

Service Agreement

XLReporting

This Service Agreement constitutes the entire agreement between **XLReporting** (the "**Provider**") and you (the "**Customer**"). By using our services you accept the terms of this agreement.

Agreement

1. Definitions

1.1 Except to the extent expressly provided otherwise, in this Agreement:

"**Account**" means an account enabling a person to access and use the Hosted Services, including both administrator accounts and user accounts;

"**Affiliate**" means an entity that Controls, is Controlled by, or is under common Control with the relevant entity;

"**Agreement**" means this agreement including any Schedules, and any amendments to this Agreement from time to time;

"**Business Day**" means any weekday other than a bank or public holiday in The Netherlands;

"**Business Hours**" means the hours between 09:00 to 17:00 CET on a Business Day;

"**Charges**" means the following amounts:

- (a) the amounts specified in Schedule 1 (Hosted Services Specification);
- (b) such amounts as may be agreed in writing by the parties from time to time; and
- (c) amounts calculated by multiplying the Provider's standard time-based charging rates (as notified by the Provider to the Customer before the date of this Agreement) by the time spent by the Provider's personnel performing the Support Services (rounded down by the Provider to the nearest quarter hour);

"**Control**" means the legal power to control (directly or indirectly) the management of an entity (and "**Controlled**" should be construed accordingly);

"**Customer Confidential Information**" means:

- (a) any information disclosed by or on behalf of the Customer to the Provider at any time before the termination of this Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure:
 - (i) was marked as "confidential"; or
 - (ii) should have been reasonably understood by the Provider to be confidential; and

(b) the Customer Data;

"Content" and/or **"Customer Data"** means all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Hosted Services by the Customer;

"Customer Indemnity Event" has the meaning given to it in Clause 17.3;

"Customer Personal Data" means Personal Data that is stored by the Provider on behalf of the Customer in relation to this Agreement;

"Documentation" means the documentation for the Hosted Services produced by the Provider and delivered or made available by the Provider to the Customer;

"Effective Date" means the date of execution of this Agreement;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Hosted Services" means an online account as specified in the Hosted Services Specification, which will be made available by the Provider to the Customer as a service via the internet in accordance with this Agreement;

"Hosted Services Defect" means a defect, error or bug in the Platform having a material adverse effect on the appearance, operation, functionality or performance of the Hosted Services, but excluding any defect, error or bug caused by or arising as a result of:

- (a) any act or omission of the Customer or any person authorised by the Customer to use the Platform or Hosted Services;
- (b) any use of the Platform or Hosted Services contrary to the Documentation, whether by the Customer or by any person authorised by the Customer;
- (c) a failure of the Customer to perform or observe any of its obligations in this Agreement; and/or
- (d) an incompatibility between the Platform or Hosted Services and any other system, network, application, program, hardware or software not specified as compatible in the Hosted Services Specification;

"Hosted Services Specification" means the specification for the Platform and Hosted Services set out in Schedule 1 (Hosted Services Specification) and in the Documentation;

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or

right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Maintenance Services" means the general maintenance of the Platform and Hosted Services, and the application of Updates and Upgrades;

"Minimum Term" means, in respect of this Agreement, the period of 1 month beginning on the Effective Date;

"Permitted Purpose" means the use of the Hosted Services and Services as outlined in the Hosted Services Specification and in the Documentation;

"Personal Data" has the meaning given to it in the Data Protection Act 1998;

"Platform" means the platform managed by the Provider and used by the Provider to provide the Hosted Services, including the application and database software for the Hosted Services, the system and server software used to provide the Hosted Services, and the computer hardware on which that application, database, system and server software is installed;

"Provider Indemnity Event" has the meaning given to it in Clause 17.1;

"Schedule" means any schedule attached to the main body of this Agreement;

"Services" means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under this Agreement;

"Set Up Services" means the configuration, implementation and integration of the Hosted Services in accordance with Schedule 1 (Hosted Services Specification);

"Support Services" means support in relation to the use of, and the identification and resolution of errors in, the Hosted Services, but shall not include the provision of training services;

"Supported Web Browser" means the current release from time to time of Microsoft Internet Explorer, Mozilla Firefox, Google Chrome or Apple Safari, or any other web browser that the Provider agrees in writing shall be supported;

"Term" means the term of this Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"Update" means a hotfix, patch or minor version update to any Platform software; and

"Upgrade" means a major version upgrade of any Platform software.

2. Term

2.1 This Agreement shall come into force upon the Effective Date.

2.2 This Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 20.

3. Set Up Services

3.1 The Provider shall provide the Set Up Services to the Customer.

3.2 The Provider shall use reasonable endeavours to ensure that the Set Up Services are provided in accordance with the timetable (if applicable) set out in Schedule 1 (Hosted Services Specification).

3.3 The Customer acknowledges that a delay in the Customer performing its obligations in this Agreement may result in a delay in the performance of the Set Up Services; and subject to Clause 18.1 the Provider will not be liable to the Customer in respect of any failure to meet the Set Up Services timetable to the extent that that failure arises out of a delay in the Customer performing its obligations under this Agreement.

