the Services which are caused other than by the Supplier, any Supplier Personnel or any Third Party Personnel.

3. Software and Services Consumption

3.1 License pricing is calculated using a flexible menu based tariff. Therefore, the Monthly Fee is variable and is calculated based upon the number of end users; servers, applications, software or services subscribed to, plus any other charges.

3.2 The Managed License Service Schedule outlines the standard pricing tariff in use at the outset of the Agreement. The Managed License Service Schedule may be amended from time to time by notice in writing to the Client, provided always that any changes to the Monthly Fees may only be made in accordance with these terms and conditions.

3.3 Any changes to the configuration (including but not limited to the addition or removal of End Users, servers or services must be declared to the Supplier on a monthly basis upon request. The declaration must be made within five working days from the end of the previous month.

3.4 In the event that the Client wishes to add an End User, license or server, the Client shall provide the Supplier with the information in relation to that service so that the Supplier may declare this to the relevant vendor. The Supplier shall then make available the software or virtual server for that service in accordance with the Client's configuration requirements for that service.

3.6 In the event that the Client wishes to remove an End User, license or server, then the Client shall notify the Supplier and the Supplier shall remove that service or license.

3.7 If the Client reduces the number of End Users, licenses or servers, it shall have no further liability to pay the monthly Fee related to those services unless a minimum spend or license threshold is set in the Managed License Service Schedule. In all other circumstances, the Client shall remain liable to pay the Monthly Fee in respect of that service up to the end of the Term or Renewal Term in which the reduction took place.

3.8 If the Client wishes to suspend or reinstate a license or service covered in the Managed License Service Schedule, it shall notify the Supplier and the Supplier shall remove or reinstate that End User in accordance with the timeframes set out in the Managed License Service Schedule. The Client shall remain liable to pay the monthly Fee for an End User during the monthly period the license was consumed.

3.9 Additional Fees for added or removed End Users, licenses and servers will be reflected in the following months invoice.

3.10 The Client may request the additional or removal of services at any time. The Supplier shall make any such changes in accordance with the timeframes within a reasonable timescale.

3.11 Additional Fees for changes to the provided services will be reflected in the following months invoice.

4. Microsoft Cloud/Customer Agreement's (MCA)

The Clients use of the Microsoft Azure Management Portal and the provisioning of any of the Microsoft Azure services will be subject to the Clients acceptance of the Microsoft terms of use and the terms of use for each service presented to the Client when the Client accesses the Microsoft Azure Management Portal. The Client acknowledges Microsoft's conditions and agrees to observe and comply with them for any and all use of the Microsoft Azure services.

The Microsoft Cloud Agreement (MCA) protects the Supplier, the Client and Microsoft by providing the clients use rights, terms, and conditions granted for Microsoft Cloud product and service orders. As your software vendor, the Supplier requires the Client to authorize the Supplier to be the Clients Microsoft indirect reseller and agree to both MCA's.

The MCA (Cloud) can be found here: https://docs.microsoft.com/en-us/partner-center/agreements
The MCA (Customer) can be found here: https://www.microsoft.com/licensing/docs/customeragreement

5. COMPENSATION

5.1. Fees
The Annual Fees or the Monthly Fees payable for performing the Standard Services and the Non--Standard Services shall be as set out in the Managed License Service Schedule. Annual Fees and Monthly Fees are shown excluding VAT.

5.2. Reimbursable Expenses
Reimbursable expenses mean agreed incidental expenses reasonably incurred by the Supplier in performing its obligations. Examples of expenses that may be considered as reimbursable are stated in Appendix A of this Agreement. No expenses shall be reimbursable unless the Supplier receives the prior written approval from the Client prior to them being incurred. Notwithstanding such written approval, no expenses shall be reimbursable without the submission to the Client of appropriate receipt or other acceptable proof of expense.

