

## TERMS AND CONDITIONS OF MAP IT LIMITED

The Licensee binds himself to adhere to these terms and conditions (hereafter “Terms and Conditions”) which shall apply to the provision of a license by MAP IT to the Licensee, allowing the Licensee to make use of the Software. The use by the Licensee (by yourself) of the Software is an indication of the Licensee’s (your) acceptance of these Terms and Conditions of any subsequent changes to these Terms and Conditions.

It is the Licensee’s responsibility to check for any updates or changes to these Terms, unless it is expressly required by law that the Licensee is to provide its prior consent to such updates and/or changes. In the event that any such changes are unacceptable to the Licensee, he may opt to stop using the Software and terminate these terms and conditions.

In accordance with MAP IT’s Privacy Policy, the Licensee acknowledges, agrees and understands that by using the Software MAP IT may collect and use certain information about the Licensee and its use of the Software.

### 1. DEFINITIONS

1.1 The following terms shall have the following meanings:

“**Acceptance**” shall mean the acceptance of the Software by the Licensee as provided for under clause 2 of these Terms and Conditions;

“**Bug/s**” shall mean a technical functionality of the Software that does not execute as planned by MAP IT in its sole discretion;

“**Confidential Information**” shall mean these Terms and Conditions and all information disclosed by either Party to the other Party, in writing or orally, relating to the Software and any other products delivered hereunder and the businesses of the Parties, except for information which:

- (a) was or becomes publicly known without breach of these Terms and Conditions or applicable law; or
- (b) is obtained by the receiving Party from a third Party without a breach of such third Party’s obligations of confidentiality; or
- (c) is required by law to be disclosed by the receiving Party.

“**Data Protection Officer**” shall mean the data protection officer as defined by the Data Protection Regulation;

**“Documentation”** shall mean documentation that accompanies each Software;

**“Fees”** shall mean the fees set out on MAP IT Limited’s website or any other fees as otherwise agreed in writing;

**“Force Majeure”** shall mean any economic loss, delay or failure in performance of any part of this agreement to the extent that such loss, delay or failure is caused by fire, flood, explosion, accident, war, strike, embargo, governmental requirements, civil and military authority, Act of God, civil unrest, data trespass, inability to secure materials or labour, action of the other Party or any other cause beyond such Party’s reasonable control;

**“GDPR”** shall mean the relevant data protection and privacy laws to which the Parties are subject including but not limited to the Data Protection Regulation (as defined herein) and the Data Protection Act, Chapter 440 of the Laws of Malta and subsidiary legislation thereto, as may be amended from time to time;

**“Licensed Users”** shall mean the number of users licensed to use the software on behalf of the Licensee which number of users shall have been expressly selected by the Licensee on the MAP IT Website or otherwise communicated by the Licensee to MAP IT in writing and in relation to which number of uses, fees in terms of Clause 4 have been paid accordingly;

**“Licensee”** shall mean you, the person accepting these Terms and Conditions, being granted a license to make use of the Software, subject to these Terms and Conditions;

**“MAP IT”** shall mean MAP IT Ltd bearing Company registration number P 1286, having its registered office at 9/3 Farrugia Building, St. Michael Street, San Gwann SGN 2301, Malta who is the licensor of the Software and which licence is regulated in accordance with these Terms and Conditions;

**“MAP IT Website”** shall mean one or more domains operated or managed by MAP IT on which domains Software is made available to the Licensee;

**“Personal Data”** shall mean personal data as defined by the GDPR (i.e., any information relating to an identified or identifiable natural person (“data subject”));

**“Privacy Authority”** shall mean the relevant supervisory authority with responsibility for privacy or data protection matters in the jurisdiction of the Licensee;

**“Process”, “Processing”, or “Processed”** shall mean “process”, “processing” and “processed” as defined by the GDPR;

**“Service Level Agreement”** shall mean the Service Level Agreement annexed to these Terms and Conditions under Annex I;

**“Software”** shall mean one or more of the products expressly selected to be used and/or licensed by the Licensee including, but not limited to, on the MAP IT Website, which products have been developed by MAP IT. The Software available to the Licensee may change from time to time as software may be removed or new software added at the sole discretion of MAP IT. All Software will be provided subject to these Terms and Conditions as may be amended from time to time and to additional terms and conditions and fees as may be agreed between the Parties;

**“Sub-Processor”** shall mean any sub-processor engaged by MAP IT, with the Licensee’s prior consent, who agrees to receive from MAP IT the Personal Data exclusively intended for the purposes of conducting the services in these Terms and Conditions to be carried out on behalf of the Licensee;

**“Support”** shall mean an issue related to the Software requiring the services and intervention of MAP IT which does not qualify as a Bug; and

**“Term”** shall mean the Term of these Terms and Conditions as provided under clause 12.

- 1.2 The Licensee and MAP IT Limited shall individually be referred to as “Party” and collectively as “Parties”.

