GENERAL TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions:** In this Agreement (including the Schedules the words and expressions within this Agreement are defined in the General Terms and Schedules 1, 2, 9 and 10 (inclusive).

1.2 **Interpretation:** In this Agreement (including the Schedules) unless the context otherwise requires:

(a) reference to a person includes a legal person (such as a limited company) as well as a natural person;

(b) headings are for convenience only and shall not affect the construction of this Agreement;

(c) reference to "including" or any similar terms in this Agreement shall be treated as being by way of example and shall not limit the general applicability of any preceding words;

(d) reference to any legislation shall be to that legislation as amended, extended or re-enacted from time to time and to any subordinate provision made under that legislation;

(e) words in the singular include the plural and vice versa; and

(f) reference to "writing" or "written" includes email.

1.3 **Not Used**

2. Services

2.1 **Tribal to Provide Services.** The Customer shall be provided with the Services.

3. GRANT AND SCOPE OF USE

3.1 **Software Service and Customer Rights**: In relation to the Software Service for the Software Tribal grants to the Customer for the Term:

(a) **On Premise** - a non-transferable, non-exclusive, revocable and limited licence to access and use the On Premise Software for the Permitted Use, subject to the Customer Obligations; and

(b) **Tribal SaaS and Cloud Services** - non-exclusive, non-transferable right to access and use the Tribal SaaS and Cloud Services for the Permitted Use, subject to the Customer Obligations (as

applicable).

3.2 **Use of the Software and Service Documentation.** Tribal grants to the Customer a non-transferable, non-exclusive, revocable and limited licence for the Term to access and use the Software and Service Documentation and Key Documents.

3.3 **Customer Responsibilities.** The Customer shall be responsible for all access to and use of the Software and Software Service by its Registered Users and Permitted Users. The Customer shall only provide its Registered Users and Permitted Users with access to the Software via the Software Service approved by Tribal. The Customer shall immediately notify Tribal in the event that the Customer becomes aware of breach of this Agreement by any person.

3.4 **Customer Maintain Security and Confidentiality.** The Customer shall be responsible for ensuring the security and confidentiality of IDs. The Customer acknowledges and agrees that the Customer will be solely responsible for all activities that occur under such ID. The Customer shall promptly notify Tribal upon becoming aware of any unauthorised access to or use of the Software and/or Software Service and provide all reasonable assistance to Tribal to bring an end to such unauthorised access or use.

3.5 **Customer Obligations.** The Customer shall:

(a) comply with all applicable laws and regulations with respect to its activities;

(b) obtain and maintain all necessary licences, consents, and permissions necessary for Tribal to perform its obligations, if any;

(c) use its reasonable endeavours to complete the Tasks for which it is responsible;

(d) in relation to On Premise Software, keep a complete and accurate record of the Customer's copying and disclosure of the Software, its location, and its Registered Users and Permitted Users, and produce such record to Tribal on request from time to time (including, without limitation, on expiry or termination of this Agreement);

(e) pay, for broadening the scope of the licences or Metric Band to cover use not authorised by this Agreement, an amount equal to the Fees which Tribal would have levied had it licensed or granted such use on the date when such use commenced together with interest at the rate provided for in clause 9.5 from such date to the date of payment;

(f) in relation to On Premise Software, install it solely and exclusively on designated hardware platforms and only at the Site, not copy the whole or any part of the Software, provided that the Customer shall be entitled to make one (1) copy of the Software in machine-readable form for back-up purposes only (such copies to be subject to the restrictions relating to use of the On Premise Software). Any change to the Site or any change or replacement to the designated hardware platform, by either party, is to be undertaken by a Change Request Agreement and maybe subject to additional Fees;

(g) reproduce on any copy of the Software and/or Software and Service Documentation, any copyright and trademark notice of Tribal and/or any Third-Party Proprietor;

(h) not, in relation to Tribal Cloud SaaS, install the Software on the Customer's equipment;

(i) not translate, modify, adapt or create derivative works from the Software;

(j) not obscure, amend or remove any copyright notice, trademark or other proprietary marking on, or visible during the operation or use of, the Software, Software and Service Documentation or Third-Party Software;

(k) not attempt to discover or gain access to the source code for the Software or Third-Party Software or reverse engineer, modify, decrypt, extract, disassemble or decompile the Software or Third-Party Software (except strictly to the extent that the Customer is permitted to do so under applicable law which make it unlawful for Tribal to restrict or prevent such activity), including in order to:

(i) build a competitive product or service;

(ii) build a product using similar ideas,

features, functions or graphics of the Software; or

(iii) copy any ideas, features, functions or graphics of the Software;

(l) not attempt to interfere with the proper working of the Software and/or Software Service and, in particular, must not endanger its operation, nor attempt to circumvent or endanger security, licence control or other protection mechanisms, or tamper with, hack into or otherwise disrupt the Software and/or Software Service or any associated website, computer system, server, router or any other internet-connected device;

(m) not separate the component parts of the Software for use in more than one place without the prior written consent of Tribal;

(n) not introduce any software virus or other malware that may infect or cause damage to the Software or Software Service;

(o) in relation to On Premise Software, not merge or combine the whole or any part of the Software with any other software or documentation, except with the prior written consent of Tribal;

(p) not resell, sublicence, rent, lease, sell, assign, lend, transfer, charge, novate or otherwise deal with the Software (including or Third-Party Software) and/or Software Service and/or this Agreement, or use the Software (including or Third-Party Software) and/or Software Service, for the benefit of anyone other than the Customer and not allow or permit a third party to do so;

(q) not allow the Software and/or Software Service to become the subject of any charge, lien or encumbrance without the prior written consent of Tribal;

(r) not deal in any other manner with any or all of its rights and obligations arising under the Agreement without the prior written consent of Tribal; and/or

(s) not use the Software and/or Software Service:

(i) to provide any application service provider offering, hosted services or bureau services;

(ii) to upload, store, post, email, transmit or otherwise make

available any Prohibited Content;

(iii) to impersonate any person or entity or otherwise misrepresent the Customer's relationship with any person or entity;

(iv) to engage in any fraudulent activity or further any fraudulent purpose;

(v) to provide material support or resources (or to conceal or disguise the nature, location, source, or ownership of material support or resources) to any organisation(s) designated by the government of the Jurisdiction or any foreign government as a terrorist organisation;

(vi) to "stalk" or otherwise harass another person;

(vii) to provide false identity information to gain access to or use the Software and Software Service;

(viii) to link or use the Software and Software Service in combination with the software or services of a third party without Tribal's prior written consent and/or without obtaining all necessary permissions and/or licences at no cost to Tribal;

(ix) to collect or store personal data about other users in connection with the Prohibited Content and activities set out in clauses 3.5(s)(i) to (viii); and/or

(x) in a manner as prohibited by any third-party service provider to Tribal in respect of the Software. Software Service or Services, as advised to the Customer from time to time and taking reasonable steps to provide prior notification,

and shall not permit any third party to do any of the foregoing.

4. NOT USED

4.1 **Not Used**

4.2 **Not Used**

4.3 **Not Used**

4.4 **Not Used.**

4.5 **Not Used**

4.6 **Not Used.**

4.7 **Approved Equipment.** In relation to the Software and/or Software Service the Customer shall ensure that the Software and/or Software Service are used on equipment of sufficient specification and functionality (as notified to it by Tribal from time to time acting reasonably and giving reasonable notice) to enable the Software and/or Software Service to operate to the standards set out in the Software and Software Service Documentation, which includes approved browsers.

4.8 **Not Used**

4.9 **Not Used**

5. SUPPORT SERVICES

5.1 **Provision of Support Services.** Tribal shall provide the Support Services

5.2 **Not Interfere with Customer Operations.** Tribal will use Commercially Reasonable Efforts to co-ordinate the provision of Support Services with the Customer so as not to interfere with the operations of the Customer.

5.3 **Support Requests.** In order for Tribal to be able to provide Support Services to the Customer, it will be necessary (and is a condition of this Agreement) for the Customer to:

(a) submit a Request to Tribal through the Customer Portal which includes, a detailed description of any Fault requiring Support Services, including where possible a screenshot, and the circumstances in which it arose, upon becoming aware of the Fault. The Customer shall provide such additional information and access as may be reasonably requested by Tribal to enable the Fault to be classified;

(b) maintain the Software such that the current version is Supported Software except where Tribal is in breach of this Agreement;

(c) for On-Premise Software and Tribal Dynamics SaaS, ensure that appropriate arrangements are put into place to allow remote access to the system by modem, internet or some other appropriate arrangement in accordance with Customer remote access security policies and which are acceptable to Tribal; and

(d) continue to maintain any system requirement in accordance with the minimum operating requirements as

notified by Tribal or the owner thereof from time to time with reasonable notice.

5.4 Designated Customer Support Staff. It is critical to the productive and efficient provision of Tribal's Support Services that it is not used as an unofficial training service for the Software and/or Software Service. Accordingly, Tribal requires that only the Customer's Designated Customer Support Staff access the Support Services in relation to the Software and/or Software Services, failing which Tribal shall not be required to provide Support Services.

5.5 On-Site Support Services. Except as specifically provided, on-site support is outside the scope of Support Services and will only be delivered by way of an agreed Change Request.

5.6 Advance Notice of Material Changes. The Customer acknowledges that Tribal may from time to time Update/Upgrade the Software and/or Software Service which may result in changes to the appearance and/or functionality of the Software and/or Software Service, provided that the Software and/or Software Service will continue to conform with the Tribal Warranties and remain materially suitable for the business purpose for which it was purchased. Tribal shall take reasonable steps to advise the Customer, in advance, of any material changes that will occur in respect of the appearance and/or functionality of the Software and/or Software Service.

5.7 Unsupported Software: Without prejudice to the terms of this Agreement, in the event that the Customer's Production Environment is Unsupported Software, Tribal's obligation to provide Support Services will cease and a warranty-free right to use shall come into immediate effect for the Unsupported Period but no longer than the Term. Notwithstanding any Unsupported Period, the Customer's obligation to pay Support Service Fees (including as part of Annual Subscription Fees) will continue in accordance with the terms of this Agreement. This clause will cease to apply so long as the Customer's Production Environment is Supported Software and all Fees have been paid. This clause is subject to the provisions in Tribal SaaS and Cloud Schedules. This clause will not apply in the event that the Customer's inability to be on Supported Software is due to Tribal's failure to comply with its obligations under the Agreement.

6. NOT USED

6.1 Not Used

6.2 Internet Connectivity. In order to access Tribal SaaS and Cloud Services, the Customer is responsible for securing and maintaining internet connectivity.

6.3 Not Used

7. NOT USED

7.1 Not Used

8. PROFESSIONAL SERVICES

8.1 Services Outside Scope of this Agreement. Any Professional Services are to be agreed using the Tribal template Professional Services Agreement and signed by the Parties.

8.2 Customer Requested Questionnaires and/or Reports. Tribal reserves the right to charge Professional Services Fees to complete any Customer requested questionnaires (e.g. security or compliance) and/or reports which are not part of the Services and require significant effort, in accordance with the then current Tribal Day Rates.

8.3 Services to be Provided in 12 Months. In the event that the Customer purchases any Professional Services after the Go Live Date from Tribal, it shall be obliged to consume such Professional Services within twelve (12) months, failing which it shall not be entitled to receive such Services and shall receive no reimbursement in respect thereof.

8.4 Customer Requirements. In order for Tribal to be able to provide Professional Services to the Customer, the Customer shall:

(a) if applicable, provide physical access to such premises of the Customer as Tribal shall reasonably require; and

(b) pay Expenses as detailed in clause 9.2 or otherwise agreed in writing.

8.5 On-site services. Tribal may provide on-site services, if agreed in writing by the parties in a Change Request or Professional Services Agreement, subject to a minimum charge of 6 Working Hours, excluding travel to site and breaks, unless otherwise agreed in writing.

9. FEES

9.1 Payment of Fees. The Customer shall pay to Tribal the Fees in the Currency, on the Due Date, without any set off, withholding or deduction whatsoever.

9.2 Expenses. The Customer shall reimburse any reasonable Expenses incurred by Tribal where such expenses are (i) if applicable, incurred wholly and exclusively for the purpose of

providing on-site services; (ii) the estimated cost or principles are agreed in advance with the Customer; and (iii) any request for reimbursement is in the form of an invoice accompanied by receipts (if requested). Expenses are payable in accordance with the Payment Terms, unless otherwise agreed in writing.

9.3 **Exclusive of Taxes.** The Fees detailed in this Agreement are exclusive of Taxes. In addition to paying the Fees and any other amount payable under or in connection with this Agreement (which are exclusive of Taxes), Customer must pay to Tribal an amount equal to any Taxes payable for any supply and make such payment on the date when the Fees are payable.

9.4 **Disputed Amount.** Notwithstanding the terms of clause 9.1, in the event of a Dispute in relation to Fees (including an invoice):

(a) the Customer will promptly notify Tribal of the Dispute which shall include full particulars (and supporting evidence) detailing the Dispute;

(b) the Customer will pay the undisputed amount of the Fees/invoice in accordance with the Payment Terms;

(c) the Parties must continue to perform their obligations under this Agreement; and

(d) the Customer must invoke the Dispute Resolution procedure in clauses 27 without undue delay and in any event within seven (7) days of such Dispute arising or the due date for payment of the invoice in dispute, whichever is the earlier.

9.5 **Interest on Overdue Payments.** If the Customer fails to make payment of an undisputed amount due to Tribal under this Agreement by the Due Date, then without limiting Tribal's remedies under clause 21, the Customer shall pay interest on the overdue undisputed amount at the Interest Rate per annum or, rate permitted by applicable law, whichever is the higher. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount. In the event that a disputed amount becomes payable to Tribal then the Customer will pay interest in accordance with this clause from the original Due Date for payment.

9.6 **Cancellation of Services.** If the Customer

provides a Cancellation Notice the Customer will pay the Cancellation Fees (if any). Tribal shall use Commercially Reasonable Efforts to find alternative work for the relevant Tribal personnel.

10. FEE ADJUSTMENTS

10.1 **Agreed Metrics.** For each Metric, the Parties have agreed the Metric Level and Metric Band for the Customer.