3.4 Subject to any written agreement of the parties to the contrary, any Intellectual Property Rights that may arise out of the performance of the Set Up Services by the Provider shall be the exclusive property of the Provider.

4. Hosted Services

4.1 The Platform will automatically generate an Account for the Customer on the Effective Date and will provide to the Customer login details for that Account.

4.2 The Provider hereby grants to the Customer a worldwide, non-exclusive license to use the Hosted Services by means of a Supported Web Browser for the internal business purposes of the Customer in accordance with the Documentation during the Term.

4.3 The licence granted by the Provider to the Customer under Clause 4.2 is subject to the following limitations:

- (a) the Hosted Services may only be used by the officers, employees, agents and subcontractors of either the Customer or an Affiliate of the Customer;
- (b) the Hosted Services may only be used by named users, providing that the Customer may change, add or remove a designated named user in accordance with the Documentation; and
- (c) the Hosted Services must not be used at any point in time by more than the number of named users specified in Schedule 1 (Hosted Services Specification), providing that the Customer may add or remove concurrent user licences in accordance with the Documentation.

4.4 Except to the extent expressly permitted in this Agreement or required by law on a non-excludable basis, the licence granted by the Provider to the Customer under Clause 4.2 is subject to the following prohibitions:

- (a) the Customer must not sub-license its right to access and use the Hosted Services;

- (b) the Customer must not permit any unauthorised person to access or use the Hosted Services;
 - (c) the Customer must not use the Hosted Services to provide services to third parties;
 - (d) the Customer must not republish or redistribute any content or material from the Hosted Services; and
 - (e) the Customer must not make any alteration to the Platform, except as permitted by the Documentation.
- 4.5 The Customer shall use reasonable endeavours, including reasonable security measures relating to Account access details, to ensure that no unauthorised person may gain access to the Hosted Services using an Account.
- 4.6 The parties acknowledge and agree that Schedule 3 (Availability SLA) shall govern the availability of the Hosted Services.
- 4.7 The Customer must comply with Schedule 2 (Acceptable Use Policy), and must ensure that all persons using the Hosted Services with the authority of the Customer or by means of an Account comply with Schedule 2 (Acceptable Use Policy).
- 4.8 The Customer must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.
- 4.9 The Customer must not use the Hosted Services:
- (a) in any way that is unlawful, illegal, fraudulent or harmful; or
 - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
- 4.10 For the avoidance of doubt, the Customer has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.
- 4.11 The Provider may suspend the provision of the Hosted Services if any amount due to be paid by the Customer to the Provider under this Agreement is overdue, and the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Hosted Services on this basis.

5. Maintenance Services

- 5.1 The Provider shall provide the Maintenance Services to the Customer during the Term.
- 5.2 The Provider shall provide the Maintenance Services with reasonable skill and care.
- 5.3 The Provider shall provide the Maintenance Services in accordance with Schedule 4 (Maintenance SLA).
- 5.4 The Provider may suspend the provision of the Maintenance Services if any amount due to be paid by the Customer to the Provider under this Agreement is overdue, and the Provider

has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Maintenance Services on this basis.

6. Support Services

- 6.1 The Provider shall provide the Support Services to the Customer during the Term.
- 6.2 The Provider shall provide the Support Services with reasonable skill and care.
- 6.3 The Provider shall provide the Support Services in accordance with Schedule 5 (Support SLA).
- 6.4 The Provider may suspend the provision of the Support Services if any amount due to be paid by the Customer to the Provider under this Agreement is overdue, and the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Support Services on this basis.

7. Customer obligations

- 7.1 Save to the extent that the parties have agreed otherwise in writing, the Customer must provide to the Provider, or procure for the Provider, such:
 - (a) co-operation, support and advice;
 - (b) information and documentation; and
 - (c) governmental, legal and regulatory licences, consents and permits,as are reasonably necessary to enable the Provider to perform its obligations under this Agreement.
- 7.2 The Customer must provide to the Provider, or procure for the Provider, such access to the Customer's computer hardware, software, networks and systems as may be reasonably required by the Provider to enable the Provider to perform its obligations under this Agreement.

8. Customer Data

- 8.1 The Customer hereby grants to the Provider a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under this Agreement, together with the right to sub-license these rights to its hosting, connectivity and telecommunications service providers to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under this Agreement.
- 8.2 The Customer warrants to the Provider that the Customer Data will not infringe the Intellectual Property Rights or other legal rights of any person, will not violate the Acceptable Use Policy, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.

- 8.3 The Provider shall create a back-up copy of the Customer Data at least daily, shall ensure that each such copy is sufficient to enable the Provider to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days.
- 8.4 Within the period of 1 Business Day following receipt of a written request from the Customer, the Provider shall use reasonable endeavours to restore to the Platform the Customer Data stored in any back-up copy created and stored by the Provider in accordance with Clause 8.3. The Customer acknowledges that this process will overwrite the Customer Data stored on the Platform prior to the restoration.