## **2. DELIVERY AND INSTALLATION**

- 2.1 The Software shall be considered to have been delivered to the Licensee at the earlier of when the Software has been made available for download to the Licensee on the MAP IT Website or when the Software installed on the hardware or when the hardware has been made available to MAP IT for installation.
- 2.2 Where the Software is being installed on the Licensee’s servers, MAP IT shall be responsible for configuring and installing the Software on the appropriate hardware belonging to the Licensee and shall provide two (2) days of on-site technical integration support to the Licensee during set-up and eight (8) hours of systems operations training to the Licensee’s staff. The Licensee shall be responsible for incurred expenses, including any travel and/or subsistence expenses.
- 2.3 Where the Software is hosted by MAP IT, MAP IT shall be responsible for hosting the Software on MAP IT’s servers and shall reasonably endeavour to allow continuous access to the Licensee for the duration of the engagement.

- 2.4 In the event that the Licensee fails to provide written notice to MAP IT within fourteen (14) days of delivery of the Software that it does not accept the Software, this shall be considered as an automatic acceptance of the Software by the Licensee. Upon Acceptance, MAP IT shall grant a license to the Licensee in respect of the Software in accordance to these Terms and Conditions.
- 2.5 In the event that the Licensee gives written notice to MAP IT indicating that it does not accept the Software, MAP IT shall use reasonable endeavours to reconfigure and modify the Software in such a manner that is agreeable to the Licensee.
- 2.6 MAP IT may at its discretion allow the Licensee, if accepted by the Licensee, a thirty (30) day (or other shorter or longer period at the sole discretion of MAP IT and as communicated on the MAP IT Website or otherwise by MAP IT in writing) trial for use of the Software for one (1) Licensed User (or any number of more Licensed Users at the sole discretion of MAP IT and as communicated to License on the MAP IT Website or otherwise by MAP IT in writing). During this trial period, the Licensee is not required to pay for the use of the Software in terms of Clause 4 and the Licensee will still have full access to the Software. This period may be extended at the sole discretion of MAP IT:

Provided that upon the expiration of any above-mentioned trial period, the Licensee shall confirm to MAP IT that it will continue to make use of the actual Software via a written confirmation which confirmation may be communicated by e-mail. The payment to continue utilising the Software in terms of must be made upfront by the Licensee. Failure to either provide the notice or make the payment of any fees as specified under Clause 4 will result in immediate termination of the licence and these Terms and Conditions.

### **3. LICENCE**

- 3.1 Subject to clause 2.3, MAP IT hereby grants to the Licensee for the duration of this engagement, a temporary, non-exclusive, non-transferable license to use the Software in accordance with these Terms and Conditions.

- 3.2 The Licensee agrees that the license granted in accordance with these Terms and Conditions shall only be used by the Licensed Users permitted to use the Software according to the fees paid by the Licensee as provided for on MAP IT's website.
- 3.3 Except as provided in these Terms and Conditions, the Licensee shall be prohibited from using, developing, marketing, licensing, transferring, selling or otherwise disposing of the Software or concepts embodied therein to any third party without the prior written consent of MAP IT.
- 3.4 The grant of the license shall be subject to the following restrictions and limitations:
- 3.4.1 Licensee shall have no right to copy, in whole or in part, the Software and, in addition to this, the Licensee shall not (and shall not assist any third party to): (a) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or derive any source code (or underlying ideas, algorithms, structure or organization) from the Software or from any other information by any means whatsoever; (b) distribute, disclose or allow use of any of the Software in any format through any timesharing device, service bureau, network or by any other means, to or by any third party; or (c) modify, adapt, translate, or create derivative works based on the Software or any portion thereof and all rights not expressly granted under these Terms and Conditions are expressly reserved by MAP IT.
- 3.4.2 Licensee acknowledges and agrees that any suggestions or contributions made by the Licensee or its employees or agents that are incorporated into subsequent versions of the Software and/or the Documentation shall be the sole and exclusive property of MAP IT or their respective owner at that time.
- 3.4.3 Licensee acknowledges and agrees that MAP IT or the respective owner of the Software shall at all times retain all economic or intellectual property rights in the Software and all subsequent copies and modifications of the Software.

For the avoidance of doubt, no proprietary rights are being transferred under these Terms and Conditions but strictly only a license to use.

3.4.4 Licensee acknowledges that MAP IT reserves the right, at any time and without notice, to monitor compliance with the terms of this license and to otherwise protect its rights in and to the Software by incorporating management technology into the Software and monitoring usage, including, without limitation, time, date, access or other controls, counters, serial numbers and/or other security devices. In addition, MAP IT reserves the right, with reasonable notice, to audit or have audited Licensee's use of the Software to verify compliance with the terms of this license.