10.2 **Change to Metric Level.** During the currency of this Agreement any change to a Metric Level will be determined, as follows:

(a) **Student FTE Numbers** - by the Independent Arbiter;

(b) **Other Student Enrolments** –

(i) Student TNE – by the Independent Arbiter; and

(ii) Any Other Student Enrolments which are not Student TNE, the Parties acting reasonably and consistent with industry practice, will agree a measure;

(c) **PowerUI Concurrent Users** – by Tribal;

(d) **PowerUI Users** – by Tribal;

(e) **Registered Users** – by Tribal;

(f) **Customer Turnover** – by reference to the most recent (in the following order of preference):

(i) audited accounts of the Customer (with an unqualified audit opinion); or

(ii) statutory declaration signed by the chief executive officer of the Customer; or

(iii) mutual agreement between the Customer and Tribal and if the Parties cannot agree, to be determined by a chartered accountant mutually agreed (or failing agreement by the President of the Chartered Accountants Society in that Jurisdiction) at the expense of the Parties to be mutually shared; and

(g) **Learner Numbers** – by the Independent Arbiter.

10.3 **Change to Metric Band.** Upon:

(a) the Independent Arbiter publishing a determination, and/or

(b) the date that is two (2) months prior to each anniversary of the Effective Date,

the Parties will determine each Metric Level (and the corresponding Metric Band) in accordance with clause 10.2. If the Metric Level for the Customer results in a new Metric Band, the Fees shall increase or decrease (as applicable). Such Fees (as adjusted in accordance with this clause) will be incorporated:

(c) Student FTE Number and Other Student Enrolments – on an invoice to be issued immediately; and

(d) In all other cases – on an invoice on the next scheduled payment date (calculated in accordance with clause 9.1).

10.4 **Metric Baseline.** The Parties agree that clause 10.3 will not apply where a Metric Level is below the Metric Baseline. For clarity, there will be no decrease in Fees in relation to a Metric Level which falls below the Metric Baseline.

10.5 **Notify Change to Metric Level.** The Customer must advise Tribal within thirty (30) calendar days:

(a) of any change in a Metric Level that is greater than 10% of the then current Metric Level (for example as a result of, but not limited to, a merger or acquisition) – whether such change occurs as a result of a single event or is cumulative within a Contract Year; or

(b) Student FTE Number (if applicable) - the Independent Arbiter publishing a new Student FTE Number; or

(c) Other Student Enrolments (if applicable) - a new Other Student Enrolments Number is determined in accordance with clause 10.2; or

(d) Customer Turnover (if applicable) – a new Customer Turnover is determined in accordance with 10.2(e); or

(e) Learner Number (if applicable) – a new Learner Number is determined in accordance with clause 10.2;

(f) Registered Users (if applicable) a new Registered User number is determined in accordance with clause 10.2;

and in such event (irrespective of the Customer notifying Tribal) the Fees payable by the Customer will be adjusted on a pro rata basis for the current Contract Year.

10.6 **Fee Increases.** Tribal shall be entitled to increase the Fees upon each anniversary of the Renewal Date by the percentage increase in the most recently published Annual Fee Increase Benchmark specified in Schedule 8.

10.7 **Cloud Provider Fees Adjustments.** Tribal is supported by a third-party Cloud Provider who charges Tribal in United States Dollars ("**USD**") which may result in exchange rate fluctuations which adversely impact the Fees for the Tribal SaaS and Cloud Services. If applicable, the Parties agree to adjust (up or down) the Fees for the Tribal SaaS and Cloud Services as detailed in Schedule 8.

10.8 **Academic Pricing.** If applicable, the Customer warrants that it is eligible for Academic Pricing in accordance with the Cloud Provider's pricing model, as at the Effective Date and will continue to be eligible during the Term. The Customer will immediately inform Tribal if it ceases to be eligible. In the event that the Customer ceases to be eligible for the Cloud Provider's Academic Pricing, then the Fees will be adjusted from the date that the Customer ceased to be eligible for the Cloud Provider's Academic Pricing and the Customer indemnifies and agrees to keep Tribal indemnified for any losses as a result of a breach of this clause.

11. **CHANGE CONTROL**

11.1 **Making Changes.** Where a Party wishes to make a change to this Agreement or part thereof, it may at any time request such change, and a Change Request shall be submitted by the Party requesting the change to the other Party. Such change shall only be effective once the Change Request is signed by both Parties.

11.2 **Agreement Applies Until Change is Agreed.** Until a Change Request is signed, the Parties shall continue to perform this Agreement in accordance with its existing terms.

11.3 **Change Request Fees.** All fees in relation to a Change Request shall be detailed in the Change Request.

12. **CONFIDENTIALITY, PUBLICITY AND NON-SOLICIT**

12.1 **Confidentiality.** Each Party shall, during the term of this Agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than in accordance with this Agreement) nor without the prior written consent of the other disclose to any third party (except as may be required by any law or any legal or regulatory authority or stock exchange) any Confidential Information, unless that information is public knowledge or already

known to such Party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such Party from a third party, or a request received by a Party for disclosure of any information relating to the other Party pursuant to freedom of information laws (if any in the Jurisdiction), provided that in the Party's compliance with this clause, it shall not disclose any such information until such time as it has obtained a view from the other Party as to whether such information should be subject to disclosure or not, and shall take reasonable account of such view in deciding whether or not disclosure is required. Each Party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

12.2 **Confidentiality of Employees, Agents, Sub-Contractors and Sub-Processors.** Each Party shall (and procure that all relevant employees, agents and contractors, professional advisers and any sub-processors (appointed in accordance with Schedule 2)) keep confidential the Confidential Information and limit access to those of its employees, agents, contractors, professional advisers and any sub-processors who either have a need to know or who are engaged in the use of the Confidential Information, subject to each such person of the Party being bound by an obligation of confidentiality equivalent to this clause.

12.3 **Public Announcement.** Neither Party shall make, or permit to be made, a public announcement or media release about any aspect of the Agreement unless:

(a) the other Party gives its prior consent in writing, not to be unreasonably withheld, conditioned or delayed; or

(b) the announcement is required by law or the requirements of a stock exchange; or

(c) the announcement is limited to information already in the public domain.

12.4 **Non-Solicitation.** Neither Party shall, without the prior written consent of the other Party, either during the Term or at any time during the period of six (6) calendar months following the date of termination or expiry of this Agreement, solicit or endeavour to solicit away from the other Party or its Affiliates, or be directly involved in the employment or engagement of any person with whom the first Party has had dealings or contact (other than on a de minimis basis) in the course of the Term and who is as at the date of termination or expiry of this Agreement, or was at any time during the period of six (6) calendar months prior to the date of termination or expiry of this Agreement, employed or engaged by the other Party and/or its Affiliate. This clause does not apply in relation to a bona fide public job advertisement or any other general solicitation of employment (including through recruitment agencies) not directed solely to any such person.

13. **EXPORT**

13.1 **Export.** Neither Party shall export, directly or indirectly, any technical data acquired from the other Party under this Agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations, including United States export laws and regulations, to any country for which any government (or any agency thereof), at the time of export, requires an export licence or other governmental approval without first obtaining such licence or approval.

14. **INTELLECTUAL PROPERTY RIGHTS**

14.1 **No Transfer.** Except as expressly stated in this Agreement, no rights including but not limited to Intellectual Property Rights, of either Party are transferred or licensed as a result of this Agreement.

14.2 **Ownership of Intellectual Property Rights.** The Customer acknowledges (and shall inform all relevant employees, agents and sub-contractors accordingly) that all Tribal IPR is owned by Tribal or the relevant third-party owners (as the case may be), and the Customer shall have no rights in or to Tribal IPR other than the right to use it in accordance with the terms of this Agreement. Except as expressly permitted by this Agreement, the Customer may not use any Tribal IPR without Tribal's prior written consent.

14.3 **Intellectual Property Rights in Reports.** In the event that a deliverable created pursuant to any Services is a written report for the Customer, then the Customer acknowledges that it will own the physical media on which the report is supplied (if any) but that all Tribal IPR in the report remains Tribal IPR and the Customer shall have no rights in or to such Tribal IPR other than the right to use it in accordance with the terms of this Agreement.

14.4 **Ownership of Customer Created Intellectual Property Rights.** The Customer acknowledges that it may create Intellectual

Property Rights as a result of the implementation, configuration, integration and use of the Software and/or Software Service and/or Services, or by enhancing, improving or suggesting improvements of Tribal IPR. Any and all Modifications to the Tribal IPR created or suggested by the Customer which results in the creation of Intellectual Property Rights, shall be owned by Tribal. The Customer hereby assigns any and all Intellectual Property Rights in respect of the Modifications to Tribal and waives its moral rights and/or shall procure a waiver of such moral rights. The Customer shall execute and deliver or procure the execution and delivery of such documents and perform such acts as may be required for the purpose of giving full effect to this clause.

14.5 **Notify of Wrongful Use of Intellectual Property Rights.** The Customer shall promptly bring to the attention of Tribal any improper or wrongful use of any Tribal IPR which comes to the Customer's notice. The Customer shall assist Tribal, at Tribal's expense, in taking all steps to defend Tribal's IPRs but will not institute legal proceedings of its own accord and without Tribal's consent.

14.6 **Limited Licence to Use Each Party's Intellectual Property Rights.** Subject to any other terms expressly agreed by the Parties, each Party grants the other a non-transferable, non-exclusive, revocable and limited licence of such of its Intellectual Property Rights as are necessary to enable the other Party to fulfil its obligations under this Agreement or make use of the Services supplied under this Agreement, for the Term, but not otherwise.

15. **CUSTOMER DATA AND DATA PROTECTION**

15.1 **Customer Data.** Tribal shall, to the extent it is within its control and part of the Services (for the avoidance of doubt, this excludes Business Configuration):

(a) process, modify, store, access, copy and use the Customer Data solely for the purpose of performing its obligations under the Agreement and shall not use (nor allow any third party to use) the Customer Data for any other purpose whatsoever;

(b) not sell or otherwise transfer the Customer Data to a third party for use by that third party for its own benefit;

(c) take Commercially Reasonable Efforts to ensure the confidentiality, integrity and availability of the Customer Data, such

steps to include methods to predict, prevent, detect, respond to and recover from any foreseeable threats to the Customer's Data which could lead to theft, damage, loss, corruption, manipulation and unauthorised interception, access, disclosure, modification and the deletion of Customer Data; and

(d) undertake all necessary corrective action, based on Commercially Reasonable Efforts, to remediate risks to the Customer's Data as and when such risks are identified and notify any such identified risks to the Customer without delay.

15.2 **Data Protection**: Each Party will comply with applicable Data Protection Law.

15.3 **UK and/or EEA Data Protection Law**: If UK and/or EEA Data Protection Law applies to the processing of personal data under this Agreement, the provisions of Schedule 2 shall apply in relation to data protection obligations between the Parties in respect of such processing.

15.4 **Tribal Global Service Desk**: The Parties acknowledge and agree (including for the purposes of clause 8 of Schedule 2) that Tribal may transfer Personal Data to Tribal Affiliates for the purposes of providing Services, including Support Services. In respect of such transfers, Tribal warrants that:

(a) Tribal shall only transfer Personal Data to Tribal Affiliates under an adequate data transfer mechanism in accordance with Data Protection Law, including Tribal Affiliates who have entered into the Tribal Intra-Group Personal Data Transfer Agreement; and

(b) the Tribal Intra-Group Personal Data Transfer Agreement provides an adequate level of protection of the privacy and fundamental rights and freedoms of individuals as required by applicable Data Protection Laws.

16. **NOT USED**

16.1 **Not Used**

16.2 **Not Used**

17. **WARRANTIES**

17.1 **Tribal Warranties.** Tribal warrants and undertakes that:

(a) its title to the Software is free and clear of

8

encumbrances;

(b)   it has the right, power and authority to license the On Premise Software and Software and Service Documentation and/or provide the Software Services and the Third-Party Software, as contemplated by this Agreement;

(c)   the Software and Software Service shall, under normal operating conditions, substantially conform to the Specification and will be materially free from errors;

(d)   its Personnel used in performing the Services are suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged; and

(e)   the Services will be provided with reasonable skill and care.

17.2   **Remedy for Breach of Warranty.** If any of the warranties in this clause are breached, the Customer must notify Tribal as soon as possible and Tribal shall take Commercially Reasonable Efforts to remedy any non-conformances in accordance with the terms and conditions of this Agreement. The Customer must give Tribal a reasonable time to remedy any non-conformances, including (in Tribal's discretion) by making available a corrected version of the Software and/or Software Service (as the case may be) or a reasonable way to work around the problem that is not materially detrimental to the Customer and/or by re-performing any relevant Services. This will be done without any additional charge to the Customer. If Tribal is able to do this within a reasonable time, this shall be the Customer's sole and exclusive remedy in relation to such breach and Tribal will, subject to the terms herein, have no other obligation or liability in relation to such breach.

17.3   **No Warranty – Error Free.** Tribal does not warrant that the use of the Software and/or Software Service will be uninterrupted or error-free.

17.4   **No Warranty – Achieve Intended Results.** The Customer accepts responsibility for the selection of the Software, Software Service and Services to achieve its intended results and acknowledges that the Software, Software Service and Services have not been developed to meet the individual requirements of the Customer, unless otherwise expressly specified in this Agreement.

17.5   **No Warranty – Open Source.** The Customer acknowledges that any Open Source Software

provided by Tribal as a standalone solution are provided "as is" and expressly subject to the disclaimer in clause 17.6.

17.6   **No Warranty – Implied.** Except as expressly set out in this Agreement, all other conditions, warranties or other terms which might have effect or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, or which might otherwise have effect between the Parties (including any terms contained in any purchase order issued by the Customer) are hereby excluded, including any implied terms as to satisfactory quality or fitness for purpose.

18.   **INDEMNITIES**

18.1   **Tribal Indemnity.** Tribal shall defend and indemnify the Customer from and against any losses, damages, liability, costs (including legal fees) and expenses finally awarded against the Customer by a court of competent jurisdiction and/or any amounts paid by the Customer further to a final settlement approved by Tribal as a result of or in connection with any claim by a third party that the Customer's use of the Services infringes the Intellectual Property Rights of any third party.

18.2   **Customer Indemnity.** The Customer shall defend and indemnify Tribal from and against any losses, damages, liability, costs (including legal fees) and expenses finally awarded against Tribal by a court of competent jurisdiction and/or any amounts paid by Tribal further to a final settlement approved by Tribal, as a result of or in connection with any claim by a third party that the Customer's use of, amendments or variation of the Services (to the extent they have not been approved or authorised by Tribal) infringes the third party's Intellectual Property Rights.

