

## MUDDY BOOTS SOFTWARE TERMS AND CONDITIONS

### 1. PARTIES

- A. Muddy Boots Software Limited incorporated and registered in England and Wales with company number 03134834 and whose registered office is C/O Arnold & Porter Kaye Scholer, Tower 42, London EC2N 1HQ, UK (**Muddy Boots**); and
- B. The company whose details are entered on the online order form or the Order Confirmation, through which the relevant products and/or services are purchased (**Customer**).

### 2. BACKGROUND

- 2.1 Muddy Boots has developed certain software applications, platforms and related services which it makes available to customers through the Services and which the Customer wishes to use. Muddy Boots has agreed to provide and the Customer has agreed to take and pay for Muddy Boots' Services subject to this Agreement.

### 3. DEFINITIONS AND INTERPRETATION

- 3.1 The definitions and rules of interpretation in this Clause 3 apply in this Agreement.

**Additional Services:** additional services provided to the Customer in accordance with Clause 8.

**Affiliate:** any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

**Agreement:** together these Terms and Conditions, the schedules, and the documents referred to in them.

**Anonymised Aggregated Data:** anonymised statistical data (excluding any personal data as defined by UK data protection laws) which Muddy Boots extracts from the Customer Data or from the data of other third-party users of the Software or Muddy Boots' services or which Muddy Boots extrapolates from the use of its software and services by its customers.

**Authorised Users: the Customer Users and Third-Party Users.**

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

**Commencement Date:** for online orders the date of Muddy Boots acceptance of the Customer's submission of its online order, and for offline orders the date of Muddy Boots' signature of an Order Confirmation.

**Confidential Information:** information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in Clause 15.

**Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.

**Customer Back-up Policy:** the policy detailing the back-up facility provided by Muddy Boots as set out in Schedule 4.

**Customer Data:** the data inputted by the Customer, Authorised Users, or Muddy Boots on the Customer's behalf, into the information fields of the Software or otherwise collected by Muddy Boots for the purpose of facilitating the Customer's use of the Services.

**Customer Users:** those employees of the Customer who are authorised by the Customer to use the Services, as further described in Clause 5.

**Data Protection Legislation:** (i) the Data Protection Act 2018 and other applicable laws prevailing from time to time in the United Kingdom that regulate the processing of personal data, (ii) the GDPR and (iii) PIPEDA Canada

**Documentation:** the documents made available from time to time which set out the description of the Services and user instructions for the Services.

**End User Licence Agreement:** the end user licence agreement that any Authorised User must accept before accessing the Services, the current version of which is attached in Schedule 5.

**Fees:** the fees payable by the Customer to Muddy Boots for the Services as set out in Schedule 2 – Order Confirmation.

**GDPR:** Regulation (EU) 2016/679 (commonly known as the General Data Protection Regulation).

**Initial Term:** the initial term of this Agreement as set out in the Service Description Summary.

**Nominated Support Users:** a maximum number of Authorised Users as specified in the Service Description Summary who the Customer may identify to Muddy Boots as users for support services.

**Normal Business Hours:** 08.30 to 17.00 in the UK each Business Day or as otherwise detailed in the Service Description Summary.

**Order Confirmation:** the order confirmation either: (a) signed by the Customer and sent to Muddy Boots and attached at Schedule 2; or (b) completed and submitted to Muddy Boots by the Customer online; in either case which incorporates these Terms and Conditions.

**PIPEDA Canada:** The Personal Information Protection and Electronic Documents Act in Canada.

**Privacy Policy:** Muddy Boots' 'privacy policy' as amended from time to time and available at [<http://muddyboots.com/policies>] which sets out the scope, nature and purpose of processing by Muddy Boots, the duration of processing and the types of Personal Data and categories of Data Subject.

**Renewal Term:** the period described in Clause 19.1.

**Security Policy:** Muddy Boots' 'security policy' as amended from time to time and available at [<https://muddyboots.com/policies>]

**Service Description Summary:** Schedule 1, being the description of the Services, Subscription Levels and associated information.

**Service Levels:** Muddy Boots' service level commitments set out in the Service Level Agreement.

**Service Level Agreement or SLA:** Muddy Boots' policy for providing Support Services or other support or training services provided or performed by Muddy Boots with respect to the Services under this Agreement and any associated Service Levels in relation to the Services, as set out in Schedule 3.

**Services:** the services provided by Muddy Boots to the Customer under this Agreement as described in the Service Description Summary, including a licence to use the Software on the terms of this Agreement and as applicable the Support Services and any Additional Services.

**Software:** the online software application provided by Muddy Boots as part of the Services as set out in the Service Description Summary.

**Subscription Level:** the subscription level, expressed as a number of Authorised Users, (as described in the Service Description Summary) purchased by the Customer which entitles access to and use of the Services in accordance with this Agreement.

**Support Services:** the support services described in Schedule 3.

**Terms of Business:** the section of the proposal document in which the schedule of payments, associated triggers, agreed payment terms and the initial and renewal periods for this agreement are set out.

**Third Party Users:** any third parties or agents and independent contractors of the Customer who are not Customer Users, approved by Muddy Boots to use the Services, as further described in Clause 5.

**Virus:** anything or device (including any software, code, file or program) which may: (a) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network, or any other service or device; (b) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the program or data in whole or part or otherwise); or (c) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

**Withdrawal Agreement:** the 'Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the Atomic Energy Community' dated 19th October 2019.

- 3.2 In the event of a conflict between these Terms and Conditions, the Service Description Summary, and/or Service Level Agreement, the following order of precedence shall prevail: 1) Service Description Summary; 2) these Terms and Conditions; 3) Service Level Agreement.
- 3.3 Where the context requires any reference to the singular shall include the plural and vice versa.
- 3.4 Any phrase introduced by the terms **include, including, particularly** or **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the preceding words.
- 3.5 Any reference to "written" or "writing" includes e-mails (but not fax or other transitory forms).
- 3.6 References to times of the day are to London time and references to a day are to a period of 24 hours commencing at midnight at the start of the day.