#### **4 PAYMENT**

4.1 The Licensee agrees to pay MAP IT the relevant licence fees as agreed with the Licensee either by way of the Licensee selecting a subscription on the MAP IT Website or otherwise as agreed in writing by the Parties. Support fees and other fees shall also be agreed in writing between the Parties.

4.2 Unless otherwise agreed in writing, licence fees shall be charged on a monthly basis and shall be paid upfront. Unless otherwise agreed in writing, fees for support services or any other fees due in accordance with these Terms and Conditions shall be invoiced on a monthly basis.

4.3 The Licensee hereby agree to pay any and all invoices in full within seven (7) days of receipt of invoice. In the event payment is made later than the seven (7) day period mentioned under this clause 4, and without prejudice to any other remedy under these Terms and Conditions, interest shall be charged at the maximum rate permissible by law.

4.4 All fees due as per these Terms and Conditions are exclusive of any Value Added Tax and/or other sales taxes that may be applicable.

#### **5 SUPPORT**

5.1 MAP IT shall fix any and all Bugs in the Software free of charge throughout the Term of these Terms and Conditions.

- 5.2 Further to clause 5.1, in the event that the Licensee requests Support from MAP IT, MAP IT shall provide such Support including on-site Support as may be required at rates to be agreed in writing between the Parties.
- 5.3 In the event MAP IT receives a Support call from the Licensee which is not deemed to be related to a Bug, the standard Support fees set-out in clause 5.2 shall apply.
- 5.4 The Support described in this clause 5 shall be provided in terms of the Service Level Agreement set-out under Annex I.

## **6 LICENSEE WARRANTIES AND OBLIGATIONS**

- 6.1 By accepting these Terms and Conditions, the Licensee warrants that:
- 6.1.1 It is competent and duly authorised to accept these Terms and Conditions and enter into binding agreements;
  - 6.1.2 It complies with all applicable rules, laws and regulations in connection with the promotion and operation of the Software; and
  - 6.1.3 It will not register any domain names or register keywords, search terms or other identifiers for use in any search engine, portal, sponsored advertising service or other search or referral service or include metatag keywords on any affiliate's website that incorporate terms which are identical or similar to MAP IT intellectual property rights, in particular trademarks owned by MAP IT.
- 6.2 Any specific translations of the Software over and above what is available upon acceptance of these Terms and Conditions will be the responsibility of the Licensee.
- 6.3 The Licensee shall be responsible for the day-to-day operational activities of the Software.

## **7 MAP IT WARRANTIES AND OBLIGATIONS**

- 7.1 MAP IT warrants that:
- 7.1.1 It is competent and duly authorised to enter into binding agreements;
  - 7.1.2 At the date of delivery, the Software and the media upon which it is supplied is free from all viruses known generally or by MAP IT;

7.1.3 It is duly authorised to grant the Licensee all of the right granted hereunder, and to otherwise perform its obligations under these Terms and Conditions; and

7.1.4 The Software does not contain any Trojan horse, worm, logic bomb, time bomb, backdoor, trap door, key or other similar or harmful components which have the potential to impair or prevent the operation of the Software.

## **8 INTELLECTUAL PROPERTY**

8.1 Each Party grants to the other Party a right to use the first Party's intellectual property as far as is necessary for the other Party to perform its obligations under these Terms and Conditions.

8.2 All legal and beneficiary interest in any intellectual property in the Software such as, but not limited to, hardware, firmware, software, source code, program mathematics, materials, interfaces, documents, notes, frameworks, specifications, drawings, goods and devices shall remain the property of MAP IT.

8.3 Without prejudice to the above, Licensee acknowledges that all titles and copyrights in and to the Software (including but not limited to any images, photographs, animations, video, audio, music, text, "applets," and "plug-ins," incorporated therein), the accompanying printed materials, including the Documentation, and any copies of the Software are owned or licensed by MAP IT. The Licensee shall not remove any copyright notice or other proprietary or restrictive notice or legend contained or included in any material provided by MAP IT.

8.4 MAP IT may issue a takedown notice to the Licensee for specific Software, or set of Software, at any time upon receiving a third-party intellectual property claim or as a result of a third party license termination or expiration. Upon receipt of a takedown notice, the Licensee shall use all reasonable endeavours to stop making use of the Software within forty-eight (48) hours.

8.5 Nothing in these Terms and Conditions shall prohibit MAP IT in any manner from using, developing, marketing, licensing, or otherwise disposing of the Software or concepts embodied therein anywhere in the world; nor shall anything therein be construed to grant to the Licensee any rights in or to any other present or future software or systems whether or not similar to the subject matter of these Terms and Conditions. For the avoidance of doubt, the Licensee hereby



agrees that MAP IT may enter into agreements which might be similar to these Terms and Conditions with third party operators.