18.3   **No Liability to Indemnify.** The indemnifier in each case shall have no such liability if the other Party:

(a)   does not notify the indemnifier in writing setting out full details of the relevant Claim of which it has notice as soon as is reasonably possible; or

(b)   makes any admission of liability or agrees any settlement or compromise of the relevant Claim without the prior written consent of the indemnifier (which shall not be unreasonably withheld or delayed); or

(c)   does not let the indemnifier at its request and own expense have the conduct of or

settle all negotiations and litigation arising from Claim; or

(d) does not, at the indemnifier's request and own expense, give the indemnifier all reasonable assistance in the circumstances described above.

18.4 **Tribal Obligations.** If any Claim is made, or in Tribal's reasonable opinion a Claim is likely to be made, against the Customer, Tribal may at its sole option and expense:

(a) procure for the Customer the right to continue to use the Services (or any part thereof) in accordance with the terms of this Agreement; or

(b) modify the relevant Services so that they cease to be infringing without incurring a material diminution in performance or function; or

(c) replace the relevant Services with non-infringing Services provided that such substitutes do not entail a material diminution in performance or function than that of the Services;

provided that if Tribal modifies or replaces the Services, the modified or replacement Services must comply with the warranties contained in clause 17.

18.5 **Customer Right to Terminate.** If Tribal, in its reasonable judgment, is not able to exercise any of the options set out in clause 18.4 within ninety (90) calendar days of the date it received notice of the Claim, it shall so notify the Customer who shall be entitled to terminate this Agreement by fourteen (14) calendar days' notice in writing to Tribal.

18.6 **Exclusions to Tribal Indemnity.** Tribal shall have no liability to indemnify the Customer if the relevant Claim results from:

(a) possession or use of the Software (or any part thereof) and/or Software Services by the Customer other than in accordance with the terms of this Agreement; or

(b) any unauthorised alteration, modification or adjustment to any of the Software and/or Software Services without the prior written consent of Tribal; or

(c) the combination, connection, operation or use of the Software and/or Software Services with any other software or documentation not supplied and/or approved by Tribal or not on Approved Equipment; or

(d) any other act or omission of the Customer, including any breach of the Customer's obligations under this Agreement, or a failure to comply with the guidance produced by Tribal.

18.7 **Liability for Third-Party Software.** If the Customer receives notice of an infringement or alleged infringement of the Intellectual Property Rights of a third party arising from the use of Third-Party Software, Tribal will use its reasonable endeavours to procure for the benefit of the Customer any indemnity or rights that Tribal may have against the Third-Party Proprietor. Tribal shall have no liability otherwise.

18.8 **Exclusive Remedy.** Subject to clause 18.1 and 18.4, the provisions of clauses 17.2 and 18.5 shall constitute the Customer's exclusive remedy and Tribal's only liability in respect of a breach of clause 17.1 and/or a Claim.

19. LIMITS OF LIABILITY

19.1 **Liability Excluded.** Subject to clause 19.5, neither Party shall in any circumstances have any liability for any losses or damages which may be suffered by a Party (or any person claiming under or through the Party), whether the same arise in contract, tort (including negligence), breach of statutory duty, under any indemnity or otherwise howsoever:

(a) which fall within any of the following categories (even if the Party was aware of the circumstances in which such loss could arise):

(i) indirect, consequential or special loss;

(ii) loss of profits, business or revenue;

(iii) loss of anticipated savings;

(iv) loss of opportunity;

(v) loss of contracts;

(vi) loss of goodwill; and/or

(vii) in respect of claims against Tribal for any loss or corruption of data caused by or attributable to the acts or omissions of the Customer, its employees, agents or contractors; or

(b) Subject to clause 19.5, Tribal shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person

claiming under or through them), whether the same arise in contract, tort (including negligence), breach of statutory duty, under any indemnity or otherwise howsoever arising as a result of:

(i) the use of any of the Software, Software Services or Services contrary to the terms and conditions of this Agreement;

(ii) any adaptation or modification of any of the Software, Software Services or Services, or integration or combination with any other equipment, software, product or material not supplied or approved by Tribal, in each case carried out by anyone other than Tribal or without Tribal's express written consent;

(iii) any defect arising in any of the Software and/or Software Services and/or Services as a result of misuse, wilful damage, negligence on the part of anyone other than Tribal, abnormal operating conditions or any failure by the Customer to follow any instructions of Tribal as to use;

(iv) the compliance by Tribal with any design, specification or instructions provided by the Customer or on the Customer's behalf;

(v) the continued use of Unsupported Software (providing Tribal's acts or omissions have not prevented the installation of a Major Release/s), to the extent that any claim would have been avoided by the use of a Major Releases not implemented by the Customer; and/or

(vi) a Customer Cause.

19.2 **Agreed Liability.** Subject to clauses 19.1, 19.4 and 19.5, the total aggregate liability of a Party, whether in contract, tort (including negligence), breach of statutory duty, under any indemnity or otherwise howsoever and whether in connection with this Agreement, or any collateral contract, shall be limited:

(a) **Not Used**

(b) in respect of each **Contract Year** after the Go Live Date, the higher of 50,000 (in the applicable Currency) or an amount

equal to the Fees paid to Tribal during such Contract Year, provided that, if the first incident giving rise to the loss is within the first Contract Year from the Go Live Date, liability shall be capped to the Fees paid to Tribal in the period between Go Live Date and the date of the first incident giving rise to the loss.

19.3 **Increase to Agreed Liability.** In the event that the Customer desires a higher Agreed Liability than set out in clause 19.2, Tribal may (in its sole discretion), increase the Agreed Liability in consideration of the Customer paying the Agreed Liability Increase Fee.

19.4 **Liability for Series of Connected Events.** For the purpose of clause 19.2, where liability arises out of an event or series of connected events which span more than one Contract Year, all such liability shall be deemed to have occurred in the Contract Year in which the event first occurred, or in which the first of a series of connected events occurred, as appropriate. If the connected events occur both before and after the Go Live Date, then clause 19.2(b) shall apply.

19.5 **No Limit on Liability.** Neither Party limits or excludes its liability for:

(a) death or personal injury caused by the negligence of the Party, its officers, employees, contractors or agents;

(b) fraud or fraudulent misrepresentation;

(c) any other liability which may not be excluded or limited by law; or

(d) in relation to the Customer, a breach of clause 3.5 or the payment of Fees (including default interest under clause 9.5 and Tribal's reasonable recovery costs and expenses).

19.6 **Dates are Estimates.** Tribal shall use Commercially Reasonable Efforts to deliver all Services in accordance with the dates and timeframes agreed with the Customer. All dates and timelines for the delivery of the Software, Software Services or Services shall be treated as estimates only. Tribal shall use Commercially Reasonable Efforts to deliver all Services in accordance with the dates and timeframes agreed with the Customer. Time for performance of Tribal's obligations is not of the essence of this Agreement.

19.7 **Obligation to Mitigate.** Each Party shall use all reasonable endeavours to mitigate its loss, damage and expenses arising under and/or in

connection with a breach of this Agreement or in tort or for any other common law or statutory cause of action arising under and/or in connection with this Agreement.

19.8 **Customer Cause:** In the event that Tribal's non-conformance with an obligation is due to Customer Cause, Tribal:

(a) shall be entitled to relief from liability;

(b) shall be entitled to additional time for delivery of the Services and may delay, postpone or revise any deadline, milestone, timeline, plan or obligation taking into account the consequences caused by the Customer Cause;

(c) may amend any Implementation Services to reflect any consequences caused by the Customer Cause;

(d) shall be entitled to claim payment of fees and additional expenses it has incurred as a result of the Customer Cause; and

(e) shall be entitled to invoice for Fees for Services delivered, notwithstanding that a milestone has not yet been achieved and/or a Fee is not yet due for payment in accordance with a Payment Term,

provided that Tribal uses Commercially Reasonable Efforts to mitigate the impact resulting from the Customer Cause.

19.9 **Beneficiaries.** All references to Tribal in this clause shall, for the purposes of this clause, be treated as including all employees, subcontractors and suppliers of Tribal and its Affiliates, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause.

20. TERM

20.1 **Term.** This Agreement (including all Services agreed to be delivered pursuant to it unless otherwise stated in the Schedules) shall commence on the Effective Date and shall, unless sooner terminated in accordance with its terms, continue for the Initial Term and thereafter renew automatically for successive Renewal Terms, unless and until terminated by either Party giving ninety (90) calendar days' prior written notice to that effect, such notice to expire at the end of the Initial Term or any subsequent Renewal Term.

21. TERMINATION

21.1 **Termination for Material Breach.** Either Party may terminate this Agreement, at any time, by giving the other written notice if the other Party:

(a) materially breaches any term of this Agreement and it is not possible to remedy that breach;

(b) materially breaches any term of this Agreement and it is possible to remedy that breach, but the other Party fails to do so within thirty (30) calendar days of being requested in writing to do so; or

(c) suffers or undergoes an Insolvency Event (where permitted under applicable law).

21.2 **Other Termination by Tribal.** Tribal may, partially or fully, terminate this Agreement, at any time, by giving the Customer sixty (60) calendar days' written notice if:

(a) the Software and/or Software Services is discontinued by Tribal, for any reason, such notice to take effect at the end of the Initial Term or a Renewal Term (as applicable); or

(b) its ability to provide the Software and/or Software Services and/or Services is restricted or altered in such a way that Tribal, acting reasonably, considers it to be impractical or impossible to continue providing the Software and/or and Software Services and/or Services to the Customer, such notice to take effect at the end of the Initial Term or Renewal Term (as applicable).

21.3 **Termination or Suspension of Services.** Without prejudice to clause 21.1 and 21.2, Tribal may, in addition, and without liability, terminate this Agreement with immediate effect, or alternatively, may suspend access to and use of the Software and/or Software Services and/or Services by giving the Customer written notice if:

(a) any undisputed invoiced amount is outstanding fourteen (14) calendar days beyond the due date for payment and Tribal has given the Customer twenty-one (21) days' prior notice of its intention to suspend and payment of the undisputed element remains outstanding; or

(b) any provision of clause 3.3 (Customer Responsibilities), and/or clause 3.5 (Customer Obligations) and/or 12.1 (Confidentiality) and/or clause 14 (Intellectual Property Rights), is breached and continued use results or may result in material harm to the Services or Tribal or its users, or where

the Customer endangers the security and/or integrity of the Services; or

(c) the Customer is operating Unsupported Software;

(d) the Customer undergoes a change of Control without having received Tribal's prior consent, (such consent not to be unreasonably withheld, conditioned or delayed).

21.4 **Limit on Suspension Rights.** Tribal will limit any suspension in time and scope to the extent reasonably practicable.

21.5 **Suspension Lifted on Payment.** In relation to suspensions under clause 21.3(a), access will be restored promptly after Tribal receives payment in full in cleared funds together with interest calculated thereon in accordance with clause 9.5.

21.6 **When Access Restored.** In relation to suspensions under clause 21.3(b) and clause 21.3(d), access will be restored promptly after the Customer rectifies those matters to the satisfaction of Tribal acting reasonably.

21.7 **Failure to Rectify Cause of Suspension.** In the event of a suspension under clause 21.3, that has not been remedied within thirty (30) calendar days of Tribal sending notice, the Customer agrees that Tribal has the right but not the obligation, at its sole discretion, to delete or deactivate the Customer's account, block/terminate Customer's access to the Software and/or Software Service immediately and without notice, and discard any Customer Data (subject to Schedule 2). Further, the Customer agrees that Tribal shall not be liable to the Customer or any third party for any such termination of access to the Software and/or Software Service.

21.8 **Fees Payable During Suspension.** Fees shall remain payable and continue to accrue during any period of suspension notwithstanding that the Customer may not have access to the Software or Software Services or Services.

22. CONSEQUENCES OF TERMINATION

22.1 **On Termination.** Upon expiry or termination of this Agreement for any reason, and subject to Schedule 2:

(a) the Customer shall immediately cease to access or attempt to access, and discontinue all use of, the Software and/or Software Service;

(b) all licences granted under this Agreement shall terminate;

(c) except where termination is due to a breach by Tribal, all Fees payable to Tribal by the Customer shall become immediately due and owing, without any set off, withholding or deductions whatsoever. For the avoidance of doubt, no refund of Fees paid in advance shall be due by Tribal to the Customer in respect of any unexpired portion of the Term and the Customer shall not set off, withhold or deduct any such Fees paid in advance from any amounts payable by the Customer to Tribal;

(d) the Customer acknowledges that Tribal may audit any computer system on which the Software and/or Software Services has been deployed in order to verify compliance with this Agreement;

(e) Tribal shall provide the Customer with a copy of the Customer Data held within the Software and/or Software Service, within 30 days, in an appropriate and commonly used electronic format without any additional charge. Tribal will securely delete the Customer Data 30 days after the Customer Data has been provided to the Customer or at an earlier date if this is requested by the Customer;

(f) at the Customer's request and upon payment of Tribal's then-current daily rate related thereto, Tribal may provide reasonable Termination Assistance Services to the Customer and/or a successor service provider designated by the Customer;

(g) subject to clause 22.1(e) and Schedule 2, Tribal may destroy or otherwise dispose of any Customer Data in its possession; and

(h) the Customer shall pay for any use of the Software and/or Software Services after expiry or termination in breach of this clause.

22.2 **Customer Obligations.** If Tribal requests in writing, at any time post expiry or termination, or on completion of a Service, the Customer shall promptly:

(a) destroy or return to Tribal all documents and materials (and any copies) containing, reflecting, incorporating or based on Tribal's IPR and/or Confidential Information including without limitation the Software, Software Services and

Software and Service Documentation; and/or

(b) erase all Tribal IPR and/or Confidential Information from its computer and communications systems and devices used by it (including those of any Affiliate), or which is stored in electronic form; and/or

(c) erase all the Tribal IPR and/or Confidential Information which is stored in electronic form on systems and data storage services provided by third parties; and

(d) certify in writing to Tribal that it has complied with the requirements of this clause.

22.3 **Tribal May Retain Data.** Subject to Schedule 2 and the continuing obligation of confidentiality, nothing in this Agreement prohibits Tribal from retaining computer generated backup copies of any data or information where required for legal, archival or regulatory purposes, or for such reasonable period until permanently deleted and/or put beyond practical use by Tribal in accordance with its usual backup processes, including Customer Confidential Information.