#### 4. SERVICES

- 4.1 Muddy Boots shall provide the Services to the Customer in accordance with this Agreement.
- 4.2 The Customer acknowledges and agrees that any part of the Services, the Service Level Agreement or the terms of this Agreement may be amended from time to time. Muddy Boots will give the Customer at least one month's notice in writing of such change.
- 4.3 If a change referred to in Clause 4.2 substantially adversely affects the quality or functionality of a Service the Customer shall be entitled to terminate this Agreement within three months of the effective date of the change by notice in writing to Muddy Boots, and in such circumstances shall be entitled to receive a refund of any part of the Fees already paid in respect of that Service covering a period after the effective date of termination.

#### 5. SUBSCRIPTION LEVELS

5.1 Subject to the Customer paying the appropriate Fees in accordance with this Agreement, the restrictions set out in this Clause 5, and the other requirements of this Agreement, Muddy Boots hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Services in accordance with the Subscription Level for the duration of this Agreement solely for the Customer's internal business operations.

5.2 In relation to the Authorised Users, the Customer warrants and represents that:

- (a) its access to and use of the Services shall not exceed the restrictions associated with the Subscription Level;
- (b) it will not allow or suffer any Authorised User account to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;
- (c) each Authorised User shall keep a secure password for their use of the Services, and that each Authorised User shall keep their password confidential;
- (d) it shall permit Muddy Boots on reasonable prior notice to audit the Customer's use of the Services in order to establish the name and password of each Authorised User and the Customer's adherence to any restrictions associated with the relevant Subscription Level. Such an audit may be conducted no more than once per quarter (unless Muddy Boots has reasonable grounds to suspect a breach of this Agreement), at Muddy Boots' expense;
- (e) if an audit referred to in Clause 5.2(d) reveals that the Customer has underpaid Fees to Muddy Boots or has otherwise breached any restrictions associated with a Subscription Level, the Customer shall pay to Muddy Boots within 10 (ten) Business Days of the date of the relevant audit: (i) an amount equal to such underpayment plus interest in accordance with clause 13.3 (b) as calculated in accordance with Muddy Boots' then current prices for the Subscription Level which the Customer should have had in place); and (b) Muddy Boots' costs reasonably and properly incurred of conducting the audit.

5.3 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or

(f) causes damage or injury to any person or property;

and Muddy Boots reserves the right, without liability to the Customer, to disable the Customer's access to and delete from its Services any material that breaches the provisions of this Clause 5.3.

5.4 The Customer shall not (except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement):

- (a) copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services in any form or media or by any means;
- (b) reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
- (c) access all or any part of the Services in order to build a product or service which competes with the Services;
- (d) use the Services to provide services to third parties who are not Authorised Users;
- (e) subject to Clause 24.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users;
- (f) obtain, or assist third parties in obtaining access to the Services, other than as provided under this Clause 5; or
- (g) attempt to do or facilitate the doing by any third party of any of the things referred to in this Clause 5.4.

5.5 The Customer shall use commercially reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify Muddy Boots. To the extent permissible by law, Muddy Boots will not be liable for any loss that the Customer, an Authorised User or any third party may incur as a result of any use or misuse of any username or password or of any part of the Services, whether with or without the Customer's knowledge.

5.6 The rights provided under this Clause 5 are granted to the Customer and its Affiliates in the territory in which the Customer is based only.

## 6. CHANGES TO SUBSCRIPTION LEVELS

6.1 The Customer shall have the right to create and grant access to additional individual Authorised Users, provided that the Customer's user of the Services remains in accordance with the relevant Subscription Level. If Muddy Boots approves the Customer's request to enhance the Subscription Level, the Customer shall, within 21 (twenty one) days of the date of Muddy Boots' invoice, pay to Muddy Boots the relevant Fees for such enhanced Subscription Level in accordance with Muddy Boots' then current price list and, if such enhanced Subscription Level is purchased by the Customer part way through the Initial Term, such Fees shall be pro-rated for the remainder of the Initial Term.

6.2 The Customer shall ensure that any Authorised Users to whom it makes the Services available are aware of and comply with this Agreement, and agree the terms of the End User Licence Agreement. The Customer shall not amend the terms of the End User Licence Agreement provided to Authorised Users without Muddy Boots' prior written consent.

6.3 The Customer is solely responsible and liable for use of the Services by its Authorised Users. To the extent permitted by law, Muddy Boots will not be liable for any loss that the Customer, an Authorised User, or any third party may incur as a result of any use the Services in breach of this Agreement.

## 7. SUPPORT SERVICES

7.1 Muddy Boots shall use commercially reasonable endeavours to make the Software available 24 (twenty-four) hours a day, 7 (seven) days a week, except for scheduled maintenance. Muddy Boots will give the Customer reasonable advance notice of any scheduled maintenance and use reasonable endeavours to minimize any disruption to the Customer's use of the Services caused by it.

7.2 Muddy Boots will, as part of the Services, provide the Support Services to the Customer and Authorised Users during Normal Business Hours in accordance with Muddy Boots' Service Level Agreement in effect at the time that the Support Services are provided. The Customer may purchase enhanced support services separately at Muddy Boots' then current rates.

7.3 Unless otherwise agreed, Muddy Boots will provide support only to Nominated Support Users, and not any other Authorised Users.

## 8. ADDITIONAL SERVICES

8.1 Subject to the payment of the appropriate Fees and the terms of this Agreement, Muddy Boots shall provide Additional Services in accordance with any request made by the Customer from time to time and agreed in an additional service description incorporated into this Agreement.

## 9. DATA PROTECTION

9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation and the Privacy Policy and Security Policy. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Muddy Boots is the data processor. Schedule 6 sets out the scope, nature and purpose of processing by Muddy Boots, the duration of the processing and the types of personal data and categories of data subject.