## **9 LIMITATION OF LIABILITY**

9.1 MAP IT and its affiliates, parents, sister and other group companies, successors, officers, employees, agents, directors, shareholders and attorneys shall not be held liable for any form of indirect or consequential damage, including but not limited to loss of turnover/revenues or profits as well as loss of interest and customers even if such damage was foreseeable.

9.2 The total liability of MAP IT for direct damages arising from failure to comply with these Terms and Conditions or caused by a tort in connection with the execution of these Terms and Conditions shall be limited to an amount equal to the Fees paid to MAP IT by the Licensee for the six (6) months immediately preceding the event giving cause for damages or the sum of twenty thousand Euro (€20,000) whichever is the lower. In any event, notwithstanding any other clause in these Terms and Conditions, the total liability of MAP IT for such direct damages shall not exceed the sum of twenty thousand Euro (€20,000).

9.3 MAP IT makes no representation that any of its services, including the Software, shall be uninterrupted or error free and, to the full extent permissible at law, MAP IT shall not be liable for the consequences of such interruptions or errors. The Software is provided "as is" without warranties of any kind, whether express or implied.

9.4 All conditions, warranties, terms and undertakings whether express or implied, statutory or otherwise relating to the delivery, performance, quality, accuracy, fitness for purpose, occurrence or reliability of the Software are hereby excluded to the fullest extent permitted by law.

9.5 The Licensee shall indemnify MAP IT and hold MAP IT harmless for any damages, costs or amounts which MAP IT is ordered to pay to any authority or to any other third party by any court, arbitrator or tribunal due to the fault or negligence of Licensee.

9.6 Clause 9 shall survive the termination of the relationship of the Parties.

## **10 COMPLIANCE AND GOVERNMENT PERMISSIONS**

10.1 Both Parties shall comply with all local and foreign laws and regulations and standards promulgated thereunder that may apply with respect to distribution of the Software under or with respect to these Terms and Conditions.

10.2 MAP IT shall be liable for any breach of these Terms and Conditions directly or indirectly occasioned by or resulting from compliance with any regulatory action taken or decision made by any competent authority in respect of these Terms and Conditions. In the event that any term of these Terms and Conditions is so adjudged to be void and or unenforceable by any competent regulatory authority, the Parties will consult with a view to amending these Terms and Conditions to the satisfaction of said authority. If the Parties are unable to agree a suitable amendment to the satisfactory of said authority then MAP IT may serve notice on the other to terminate the relationship without any further liability.

## **11 EXCLUSIVITY**

11.1 These Terms and Conditions do not imply or grant any exclusivity to or by either Party in other business dealings, i.e. MAP IT may develop and license software (including the Software) for other companies and the Licensee may procure software from other developers.

11.2 Notwithstanding the foregoing, the Parties may agree to attach certain exclusivity obligations or restrictions to a specific Software, in which case that Software shall not be supplied to a third party or to a party who is subject to the particular restrictions as may be set out in the particular agreement.

## **12 TERM AND TERMINATION**

12.1 The effectiveness of these Terms and Conditions shall commence from the Acceptance and, unless provided for herein, shall continue for the duration of the run time license for the Software.

12.2 MAP IT shall, without prejudice to any other rights and remedies, be entitled to suspend or terminate its obligations under these Terms and Conditions by giving written notice to the Licensee in the event that:

12.2.1 The Licensee fails to make any payment due under these Terms and Conditions within seven (7) days of the date of issue of invoice for payment by the Licensee. In such event,

the Licensee shall still remain liable to MAP IT for all the payments falling due under these Terms and Conditions as at or until the date of termination;

12.2.2 The Licensee gives written notice to MAP IT indicating that it does not accept the Software in accordance with clause 2.4.

12.3 Either Party shall, without prejudice to any other rights and remedies, be entitled to terminate their obligations under these Terms and Conditions immediately by giving written notice to the other Party if the other Party:

12.3.1 Commits a material breach of these Terms and Conditions and has not rectified such breach within thirty (30) days of the notice of specifying the breach;

12.3.2 Is prevented or delayed in the performance of its obligations by an event of Force Majeure for a continuous period of sixty (60) days; or

12.3.3 Is the subject of voluntary or compulsory liquidation or bankruptcy.

12.4 Upon termination of the effectiveness of these Terms and Conditions, the Licensee shall cease using the Software and return to MAP IT or destroy all copies or portions of the Software and the Documentation.

### **13 CONFIDENTIALITY**

13.1 Each Party agrees not to use any Confidential Information of the other Party for any purpose except to exercise its rights and perform its obligations under these Terms and Conditions and not to disclose any Confidential Information of the other Party to third parties. The foregoing shall not prevent a Party from disclosing Confidential Information to its professional advisors, provided that such advisor is bound by professional secrecy or a written confidentiality undertaking on materially the same terms as set forth in this clause 13.