22.4 **Termination Not Affect.** The termination of this Agreement for any reason will not affect:

(a) any accrued rights or liabilities which either Party may have at the time termination takes effect; or

(b) the coming into force or the continuation in force of any of its provisions that expressly or by implication are intended to come into force or continue in force on or after the termination, including, without limitation, clause 12 (Confidentiality), clause 14 (Intellectual Property Rights) and Schedule 2 (Data Protection Obligations).

23. **THIRD PARTY AND OPEN SOURCE SOFTWARE**

23.1 **Third-Party Software.** The Customer acknowledges that some of the Software and/or Software Services may be provided with Third-Party Software in accordance with a Third-Party Licence. Unless otherwise permitted, the Customer may not (i) assign, grant or transfer any interest in the Third-Party Software to another individual or entity; (ii) exercise any of the reserved or other proprietary rights provided under laws governing this Agreement, without the express and advance written permission of

Tribal (such permission may be withheld or delayed).

23.2 **Open Source.** The Software and Software Services may include or incorporate Open Source Software or similar royalty free open source licence. In relation to On Premise Software only, wherever Open Source Software is provided, Tribal shall use reasonable endeavours to identify the Open Source Software and applicable open source licence that applies in the Software, Software Services and Software and Service Documentation. This Agreement does not modify or abridge any rights or obligations the Customer may have in the Open Source Software, or is required to comply with, under the applicable open source licences.

23.3 **Use of Third-Party Software Outside Scope.** Any use of Third-Party Software outside of the Customer's authorised use of the Software and Software Service is subject to the rights and obligations under such Third-Party Licence. To the extent there is a conflict between this Agreement, the Third-Party Licence, the terms of the applicable Third-Party Licence shall control in respect of the Third-Party Software.

23.4 **Third-Party Software – Responsibilities, Obligations and Warranty.** Notwithstanding any other terms in this Agreement, for the purposes of clauses 3.3 (Customer Responsibilities), 3.5 (Customer Obligations) and 17.1(c) (Warranty) only, Software shall be treated by the Parties as including any Third-Party Software.

24. **ESCROW**

24.1 **Not Used**

25. **INSPECTION**

25.1 **Inspection.** The Customer shall permit Tribal to inspect and audit (and in respect of On Premise Software only, reasonable access to any premises or will cause the occupier of any premises at or on which the On Premise Software are being kept or used to provide access) the records (including computer equipment or devices) kept in connection with this Agreement, for the purposes of ensuring that the Customer is complying with the terms of this Agreement, provided that Tribal in relation to such inspections and audits:

(a) provides reasonable advance notice to the Customer;

(b) will take place at reasonable times; and

(c) use all reasonable endeavours so as not

to interfere with the operations of the Customer.

26. FORCE MAJEURE

26.1 **Force Majeure.** Neither Party shall have any liability under or be deemed to be in breach of this Agreement for Force Majeure. The Party affected by Force Majeure shall promptly notify the other Party in writing when such Force Majeure causes a delay or failure in performance and when it ceases to do so. If a Force Majeure continues for a continuous period of more than three (3) calendar months, either Party may terminate this Agreement by written notice to the other Party. The affected Party is under an obligation to take all reasonable means to limit the effect of the impediment or event constituting the Force Majeure.

27. DISPUTE RESOLUTION

27.1 **Dispute Resolution.** In the event of a Dispute, a Party shall give written notice to the other Party of the existence of the Dispute and the particulars of it. The Parties shall then discuss and attempt, in good faith, to resolve the Dispute within twenty (20) Working Days of the commencement of such discussions under this clause ("**Dispute Discussion**").

27.2 **Meeting to Resolve Dispute.** If the Dispute Discussion does not resolve the Dispute, either Party may notify the other in writing of their intention to request a meeting to try and resolve the Dispute. The Parties (each to be represented by a senior executive or senior member of staff with full authority to resolve the Dispute) shall then meet and attempt, in good faith, to resolve the Dispute within ten (10) Working Days of the date after the notice in this clause was served ("**Executive Meeting**").

27.3 **Resolution with Assistance of Third Party.** If the Executive Meeting does not resolve the Dispute, either Party may elect to refer the Dispute to mediation at the Venue for Dispute Resolution ("**Mediation**"). The Parties hereby consent to the Independent Mediation Service appointing the mediator who in the opinion of Independent Mediation Service has the necessary ability and experience to provide the best possible mediation service. The Parties also agree to abide by the Mediation rules advised by the Independent Mediation Service. If mediation is pursued, the Parties shall jointly be responsible for the mediator(s) fees and disbursements; and all other costs of the mediation shall lie where they fall.

27.4 **Mediation Not Successful.** If Mediation does not resolve the Dispute within twenty (20) Working Days after a mediator is appointed or such extended time as the Parties may agree in writing, either Party may commence proceedings before an appropriate court.

28. GENERAL

28.1 **Personnel.** Tribal reserves the right to allocate Tribal's Personnel in the provision of the Services provided that the Customer may reasonably request a change of Personnel if they are not content with the current Personnel.

28.2 **Right to Modify.** Subject to clause 17.1 (Tribal Warranties) Tribal reserves the right to modify the Software, Software Service, any end user licence agreement or privacy policy. If Tribal is required to make any changes to the Software or Services due to a change in law, these changes will apply automatically in respect of this Agreement.

28.3 **Changes in laws.** Notwithstanding any other provision of this Agreement, Tribal reserves the right to increase the Fees in the event that there is a major change in law affecting the Software and/or Software Service, if the following conditions are satisfied:

(a) the major change in law is occasioned by statute, regulatory authority, or court of competent jurisdiction, or by any act of a government body, assembly or agency;

(b) Tribal would not have been required to make such change if the major change in law had not occurred;

(c) the major change in law requires more than an Upgrade of an existing component of the Software and/or Software Service used by the Customer; and

(d) Tribal shall use Commercially Reasonable Efforts to mitigate the cost of the change, and where it is practical and reasonable to do so, spread any such cost across its user base including the Customer.

28.4 **Transfer.** Tribal may at any time sub- licence, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this Agreement, provided that it gives written notice to the Customer.

28.5 **Notices.** All notices and consents relating to this Agreement (but excluding any proceedings or other documents in any legal action) must be in writing. Notices must be sent to the address

15

of the recipient or otherwise notified by the relevant Party in accordance with this Agreement. Notices shall be sent by hand, by first class recorded delivery or registered post or other form of certified or registered mail (and sent by air mail if posted to or from a place outside the Jurisdiction) or email, and shall be treated as having been delivered:

(a)   if sent by hand, when delivered;

(b)   if sent by certified or registered mail, when delivered; and

(c)   if sent by email, at the time the sender receives confirmation of successful delivery if sent during Working Hours (of the recipient), otherwise at the close of business on the next business day (of the recipient).

This clause does not apply to the service of any proceedings or other documents in any legal action.

28.6   **No Waiver.** Unless the Parties expressly agree otherwise in writing, if a Party:

(a)   fails to exercise or delays exercising or only exercises partially any right or remedy provided under this Agreement or by law; or

(b)   agrees not to exercise or to delay exercising any right or remedy provided under this Agreement or by law;

then that Party shall not be deemed to have waived and shall not be precluded or restricted from further exercising that or any other right or remedy.

28.7   **Rights at Law Preserved.** Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

28.8   **Severability.** If any provision of this Agreement is held for any reason to be ineffective or unenforceable, this shall not affect the validity or enforceability of any other provision of this Agreement or this Agreement as a whole. If any provision of this Agreement is so found to be ineffective or unenforceable but would be effective or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it effective and enforceable.

28.9   **Party Acting for Self.** Each Party confirms it is acting on its own behalf and not for the benefit

of any other person.

28.10   **Variations.** All variations to this Agreement must be set out in writing in a Change Request, agreed and signed on behalf of both Parties.

28.11   **Relationship.** Except to the extent that this Agreement expressly provides otherwise, nothing in this Agreement shall or is intended to create a partnership or joint venture between the Parties, constitute one Party as agent of the other or give either Party authority to make or enter into commitments, assume liabilities or pledge credit on behalf of the other Party. Neither Party may act as if it were or represent (expressly or by implying it) that it is, an agent of the other or has such authority.

28.12   **Successors.** This Agreement shall be binding upon and endure for the benefit of the successors in title of the Parties hereto.

28.13   **No Third Party.** A person who is not a Party and/or signatory to this Agreement shall not have any rights under or in connection with it or be entitled to assert a benefit under the Agreement.

28.14   **Anti-Bribery or Anti-Corruption.** Each Party agrees that it will not tolerate any form of and will not engage directly or indirectly in any form of corruption or bribery and not grant, offer or promise anything of value to any Party or third party to influence official action or obtain an improper advantage. Neither Party will give or accept an improper facilitation payment/s. Each Party shall comply with all legislation in the Jurisdiction relating to anti-bribery or anti-corruption.

28.15   **Modern Slavery.** Each Party warrants that it:

(a)   will neither use nor contribute to slavery, servitude, forced or compulsory labour and human trafficking; and

(b)   shall have and maintain in place throughout the term of this Agreement its own policies and procedures as are necessary to comply with laws in the Jurisdiction relating to modern slavery.

28.16   **No Representation and Entire Agreement.** Each Party acknowledges that, in entering into this Agreement and the documents referred to in it, it does not rely on any Representation other than as expressly set out in this Agreement or Key Documents. Each Party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract. Nothing shall exclude or limit a Party's liability

for fraudulent misrepresentation. This Agreement constitutes the entire Agreement between the Parties relating to the subject matter of this Agreement.

28.17 **Conduct.** Each Party shall (and shall procure that all relevant employees, agents and sub-contractors) act with courtesy, respect and professionalism, in all dealings, communications, and interactions with each other.

28.18 **Execution.** Each Party agrees:

(a) that an Electronic Signature, whether digital or encrypted, may be used to authenticate execution of this Agreement, a Change Request or Professional Services Agreement and has the same force and effect as a wet/manual signature;

(b) this Agreement, a Change Request or Professional Services Agreement may consist of a number of counterparts, each of which when executed and delivered (whether in original, copy, or via email) shall together constitute one and the same instrument binding on them; and

(c) The Customer acknowledges and accepts that any system for effecting Electronic Signature will use and retain the personal data of individuals using the system. Tribal may process such personal data for progressing and monitoring the execution of this Agreement, a Change Request or Professional Services Agreement and thereafter for record management and audit purposes. The Customer shall be responsible for notifying any individuals employed or engaged by them of such processing in accordance with Data Protection Laws.

28.19 **Jurisdiction.** This Agreement shall be governed and construed in accordance with the laws of England and Wales, subject to Dispute Resolution, the Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales. Notwithstanding the foregoing, Tribal is also entitled to apply to any court worldwide for injunctive or other remedies in order to protect or enforce its Intellectual Property Rights and/or Confidential Information. This Agreement shall not be governed by the United Nations Convention on the International Sale of Goods.

SCHEDULE 1

DEFINITIONS

Definitions: The words and expressions contained within the Agreement shall have the following meanings:

Affiliates: in relation to a Party, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with that Party from time to time;

Agreed Liability Increase Fee: the annual Fee payable by the Customer in the event that Tribal agrees to increase the Agreed Liability limit commensurate with the increased risk to Tribal in accordance with clause 19.3;

Agreement: in the event that neither Party is able to produce a fully executed copy of the original Agreement, it shall mean the these General Terms and Schedules listed by the url reference in the most recent Renewal Notice issued by Tribal and updated from time to time;

Alerts: a system generated response to a pre-determined condition that outlines whether the condition exceeds a limit and is used for the purpose of monitoring and shall be categorised using the SLTs in Schedule 9;

Annual Fee Increase Benchmark: means the Benchmark: Computer Economics Limited Index;

Application: means the Software;

Approved Equipment: as defined in clause 4.7;

Backup: the copying of data to alternative media for the purposes of future recovery should this be needed;

Band: The range applicable to a Metric as may be adjusted from time to time in accordance with this Agreement;

Bot: software that is designed to automate interaction and use of Software and/or Software Services;

Business Configuration: configuration and customisation of the Software to meet the business requirements of the Customer, and in relation to the following Software, it includes but is not limited to:

(i) SITS:Vision – creation and configuration of TUPS, Vistas, workflow/tasking, reports, SRL, reference data setup, business process definitions, business rule set up, e:Vision configuration and any archiving routines;

(ii) Tribal SaaS - defining configuration through the functional configuration editors provided to the Customer. This includes defining roles and access control, workflows, branding, layout where this can be configured and communications templates and routing;

(iii) Engage - defining configuration through the

Configuration Editor, defining roles through the Role Editor including user permissions, maintenance of branding material, the Apple Developer Account Enrolment and any Business Configuration necessary in the source student management system (SITS:Vision, ebs, Maytas/ePortfolio or Tribal Dynamics) and related activities;

(iv) Tribal Dynamics – form layout, labels, workflows, business process flows, business rules, views, charts, dashboards, apps (model / canvas / power), security roles, teams, queues, business units, portal content and layout, email templates, business data (such as languages, countries, nationalities, enquiry types, enquiry routing, academic years, disability types courses etc), and the creation and configuration of any archiving routines;

(v) ebs – ebs client screen configuration (SMC), ontrack staff and learner hub page configuration (Designer), custom web service endpoints (Designer), BI Dashboard configurations (ebs Intel), workflow, reference data setup, data miner views, SSRS reports and the creation and configuration of any archiving routines;

(vi) Maytas and ePortfolio - screen configuration and design (Maytas Screen Design), ePortfolio screen configuration and design (ePortfolio Screen Design), online application configuration (Online Applications), process design (Process Design Module), BI Dashboard configuration (Business Intelligence), reference data setup, SSRS reports, list reports (Report Generator), digital authentication and the creation and configuration of any archiving routines;

(vii) K2 - grid layouts, custom grid filters, workflows, attribute manager setup, reference data setup, SSRS reports and K2 Portal colour schemes, logos and custom content;

(viii) SID - those configuration options that are made available via SID's system administration screen;

(ix) Blueprints – configuration of workflow / tasking, reports, reference data setup, business process definitions, business rules set up; and

(x) SchoolEdge – Reference data setup, email configuration, user field definition and security setup (access levels, login controls and security).