9.3 Muddy Boots shall, in relation to any personal data processed in connection with the performance by Muddy Boots of its obligations under this Agreement:

- (a) process that personal data only on the written instructions of the Customer, unless Muddy Boots is otherwise required to do so by the laws of any member of the European Union or by the laws of the European Union that apply to Muddy Boots ("Applicable Laws"). Where Muddy Boots is required by Applicable Laws to process personal data, Muddy Boots shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prevent Muddy Boots from notifying the Customer;
- (b) ensure that it has appropriate technical and organisational measures in place in order to protect against any unauthorised or unlawful processing of personal data, accidental loss or destruction of personal data, and damage being caused to personal data. These measures shall be appropriate to (a) the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage of the personal data, and (b) the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting (in transit) personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure only personnel required for the purposes of carrying out this Agreement have access to personal data, and that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

- (d) if the Customer is unable to access the relevant information, to assist the Customer, and in any event, at the Customer's cost, provide reasonable assistance in responding to any request from a supervising authority or a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the Customer without undue delay on becoming aware of a personal data breach;
- (f) in accordance with Muddy Boots' standard policies for backup as provided to the Customer from time to time, delete, or return (at the Customer's to store the personal data; and
- (g) maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits to be carried out by the Customer, or the Customer's designated auditor, only so far as is necessary in order to demonstrate compliance, provided that the Customer (a) provides Muddy Boots with no less than 30 days' notice of such audit or inspection; (b) refunds Muddy Boots for all reasonable costs and expenses that it incurs as a result of any such audit or inspection; and (c) both parties agree the scope, duration and purpose of such audit or inspection. If the Customer becomes privy to any Confidential Information of Muddy Boots as a result of this clause, the Customer shall hold such Confidential Information in confidence and, unless required by law, not make the Confidential Information available to any third party, or use the Confidential Information for any other purpose. The Customer acknowledges that Muddy Boots shall only be required to use reasonable endeavours to assist the Customer in procuring access to any third-party assets, records or information as part of any audit;

9.4 The Customer:

- (a) will ensure, and warrants that, it has all necessary and appropriate consents and notices in place to ensure that it can lawfully transfer the personal data to Muddy Boots, for the duration and purposes of the Agreement;
- (b) shall, unless otherwise provided for in the Agreement, be solely responsible for the legality, security, confidentiality, integrity, availability, accuracy and quality of any data it transfers and processes;
- (c) is solely responsible for responding to any request from a data subject and in ensuring its own compliance with its obligations under Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

9.5 Transferring personal data outside the European Economic Area ('EEA'):

- (a) Neither party will be in breach of this Agreement by reason of continuing to process personal data in the United Kingdom after a date when the United Kingdom ceases to be a member of the European Economic Area.
- (b) Pursuant to Article 71(1)(a) of the Withdrawal Agreement, the parties intend that processing of personal data in the United Kingdom after the end of the transition period specified in the Withdrawal Agreement is on the basis of the provisions of the Withdrawal Agreement.
- (c) Muddy Boots shall not transfer (or permit a third party processor to transfer) personal data from the United Kingdom or the European Economic Area without ensuring adequate protection of personal data in accordance with Article 45 or Article 46(1) of the GDPR.

9.6 The Customer authorises Muddy Boots to appoint third party processors of personal data under this Agreement. Muddy Boots shall (a) ensure that all third party processors appointed by it pursuant to this Clause 9.6 are contractually bound to obligations and restrictions with respect to processing Customer Data that are commensurate with those on Muddy Boots under this Agreement; and (b) remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this Clause 9.6.

9.7 A list of the third-party processors appointed by Muddy Boots as at the Commencement Date is set out in Schedule 7. As third party processors may be changed or supplemented from time to time, Muddy Boots shall maintain an up to date list of appointed third party processors under this Agreement, including details of the processing to be undertaken by such third party processors, at

- . If the Customer objects (on reasonable grounds) to the appointment of a third-party processor, subject to the termination provisions of the Agreement, either party may terminate the Agreement by providing Muddy Boots with 30 days' advance written notice.
- 9.8 Except in relation to Customer Data that is also personal data, the Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 9.9 Muddy Boots shall follow its archiving procedures for Customer Data as set out in the Customer Back-Up Policy. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for Muddy Boots to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Muddy Boots in accordance with the archiving procedure described in the Customer Back-up Policy. Muddy Boots shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Muddy Boots to perform services related to Customer Data maintenance and back-up).
- 9.10 Muddy Boots shall, in providing the Services, comply with its Privacy Policy and Security Policy relating to the privacy and security of the Customer Data as may be notified to the Customer from time to time, as such document may be amended from time to time by Muddy Boots in its sole discretion.
- 9.11 The Customer grants Muddy Boots a perpetual, irrevocable, world-wide, royalty-free right to use Anonymised Aggregated Data solely to improve the quality of its Software and Services and to provide additional value-added services to its customers.
- 9.12 Muddy Boots warrants that:
- the Anonymised Aggregated Data shall not include any personal data as defined by Data Protection Legislation;
  - it will not sell or sub-licence Anonymised Aggregated Data to third parties save in connection with software and services supplied by Muddy Boots or its Affiliates to its customers from time to time.
- 10. MUDDY BOOTS' OBLIGATIONS** Muddy Boots undertakes that the Services will be performed:
- substantially in accordance with the Service Description Summary and the Service Levels;
  - with reasonable skill and care;
  - in a timely and efficient manner, using appropriately qualified and experienced staff; and
  - in accordance with all laws and regulations applicable to Muddy Boots.
- 10.2 The undertaking at Clause 10.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Muddy Boots' instructions, or modification or alteration of the Services by any party other than Muddy Boots or Muddy Boots' duly authorised contractors or agents. If the Services do not conform with the undertaking at Clause 10.1, Muddy Boots will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly in accordance with the Service Levels, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in Clause 10.1., provided that if Muddy Boots is not able to achieve such correction or substitution within a reasonable period having used such reasonable commercial endeavours the Customer shall be entitled to terminate this Agreement as it relates to the Services in question.
- 10.3 Notwithstanding the foregoing sub-Clauses of this Clause 10, Muddy Boots:
- does not warrant that the Customer's use of the Services will be uninterrupted, error-free or completely secure; nor that the Services and/or the information obtained by the Customer through the Services will meet the Customer's requirements;
  - is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities;
  - is not responsible for unauthorised access to Customer Data or the unauthorised use of the Services unless the unauthorised access or use results from Muddy Boots' failure to meet its security obligations stated in the Security Policy.
- 10.4 This agreement shall not prevent Muddy Boots from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.
- 10.5 Muddy Boots warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.
- 11. CUSTOMER'S OBLIGATIONS**
- 11.1 The Customer shall:
- provide Muddy Boots with all necessary co-operation in relation to this Agreement and all necessary access to such information as may be required by Muddy Boots in order to render the Services, including Customer Data, security access information and configuration information;
  - comply with all applicable laws and regulations with respect to its use of the Services and its activities under this Agreement;
  - carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner;
  - ensure that the Authorised Users use the Services in accordance with the terms and conditions of this Agreement and/or the End User Licence Agreement and shall be responsible for any Authorised User's breach of this Agreement and/or the End User Licence Agreement;
  - only allow Authorised Users who have been issued with a username and password and who have agreed to and are bound by the End User Licence Agreement to access the Services and take all necessary steps to prevent access to the Services by any person except Authorised Users unless otherwise permitted by this Agreement;
  - obtain and maintain all necessary licences, consents, and permissions necessary for Muddy Boots, its contractors and agents to perform their obligations and exercise their rights under this Agreement, including the Services;
  - ensure that its network and systems comply with the relevant specifications for use of the Services provided by Muddy Boots from time to time;
  - be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Muddy Boots' data centres and Services, and for all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
  - use reasonable security precautions in connection with its use of the Services;
  - take all reasonable steps to mitigate the risks inherent in the use of the Services, including data loss. The Services that Muddy Boots has agreed to provide to the Customer to mitigate such risks are set out in the Customer Back-up Policy. Muddy Boots does not promise to back-up Customer Data except to the extent detailed in the Customer Back-up Policy and Muddy Boots does not promise to retain any data backup(s) for longer than