13.2 The obligation to keep Confidential Information strictly confidential shall survive the termination of this engagement and shall continue for a period of ten (10) years.

### **14 GDPR APPOINTMENT**

14.1 The Licensee hereby accepts to appoint MAP IT, who accepts, to Process such Personal Data on behalf of the Licensee as is necessary to provide the Software under these Terms and Conditions,

or as may subsequently be agreed by the Parties in writing. Any such subsequent agreement shall be subject to the provisions of these Terms and Conditions.

- 14.2 This appointment shall remain in force for as long as MAP IT processes on behalf of the Licensee, or until the provision of the Software expires or terminates, whichever is the later.

## **15 MAP IT'S GDPR OBLIGATIONS**

- 15.1 MAP IT warrants and undertakes in respect of all Personal Data that it Processes on behalf of the Licensee that at all times:

15.1.1 It shall only Process such Personal Data on written instructions by the Licensee, unless MAP IT is obliged to process the Personal Data according to the GDPR. If so, MAP IT shall notify the Licensee of such legal obligation before commencing the Processing and shall only Process the Personal Data once MAP IT and the Licensee have agreed in each case that such Processing is in compliance with the GDPR. Should MAP IT and the Licensee be unable to come to an agreement on the Processing of any such Personal Data, the Parties shall jointly choose and appoint an outside counsel to opine on the matter. Such counsel's opinion shall be final;

15.1.2 It shall only Process such Personal Data for the purposes of providing the Software;

15.1.3 If it Processes the Personal Data for any other purpose which is not provided under these Terms and Conditions, or in such a way that it acts as a controller, it will be responsible as a controller for compliance with the GDPR;

15.1.4 It shall Process the Personal Data in accordance with the GDPR; if MAP IT deems an instruction to be in breach of such legislation, MAP IT shall promptly inform the Licensee. Should MAP IT and the Licensee be unable to come to an agreement on the Processing activity, the Parties shall jointly choose and appoint an outside counsel to opine on the matter. Such counsel's opinion shall be final;

15.1.5 It shall keep Personal Data logically separate to data Processed on behalf of any other third party;

15.1.6 It shall not Process, apply or use the Personal Data for any purpose other than as required to provide the Software, including the transfer of Personal Data to a third country or an international organisation;

- 15.1.7 Upon termination of the effectiveness of these Terms and Conditions for any cause, any and all Personal Data shall be destroyed or returned to the Licensee, as instructed by the Licensee, unless legislation imposed upon MAP IT prevents it from returning or destroying all or part of the Personal Data;
- 15.1.8 It shall maintain a record of all categories of Processing activities, in electronic and written format, carried out on behalf of the Licensee in line with the GDPR (the “**Records**”), including but not limited to:
- 15.1.8.1 the name and contract information of MAP IT, and Sub-Processor, data subjects, the Data Protection Officer, and, where relevant, the representative of MAP IT;
  - 15.1.8.2 the categories of Processing carried out by MAP IT and any Sub-Processor on behalf of the Licensee;
  - 15.1.8.3 a description of the technical and organisational security measures undertaken by MAP IT in accordance with these Terms and Conditions and the GDPR.
- 15.1.9 It shall, at the request of the Licensee, at any time, make available the Records to the Licensee;
- 15.1.10 It shall comply with the data processor requirements and obligations under the GDPR;
- 15.1.11 It shall participate in discussions with the Licensee and/or the Privacy Authority and implement any recommendation from the Licensee and/ or the Privacy Authority regarding the Processing of Personal Data;
- 15.1.12 It shall immediately inform the Licensee if:
- 15.1.12.1 the Privacy Authority contacts MAP IT regarding the Software or the Processing activities covered by these Terms and Conditions;
  - 15.1.12.2 there is a request for the transfer or disclosure of Personal Data to the Privacy Authority or any other public authority, unless notification to the Licensee is prohibited by law;
  - 15.1.12.3 there is a request for access, correction, blocking or deletion of Personal Data directly from the data subject or from a third party.
- If so, MAP IT shall only disclose the Personal Data as indicated in this clause once MAP IT and the Licensee have agreed in each case that such disclosure is in compliance with the GDPR. Should MAP IT and the Licensee be unable to come to an agreement on the disclosure of any such Personal Data, the Parties shall

jointly choose and appoint an outside counsel to opine on the matter. Such counsel's opinion shall be final;

15.1.13 It shall co-operate with and promptly assist the Licensee, if there is a request from the data subject for access, correction, blocking or deletion of Personal Data Processed by MAP IT according to these Terms and Conditions;

15.1.14 It shall co-operate with the Licensee, and shall co-operate, in good faith with the Privacy Authority to execute any agreements, notifications, application forms or documents required or any other obligation in the GDPR, in order to permit the Licensee to effect any necessary notifications to the Privacy Authority or to adhere to any other obligation in the GDPR, and/or to obtain and maintain any necessary approvals required by the GDPR to enable the Processing of Personal Data in connection with the Software under these Terms and Conditions;

15.1.15 The Processing carried out under or in connection with these Terms and Conditions shall either be carried out in the context of the activities of one or more establishments of MAP IT in Malta.