BAU or Business as Usual: the Software and/or Software Service operating in a Production Environment;

Cancellation Fees: In the event that the Customer gives notice which does, or purports to, cancel or postpone Professional Services and/or Implementation Services (as applicable) ("**Cancellation Notice**") (except for a reason caused by Tribal) then the Customer will pay to Tribal any and all non-amendable or non-cancellable Expenses (including, without limitation, travel costs and accommodation and daily per diem allowances), and additionally:

(i) if the Customer provides more than 14 Working Days' notice from the date that the Professional Services and/or Implementation Services (as applicable) are to commence, no charge;

(ii) if the Customer provides 7-14 Working Days' notice from the date that the Professional Services and/or Implementation Services (as applicable) are to commence, the Customer shall pay 50% of the Professional Services and/or Implementation Services (as applicable) Fee (up to a maximum of the Fee for 14 Working Days for each member of Tribal's Personnel scheduled to provide the Professional Services and/or Implementation Services (as applicable)) if Tribal was not able to arrange other chargeable work for each member of Tribal's Personnel;

(iii) if the Customer provides less than 7 Working Days' notice from the date that the Professional Services and/or Implementation Services (as applicable) are to commence, or fails to provide any notice, the Customer shall pay 100% of the Professional Services and/or Implementation Services (as applicable) Fee (up to a maximum of the Fee for 14 Working Days for each member of Tribal's Personnel scheduled to provide the Professional Services and/or Implementation Services (as applicable)) if Tribal was not able to arrange other chargeable work for each member of Tribal's Personnel;

provided that, if Tribal can find another booking for its Personnel, no charge will be made apart from any such non-amendable or non-cancellable Expenses;

Change Request Agreement: a note signed by the Parties which details the impact a proposed change will have on any part of this Agreement;

Claim: action, demand or claim;

Commercially Reasonable Efforts: the same degree of priority and diligence with which Tribal meets the needs of its other similar customers as would be expected by an experienced software supplier of similar size and resources;

Confidential Information: information of a confidential nature (including trade secrets and information of commercial value) which may become known to a Party from the other Party and which relates to the other Party or any of its Affiliates;

Contract Year: each 12 month period calculated from the Go Live Date;

Control or **Controlled:** means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and Controls and Controlled shall be interpreted accordingly;

Core Support Services: as set out in Schedule 9;

Critical Fault (Priority 1 or P1): a Fault where the Production Environment becomes totally non-operational, or the Fault prevents the Customer materially operating the business for which the Software and/or Software Service was purchased; or any Fault that puts any legal or statutory requirement at imminent risk or a Fault where the Production Environment is down. Access to the Software Service from the public internet (in relation to Tribal SaaS and Cloud Services) ceases to operate due to a Software and Software Service failure and prevents the Customer operating the business for which the Software and Software Service purchased;

Critical Fault Report: a Report that reviews the Critical Fault and outlines in-depth steps carried out to Resolve the Critical Fault;

Currency: as stated in a Tax Invoice issued by Tribal;

Customer: the Party who entered into the original Agreement with Tribal and/or the Payee stated in a Tribal Rax Invoice and does not extend to any Affiliates of the Customer unless expressly agreed between the Parties in writing. Nor does it extend to any foreign entities, branches or offices based abroad of the same name and/or company number;

Customer Cause: any breach of obligations, of the Customer or any other default, act, omission, negligence or statement of the Customer, of its employees, servants, agents in connection with or in relation to the subject matter and in respect of which the Customer is liable to Tribal;

Customer Confidential Information: trade secrets, financial records and any other sensitive, regulated or confidential information;

Customer Data: all information inputted, uploaded and entered via the Online Service by or on behalf of the Customer, its Registered Users or its Permitted Users;

Customer Portal: tool to allow Customers to log Faults and support requests with Tribal;

Customer Responsibilities: as set out in Schedules 9;

Customer Turnover: the Customer's revenue for a 12 month period determined in accordance with the accounting standards in the Jurisdiction;

Customised Code: Customer specific coding that has been created to deliver the Customer solution and is outside the standard product code;

Database: a repository within a computer that contains structured data and which can be interrogated and updated using a query language, typically SQL (Structured Query Language). A Database is used to store the structured data for Applications such as SITS, ebs and Engage;

Data Protection Law: all applicable legislation, in the Jurisdiction and to the Customer, for the time being in force pertaining to data protection, data privacy, data retention and/or data security and all associated codes of practice and other guidance issued by any applicable data protection authority unless as otherwise defined in Schedule 2;

Deliverable: the artefact which Tribal may provide to the Customer;

Designated Customer Support Staff: the staff nominated by the Customer to receive the Support Services who have been trained to a reasonable level of knowledge and competence in relation to the Software and/or Software Services;

Dispute: any dispute or difference between the Parties in relation to, or in relation to either Party's rights or obligations, or as to any matter arising under this Agreement;

Due Date: as set out in this Agreement including in a Tax Invoice issued by Tribal;

Effective Date: the date identified as such in the original Agreement or in the absence of an original Agreement or definition of Effective Date in the original Agreement, it shall be the date that Tribal supplied/delivered the Software to the Customer;

Electronic Signature: means an electronic symbol, mark or signature representation: (a) which is attached to or logically associated with an agreement, document or record; and (b) whose purpose is to manifest a person's intent to execute, be bound by or otherwise adopt the agreement, document or record;

Escalation Procedure: as set out in Schedule 9;

Excluded Support Services: as set out in Schedules 9;

Expenses: any expenses reasonably and properly incurred by Tribal in the course of the provision of Services, exclusive of Taxes;

Fault: A defect in the Software and/or Software Service which is categorised by severity as one of Critical Fault, Major Fault, Important Fault or Minor Fault;

Fees: which may include Licence Fees, Support Fees, Implementation Fees, Initial Subscription Fees, Annual Subscription Fees, Additional Annual Subscription Fees, Software Subscription Fees, Tribal Cloud Technical Services Fees, Tribal Cloud SaaS Fees, Tribal Cloud Infrastructure Fee, Tribal Cloud Professional Services Fees, Tribal Cloud Technical Services Fees, Tribal Cloud SaaS Initial Subscription Fees, Tribal SaaS Fees, Tribal Dynamics SaaS Fees, On Premise Managed Service Fees, Interface Management as a Service Fees, Recurring Fees, SITS Read-only Replica Database Fees, Professional Services Fees, Personnel Commute Fees or Upfront Fees exclusive of all Taxes, duties and Expenses;

Force Majeure: any delays or failures in performance of this Agreement (except for the Customer's obligation to pay for the Services) which result from any event beyond the reasonable control of that Party, including without limitation a Party's Affiliates and/or subcontractors;

FTE: Full Time Equivalent Number of Permitted Users;

ID: all log-on identifiers, including usernames and passwords, assigned to, or created by the Customer in order to access or use the Software and/or Software Service;

Important Fault (Priority 3 or P3): a Fault in the Environment that is important, which does not constitute a Critical Fault nor a Major Fault or where the Environment is not functioning normally but the Incident does not constitute a Critical or Major Fault; or any other non-immediate task; or where the Environment is functioning within acceptable parameters, but assistance is required or where there is a Service Desk type question;

Incident: actual or perceived non-compliant behaviour of the Software and/or Software Service. This may be due to a Fault, data quality, misconfiguration by the Customer, errors by the operator or another cause;

Incident Bridge: escalated support wherein a number of Tribal resources are assigned to facilitate cross discipline sharing to expedite Incident Resolution and to which Customer staff may participate;

Independent Arbiter: means:

(i) **Higher Education in the United Kingdom –** Higher Education Statistics Agency ("**HESA**"), the charitable company operating under the Higher Education Support Act (UK), which inter alia, publishes and provides detailed data and analysis about the activities of universities, colleges and specialist providers of higher

education (HE) in the UK, including the numbers of Full Time Equivalent ("**FTE**") and Transnational Education Number ("**TNE**") Students enrolled at HE institutions and;

(ii) **Non-Higher Education in the United Kingdom** - the equivalent body to HESA and in the event that there is no equivalent body, then the Customer and Tribal will mutually agree the relevant statistics and if the Parties cannot agree, to be determined by a chartered accountant mutually agreed (or failing agreement by the President of the Chartered Accountants Society in that jurisdiction) at the expense of the Parties to be mutually shared;

(iii) **in the rest of the world –** in the Jurisdiction applicable to this Agreement the equivalent body to HESA and in the event that there is no equivalent body, then the Customer and Tribal will mutually agree the relevant statistics and if the Parties cannot agree, to be determined by a chartered accountant mutually agreed (or failing agreement by the President of the Chartered Accountants Society in that Jurisdiction) at the expense of the Parties to be mutually shared;

Independent Mediation Service: means:

(i) United Kingdom – Centre for Effective Dispute Resolution (CEDR);

(ii) Australia - Australian Commercial Disputes Centre (ACDC);

(iii) New Zealand - New Zealand Dispute Resolution Centre (NZDRC);

(iv) in the rest of the world - CEDR, or if they do not have a presence, then a similar body in that Jurisdiction as may be nominated by CEDR.

Initial Term: as agreed between the Parties at or about the Effective Date. In the absence of the Parties having agreed an Initial Term, the Initial Term shall be one (1) year from the Effective Date;

Insolvency Event: where a Party becomes insolvent, makes composition with its creditors, has a receiver or administrator of its undertaking or the whole or a substantial part of its assets appointed, or an order is made, or an effective resolution is passed, for its administration, receivership, liquidation, winding-up or other similar process, or has any distress, execution or other process levied or enforced against the whole or a substantial part of its assets (which is not discharged, paid out, withdrawn or removed within 28 calendar days), or is subject to any proceedings which are equivalent or substantially similar to any of the foregoing under any applicable Jurisdiction, or ceases to trade or threatens to do so;

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, Database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (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;

Interest Rate: the rate of 4% above the base lending rate of the Reserve Bank in the Jurisdiction or if there is no Reserve Bank or base lending rate in the Jurisdiction, 4% above the base lending rate of the Bank of England;

Jurisdiction: as set out in clause 28.19;

Learner Number: the number of Permitted Users (namely, learners employers and assessors) for the Customer averaged over a twelve month period. It is agreed that the number of employers and assessors shall be no more than 3% of the Learner Number;

Level 1 Support: as set out in Schedule 9;

Level 2 Support: as set out in Schedule 9;

Level 3 Support: as set out in Schedule 9;

Licence Fees: as agreed by the Parties;

Maintenance Window: either a Scheduled Maintenance Window or Unscheduled Maintenance Window;

Major Fault (Priority 2 or P2): a Fault when the Production Environment experiences a loss of significant functionality, which does not constitute a Critical Fault; or the Fault significantly interferes with a material part of the business for which the Customer purchased the Software and Software Service or where the Production Environment is accessible but in a reduced state (e.g. time outs or slow response);

Major Fault Report: a Report that reviews the Major Fault and outlines in-depth the steps carried out to Resolve the Major Fault;

Major Incident Team: a team of relevant Tribal Personnel appointed to triage, diagnose, Resolve and provide Reports in relation to a Critical Fault (Priority 1);

Major Release: any improved, modified or corrected version of any Software from time to time issued by Tribal that is deemed by Tribal to be a new version of the Software;

Metric: the criteria by which the Customer's usage of

the Services is to be assessed from time to time;

Metric Band: the range for each Metric, as may be varied from time to time in accordance with the criteria below (or as otherwise set out in this Agreement):

(i) **Student FTE Number** - the bands of Student FTE Numbers which are measured in Bands of 500. It is agreed that the student headcount is no greater than 1.5 times the Student FTE Number;

(ii) **Other Enrolled Students** – the bands of 500;

(iii) **PowerUI Concurrent Users** - if applicable, the bands of 10 concurrent users of Power User Interface. It is agreed that PowerUI Users can be no greater than three (3) times PowerUI Concurrent Users;

(iv) **PowerUI Users** - each additional PowerUI User;

(v) **Registered Users** – each additional individual Registered User;

(vi) **Customer Turnover** – change of 10% in Customer Turnover; and

(vii) **Learner Number** – the bands of Learner Numbers which are measured in Bands of 500;

Metric Baseline: for each Metric, the value which is 90% of the highest Metric Level achieved during the Term;

Metric Fee Adjustment: the amount by which the Fees are to be increased or decreased due to a change in the Metric Band;

Metric Level: the value of a Metric for the Customer, initially as at the Effective Date and as adjusted from time to time in accordance with clauses 10.3 and 10.5;

MI Manager: a manager of a Major Incident Team;

Minor Fault (Priority 4 or P4): a Fault in the Environment, which does not constitute a Critical Fault, a Major Fault or an Important Fault;

Minor Release: any improved, modified or corrected version of any Software intended to address Incidents;

Modification: any and all changes, configurations (including Business Configuration), improvements, enhancements and derivative works to the Tribal IPR;

Module or Component: any part of the Software;

Non-Production Environment: the Environment in which the Customer performs transactions against non-production data, examples of which include environments for training, interface testing, and quality testing, as required;

On Premise or **On Premise Software:** the Software subject of this Agreement, provided in object code form or any other form (including any Major Release or Minor Release), excluding any Third-Party Software and/or Open Source Software, which are located on the Customer's servers or on a third-party provider's servers with whom the Customer has contracted with the prior written consent of Tribal;

On Site: a physical location occupied or controlled by the Customer or such other location that the Customer may request Tribal to attend to provide the Services;

On Site Daily Rate: the daily professional fees for Personnel where Tribal delivers Services On Site;

Online Service: computing services and capabilities such as Software, Software Service, software platforms, hardware platforms, infrastructure and similar capabilities, which are delivered by Tribal to the Customer over a data network (including the Internet), rather than provided locally or on-site. The Software and hardware assets are owned/provided by Tribal and the Customer is billed for usage;

Open Source Software: open-source software as defined by the Open Source Initiative or the Free Software Foundation;

Operating Systems: the software provided to operate physical or logical components of the Infrastructure;

Other Student Enrolments: means the number of Student enrolments of the Customer, excluding those measured in the Student FTE Number, and for clarity includes Student TNE;

Other Systems: means Systems other than the Software or Software Services to which the Software or Software Service is linked via an Interface;

Party: a signatory to this Agreement;

Patches: a corrective Software code change issued by Tribal to the Customer and which does not constitute a Major Release or Minor Release;

Payment Terms: thirty (30) days from the tax invoice date;

Permitted Use: the Customer's use of the Software and Software Services which is restricted to:

(i) the internal business requirements of the Customer only; and

(ii) no other use, unless it has the prior written consent of Tribal, which the Customer acknowledges may be subject to additional Fees if approved by Tribal;

Permitted Users: the users or groups of users, excluding Registered Users, permitted by the Customer to access and utilise the functionality of the Software and/or Software Service, for example, prospective and/or enrolled students and Learners of the Customer;

Personnel: in relation to a Party, the officers, employees, contractors (including subcontractors) and agents of that Party (but, in the case of the Customer, excluding Tribal);

Personnel Commute Fees: in relation to On Site Services, the Fees payable for the time taken for Personnel to commute from their usual base to On Site by taking the most direct and efficient route, which will be levied at 50% of the relevant On Site Day Rate;

Power User Interface: the Microsoft Windows native client application used to access the SITS:Vision or ebs Service, if applicable;

PowerUI Concurrent Users: in relation to:

(i) SITS:Cloud: the number of concurrent users of the Power User Interface averaged over the peak Working Day in the Service Period. The peak Working Day is the Working Day with the highest average number of concurrent users in the Service Period;

(ii) For non-SITS:Cloud: the maximum number of concurrent users of the Power User Interface at any point during the Service Period;

Priority: A category used to identify the relative importance of an Incident, problem or change. Priority is based on impact and urgency and is used to identify required times for actions to be taken. This is the level which Tribal assigns to any issue when the Software and/or Software Service is not Available. The Priority descriptions are (i) Priority 1 or P1 or Critical Fault, (ii) Priority 2 or P2 or Major Fault, (iii) Priority 3 or P3 or Important Fault, (iv) Priority 4 or P4 or Minor Fault;

Problem: linked Incidents that are thought to have the same underlying cause;

Problem Management: process for seeking a resolution of a Problem;

Production Environment: the Environment that supports the Software, Software Service, Platform and Infrastructure in which the Customer productively conducts actual transactions in day-to-day business operations;

Professional Services: any services outside the scope of the Services set out in this Agreement, including all requests post Go Live or requests under clause 8.2 or Excluded Support Services, including but not limited to those that are detailed in a Professional Services Agreement agreed by the Parties;

Professional Services Agreement: an agreed signed by the Parties for the provision of Professional Services;

Professional Services Cancellation Fees: the Cancellation Fees;

Prohibited Content: content that infringes any Intellectual Property Rights or data protection, privacy or other rights of any other person, is defamatory or in breach of any contractual duty or any obligation of confidence, is obscene, sexually explicit, threatening, inciteful of violence or hatred, blasphemous, discriminatory (on any ground), knowingly false or misleading, or that does not comply with all applicable laws and regulations or is otherwise objectionable or prohibited as set out in any acceptable use policy published online through the Software and/or Software Service, as updated by Tribal from time to time;

Project Commencement Date: the Effective Date, unless otherwise agreed in writing by the Parties;

Proposal: a document prepared by Tribal prior to the execution of this Agreement, which may detail the design and scope of the Software, Software Service, Implementation Services, Support Services, Tribal Cloud SaaS, Tribal SaaS, Tribal Dynamics SaaS, On Premise Managed Service, Professional Services and other Services to be provided by Tribal to the Customer agreed by the Parties;

Recurring Fees: Upfront Fees, which may include Software Subscription Fees, Support Fees, On Premise Managed Services Fees, Tribal Cloud Infrastructure Fee, Tribal Cloud Professional Services Fee, Tribal SaaS Fees, Tribal Dynamics Fees, Interface Management as a Service Fees, and SITS Read-only Replica Database Fees;

Registered Users: the users or groups of the Customer users permitted by the Customer to access and utilise the functionality of the Software and/or Software Service, for example, administrative, teaching or other staff and approved contractors (which specifically excludes any direct or indirect competitor of Tribal) of the Customer who have the ability to access the Software and/or Software Service. For clarity it excludes Permitted Users;

Release Installation Procedure: as defined in Schedule 10;

Remote / Remotely: Services performed from a location other than On Site;

Remote Daily Rate: the daily professional fees for Personnel where Tribal delivers Services that are not On Site;

Remote Desktop Services: accessing a software application that is not browser based remotely in a way where the software application runs remotely and the user interface is projected onto the user's local device;

Renewal Date: the date upon which the Agreement is renewed;

Renewal Term: the period/s of one (1) year each;

Renewal Year: the one year period commencing initially on the Effective Date and subsequently on each Renewal Date;

Reports: includes Critical Fault Report, Major Fault Report and Root Cause Report;

Representation: any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a Party to this Agreement or not) other than as expressly set out in this Agreement or those documents;

Request: a request made by the Customer in accordance with this Agreement;

Respond / Responded / Response: any official communication between Tribal and the Customer regarding an Incident, problem or change. This could include telephone, email or portal-based communications;

Resolution SLT: as detailed in Schedule 9, clause 3;

Response SLT: as detailed in Schedule 9, clause 3;

Response and Resolution: as detailed in Schedule 9, clause 3;

Resolution / Resolve / Resolved: correction of a Fault or a Work Around in relation to the Fault. Priority 1 Faults may be corrected by providing a Work Around that materially restores the Services while a root cause analysis and resulting remediation is developed and implemented;

Restoration Request: A Customer enquiry to request the restoration of data from a valid Backup, snapshot or archive;

Root Cause Report: a report containing the following information:

(i)   problem description;

(ii)   background to the Incident;

(iii)   impact summary;

(iv)   corrective action taken;

(v)   root cause analysis;

(vi)   preventative actions; and

(vii)   recommendations;

Scheduled Maintenance Window: A published maintenance window for the Application of Updates, Upgrades or other changes to an Environment. A maintenance window may result in the Environment being not Available;

Script: batch instructions in an appropriate software language to update or alter the Database schema;

Service Desk: the Tribal communications centre that provides a single point of contact between Tribal and

its Customers. The purpose of the Service Desk is to ensure that Designated Customer Support Staff receive appropriate help in a timely manner and that all Incidents and problems are escalated to higher levels of support as needed;

Service Engagement and Reporting: as set out in Schedule 9;

Service Level Target or SLT: the estimated delivery time for a Response and/or Resolution of an Incident and as detailed in Schedules, 9;

Service Period: a calendar month, save that:

(i)   the first service period shall begin on the first Go Live and shall expire at the end of the calendar month in which the first Go Live falls; and

(ii)   the final service period shall commence on the first day of the calendar month in which the Term expires or terminates and shall end on the expiry or termination of the Term;

Service Request Management: the process for management of Service Requests, as set out in Schedules 9;

Service Requests: a request by the Customer for an addition, change or deletion of an element of the Services;

Services: as agreed by the Parties and set out in the Schedules which may include the Software, Software Service, Implementation Services, Core Support Services, Tribal Software Support Services, On Premise Managed Service, Tribal Cloud SaaS, Tribal SaaS, Tribal Dynamics SaaS, Interface Management as a Service, Professional Services, and any other service referred to in this Agreement (collectively "**Services**", as the context requires);

Site: the physical location agreed by Tribal for the Software, from time to time;

SLT: Service Level Target;

Software: means the Software and Modules including Major Releases or Minor Releases but excluding any Third-Party Software;

Software and Service Documentation: the instruction manuals, training manuals, user guides and other information relating to the Software (including any Major Release thereof) to be made available to the Customer, whether printed or electronically distributed;

Software Service: the service used by the Customer to access the Software, eg, On Premise, and/or Tribal Cloud SaaS, Tribal SaaS, and/or Tribal Dynamics SaaS;

Software Subscription Fees: as detailed in a Tribal Tax Invoice;

Student FTE Number: the Student Full Time Equivalent Number (FTE) for the Customer published by the Independent Arbiter from time to time and which is also known as Equivalent Full Time Student Load (EFTSL);

Student TNE: the Student Transnational Education Number for the Customer published by the Independent Arbiter from time to time. For clarity this excludes any Student FTE;

Student TNE Number: the bands of Student TNE which are measured in Bands of 500;

Support Days: as defined in Schedules 9;

Support Fees: as detailed in a Tribal Tax Invoice;

Support Hours: as defined in Schedules 9;

Support Service Procedure: the procedure for providing Core Support Services, as set out in Schedule 9;

Support Services: the support provided for the Supported Software;

Supported Environments: those instances of the Software which are supported through the Support Services including the remediation of Faults, management of Availability and provision of Upgrades;

Supported Software: Software which is subject to a Support Service and is not Unsupported Software;

Tasks: as detailed in the Agreement or agreed by the Parties;

Taxes: VAT, GST, consumption tax or any other sales tax or stamp duty applicable to the relevant Jurisdiction, the subject of this Agreement;

Term: Initial Term and any Renewal Term/s;

Termination Assistance Services: Tribal's cooperation with the Customer in order to assist in the transfer of the Customer Data to the Customer and/or if required to facilitate the transition to an alternative software or service on termination or expiry of this Agreement as detailed in clause 22.1(f);

Third-Party Applications: any software licensed by the Customer from a third party and integrated in the Tribal SaaS and Cloud Services, as applicable;

Third-Party Licence: the licence to be entered into directly between a Third-Party Proprietor and the Customer or (as the case may be) the sub-licence to be entered into between Tribal and the Customer in such form as may be required by the Third-Party Proprietor, for the use of Third-Party Software and/or Third-Party Application;

Third-Party Proprietor: the person, firm or company who/which owns the Third-Party Software or Third-Party Application;

Third-Party Software: any software (including Open Source Software) provided by Tribal in connection with this Agreement, and which is integrated into the Software, the copyright of which is not owned by Tribal;

Tribal Communities: web-based searchable knowledge base, providing access to Frequently Asked Questions (FAQs), Wiki pages and a list of previously reported issues that have been identified within the versions of the Software;

Tribal Global Service Desk: Tribal's single customer service desk which provides Services, including Support Services for the Software and Software Services. The Global Service Desk acts as a single coordinated unit but may be distributed over more than one geographical location;

Tribal IPR: any and all Intellectual Property Rights of Tribal and its Affiliates, including without limitation in the Software, Software Service, Software and Service Documentation, in the Services (including any material that Tribal creates whilst undertaking the Services) and in the Tribal brand but excludes Customer Data;

Tribal SaaS and Cloud Services: means:

(i)   Tribal SaaS;

(ii)   Tribal Dynamics SaaS;

(iii)   Tribal Cloud SaaS; and

(iv)   Tribal Interface Management as a Service,

as applicable to the Software Service for the Software and detailed on the Front Sheet;

Tribal SaaS: means:

(i)   Tribal SaaS;

(ii)   Tribal Dynamics SaaS; and

(iii)   Tribal Cloud SaaS,

as applicable to the Software Service for the Software and detailed on the Front Sheet;

Tribal Software Support Services: as detailed in Schedule 10;

Tribal Warranties: as detailed in clause 17.1;

Unscheduled Maintenance Window: An unpublished change window used to apply emergency changes to an Environment in accordance with agreed Change Management processes. A maintenance window may result in the Environment being not Available;

Unsupported Period: the period during which the Customer's Production Environment is Unsupported Software;

Unsupported Software: Software in the Customer's Production Environment which is not:

(i)   **SITS:Vision:** the Major Release version of the

Software released within the last 18 months;

(ii)   **Software other than SITS:Vision:** the Software is the current release or the immediately preceding two Major Releases of Software;

Venue for Dispute Resolution: Sheffield, United Kingdom, or as be nominated by the Independent Mediation Service, or appointed Mediator;

Work Around: reducing or eliminating the impact of an Incident or problem for which the full Resolution is not yet available;

Working Days: Monday to Friday, excluding public holidays in the Jurisdiction;

Working Hours: 09:00 to 17:00.

TRIBAL

SCHEDULE 2

DATA PROTECTION OBLIGATIONS

Customer Note: Please review the content of Appendix 1 in line with the data that is/isn't captured in your Databases and highlight any changes to Tribal.

Clause No	Heading	Provision
1.	**Definitions**	**Definitions:** The following terms shall apply in relation to this Schedule:
		• "**Adequate Country**" means a country or territory recognised as providing an adequate level of protection for Personal Data under an adequacy decision made, from time to time, by (as applicable) (i) the Information Commissioner's Office and/or under applicable UK law (including the UK GDPR), or (ii) the European Commission under the GDPR;
		• "**Data Protection Legislation**" means all applicable data protection legislation for the time being in force in the United Kingdom or any part of it including the Data Protection Act (2018) ("**DPA**"), the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("**PECR**"), Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 ("**UK GDPR**") and/or the Data Protection, Privacy and Electronic Communications (Amendments etc)(EU Exit) Regulations 2020 ("**EU Exit Regulations**"), to the extent applicable, the General Data Protection Regulation (Regulation 2016/679) ("**GDPR**"), collectively referred to in this document as the "Data Protection Legislation" and national legislation implementing or supplementing the UK GDPR in the United Kingdom and the GDPR in any applicable member state of the European Union;
		• "**EU SCCs**" means the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council (the approved version of which is available at http://data.europa.eu/eli/dec_impl/2021/914/oj), including the applicable modules along with the corresponding appendices, and which along with the appendices to the EU SCCs as set out at https://legal.tribalgroup.com/Tribal_EU_SCC, to the extent applicable, forms part of this Agreement;
		• "**Personal Data**" means personal data which is provided or made available (directly or indirectly) to Tribal by or on behalf of the Customer and/or any of its Affiliates (and/or any individual students who respond to the survey as part of the Services) and accessed, stored or otherwise processed by Tribal as a processor of the Customer as part of its provision of the Services to Customer under or in connection with this Agreement;
		• "**process**" and "**processor**" shall have the meanings given in the applicable Data Protection Legislation;
		• "**Restricted Transfer**" means a transfer of Personal Data (i) from Customer to Tribal, or (ii) from Tribal to a Tribal Affiliate, Tribal sub-

Clause No	Heading	Provision
		processor or other third-party recipient authorised by Customer, in each case where such transfer is not to an Adequate Country and would be prohibited by applicable Data Protection Legislation (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Legislation) in the absence of any adequate data transfer mechanism in accordance with Data Protection Legislation; and • **"UK Approved Addendum"** means the template Addendum B.1.0, to the EU SCCs issued by the UK Information Commissioner's Office in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 18 of the UK Approved Addendum (the approved version of which is available at https://ico.org.uk/media/for-organisations/documents/4019539/international-data-transfer-addendum.pdf) together with, the mandatory clauses of the UK Approved Addendum and the applicable modules and the corresponding appendices of the EU SCCs.
2.	**Data Protection Legislation**	Each Party shall: (a) at all times during the term of this Agreement, comply with the Data Protection Legislation; and (b) to the extent applicable under the Data Protection Legislation, obtain and maintain all appropriate registrations required in order to allow that Party to perform its obligations under this Agreement.
3.	**Tribal Obligations**	In relation to all Personal Data, Tribal: (a) acknowledges that, as between the Parties, it acts as a processor; (b) shall only process such Personal Data in accordance with this Agreement (including as to the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects, in each case, which are more specifically set out in Appendix 1) and the Customer's documented instructions issued from time to time (which the Customer shall ensure are compliant with the Data Protection Legislation) and Tribal will inform the Customer if, in its opinion, any instruction infringes applicable Data Protection Legislation as soon as reasonably practicable upon becoming aware of such; (c) ensure that any personnel, agents and/or contractors who process the personal data are subject to appropriate contractual or statutory obligations of confidentiality; (d) shall taking into account the nature of processing and the information available to Tribal, implement and operate appropriate technical and organisational measures to ensure a level of security appropriate to the risks that are presented by any processing of such Personal Data, in particular protection from accidental loss or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed by Tribal pursuant to this Agreement; and (e) shall be entitled to engage any of its Affiliates as a sub-processor, on the same terms as this Schedule, and the Customer acknowledges that it consents to this.