the agreed data retention period as set out in the Service Description Summary or Customer Back-up Policy. In all events the Customer releases Muddy Boots from liability for loss or damage of data to the extent that the data has changed since the time that Muddy Boots was last required by the Agreement to perform a back-up and such change was not solely caused by Muddy Boot's negligence.

11.2 Muddy Boots shall not be liable to the Customer for any breach of this Agreement to the extent the same arises out of or in connection with any breach by the Customer of its obligations under this Clause 11 or otherwise set out in this Agreement. If any such Customer breach occurs Muddy Boots shall be afforded such additional time and shall be entitled to charge such additional amounts as are reasonably necessary to allow it to perform its obligations under this Agreement notwithstanding the Customer's breach.

11.3 Certain Muddy Boots Services are designed to help the Customer comply with various regulatory or contractual requirements that may be applicable to the Customer. The Customer is responsible for understanding and complying with the regulatory and contractual requirements applicable to its business and for selecting and using the Services in a manner that complies with the applicable requirements.

## 12. CHANGE CONTROL

12.2 If at any time the Customer wishes to alter the scope of the Services it may provide Muddy Boots with full written particulars of its requested alterations. If the Customer does so it shall also provide such further information as Muddy Boots may reasonably require.

12.3 Muddy Boots shall, within a reasonable time, and if it is prepared to agree the change, provide a written estimate to the Customer of:

- (a) the likely time required to implement the change;
- (b) any variations to Muddy Boots' Fees arising from the change;
- (c) the likely effect of the change on the delivery of the Services; and
- (d) any other impact of the change on the terms of this Agreement.

12.3 If the Customer wishes Muddy Boots to proceed with the change, Muddy Boots has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to the Fees, the Services and any other relevant terms of this Agreement.

## 13. CHARGES AND PAYMENT

13.1 The Customer shall pay the Fees to Muddy Boots for the Services in accordance with this Clause 13 and such other payment terms detailed in this Agreement.

13.2 Muddy Boots will send the Customer an invoice for Additional Services either as agreed or as soon as they have been provided or at the end of the month in which they were provided.

13.3 If Muddy Boots has not received payment of any Fees payable under this Agreement within 10 (ten) days after the due date (being 30 (thirty) days from the date of the invoice, unless otherwise specified on the invoice), and without prejudice to any of its other rights and remedies, Muddy Boots may:

- (a) without liability to the Customer, on at least 5 (five) Business Days' notice, disable the Customer's or any Authorised Users' password, account and access to all or part of the Services and Muddy Boots shall be under no obligation to provide any or all of the Services while the invoice(s) concerned, any interest, administrative and legal costs of collecting payment, and any further sums payable, remain unpaid; and
- (b) charge interest on such overdue amounts at an annual rate equal to 3% over the then current base lending rate of Muddy Boots' bankers in the UK at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.

13.4 All amounts and fees stated or referred to in this Agreement:

- (a) shall be payable in the currency specified in the Order Confirmation;
- (b) shall be due and payable within 30 (thirty) days from the date of the invoice;
- (c) are, subject to Clause 17.4(b), non-cancellable and non-refundable;
- (d) are exclusive of value added tax, or any other relevant local taxes or tariffs which, where applicable, will be charged and added to Muddy Boots' invoice(s) at the appropriate rate and payable by the Customer;
- (e) shall be paid by the Customer in full without any set-off, counterclaim, deduction or withholding (including any deduction or withholding of tax); provided, however, if Customer determines that tax deduction is required, Customer shall (i) withhold the appropriate amount from such payment, (ii) pay such amount to the relevant authorities in accordance with Applicable Law, and (iii) gross up the payment to Muddy Boots so that the net payment, after such deduction or withholding, equals the amount that would have been paid under this Agreement as if no deduction or withholding was required. Customer shall furnish to Muddy Boots within 30 calendar days of the tax payment or within such period required under Applicable Law such evidence as may be required by the applicable taxing authorities to establish that any such tax has been paid by Customer.

13.5 If, at any time whilst using the Services, the Customer exceeds the amount of disk storage space specified in the Service Description Summary, Muddy Boots shall charge the Customer, and the Customer shall pay, Muddy Boots' excess data storage fees as detailed in the Service Description Summary.