## **16 GDPR SECURITY AND TECHNICAL ORGANISATIONS MEASURES**

16.1 MAP IT shall undertake to implement and maintain appropriate and sufficient technical and organisational measures to protect such Personal Data or information against unauthorized, accidental or unlawful destruction or loss, damage, alteration, unauthorized disclosure or access to Personal Data stored or otherwise Processed, to ensure compliance with the GDPR. Protective measures shall include, but not be limited to the use of state-of-the-art software, computer and encryptions methods as well as the use of adequate access controls, password procedures, automatic blocking, case specific authorisation concepts, logging and documentation of processes and the implementation of a data security concept.

16.2 In order to ensure that the Licensee's instructions in respect of any Personal Data can be carried out as required under Clause 15.1, MAP IT shall define and implement appropriate and sufficient processes and any associated technical measures that will ensure that the Licensee's reasonable instructions can be complied with, including but not limited to the following:

16.2.1 Requests by data subjects to the Licensee, or any exercise of data subject rights, in respect of their Personal Data;

- 16.2.2 Provision of appropriate interfaces or support for other processes of the Licensee to ensure that information is provided to data subjects as required by GDPR;
  - 16.2.3 Updating, deletion, amending or correcting the Personal Data of any data subject upon request of the Licensee;
  - 16.2.4 Cancelling or blocking access to any Personal Data upon receipt of instructions from the Licensee;
  - 16.2.5 The flagging of Personal Data files or accounts to enable the Licensee to apply particular rules to a data subject's Personal Data, such as the suppression of marketing activity; and
  - 16.2.6 The deletion of temporary files containing Personal Data.
- 16.3 Notwithstanding Clause 16.1 and 16.2, MAP IT shall comply with any security requirements expressly required by the GDPR.

## **17 GDPR SUB-PROCESSORS**

- 17.1 MAP IT shall not sub-contract and/or outsource any of its Processing of Personal Data under these Terms and Conditions to any other person or entity (the "**Sub-Processor**") without prior written consent from the Licensee.
- 17.2 Subject to Clause 17.1, MAP IT shall enter into a written sub-processing agreement with the Sub-Processor which shall ensure that the Sub-Processor shall accept the same data protection obligations as those undertaken by MAP IT under these Terms and Conditions with regards to the Software and the Processing of Personal Data.
- 17.3 MAP IT shall guarantee the lawfulness and compliance of the Sub-Processor's Processing of Personal Data. If the Sub-Processor fails to fulfil its data protection obligations, MAP IT shall remain fully liable towards the Licensee for the fulfillment of such other data protection obligations. The fact that the Licensee would have consented to the Sub-Processor shall be of no consequence to MAP IT's obligation to comply with these Terms and Conditions.
- 17.4 Any costs in connection with an agreement between MAP IT and the Sub-Processor shall be borne solely by MAP IT.

- 17.5 The Sub-Processor agreement shall terminate automatically on termination of the effectiveness of these Terms and Conditions.
- 17.6 The Licensee accepts no liability to the Sub-Processor in respect of any failure by the Licensee or MAP IT to carry out or perform any of the obligations provided in these Terms and Conditions or in the Sub-Processor agreement.
- 17.7 Where a Sub-Processor agreement is concluded in line with this clause, MAP IT shall promptly send a copy of that Sub-Processor agreement to the Licensee.

## **18 GDPR INFORMATION SECURITY BREACH AND DATA BREACH**

- 18.1 MAP IT shall inform the Licensee immediately and without undue delay, in writing, of any actual or suspected breach of security, including but not limited to, unauthorized, accidental or unlawful destruction or loss, damage, alteration, unauthorized disclosure or access to Personal Data stored or otherwise Processed, and against any and all other unlawful forms of Processing, to ensure compliance with the GDPR ("**Data Breach Notice**").
- 18.2 MAP IT shall, as soon as practicable within the time limits set out in the applicable legislation, from the Data Breach Notice, provide the Licensee with a written report on any and all information necessary for compliance with data breach notifications to the Privacy Authority and data subjects in accordance with the GDPR ("**Data Breach Report**"), or any other supervisory body or authority, including but not limited to:
- 18.2.1 A description of the nature of the personal data breach including, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
- 18.2.2 A communication of the name and contact details of the Data Protection Officer of MAP IT or other contact point where more information can be obtained;
- 18.2.3 A description of the likely consequences of the data breach;
- 18.2.4 A description of the measures taken or proposed to be taken by MAP IT to address the data breach, including measures to mitigate its possible adverse effects;
- 18.2.5 A description of the initiatives undertaken or to be undertaken by MAP IT to safeguard against future security data breaches.