28

Clause No	Heading	Provision

4.	**Cooperation and Assistance**	Taking into account the nature of the processing activities, Tribal will, where required by Data Protection Legislation provide reasonable cooperation and assistance to the Customer in ensuring compliance with the Customer´s obligations under Data Protection Legislation with respect to:
		
		(a) the Customer's obligations to respond to any complaint or request from any applicable data protection authority or data subjects seeking to exercise their rights under any Data Protection Legislation as they relate to this Agreement;
		
		(b) the Customer's obligations under any Data Protection Legislation set out under Articles 32 – 36 of the GDPR, taking into account the information available to Tribal, to:
		
		    (i) ensure the security of the processing;
		
		    (ii) notify the relevant supervisory authority and any data subjects, where relevant, of any relevant personal data breach (and will promptly provide Customer with all reasonable information in Tribal's possession concerning a personal data breach insofar as it affects Customer); and
		
		    (iii) carry out any data protection impact assessments ("DPIA") on the impact of the processing on the protection of personal data,
		
		and consult the relevant supervisory authority prior to any processing where a DPIA indicates that the processing would result in a high risk in the absence of measures taken by the Customer to mitigate the risk.

5.	**Audit**	Tribal shall (i) make available to the Customer all information reasonably required by the Customer to demonstrate Tribal's compliance with its obligations set out in this Schedule 2 and (ii) contribute to any data protection audits and inspections conducted by the Customer or another auditor mandated by the Customer, provided in each case only if: (a) if such information and audits are in relation to the Personal Data; (b) no more than one such audit or inspection is conducted during any 12-month period; and (c) Customer shall pay Tribal's reasonable costs of providing information and allowing for audits in accordance with this clause to the extent that the provision of such information is not reasonably able to be accommodated within the normal provision of the Services.
6.	**Termination**	Tribal shall, at the choice of the Customer, delete or return all the Personal Data to the Customer after the end of the provision of Services related to the processing. The Parties agree that copies of the personal data may be retained for Tribal's legal and regulatory obligations, record keeping or such other obligations as may be lawful in the circumstances, provided always that such copies will be retained in accordance with Data Protection Legislation.
7.	**Sub-processors**	Customer acknowledges that the provision of Services by Tribal requires the use of sub-processors. Customer hereby grants to Tribal general authorisation for sub-processing by third-party data centre operators, Cloud Providers or outsourced platform or support providers (and by entering into this Agreement the Customer authorises the use of those sub-processor (s) set out in Appendix 2 below) provided that: (a) the relevant data protection obligations of this Schedule shall be

		imposed on each sub-processor by way of contract or other binding agreement, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of (i) this Schedule and (ii) the Data Protection Legislation, subject to the standard data processing terms sub-processors may impose on Tribal;
		(b) subject to the terms of the Agreement, where the sub-processor fails to fulfil its data protection obligations, Tribal shall remain fully liable to Customer for the performance of that sub-processor's obligations;
		(c) shall keep the Customer informed of sub-processors engaged in the provision of the Services (which may be provided via any medium, including but not limited to email, a public website or a web-based Customer portal);
		(d) shall notify the Customer of any intended changes concerning the addition or replacement of sub-processors, thereby giving the Customer the opportunity to object to such changes. Notwithstanding anything to the contrary in the Agreement, the Parties expressly agree that such notice may be provided via any medium (including but not limited to email, a public website or a web-based Customer portal); and
		(e) Customer agrees that Tribal may continue to use those sub-processors already engaged by Tribal or any Tribal Affiliates as at the date of this Agreement provided that in each case Tribal meets the obligations set out in this clause.
8.	**Transfer**	The Customer acknowledges that:
		(a) in respect of the provision of Services by Tribal from the United Kingdom, that for the purposes of applicable Data Protection Legislation, the United Kingdom is recognised as an Adequate Country;
		(b) in the event the United Kingdom is no longer an Adequate Country for Personal Data subject to the EU GDPR or where Tribal transfers or Processes Personal Data in a country or territory outside an Adequate Country, the UK or the European Economic Area (as applicable), including to Tribal Affiliates, Tribal shall only make a Restricted Transfer in accordance, as applicable, with the EU SCCs (C2P, Controller to Processor), the UK Approved Addendum or where other appropriate mechanisms or safeguards have first been put in place which will enable each Party to comply with the requirements of the Data Protection Legislation; and
		(c) in the event that the provision of Services by Tribal results in a Restricted Transfer taking place by the Customer to Tribal, as applicable, the terms of the EU SCCs (C2P, Controller to Processor) as set out at https://legal.tribalgroup.com/Tribal_EU_SCC and/or the UK Approved Addendum shall apply between the Parties to enable each Party to comply with the requirements of the Data Protection Legislation.
9.	**EU C2P**	To the extent applicable, under clause 8 (b) and (c), the EU C2P Clauses shall be interpreted as follows:

Clause No	Heading	Provision
		(a) Tribal will comply with clause 8.6(c) (Security of processing) of the EU SCCs as set out in, and subject to the requirements of, clause 4(b)(ii) of this Schedule;
		(b) Customer may exercise its right of audit under clause 8.9 of the EU SCCs as set out in, and subject to the requirements of, clause 5 of this Schedule;
		(c) Tribal will comply with Clause 9(a) of the EU SCCs (general authorisation of sub-processors) as set out in clause 7 of this Schedule, including with regard to notifying the Customer of any intended additional or replacement sub-processors and the advance notification time period specified therein; and
		(d) Tribal may provide copies of sub-processor agreements (as amended) under clause 9(c) of the EU SCCs by providing Customer with a hyperlink to such information.
		Notwithstanding any other provisions, the categories of Personal Data may include the types of Personal Data set out in Appendix 1 below.
10.	**UK Approved Addendums**	To the extent applicable in respect of any Restricted Transfer or processing of Personal Data under clause 8 (b) or (c) subject to the UK GDPR, for the purposes of the UK Approved Addendum:
		(a) the information required for the Software, Software Service and Support Services and the Start date shall be the Effective Date of this Agreement;
		(b) for the purposes of Table 2, the version of the EU SCCs to which the UK Approved Addendum is appended are Module 2 (controller-to-processor);
		(c) for the purposes of Table 3, the Parties are the Parties to this Agreement; the description of the transfer including the categories of Personal Data and the technical and organisational measures are set out at https://legal.tribalgroup.com/Tribal_EU_SCC and/or in Appendix 1 below and the list of sub-processors are set out in Appendix 2 below; and
		(d) for the purposes of Table 4, neither Party will be entitled to terminate the UK Approved Addendum as set out in Section 19 of the mandatory clauses to the UK Approved Addendum.
11.	**Replacement and Changes**	Tribal may (i) replace the EU SCCs or UK Approved Addendum generally or in respect of the UK and/or the EEA only (as appropriate) with any alternative or replacement transfer mechanism in compliance with applicable Data Protection Laws, including any standard contractual clauses or addendum approved by an applicable supervisory authority, and (ii) make reasonably necessary changes to this Schedule by notifying Customer of the new transfer mechanism or content of the new standard contractual clauses (provided their content is in compliance with the relevant decision or approval), as applicable.
	Appendix 1	For the purposes of this Agreement, and clause 3 of this Schedule, the Parties set out below a description of the Personal Data being processed under this Agreement and further detail required pursuant to the Data Protection Legislation.

Clause No	Heading	Provision
		(a) **Types of Personal Data** Personal details (title, first name, last name), position, contact information, location data, ID data, nationality, goods and services provided, financial information (bank or credit/debit card details), internet protocol address. For some Services, this may include data relating to health, racial or ethnic origin. (b) **Duration of processing** Until the earliest of termination of this Agreement in accordance with its terms or the date upon which processing is no longer necessary for the purposes of either Party performing its respective obligations under this Agreement (to the extent applicable). (c) **Nature of processing** Collection, storage, duplication, electronic viewing, deletion and destruction. (d) **Purpose of processing** Administration, support and management of Customer's business operations, including any activities that may be required as part of the student management process, or other such processing which relates to education and educational services. (e) **Categories of data subject** Customers, officers, employees and temporary staff of Customer and its Affiliates, Customer end users, students, complainants, correspondents, enquirers, suppliers, advisers, consultants and professional experts.
		Technical and Organisational Measures: Tribal will implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks that are presented by processing (in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Personal Data), taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of Personal Data, as well as the risk of varying likelihood and severity for the rights and freedoms of the Data Subjects.
		Systems, Policies, Procedures and Training: In accordance with its ISO27001 certification, Tribal has robust systems, policies, procedures and training in place, to ensure employees comply with requirements. These include, but are not limited to: (a) Acceptable Usage and Responsibilities Policy; (b) Access Control and User Management; (c) System Lifecycle Management; (d) Encryption and Cryptography; (e) Global Technical Vulnerability; (f) Secure Electronic Data Handling; (g) Third Party Connectivity; (h) Networks and Data Centre Security Standard;

Clause No	Heading	Provision
		(i) Development of Secure Systems Policy; and (j) Security Vulnerability Management.

		Key Elements: Key elements of these policies are set out below:
		
		(a) Access Controls
		
		       (i) Microsoft Active Directory is used for centralised identity management in Tribal and includes Multi-Factor-Authentication (MFA);
		
		       (ii) Sufficiently complex passwords are used to secure Tribal's electronic systems and where possible, are technically enforced;
		
		       (iii) Access control management of physical and electronic information assets is maintained, with access control/permissions reviewed at least every six (6) months;
		
		       (iv) For all internal IT systems and services, standard server log files will be retained for audit purposes; and
		
		       (v) Access to all Tribal buildings and server rooms is security controlled.
		
		(b) Penetration Testing
		
		       (i) All Tribal servers and data storage environments are penetration tested regularly.
		
		(c) Encryption
		
		       (i) All Tribal PCs and removable media are secured using FIPS 140-2 Level 1 compliant encryption (typically PGP, MS BitLocker). PC encryption is auditable and encryption audits are carried out at least annually; and
		
		       (ii) All mobile devices are encrypted via their respective operating system features.
		
		(d) Data Transfer
		
		       (i) Tribal has appropriate policies in place regarding the sending of data and provides secure methods of doing so. Email is considered insecure and must not be used to share confidential files or sensitive information under any circumstances;
		
		       (ii) Business files, including very large files, greater than 10Gb, can be securely shared via SecureSend; data transfer via SecureSend uses 256 bit AES encryption and a 2048 bit SSL certificate; and
		
		       (iii) Team members are informed and trained on the policies and procedures as and when they join the team, and regular refresher training is undertaken.
		
		(e) Asset Management
		
		       (i) Tribal maintains an inventory of assets where customer data is stored and a register of processing activities.
		
		(f) Backup and Recovery

Clause No	Heading	Provision
		(i) Database backups are performed on a regular basis to dedicated storage accounts, which allows the ability to perform a point-in-time restore, within a retention period. Data (documents, images, and Database backups) is backed up regularly to dedicated storage accounts to mitigate against data loss during a total regional failure.
		(g) Data Segregation Controls
		(i) Tribal policies ensure the separation of development, test and production environments as well as separate data processing through differentiated access rules and appropriate access controls.
		(h) Staff Background Checks and Training
		(i) Tribal has a robust recruitment and onboarding process, which includes background checks as appropriate for new staff. All new staff go through a multi-stage training program including mandatory cyber security and data protection training. This happens in all Tribal locations and is globally consistent.

Tribal Hosting Services

(a) Security Controls

(i) Tribal's internal and customer hosting services are outsourced to our business partners (Amazon Web Services ("**AWS**"), Microsoft and Rackspace) as applicable to the software services required. All three company's IT infrastructure is designed and managed in alignment with security best practices. Their compliance with international and industry-specific IT security standards is detailed in a series of control definition reports.

(A) Microsoft Azure: Microsoft Azure meets international and industry-specific compliance standards, such as General Data Protection Regulation (GDPR), ISO 27001, HIPAA, FedRAMP, SOC 1, SOC 2, and SOC3 as well as country-specific standards, including Australia IRAP, UK G-Cloud and Singapore MTCS. The SOC 1 and SOC 2 reports are restricted to customers who have signed nondisclosure agreements with Microsoft; the SOC 3 report is publicly available. Further details can be found here: https://docs.microsoft.com/en-us/compliance/regulatory/offering-soc.

(B) AWS: AWS has achieved SOC 1/SSAE 16/ISAE 3402, SOC 2, SOC 3, FISMA, DIACAP, and FedRAMP, DoD SRG, PCI DSS Level 1, ISO 9001 / ISO 27001, ITAR, FIPS 140-2 and MTCS Tier 3. AWS System and Organization Controls (SOC) reports are independent third-party examination reports that demonstrate how AWS achieves key compliance controls and objectives. Further details can be found here: https://aws.amazon.com/compliance/soc-faqs/.