13.6 Muddy Boots may, however, increase the Fees on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period. Each such increase shall take effect from each anniversary of the Commencement Date and be based on the latest available figure for the percentage increase in the Retail Prices Index at the beginning of the month before the anniversary of the Commencement Date.

## 14. PROPRIETARY RIGHTS

14.1 The Customer acknowledges and agrees that Muddy Boots and/or its licensors own all intellectual property rights in the Services (including the Software) and the Documentation including for clarity any changes to the Services or Software made in the course of this Agreement and that except as expressly stated, this Agreement does not grant the Customer any rights to, or in, the same.

14.2 Muddy Boots confirms that it has all the rights in relation to the Services including the Software that are necessary to grant all the rights it purports to grant under, and in accordance with, this Agreement.

## 15. CONFIDENTIALITY

15.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving party;
- (b) was in the other party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- (d) is independently developed by the receiving party, which independent development can be shown by written evidence;



- (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body;
  - (f) has been anonymized and aggregated, in Muddy Boots' exercise of the rights set out in Clause 9.5 and 9.6.
- 15.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information other than in accordance with this Agreement.
- 15.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 15.4 Muddy Boots shall not be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party save where such loss, destruction, alteration or disclosure arises directly from a breach by Muddy Boots of its obligations as set out in the Security Policy.
- 15.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Muddy Boots' Confidential Information.
- 15.6 Muddy Boots acknowledges that the Customer Data is the Confidential Information of the Customer.
- 15.7 This Clause 15 shall survive termination of this Agreement, however arising, and for 3 (three) years thereafter.

## 16. INDEMNITY

16.1 The Customer shall defend, indemnify and hold harmless Muddy Boots, its partners from time to time, its employees and agents from and against any claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees and expenses) arising out of or in connection with the Customer's and/or any Authorised User's use of the Services other than strictly in accordance with this Agreement, provided that:

- (a) the Customer is given prompt notice of any such claim;
  - (b) Muddy Boots provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
  - (c) the Customer is given sole authority to defend or settle the claim.
- 16.2 Muddy Boots shall defend the Customer, its Affiliates, officers, directors and employees against any claim that the Services infringe any patent, trade mark or database right (in each case registered in the UK and effective as of the Commencement Date), or any copyright or right of confidentiality (subsisting in the UK as of the Commencement Date), and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
- (a) Muddy Boots is given prompt notice of any such claim;
  - (b) the Customer provides reasonable co-operation to Muddy Boots in the defence and settlement of such claim, at Muddy Boots' expense; and
  - (c) Muddy Boots is given sole authority to defend or settle the claim.
- 16.3 In the defence or settlement of any claim, Muddy Boots may in its sole discretion: (a) procure the right for the Customer to continue using the Services; (b) replace or modify the Services so that they become non-infringing; or (c) if it considers such remedies commercially or otherwise impractical, terminate this Agreement on 2 (two) Business Days' notice to the Customer.
- 16.4 In no event shall Muddy Boots, its employees, agents and sub-contractors be liable to the Customer to the extent that an indemnified alleged infringement is based on:
- (a) a modification of the Services by anyone other than Muddy Boots; or
  - (b) the Customer's or any Authorised User's use of the Services in a manner contrary to the instructions given to the Customer by Muddy Boots; or
  - (c) the Customer's or any Authorised User's use of the Services after notice of the alleged or actual infringement from Muddy Boots or any appropriate authority.

## 17. LIMITATION OF LIABILITY

17.1 Without prejudice to Muddy Boots' right to Fees, this Clause 17 sets out the entire financial liability of Muddy Boots (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- (a) any breach of this Agreement;
  - (b) any use made by the Customer of the Services or any part of them; and
  - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 17.2 Except as expressly and specifically provided in this Agreement:
- (a) the Customer assumes sole responsibility for results obtained from the use of the Services by the Customer and its Authorised Users, and for conclusions drawn from such use;
  - (b) Muddy Boots shall have no liability for:
    - i. any damage caused by errors or omissions in any information, instructions or scripts provided to Muddy Boots by the Customer in connection with the Services, or any actions taken by Muddy Boots at the Customer's direction;
    - ii. errors in any data or services supplied to Muddy Boots by third parties (including but not limited to any data supplied by governmental or regulatory bodies) and incorporated into or used by Muddy Boots in its Software or Services.
  - (c) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and
  - (d) the Services are provided to the Customer on an "as is" basis.
- 17.3 Nothing in this Agreement excludes or limits the liability of Muddy Boots:
- (a) for death or personal injury caused by Muddy Boots' negligence;
  - (b) for fraud or fraudulent misrepresentation; or
  - (c) for any other liability which may not lawfully be excluded or limited.

17.4 Subject to Clauses 17.2 and 17.3:

- (a) Muddy Boots shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, indemnity, misrepresentation, restitution or otherwise for any: (i) loss of profits; (ii) loss of business; (iii) depletion of goodwill and/or similar losses; (iv) loss or corruption of data

or information; (v) pure economic loss; or (vi) for any special, indirect or consequential loss, costs, damages, charges or expenses whatsoever; in each case arising under or in connection with this Agreement; and

- (b) Muddy Boots' total aggregate liability in contract, tort (including negligence or breach of statutory duty), indemnity, misrepresentation, restitution or otherwise, arising under or in connection with this Agreement in each twelve (12) month period calculated from the Commencement Date shall be limited to the total Fees paid for the purchased Subscription Levels during that twelve (12) month period.

17.5 Muddy Boots agrees to have in place valid insurance it considers sufficient to cover its potential liability under this Agreement.

17.6 The parties acknowledge and agree that the limitations and exclusions of liability set out in this Agreement reflect a fair and equitable apportionment of risk-taking account of (amongst other things) the Fees and the nature of the Services. Each party agrees that it is responsible for making its own arrangements for the insurance or mitigation of any loss it may suffer which is limited or excluded by this Agreement.