18.3 Where the Data Breach Notice is not provided immediately or the Data Breach Report is not provided within one (1) working day, MAP IT shall provide reasons in writing to the Licensee for the delay, and seek to provide the Data Breach Report without undue delay.

## **19 CROSS BORDER TRANSFER OF DATA**

19.1 MAP IT shall not transfer or authorize the transfer of Personal Data to countries outside the EU and/or the EEA, unless required by the Licensee.

## **20 INFORMATION**

20.1 At the Licensee's request, MAP IT shall give the Licensee sufficient information for the Licensee's monitoring and documentation of MAP IT's implementation of the necessary technical and organisational measures

## **21 RELATIONSHIP BETWEEN THE PARTIES**

21.1 MAP IT is an independent contractor and nothing contained herein shall in any way constitute any association, partnership or joint venture between the Parties hereto, or be construed to evidence the intention of the Parties to establish any such relationship. Neither Party shall have any right, power or authority to make any representation or to assume or create any obligation, whether express or implied, on behalf of the other, or to bind the other Party in any manner whatsoever.

## **22 FORCE MAJEURE**

22.1 MAP IT shall not be liable for any delay or failure in the performance of any of its obligations pursuant to these Terms and Conditions due to Force Majeure if such Party could not have prevented the delay or the failure arises from a cause beyond the reasonable control of MAP IT.

## **23 ASSIGNMENT**

23.1 The Licensee may not wholly or partly transfer, assign, pledge or sub-license its rights or obligations under these Terms and Conditions to any third party without the prior written consent of MAP IT.

## **24 SEVERABILITY**

24.1 If any provision of these Terms and Conditions or part thereof shall to any extent be or become invalid or unenforceable, the Parties shall agree upon any necessary and reasonable adjustment of the Terms and Conditions in order to secure the vital interests of the Parties and the main objectives prevailing at the time of execution of the Terms and Conditions.

## **25 WAIVER**

25.1 No consent or waiver, express or implied, by either Party of any breach or default of the other Party in performing its obligations under these Terms and Conditions shall be deemed or construed to be a consent or waiver of any other breach or default by the other Party of the same or any other obligation hereunder. Any failure by one Party to complain of any act or failure to act of the other Party or to declare that other Party in default shall not constitute a waiver by the first Party of its rights under these Terms and Conditions. No waiver of any rights under these Terms and Conditions shall be effective unless in writing and signed by the Party purporting to give the same.

## **26 NON-SOLICITATION**

26.1 Neither Party shall during the term of these Terms and Conditions and for a period of two (2) years from the date of termination of their effectiveness, without the written prior consent of the other Party, solicit or endeavour to entice away from the other Party any person who is an employee of the other Party.

## **27 AMENDMENTS**

27.1 MAP IT reserves the right to update and amend these Terms and Conditions. Any change or update will become effective from the moment of its publication on the MAP IT Website.

## **28 NOTICES**

28.1 Any notice, certificate, consent, determination or other communication required or permitted to be given or made under these Terms and Conditions shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or registered mail, (iii) sent by fax, or (iv) by electronic mail or other similar means of electronic communication.

- 28.2 Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a business day and the communication is so delivered, faxed or sent prior to 5:00 p.m. CET on such day. Notices sent via fax are deemed to have been received only upon production of a contemporaneous report evidencing the successful transmission of such notice. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth business day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.
- 28.3 Any Party may from time to time provide the other Party with an address to which notices referred to in this clause 28 should be delivered.

**29 GOVERNING LAW AND DISPUTES**

- 29.1 These Terms and Conditions shall be governed by Maltese Law.
- 29.2 Any dispute controversy, or claim arising out of or in connection with these Terms and Conditions shall be finally settled by the Malta Arbitration Centre in terms of the Arbitration Act.
- 29.3 The language of dispute resolution proceedings shall be English. The proceedings shall take place in Malta.

## **ANNEX I – SERVICE LEVEL AGREEMENT**

This Service Level Agreement forms part of, and is expressly incorporated into, the Terms and Conditions of MAP IT Limited and is entered into with the Licensee. The definitions and interpretations in the Terms and Conditions are hereby incorporated into this Service Level Agreement.

### **SERVICE AND SYSTEM DESCRIPTION**

MAP IT will be providing Software to the Licensee in accordance with the Terms and Conditions. This Software will be supported, maintained, and hosted in accordance with such Terms and Conditions. Where applicable, the following describes MAP IT's obligations in relation to this area, covering both unplanned and planned downtime. Excluded from the below are incidents outside the Service Provider's control, e.g., downtime of the Licensee-controlled servers and/or hardware where applicable or unavailability of services from third-party providers.