5.3. Invoices
The Supplier shall pay the Annual Fees and Monthly Fees in accordance with the payment terms.

5.4. Payment Terms
5.4.1. The parties agree that the Client shall pay the Annual Fees and Monthly Fees as defined in the Managed License Service Schedule.
5.4.2. All fees and expenses are to be paid to the Supplier, in the currency of the invoice, by telegraphic transfer of funds to the account designated by the Supplier.
5.4.3. All invoices are payable within 30 days from the end of the month in which the invoice is dated. All hardware and software purchases will be pre-payable unless a credit account is authorised by the supplier. Any amounts disputed in good faith may be deducted from the invoice and the remainder must be paid by the due date. The disputed amount shall be notified in writing to the Supplier within seven days of receipt of the invoice giving the reasons for withholding payment. Upon receipt of the Client's dispute notice, the Supplier and Client will work together in good faith to resolve such disputes in a prompt and mutually acceptable manner. The Client agrees to pay any disputed amounts within five days once the issues have been resolved.
5.4.4. In the event that this Agreement is terminated the Supplier shall refund the Client the pro--rata prepaid amount associated with the unused portion of the services.

5.5. Taxes
The Client agrees to pay directly or reimburse the Supplier for any government taxes arising directly out of this Agreement excluding any taxes on the Supplier income.

5.6. Interest for Late Payment
Unless there is a valid reason to dispute an invoice, and if the invoice is not settled within 14 days from receipt of invoice, the Supplier may add interest, and the Client shall pay interest, at the rate of 4% per annum above the base rate of the Bank of England.

6. CLIENT DUTIES AND RESPONSIBILITIES
6.1. Processing and Authorisation of Invoices
Unless there is a valid reason to dispute an invoice, the Client undertakes to process and settle invoices by the due dates.

6.2. Declaration of Software Usage

The Client will ensure that all installations of software provided by the Supplier are declared on a monthly basis to the Supplier so that the Supplier may in turn report on usage to the various vendors. Failure to declare all instances of software installation or use of subscription services may result in breach of software compliance with a vendor.

6.3. Approvals and Information

The Client will respond promptly, and in any case, within five working days, to any Supplier requests to provide direction, information, approvals, authorisations or decisions that are reasonably necessary for the Supplier to perform the Services.

7. WARRANTIES AND REMEDIES

7.1. Quality of Service

The Supplier warrants that the Services will be performed in a professional and workmanlike manner consistent with industry standards reasonably applicable to such services. The Supplier warrants, undertakes and represents that it has and shall maintain all necessary licences, consents, permits and authorities required for the provision of the Services by the Supplier and the performance of its obligations under this Agreement.

7.2. Indemnification

If, as a direct result of the Supplier's Personnel's and/or Third Party's Default, the Client or Client's employees suffer personal injury or tangible property damage, the Supplier will reimburse the Client for such injury or damage, subject, in the case of tangible property damage, to the limitations of liability in clause 10.6.The Supplier will further indemnify the Client against any losses, fees or liabilities incurred by the Client to the extent that they occur as a consequence of the Supplier's breach of the warranty at clause 6.7 below.

7.3. Third Party Claims

The Supplier warrants that any works of authorship written by Supplier Personnel and/or Third Party Personnel and provided to the Client in the course of providing the Services will not infringe any third party Intellectual Property Rights. If a third party takes action against the Client for any infringements of this nature, then the Supplier will, at its own expense, settle any such claim.

7.4. Exclusions

The Supplier is not responsible for any infringements to third party Intellectual Property Rights where the Client has made amendments to original documents and similar works prepared by the Supplier without the express approval of the Supplier, or where the Client fails to use the most recent versions of such works that have been delivered by the Supplier.

7.5. Remedies for Breaches

Without prejudice to the rights and remedies available to Client in accordance with applicable law, in the event of any defective performance from the Supplier or failure to furnish the agreed level of service, the Supplier will use reasonable commercial efforts to restore the service to a good operating condition on an urgent basis at no additional cost to the Client.

7.6. Force Majeure

Neither party will be liable for any failure or delay in its performance under this Agreement due to reasons beyond its reasonable control, including acts of war, acts of terrorism, acts of God, earthquake, flood, riot, embargo, sabotage, governmental act or failure of the Internet, provided the delayed party gives the other party prompt notice of the reasons for such cause. For the avoidance of doubt, the Client shall not be entitled to invoke an act of force majeure as the reason for any non--payment, or delay in payment, of any amount due to the Supplier for which the Client has received the relevant Services in the terms of this Agreement.