## 18. SUSPENSION OF SERVICES

18.1 Muddy Boots may suspend any or all of the Services without liability:

- (a) if Muddy Boots reasonably believe that the Services are being used in breach of the Agreement and the Customer does not remedy a breach within 10 (ten) days of Muddy Boots' written notice to the Customer describing the breach;
- (b) if the Customer fails to co-operate with Muddy Boots' reasonable investigation of any suspected breach of the Agreement;
- (c) if there is an attack on the Services or the Services are accessed by or manipulated by a third party without Muddy Boots' consent;
- (d) if Muddy Boots is required by law to suspend the Services or the Customer's access to the Services; or
- (e) if there is another event for which Muddy Boots reasonably believes that suspension of the Services is necessary to protect any network, system, Services, the Customer or any other customer;
- (f) in the circumstances set out in Clause 13.3.

18.2 Muddy Boots will give the Customer advance notice of a suspension under this Clause 18 of at least twelve (12) Business Hours, unless Muddy Boots determines in its absolute discretion that a suspension on shorter or contemporaneous notice is necessary to protect Muddy Boots or its customers from imminent and significant operational or security risk.

18.3 If the Customer's systems or Services are compromised, the Customer must address the vulnerability and demonstrate to Muddy Boots' satisfaction that it has appropriately addressed and/or fixed such vulnerability prior to Muddy Boots resuming the Customer's access to the Services.

## 19. TERM AND TERMINATION

19.1 This Agreement shall, unless otherwise terminated earlier as provided in this Clause 19, commence on the Commencement Date and shall continue for the Initial Term and, thereafter, shall continue until terminated by either party providing 3 months' notice in writing to the other party, such notice to expire no earlier than the end of the Initial Term.

19.2 Without affecting any other rights that it may be entitled to, either party may give notice in writing to the other terminating this Agreement immediately if:

- (a) the other party commits a material breach of any term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 (thirty) days of being notified in writing to do so; or
- (b) the other party: (i) has a receiver or administrative receiver appointed over it or over any part of its business or assets; (ii) passes a resolution for winding up (except for the purposes of a genuine scheme of solvent amalgamation or reconstruction) or has a court of competent jurisdiction make an order to that effect; (iii) becomes subject to an administration order; (iv) enters into any voluntary arrangement with its creditors; or (v) ceases or threatens to cease to carry on business.

19.3 Without affecting any other rights that it may be entitled to, Muddy Boots may terminate the Agreement for breach if:

- (a) payment of any invoiced amount is overdue and the Customer does not pay the overdue amount within four (4) Business Days of a written notice from Muddy Boots;
- (b) payment arrangements have been made by the Customer for payment via credit card or other third party, and the credit card issuer or third-party refuses to pay Muddy Boots' Fees.

19.4 On termination of this Agreement for any reason or expiry of this Agreement:

- (a) all licences granted under this Agreement including all access to the Software by the Customer and its Authorised Users shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- (c) Muddy Boots may destroy or otherwise dispose of any Customer Data in its possession unless Muddy Boots receives, no later than 10 (ten) days after the effective date of the termination of this Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Muddy Boots shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 (thirty) days of its receipt of such a written request, provided that the Customer has, at that time, paid all Fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Muddy Boots in returning or disposing of Customer Data; and
- (d) the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

19.5 On termination by either party other than termination by Muddy Boots under Clause 19.2(a) or 19.2(b) or 19.3, Muddy Boots will continue to provide Services to the Customer at its request for up to 6 (six) months until it has migrated the Customer Data to another supplier and Muddy Boots will do what is reasonable to assist the Customer in such migration, provided that the Customer pays Muddy Boots the Fees due for such Services monthly in advance. The provisions of this Agreement, including the Service Levels, will remain in effect until completion of the migration. Muddy Boots will not be liable for any third-party costs incurred by the Customer in connection with the migration.

19.6 If this Agreement is terminated during the Initial Term on the Customer's breach or pursuant to clause 19.3, the Customer will be liable to pay all Fees for the remaining months of the Initial Term or then current Renewal Term.

## 20. FORCE MAJEURE

Muddy Boots shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including: strikes, lock-outs or other



industrial disputes (whether involving the workforce of Muddy Boots or any other party); failure of a utility service, transport, the internet, power grid, or telecommunications network; act of God, war, riot, civil commotion, pandemic, malicious damage; compliance with any law or governmental order, rule, regulation or direction; accident, breakdown of plant or machinery; fire, flood, storm; or other events of a magnitude or type for which precautions are not generally taken in the industry, provided that the Customer is notified of such an event and its expected duration as soon as reasonably possible after its occurrence.

**21. WAIVER**

21.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.

21.2 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

**22. SEVERANCE**

22.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

22.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

**23. ENTIRE AGREEMENT**

23.1 This Agreement, and any documents referred to in it including the End User Licence Agreement, constitutes the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter it covers.

23.1 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

**24. ASSIGNMENT, ETC.**

24.1 The Customer may assign its rights under this Agreement to an Affiliate of the Customer provided that the party to which Customer assigns its rights provides a written undertaking to Muddy Boots to continue to be bound by all the terms of this Agreement.

24.2 Muddy Boots may at any time assign, transfer, or sub-contract all or any of its rights or obligations under this Agreement.

**25. NO PARTNERSHIP OR AGENCY**

25.1 Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorize either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability, or the exercise of any right or power).

**26. THIRD PARTY RIGHTS**

26.1 Save for Authorised Users (who shall be bound by the terms of the End User Licence Agreement), this agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

**27. NOTICES**

27.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by email hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes.

27.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 09:00 on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice delivered by email shall be deemed to have been received at the time of transmission.

**28. GOVERNING LAW AND JURISDICTION**

28.1 This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by, and shall be construed in accordance with, the law of England.

28.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Signed

Signed

.....

.....

Print name

Print name

**For and on behalf of Muddy Boots Software Limited**

**For and on behalf of [ ]**

Dated.....

Dated.....