### **MAINTENANCE**

Planned downtime, (hereinafter referred to as "**Maintenance**"), is used for deploying new functionality, bug fixes, server/hardware upgrades and maintenance, etc. Maintenance should occur outside normal business hours.

### **UNPLANNED INCIDENTS**

Unplanned incidents, (hereinafter referred to as "**Incident**"), occur when the Software is unavailable due to faults or emergency maintenance. The Parties acknowledge that from time to time, as a result of hardware failure or supplier failures, the services provided under these Terms and Conditions by MAP IT can be temporarily disrupted. Licensee acknowledges and agrees that neither MAP IT nor any of its members, shareholders, directors, officers, employees or representatives shall be liable to the Licensee for any direct, special, indirect, consequential, punitive or exemplary damages, or damages for loss of profits or savings, in connection with such temporary disruptions.

### **RESPONSIBILITY**

MAP IT shall not be responsible for failure of performance of its obligations under the Terms and Conditions due to causes beyond its control, including, but not limited to, hardware failures, power failures, work stoppages, fires, civil disobedience, riots, rebellions, acts of god, and similar occurrences.

### **INCIDENTS NOT COVERED**

If the Incident cannot be traced to the services and/or Software offered by MAP IT, or it appears to be a problem with resources or equipment for which MAP IT is not responsible, MAP IT will provide the Licensee with an explanation of how an Incident was traced and the tests carried out.

If MAP IT proves beyond reasonable doubt that the Incident is not related to its services and/or Software and the Licensee continues to request support from MAP IT, MAP IT reserves the right to charge additional fees for such support.

MAP IT also reserves the right to charge for any support services required by the Licensee which are outside of MAP IT's obligations.

#### **NOTIFICATION OF AN INCIDENT TO MAP IT**

Any Incidents should be reported to MAP IT by sending an email to support@mapitmalta.com.

#### **SEVERITY DEFINITIONS & UNSCHEDULED EMERGENCY RELEASES**

The exact Incident duration will be calculated as the time elapsed from the moment the Incident is reported to MAP IT and the time when the Software is restored.

Any resolution times indicated hereunder are merely indicative and, although MAP IT shall use all reasonable endeavours to respect the relevant resolution times provided below, MAP IT shall not be held liable for any delay in providing a resolution unless such a delay is a result of negligence. Should the resolution on an Incident involve third-parties or hardware replacement, this will be subject to any support agreements in place with such parties.

<b>Incident Priority</b>	<b>Description</b>	<b>Resolution Time</b>
Severity 1	A major Incident that prevents the Software from being utilised.	Acknowledgement of Incident and request for Incident details: <b>Immediate</b> .  Where the Incident is reported by telephone, the Incident will be deemed to be automatically acknowledged. Where it is reported by e-mail, acknowledgement will be via telephone and will occur at the time the e-mail is received on MAP IT email servers.  Initial analysis and production of action plan: <b>Target time 60 minutes</b>  Incident source identification: <b>Target time 90 minutes</b> from acknowledgement of the Incident.

		<p>If a workaround solution is feasible and appropriate: <b>Target time 120 minutes from acknowledgement of Incident.</b></p> <p>If a workaround solution is not available or appropriate: <b>Target time 4 hours from acknowledgement of Incident to provision of a workaround solution.</b></p> <p>MAP IT will keep the Licensee informed of workaround fixes for Severity 1 Incidents.</p>
Severity 2	Severe loss of service of the Software however, operation can continue in a restricted fashion	<p>Acknowledgement of Incident and request for Incident details: <b>Target time 1 hour from reporting of Incident.</b></p> <p>Initial analysis and production of action plan: <b>Target time 16 support hours from acknowledgement of Incident.</b></p> <p>Incident source identification: <b>Target time 48 hours from acknowledgement of Incident.</b></p>
Severity 3	A minor loss of service of the Software, the impact of which is an inconvenience	<p>Acknowledgement of Incident and request for Incident details: <b>Target time 1 day from the reporting of the Incident.</b></p> <p>Initial analysis and production of action plan: <b>Target time within the next release of the software or within two (2) weeks.</b></p> <p>Incident source identification: <b>Target time 1 week from acknowledgement of Incident.</b></p>
Severity 4	No loss of service of the Software; the result is a minor error, incorrect behaviour, or a documentation	<p>Acknowledgement of Incident and request for Incident details: <b>Target time 1 day from reporting of Incident</b></p> <p>Initial analysis and production of action plan: <b>Target time within the next release of the Software or within one (1) month.</b></p> <p>Incident source identification: <b>Target time 1 week from acknowledgement of Incident.</b></p>

## VIRUS

MAP IT takes every precaution against any known viruses, malwares, Trojan Horses and/or worms.

## REVIEW OF THIS SERVICE LEVEL AGREEMENT

This Service Level Agreement may be reviewed at any time by MAP IT.