7.7. Data Protection

7.71 **Compliance.** The Supplier acknowledges that the Client has an overriding duty to its clients to such bodies as regulate the Client's activities from time to time to ensure that Client Data is kept confidential and secure. The Supplier shall neither do nor omit to do anything that could prejudice the Client's ability to comply with its obligations and will effect and maintain at all times continuous and efficient security measures in order to safeguard Client Data from unauthorised access, disclosure or use and to minimise the risk of security breach. The Supplier shall use encryption techniques where available to protect Client Data when input and transmitted by means of the Solution Services.

7.72 **Data Processing.**
(a) In the course of providing the Solution Services, it may be necessary for the Supplier to have access to personal data (as defined in the Data Protection Act 1998 and the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) belonging to or retained by the Client and for the Supplier to process that data on behalf of the Client. In relation to any transfer and processing of personal data, it is the intention of the parties that:

(i) The Client will be the data controller; and
(ii) The Supplier will be the data processor.

(b) The Supplier will process the personal data only in accordance with the terms of this Agreement and any instructions given to it by the Client from time to time.

(c) At the request and expense of the Client, the Supplier will use its reasonable endeavours to assist the Client in complying with its obligations as data controller.

(d) The Supplier will not, except as agreed with, or in accordance with the instructions of the Client, carry out any processing of personal data on equipment situated outside the European Economic Area (EEA) or transfer any personal data outside the EEA.

(e) Each party will take appropriate technical and organisational measures against:
        (i) unauthorised or unlawful processing of personal data;
        (ii) accidental loss or destruction of, or damage to, personal data.

(f) Each party will comply with any specific guidance or instructions issued by the Information Commissioner.

8. SECURITY

8.1. Physical Access
The Client is to ensure that the Supplier Personnel and any Third Party Personnel nominated by the Supplier are given reasonable authorised access to premises and equipment in order that the Services may be delivered and maintained in accordance with the terms of this Agreement. Access may be required to audit software installed on Client equipment.

8.2. Logical Access
The Client is to ensure that the Supplier Personnel and any Third Party Personnel nominated by the Supplier are given administrative access to the software Supplier supplies in order that the Services may be delivered and maintained in accordance with the terms of this Agreement.

8.3. Compliance with Client Security Policies
In the event that the Client operates formal security policies, and the Client makes the Supplier formally aware of these in written form, then the Supplier will ensure that the Supplier Personnel and any relevant Third Party Personnel are made aware of such policies, and will also ensure on--going compliance with these policy statements. The Client will provide the Supplier with up to date information in written form on its security policies and will keep the Supplier informed about any changes to these policies.

8.4. Information and Data Security Measures
The Supplier will manage information and data security with reasonable efforts to restrict unauthorised access. The Supplier will use reasonable commercial efforts to ensure that the Supplier Personnel and any relevant Third Party Personnel are fully aware of the risks associated with information and data security issues and that they manage the information as set out in the beginning of this clause. The Supplier cannot be held liable for data loss due to security breaches, hardware or software failure or virus infection, save to the extent that such loss is caused directly by Supplier Personnel and/or Third Party Personnel's Default or negligence.

9. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

9.1. Intellectual Property Rights

9.1.1 Both parties acknowledge the Intellectual Property Rights of the other party. In the event that the Supplier creates any Client--specific Intellectual Property in the provision of the Services during the Term and in accordance with this Agreement, ownership of such Intellectual Property shall automatically transfer to the Client. However;; the Client acknowledges that such Intellectual Property is limited to Client specific work and the Supplier retains the right of ownership of Intellectual Property which leads to the creation of any such Client specific Intellectual Property.

9.1.2 The Client acknowledges that monitoring agents may be installed on to the Client's equipment for the duration of the Term to assist the Supplier to provide the Services.