**SCHEDULE 1 – SERVICE DESCRIPTION**

Service description

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**Annex 1**

Subscription level

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<Text>

Implementation services

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<Text>

Additional services

---

<Text>

Delivery timelines

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<Text>

Schedule of payments

---

<Text>

Contract term

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<b>Initial term</b>	
<b>Renewal Period</b>	
<b>Notice Period</b>	

Rate card and expenses

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<Text>

Contact for notices

---

<b>Name</b>	
<b>Phone number</b>	
<b>Email</b>	

Variations to contract

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<Text>

**SCHEDULE 2 – ORDER**

Order form

<b>To:</b>	<b>Account Manager Name</b> Muddy Boots Software Ltd	<b>From:</b>	<b>[Customer]</b>
<b>Date:</b>			
<b>Subject:</b>	<b>Product</b> <b>Proposal No</b> <b>Issue No (EPIC NUMBER)</b> <b>Date</b>		

The Customer hereby orders from Muddy Boots Software Limited (**Muddy Boots**) the Services described in the Service Description [Schedule 1] for the Initial Term. The Term begins on the date Muddy Boots accepts this Order Confirmation by signing and dating it.

Please complete Customer Accounts Information section below:

<b>Invoicing Name:</b>		<b>VAT Reg No:</b> (EU Countries only)	
<b>Invoicing Address:</b>			
<b>Accounts Contact:</b>		<b>Accounts Tel:</b>	
<b>Accounts Email:</b>		<b>Accounts Fax:</b>	

Invoicing Summary (these prices exclude VAT):

**TO BE COPY / PASTED FROM SPREADSHEET**

Order Confirmation Sign Off:

<b>Customer Signature:</b>		<b>Date:</b>	
<b>Print Name:</b>		<b>Job Title:</b>	
<b>Email:</b>		<b>Purchase Order:</b>	

**SCHEDULE 3 – AVAILABILITY, SUPPORT AND ADDITIONAL SERVICES**

This Schedule describes the Muddy Boots commitment in terms of Software Availability, along with Support Services Muddy Boots' will provide to the Customer. It details the scope of Support Services and how they will be monitored.

**AVAILABILITY**

For the duration of the contract, Muddy Boots shall use commercially reasonable endeavours to make the Services available 24 (twenty-four) hours a day, 7 (seven) days a week except for scheduled maintenance. Muddy Boots commits to an overall uptime availability of 99.5 percent, measured on a monthly basis and excluding scheduled maintenance as described below. Uptime is defined by the availability of the Muddy Boots service to the customer and excludes: (a) any Maintenance Events (as defined below); (b) any outages or disruptions which are Customer-caused or third party-caused; and (c) any outages or disruptions attributable in whole or in part to events not within Muddy Boots' control. To achieve 99.5 percent uptime, the Muddy Boots service will be down for no more than 3.65 unscheduled hours per month. For the avoidance of doubt uptime and availability refers to Muddy Boots' Software and Muddy Boots' hosting service for Customer access. The Customer is solely responsible for its own internet access.

**SERVICE CREDITS AND PENALTY**

If Muddy Boots fail to achieve the required uptime availability in any given month then the Customer will be entitled to a credit equal to 5% of the average monthly subscription fees, calculated from the previous 12 month period, to be claimed within 90 (ninety) days of the end of the month where the failure occurred. If Muddy Boots fail to achieve the required uptime in 3 (three) consecutive months the Customer will be entitled to terminate their contract at 90 (ninety) days' notice, to be exercised, in writing, within 30 (thirty) days of the end of the month where the third consecutive failure occurred; these remedies above represent the sole and exclusive remedies for the Customer should Muddy Boots fail to provide the agreed uptime detailed in this Schedule 3.

**REPORTING**

Uptime reporting on Muddy Boots services will be provided during Service Review Meetings held at an agreed frequency. Root cause for any outages will be provided along with the associated report.

**STANDARD HELPDESK TECHNICAL SUPPORT SERVICES**

Muddy Boots shall provide the Customer with helpdesk Support Services during Normal Business Hours.

Muddy Boots shall provide a Muddy Boots service Account Manager who will be assigned to the Customer and be the Customer's point of contact for all service-related matters.

Muddy Boots' technical support team shall accept voicemail, e-mail and web form-based incident submissions which are: (a) to the contact details provided from time to time; (b) with valid Customer identification numbers; and (c) in Normal Business Hours. Any contacts outside of Normal Business Hours will be responded to when Normal Business Hours next resume.

Muddy Boots' technical support will accept calls for English language telephone support during Normal Business Hours on Business Days. Muddy Boots shall use reasonable endeavours to process support requests, issue support tickets if necessary, determine the source of problems and respond to the Customer. Muddy Boots' technical support shall respond to all compliant support requests within the time periods specified below, according to priority.

Muddy Boots' technical support team shall determine the priority of any defect, using one of following priorities:

Priority	Description	Response Time (hours in the supported period)	Update (hours in the supported period)	Target Resolution Time (hours in the supported period)
Priority 1 Critical	Priority 1 incidents are defined as the total inability to perform the normal operation of any significant business function or, if applicable, as stated in a Service Level Agreement. This could be caused by system unavailability, major hardware failure, or application incidents. The result is that the business group or groups cannot function.	Within 2 hours	Every 2 hours	6 hours
Priority 2 Major	Priority 2 incidents severely restrict the use of an application, system or piece of equipment. This can result in a serious rescheduling of business resources. If it continues a Priority 2 incident has the potential to become a Priority 1 incident.	Within 4 hours	Every 4 hours	24 hours or next release

Priority 3 Minor	Priority 3 incidents allow an application to be used, but not at full capacity. The restriction is not critical to the overall operation of the business or the department.	Within 24 hours	Every 40 hours	Within next 3 releases
Priority 4 Cosmetic	Priority 4 incidents are cosmetic in nature or any problem where there is an existing, functional workaround.	Within 72 hours	n/a	Rolled into Roadmap to be fixed

The Customer shall provide front-line support to Authorised Users. However, the Customer may contact Muddy Boots' technical support team in order to report problems from Authorised Users that the Customer's designated front-line support cannot resolve themselves after they have performed a reasonable level of diagnosis. On reporting a defect, the Customer shall supply a detailed description of such defect requiring support services and the circumstances in which it arose, and shall submit sufficient material and information to enable Muddy Boots' staff to duplicate the problem.