(C) Rackspace: Rackspace also meets international and industry-specific compliance standards, including: ISO 27001, ISO 14001, ISO 18001, ISO 9001, SOC 1 (SSAE

Clause No	Heading	Provision
		18), SOC 2, SOC 3, PCI DSS Level 1, FedRAMP JAB P-ATO, FISMA, NIST 800-53, NIST 800-171, CMMC, CJIS, ITAR, FIPS 140-2, HITECH, HITRUST and IRAP. Further details can be found here https://www.rackspace.com/en-gb/compliance. (b) Access Controls: Remote Access (i) In each case, remote access to services is limited to the minimum number of authorised employees who require access to the perform their role of maintaining the environment; (ii) Access control is implemented via Active Directory accounts and firewall rules such that administering the environment is not possible outside of the Tribal network; and (iii) Multi-factor authentication is in operation for internal service access by Tribal staff. (c) Access Controls: Physical Access (i) Further Details on the physical security measures can be found here: (A) Microsoft Azure: https://docs.microsoft.com/en-us/azure/security/fundamentals/physical-security. (B) AWS: https://aws.amazon.com/cojavascript:void(0);mpliance/data-center/perimeter-layer/. (C) Rackspace https://www.rackspace.com/en-gb/compliance.
	Appendix 2	Approved Sub-Processors

Sub-processor:	Amazon Web Services
Description of service:	Data centre operator providing cloud infrastructure (such as servers, storage, networking, remote computing) hosting and related services
Location of facility	UK, EEA, Australia, Singapore
Specific Technical and Organisational Security Measures	Available upon request

Sub-processor:	Rackspace
Description of service:	Managed service supplier providing services in respect of cloud infrastructure hosting and related services.
Location of facility	UK

Clause No	Heading	Provision	
		Specific Technical and Organisational Security Measures	Available upon request
		Sub-processor:	Microsoft Azure
		Description of service:	Data centre operator providing cloud infrastructure (such as servers, storage, networking, remote computing) hosting and related services
		Location of facility	UK, EEA, Australia, Singapore
		Specific Technical and Organisational Security Measures	Available upon request
		Sub-processor:	Six Degrees
		Description of service:	Data centre operator providing cloud infrastructure (such as servers, storage, networking, remote computing) hosting and related services
		Location of facility	UK
		Specific Technical and Organisational Security Measures	Available upon request
		Sub-processor	Olivedon Limited
		Description of services	Provision of Gradintelligence services/software relating to careers and student employability. Additional terms may apply in end user terms accepted by service users on account activation
		Location of facility	As detailed in the privacy notice for Gradintelligence https://gradintel.sg/index.php/en/privacy
		Specific Technical and Organisational Security Measures	Available upon request.

Clause No	Heading	Provision
		Other sub-processors: Information about Affiliates and outsourced platform or support providers which are approved sub-processors may be provided via any medium, including but not limited to email, a public website or a web-based Customer portal.

TRIBAL

SCHEDULE 9

CORE SUPPORT SERVICES

1   Core Support Service Description

1.1   This Schedule describes the Core Support Services to be performed by Tribal, in respect of the Software during the Term. This Schedule is to be read in conjunction with other Schedules detailed in Types of Support Services on the Front Sheet (if any) and the order of precedence will be as set out in Schedules 10 to 14 (as applicable).

2   Key Details of Core Support Services

Commencement Date	Effective Date unless otherwise agreed between the Parties in writing.
Supported Software	The Software on the Front Sheet and detailed in Schedule 3, where the Type of Support Service is Core Support Services.
Support Hours / Support Days	The Working Hours / Working Days as set out on the Front Sheet when the Core Support Services will be provided ("**Support Hours**").
Access to Core Support Services	Core Support Services are accessed via Tribal's Service Desk using Self Service Tools. The Self Service Tools comprise: • **Customer Portal:** a web-based tool for reporting Incidents available 24 hour by 365 day basis (excluding scheduled down time). • **Tribal Communities:** a web-based searchable knowledge base, providing access to Frequently Asked Questions (FAQs), Wiki pages and a list of previously reported issues that have been identified within the versions of the Software.
Levels of Core Support Services	Tribal delivers its Core Support Services via three-levels: • Level 1 Support; • Level 2 Support; and • Level 3 Support, in accordance with the Service Level Targets in clause 3.
Level 1 Support	The Service Desk is staffed to provide a single point of contact for Designated Customer Support Staff to report (through the Customer Portal) and progress Incidents relating to the use of the Software and Software Service. Where an Incident is not raised through the self-service portal form, the Level 1 Support team will document each Incident into the Customer Portal and will issue a case number to the Customer. The Level 1 Support Team (Service Desk) will undertake initial analysis of an Incident and undertake basic triage to attempt to identify the root cause. If the Incident cannot be resolved at Level 1 then it will be escalated to Level 2 Support. This may be necessary where a greater depth of technical knowledge or where specialist skills or capability is required to resolve the incident.
Level 2 Support	Level 2 Support will undertake deeper and more specialised investigation of an Incident in an attempt to identify the root cause and rectify the Incident. Where an Incident is identified that cannot be reproduced, Level 2 Support will typically contact the Customer to obtain more information in order to reproduce the Fault. Where a Fault does

	not re-occur and cannot be reproduced by Tribal then it will be necessary to close the Incident. Escalation to Level 3 Support may be required where a problem is highly complex or requires changes to the underlying Application code or Infrastructure.
Level 3 Support	Level 3 Support is the highest level of technical expertise which may involve Updates or other corrective actions.

Support Service Procedure	In relation to the Service Level Targets:
	
	• the periods of time for the provision of a Resolution shall commence at the time the Customer has logged the request with the Service Desk through the Customer Portal. The time calculated to provide a Resolution shall exclude any time when Tribal is:
	   o waiting on a response from the Customer;
	   o deployment of a Resolution is delayed due to the action or in-action of the Customer; or
	   o where it has not been possible to replicate an issue and the issue has not re-occurred;
	
	• where Tribal has provided instructions for a Work Around for the Fault, the Customer shall apply/follow it as soon as reasonably practicable. A Work Around may be deemed to be the final corrective action depending on the Priority of the Fault;
	
	• in the event that Tribal cannot identify a Work Around for the Fault or provide a Resolution within the relevant Resolution SLT it shall notify the Customer of the date by which it reasonably believes it shall provide a Work Around or Resolution and shall use Commercially Reasonable Efforts to meet this date;
	
	• the objective description of the Fault and/or Priority will be used to determine the actual Priority level. The Customer will typically report an Incident and set an initial Priority designation. Tribal will commence triage in respect to the Customer Priority designation and subject to findings will determine the Priority designation. Any changes (increases or decreases) in Priority level will be communicated to the Customer by Tribal;
	
	• where Fault and/or Priority designation is changed, the time to provide a Resolution will change to the corresponding Priority level values and SLT. For example, if a Fault designation is to be increased the SLT will be shortened; where a Fault designation is decreased, the SLT will be lengthened;
	
	• where a reasonable and effective Work Around is provided against a Priority 1 or 2 fault designation, the Resolution SLT will be changed to the Priority 3 SLT or lower as appropriate; and
	
	• in the event that the Customer disagrees with the designation set by Tribal, it shall be entitled to escalate the designation in accordance with the Support Services Escalation Procedure.

Support Services Escalation Procedure	Where a Fault, Restoration Request or Alert is not Resolved in accordance with the SLTs, or there is a material unresolved issue in relation to a designated Fault Type, the Customer shall be entitled to escalate the matter in accordance with the following table: **Table 22: Core Support Services Escalation Levels**

Escalation Level	Contact Person	Email
1	Support Service Desk Manager	Support.desk.manager@tribalgroup.com

2	Regional Customer Services Manager	**EMEA** - customer.services.manager.emea@tribalgroup.com **APAC** - customer.services.manager.apac@tribalgroup.com
3	Global Service Delivery Director	service.delivery.director@tribalgroup.com

Tribal shall upon request from the Customer notify the Customer of the identity of the individuals holding each of the above positions.

Notwithstanding the Customer exercising its right to escalate the dispute, Tribal shall continue to work towards the provision of a Work Around or Resolution of such Fault.

Service Engagement and Reporting	Service Engagement and Reporting covers communication during the Resolution of Critical and Major Faults in the Supported Environments only and the provision of Reports following the Resolution of these Incidents. Wherever possible a Report will be provided more quickly than the times given below. Service reporting includes: • Critical Fault Report; • Major Fault Report; and • Root Cause Report. Depending on the nature of the Fault and the time needed to determine the root cause, the Root Cause Report may be combined with the Critical Fault Report or the Major Fault Report.
Excluded Support Services	The following events are Excluded Support Services and are not included in Core Support Services: • misuse or incorrect use of the Software and/or Software Services, use of the Services in combination with equipment or software not designated by Tribal for use with the Services or otherwise contrary to the terms of this Agreement; • operator error; • the use of the Software and /or Software Services for a purpose either for which it has not been designed or which was not specified by the Customer in writing to Tribal prior to delivery of the Software and/or Software Services to the Customer; • the use of the Software and/or Software Services on inappropriate equipment; • Incidents arising from any Business Configuration; • the failure by the Customer to implement recommendations in respect of or solutions to Fault, previously advised by Tribal; • the failure of any hardware including the Operating System for the hardware, save where such Infrastructure is provided in accordance with this Agreement; • the Customer's failure to maintain and manage hardware in accordance with the hardware supplier's recommendations, including the application of firmware Updates and security patches, save where such Infrastructure is provided in accordance with this Agreement; • where a Third-Party Proprietor provided software or infrastructure upon which the Software and/or Software Services are dependent (but which is not included in the Services), ceases to support such software; examples include, but may not be limited

	to Operating System, internet browsers, Database versions;
	• the provision of any security compliance requirements over those specified in this Schedule;
	• where the need for Support Services arises from the Customer's failure to abide by the General Terms of this Agreement;
	• any configuration of the Software and/or Software Service or Customer Data that is not consistent with the typical use of the Software and/or Software Service unless otherwise agreed in writing by the Parties;
	• if malfunctions or defects are due to improper use of the Software and/or Software Service, or for any reason external to the Software and/or Software Services, including, but not limited to, failure or fluctuation of electrical supplies, hardware failures, accidents or natural disasters;
	• advice on problems experienced by the Customer in operating the Software which do not fall within the scope of the Core Support Services;
	• consultation regarding enhancement of the Software; and
	• training in the use and/or operation of the Software and/or Software Service.
	Tribal may, upon request by the Customer, provide Professional Services to assist in the resolution of Excluded Support Services via a Professional Services Agreement.
Customer Responsibilities	Customer Responsibilities include: • providing suitable user access devices; • prompt notification of any Software malfunction; and • providing Tribal with access to staff in a timely manner to Resolve any Incident, where the root cause is unclear.

3   Service Level Targets for Core Support Services

Response and Resolution	Tribal shall use Commercially Reasonable Efforts to achieve the stated Service Level Targets ("**SLT**") in respect of the Responses ("**Response SLT**") and Resolutions ("**Resolution SLT**"). Wherever possible, a Response or Resolution will be provided more quickly although the times indicated are targets. For clarity, SLTs only apply within the Support Hours. The following table details the SLTs for the Production Environment: **Table 25: Core Support Services - Service Level Targets**

Fault Type	Response SLT	Resolution SLT	Typical Resolution Objectives
Critical Fault (Priority 1)	30 minutes during a Support Day	8 Support Hours	To provide a Fault correction or reasonable Work Around. Resolution may involve a restarting of the Software or Software Service, alterations to the configuration of the Production Environment, a restore from a previous version, or the application of a fix to a previously reported issue.

	Major Fault (Priority 2)	1 Support Hour	3 Support Days	To provide a Fault correction or reasonable Work Around. Resolution may involve a restarting of the Software or Software Service, or a restore from a previous version, or the application of a fix to a previously reported issue.
	Important Fault (Priority 3)	4 Support Hours	20 Support Days	This Priority level has a Work Around available.
	Minor Fault (Priority 4)	8 Support Hours	No SLT Commitment	This Priority level has a Work Around available and may involve the issue of an Update.
	Unless specified otherwise in this Agreement, where a Fault is reported outside the Support Hours the Response SLT and Resolution SLT start times (for the purpose of calculating Response and Resolution targets) will begin from the start of the next Support Hours period.			

SCHEDULE 10

TRIBAL SOFTWARE SUPPORT SERVICES

1   Tribal Software Support Services Overview

1.1   This Schedule describes the Tribal Software Support Services to be performed by Tribal, in respect of the Supported Software (as defined in this Schedule), during the Term.

2   Key Details of Tribal Software Support Services

Commencement Date	**Effective Date unless otherwise agreed between the Parties in writing.**
Supported Software and Software Service *NB: Not Applicable to Tribal SaaS or Tribal Dynamics SaaS.*	The Software on the Front Sheet and detailed in Schedule 3 where the Software Service for that Software is On Premise or Tribal Cloud SaaS (if applicable).
Support Services	The Tribal Software Support Services are supported, in the following order of precedence, with: • Schedule 12 – Tribal Cloud SaaS (if applicable); • Schedule 11 - On Premise Managed Services (if applicable); • Schedule 10 – Tribal Software Support Services; and • Schedule 9 - Core Support Services.

3   Services Description for Tribal Software Support Services

Tribal Software Support Services	The Tribal Software Support Services include: • provision of Patches, Scripts and Minor Releases (at Tribal's sole discretion), subject to the provision of the Customer's compliance with the Release Installation Procedure; and • provision of Major Releases at no additional charge, at intervals determined solely by Tribal, subject to the Customer's compliance with the Release Installation Procedure. For the avoidance of doubt, Tribal Software Support Services do not cover: • the management and implementation of Upgrades, Patches, Scripts and Minor Releases except where expressly agreed in this Agreement; and • support for the Business Configuration nor any remediation of the Business Configuration necessary for any Update or Upgrade, except where expressly agreed in this Agreement.
Release Installation Procedure	Any and all Major Releases or Minor Releases shall be installed in a Non-Production Environment prior to the installation of the Major Releases or Minor Release into the Production Environment.
Software Fault And Usage Analytics	The Customer agrees to Tribal automatically and regularly collecting anonymised software fault and usage analytics for the purposes of on-going software improvement. The Customer agrees to facilitate the collection of such data.
Customer Responsibilities	Where the Software is installed on equipment controlled by the Customer, the Customer shall provide remote access and other necessary telecommunication facilities to enable Tribal to provide the Software Support Services remotely.