9.1.3 No Intellectual Property Rights shall transfer and vest in the other party save for any Client--specific deliverables created by the Supplier during the performance of the Services under this Agreement. The Client acknowledges that nothing in this Agreement shall transfer or have the effect of transferring to the Client any right, title or interest in or to (a) any background Intellectual Property Rights of the Supplier (b) any know--how or methodology used by or on behalf of the Supplier in the provision of the Services or (c) any third party Intellectual Property Rights which have been licensed to the Supplier for the purposes of enabling the Supplier to provide the Services.

9.2. Confidentiality

9.2.1 Both parties agree to keep confidential all information concerning the other party's business or its ideas, products, customers or services that could be considered to be 'confidential information'. 'Confidential Information' is any information belonging to or in the possession or control of a party that is of a confidential, proprietary or trade secret nature and that is furnished or disclosed to the other party or which a party comes across in performing its obligations under this Agreement.

9.2.2 The foregoing obligation of confidentiality shall not apply to any information which:
(a) is, as of the time of its disclosure or thereafter becomes part of the public domain through a source other than the Receiving party;
(b) was rightfully known to the Receiving party as of the time of its disclosure without an obligation of confidentiality; or
(c) is independently developed or obtained by the Receiving party otherwise than in breach of confidence.

9.2.3 Confidential Information will remain the property of the Disclosing party and the Receiving party will not acquire any rights to that Confidential Information.

9.3. Court Orders
If the Receiving party receives a court order to divulge any Confidential Information belonging to the Disclosing party, then the Receiving party is permitted to release such information to the court in accordance with any such order so served.

9.4. Destruction of Data and Records or Return on Termination
Upon termination of this Agreement, the Receiving party, at the option of the Disclosing party, will return or destroy all Confidential Information belonging to the other party.

10. LEGAL COMPLIANCE AND RESOLUTION OF DISPUTES

10.1. Governing Law
This Agreement shall be governed by, and construed in accordance with, English law.

10.2. Export Control
Both Supplier and Client agree to comply fully with all relevant export laws and regulation of the country or countries where their offices are located if relevant.

10.3. Informal Resolution
In the event of dispute, the parties will attempt to resolve any such disputes through informal negotiation and discussion. Formal proceedings should not be commenced until such informal negotiations and discussions are concluded without resolution.

10.4. Arbitration
Any unresolved dispute should be referred to a qualified independent arbitrator acceptable to both parties. In the event that a suitable independent arbitrator cannot be identified and agreed on by both parties, then the courts shall be requested to appoint one.

10.5. Limitation of Action
Neither party may bring proceedings more than 18 months after the actual event occurred except for proceedings for non-payment.

10.6. Limitation of Liability

10.6.1 The Supplier shall be liable to the Client for any Default of its obligations under this Agreement which shall be limited in each contract year to an aggregate amount equal of the total fees paid or payable by the Client during the 12 months preceding the Default event provided that such limitation of liability shall not apply to any claim alleging Default of the obligations in clauses 5.7 (Data Protection) ,6.3 (Third Party Claims) or 8.2 (Confidentiality).

10.6.2 The Client shall be liable to the Supplier for any Default of its obligations under this Agreement which shall be limited in each contract year to an aggregate amount equal of the total fees paid or payable by the Client during the 12 months preceding the Default event provided that such limitation of liability shall not apply to any claim for non-payment of fees or charges for Services provided to the Client or to any claim alleging Default of the obligations in clause 9.2 (Confidentiality).

10.6.3 Neither party shall be liable under this Agreement for any loss of profit, loss of revenue, loss of contracts, loss of anticipated savings, loss of goodwill, or for any indirect, special or consequential loss or damage.

10.6.4 The Supplier is not responsible for any loss or damage caused by the failure of the Client or its Affiliates or other Supplier to perform their responsibilities.

10.6.5 Nothing in this Agreement shall be construed as attempting to limit or exclude the liability of any party in respect of death or personal injury caused by negligence, or for fraud and/or fraudulent misrepresentation of its employees or agents or subcontractors, or other liability not able to be limited or excluded in accordance with applicable law.