The Response Time begins when a defect is logged on Muddy Boots' Service Management system and a Support Ticket reference number assigned. The Target Fix Time begins when such a record has been notified to the Customer. No representation or warranty is given by Muddy Boots that all faults or defects in the Services will be fixed within a specified period of time nor that any defect or fault which does not materially affect the Customer's operations using the Services will be corrected, prior to the next release of any Software or service pack

**ADDITIONAL SERVICES**



## **SCHEDULE 4- BACKUP POLICY AND DISASTER RECOVERY**

### **INTRODUCTION**

This document describes Muddy Boots' commitments regarding back-up, disaster recovery and redundancy procedures. Muddy Boots' hosting infrastructure is designed to provide high availability, system redundancy, offsite data back-ups, and storage, with disaster recovery planning to ensure as little disruption to operations as possible.

### **DATA CENTRE**

The data centre used to host the solution is a secure Tier IV classification facility. This means multiple active power and cooling distribution paths, and redundant components that provides documented 99.95 percent availability of the data centre core infrastructure.

### **HOSTING INFRASTRUCTURE**

Muddy Boots infrastructure has been designed and implemented to be scalable as well as resilient in the event of unit failure. Firewalls, switches and all power supplies are deployed in dual failover mode. Webservers are implemented as a web farm and database servers are clustered.

Further detail on Hosting Infrastructure is contained in our Hosted Services Infrastructure Overview Document, which is available on request.

### **SCHEDULED MAINTENANCE TIMES**

During scheduled maintenance windows, the Muddy Boots service may be unavailable. Scheduled Maintenance is performed monthly on the Thursday after the second Tuesday of each month from 6am to 10am (UK time). Additional periods of scheduled maintenance may be required at other times and Customers will be given one weeks' notice of this to ensure minimal disruption. Any unscheduled maintenance will be communicated to the Customer at least 24 hours prior to the event unless it is considered an Emergency. Any maintenance which affects the service and is deemed beyond Muddy Boots' control will not count against the uptime commitment.

### **BACK-UP POLICY**

Muddy Boots provide real time data protection with data backed up locally at the data centre for rapid restores and offsite to our head office to provide resilience. Systems are monitored using industry standard and approved network monitoring tools, which alert Muddy Boots infrastructure team of any metrics that fall outside defined tolerances.

Muddy Boots will provide back-up services for the Customer Data. Back-ups of the Customer Data are performed every 60 (sixty) minutes. In addition, secure offsite back-ups of the data are taken every 12 (twelve) hours unless detailed otherwise in the Service Description. Offsite back-ups will be held securely for 3 (three) months.

### **DISASTER RECOVERY AND BUSINESS CONTINUITY**

In the event of a complete data loss of the data centre Muddy Boots would invoke its disaster recovery policy.

A full disaster recovery environment is setup and maintained at the Muddy Boots Head Office location, this includes all Servers, network devices and applications. This environment is updated with the latest software releases and is always on to perform its role as a hot site. This is physically hosted within a dedicated server room with secure limited access. We have a 100MB fibre connection providing communication into the room.



**SCHEDULE 5 – END USER LICENSE AGREEMENT**

Muddy Boots' 'End User License Agreement' as amended from time to time and available at [<http://muddyboots.com/policies>]

## SCHEDULE 6 - DETAILS OF PROCESSING OF COMPANY PERSONAL DATA

1. This Schedule includes certain details of the Processing of personal data as required by Article 28(3) GDPR.

2. Subject matter and duration of the Processing of personal data

Subject to article 28(3), Muddy Boots Software Limited will Process Personal Data for the duration of the contractual agreement with the customer, unless otherwise agreed upon in writing, or subject to a request by the customer for data deletion or removal. If the data is deemed essential for financial auditing or regulatory purposes, the customer will be informed in writing, and notified of when a removal of any personal data can take place. Muddy Boots reserves the right to delete all personal data once the Agreement terminates or expires subject to providing a copy of such data to the Customer in accordance with the terms of the Agreement.

3. The nature and purpose of the Processing of personal data

Muddy Boots Software Limited will Process Personal Data as necessary to perform the Services pursuant to the Agreement, and as further specified in any Documentation relating to these services, and as further instructed by Customer in its use of the Services

4. The types of personal data to be Processed

Customers of Muddy Boots Software Limited and authorised users of Muddy Boots' services may submit Personal Data to Muddy Boots applications and services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- First and last name
- Title
- Position
- Employer
- Contact information (company or personal, email, phone, physical home or business address)
- Connection data (including but not exclusively IP address and cookie information)
- Localisation and locality data

5. The categories of Data Subject to whom the personal data relates

Customers of Muddy Boots Software Limited and authorised users of Muddy Boots' services may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Prospects, customers, business partners and vendors or suppliers of the Customer (who are natural persons)
- Employees or contact persons of Customer's prospects, customers, business partners and vendors
- Employees, agents, advisors, freelancers of Customer (who are natural persons)
- Customer's Users authorized by Customer to use the Services.

**SCHEDULE 7 – THIRD PARTY PROCESSORS**

Company	Service	Personal Data Stored	Location
ZenDesk	Customer Helpdesk	Names, Business Email, Business Phone Numbers	EEA & US (Privacy Shield compliant)
Intercom	Customer Service	Names, Business Email, Business Phone Numbers, IP address	US (Privacy Shield compliant)
Microsoft	Cloud Service Provision	Names, Business Email, Business Phone Numbers	EEA
6 Degrees	Data Hosting	Names, Business Email, Business Phone Numbers, IP address	EEA
Hotjar	User Experience	Anonymised	EEA
Azzure IT	Order processing and Invoicing	Customer name, address,	EEA
UserVoice	User feedback	Customer and employee name, email address	EEA & US (Privacy Shield compliant)
Box	File sharing with customers	Customer names, email addresses	EEA & US (Privacy Shield compliant)
Zoho	Web site uptime monitoring	Employee name and Email	EEA & US (Privacy Shield compliant)
CloudFlare	Website fronting (cloud WAF and Proxy)	No data stored at rest	EEA & US (Privacy Shield compliant)
Mimecast	E-mail delivery and Security	Names, Business Email, Business Phone Numbers	EEA