10.6.6 The limitations of liability included in this clause 10.6 will survive termination of this Agreement.

11. TERMINATION

11.1 Contract Renewal
This Agreement starts on the Commencement Date. Unless terminated by either party by giving 90 days written notice in accordance with Clause 11.2, this Agreement will automatically renew for consecutive periods of 12 months, each starting on the anniversary of the Commencement Date (each period being a "Renewal Term").

11.2. Terminating the Agreement on notice
Either party may terminate this agreement by giving the other party at least 90 days' written notice in advance of the end of the initial Term or any subsequent Renewal Term.

11.3. Termination for Cause
If either party fails to perform any of its obligations under this Agreement, the non-defaulting party may give written notice of the default to the defaulting party. On receiving written notice describing such failure, the failing party should take measures to remedy such failure and a written response outlining the measures and timescales for rectification shall be sent in writing to the other party. Unless such default is corrected within sixty (60) days after receipt of such notice, the notifying party may thereafter terminate this Agreement.

11.4. Termination for Force Majeure
Either party shall be entitled to give notice to the other party to terminate this Agreement with immediate effect, if any event of force majeure (as referred to in clause 7.6) continues for a period of 90 days or more.

11.5. Termination for Insolvency
Either party will have the right, without prejudice to its other rights or remedies, to terminate this Agreement immediately by written notice to the other party if any of the following events occurs (or any event analogous to any of the following occurs in a jurisdiction other than England & Wales) in respect of the other party:

11.5.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;

11.5.2 a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding--up is passed (other than as part of, and exclusively for the purpose of, a *bona fide* reconstruction or amalgamation);

11.5.3 a petition is presented for its winding up (which is not dismissed within 14 days of its service), or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of Insolvency Act 1986;

11.5.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or

11.5.5 an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or

11.5.6 it is or becomes insolvent within the meaning of s.123 Insolvency Act 1986.

11.6. Payment on Termination
In the event of termination of this Agreement for any cause, the Supplier will continue to be paid up to the effective date of termination for any fees or expenses due for Services delivered up to that date and the Supplier shall refund the Client for the pro--rata portion of any advance payments.

12. GENERAL

12.1. Notices
Notices required under this Agreement are to be sent to the address and persons specified in the Service Description attached to this Agreement. Notices are to be sent in writing by registered post, recorded post, express courier service or be delivered personally.

12.2. Standard of Care
Each party will act in good faith in the performance of its respective duties and responsibilities and will not unreasonably delay or withhold the giving of consent or approval required for the other party under this Agreement. Each party will provide an acceptable standard of care in its dealings with the other party and its employees.

12.3. Assignment

Neither party may assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of the other party save that the Client may assign or transfer its rights or obligations under this Agreement to a Client group company, provided always that the assignee or transferee shall be responsible for the Annual Fees in accordance with this Agreement and compliance of this Agreement. In the event that consent for assignment is given, the terms of this Agreement will be binding upon each party's respective successor.

12.4. Entire Agreement

This document constitutes the entire agreement between the parties, and supersedes and extinguishes all other prior agreements between the parties for the provision of the Services. Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement.

12.5. Severability

The provisions of this Agreement shall be deemed severable, and the unenforceability of any one of the provisions shall not affect the enforceability of other provisions. In the event that a provision is found to be unenforceable, the parties shall substitute that provision with an enforceable provision that preserves the original intent and position of the parties.

12.6. Changes to the Agreement

All changes to this Agreement must be approved in writing by authorised representatives of both parties and follow the formal change control procedure set out within the Service Description..

12.7. Non--solicitation

During the term of this Agreement and for two years after its expiration or termination, neither party will solicit any employee of the other party for the purposes of offering employment. The provision of this clause shall not apply in respect of general recruitment campaigns by either party run during the normal course of their business.

12.8. Exhibits

The Schedules and Appendices referred to in and attached to this document are to be considered an integral part of this Agreement.

The Managed License Service Schedule referred to in this document is also to be considered an integral part of this Agreement