9. Customer Data responsibilities

- 9.1 Within the Hosted Services, the Customer must:
- (a) create and maintain user accounts and appropriate access permissions;
 - (b) control and validate the type of Customer Data that is being stored, and ensure that this content does not violate the Acceptable Use Policy;
 - (c) ensure appropriate ownership and/or authorization to use Customer Data and/or share this content with users;
 - (d) set appropriate rules for how Customer Data can be shared with users, including how this content can be exported, downloaded, published, or printed.
- 9.2 The Provider is not the owner, creator, or publisher of Customer Data, and does not screen or validate Customer data, user accounts, access permissions, reports, published information, or rules created within the Hosted Services by the Customer.

10. No assignment of Intellectual Property Rights

- 10.1 Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from the Provider to the Customer, or from the Customer to the Provider.

11. Charges

- 11.1 The Customer shall pay the Charges to the Provider in accordance with this Agreement.
- 11.2 If the Charges are based in whole or part upon the time spent by the Provider performing the Services, the Provider must obtain the Customer's written consent before performing Services that result in any estimate of time-based Charges given to the Customer being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Customer agrees otherwise in writing, the Customer shall not be liable to pay to the Provider any Charges in respect of Services performed in breach of this Clause 11.2.
- 11.3 All amounts stated in or in relation to this Agreement are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Customer to the Provider.
- 11.4 The Provider may elect to vary any element of the Charges by giving to the Customer not less than 30 days' written notice of the variation.

12. Payments

- 12.1 The Provider shall issue invoices for the Charges to the Customer on or after the invoicing dates set out in Schedule 1 (Hosted Services Specification).
- 12.2 The Customer must pay the Charges to the Provider within the period of 30 days following the issue of an invoice in accordance with this Clause 12.
- 12.3 The Customer must pay the Charges by debit card, credit card, direct debit, bank transfer or cheque (using such payment details as are notified by the Provider to the Customer from time to time).
- 12.4 If the Customer does not pay any amount properly due to the Provider under this Agreement, the Provider may charge the Customer interest on the overdue amount at the rate of 2% per annum above the European Bank base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month).

13. Provider's confidentiality obligations

- 13.1 The Provider must:
 - (a) keep the Customer Confidential Information strictly confidential;
 - (b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality approved in writing by the Customer;
 - (c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Provider uses to protect the Provider's own confidential information of a similar nature, being at least a reasonable degree of care;
 - (d) act in good faith at all times in relation to the Customer Confidential Information; and
 - (e) not use any of the Customer Confidential Information for any purpose other than the Permitted Purpose.
- 13.2 Notwithstanding Clause 13.1, the Provider may disclose the Customer Confidential Information to the Provider's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Customer Confidential Information for the performance of their work with respect to the Permitted Purpose and who are bound by a written agreement or professional obligation to protect the confidentiality of the Customer Confidential Information.
- 13.3 This Clause 13 imposes no obligations upon the Provider with respect to Customer Confidential Information that:
 - (a) is known to the Provider before disclosure under this Agreement and is not subject to any other obligation of confidentiality;

- (b) is or becomes publicly known through no act or default of the Provider; or
 - (c) is obtained by the Provider from a third party in circumstances where the Provider has no reason to believe that there has been a breach of an obligation of confidentiality.
- 13.4 The restrictions in this Clause 13 do not apply to the extent that any Customer Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of the Provider on any recognised stock exchange.
- 13.5 The provisions of this Clause 13 shall continue in force for a period of 5 years following the termination of this Agreement, at the end of which period they will cease to have effect.

14. Data protection

- 14.1 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with this Agreement, and that the processing of that Personal Data by the Provider for the Permitted Purpose in accordance with this Agreement will not breach any applicable data protection or data privacy laws (including the Data Protection Act 1998).
- 14.2 The Provider warrants to the Customer that:
- (a) it will act only on instructions from the Customer in relation to the processing of Customer Personal Data;
 - (b) it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of Customer Personal Data and against loss or corruption of Customer Personal Data;
 - (c) it will only process the Customer Personal Data for the purposes of performing its obligations and exercising its rights under this Agreement;
 - (d) it will process the Customer Personal Data in compliance with all applicable laws; and
 - (e) it will not transfer or permit the transfer of Customer Personal Data to any place outside the EEA without the prior written consent of the Customer.
- 14.3 The Provider shall notify the Customer as soon as practicable if:
- (a) any of the Customer Personal Data is lost or destroyed, or becomes damaged, corrupted or unusable;
 - (b) the Provider receives any complaint or regulatory notice which relates to the processing of any of the Customer Personal Data; or
 - (c) the Provider receives a request from a data subject for access to any of the Customer Personal Data.
- 14.4 The Provider shall co-operate with the Customer in relation to:

- (a) any request from the Customer to amend or delete any of the Customer Personal Data;
- (b) any complaint or regulatory notification relating to the processing of any of the Customer Personal Data; and
- (c) any request from a data subject for access to any of the Customer Personal Data, at the cost and expense of the Customer.

14.5 The Provider shall ensure that access to the Customer Personal Data is limited to those Provider personnel who have a reasonable need to access the Customer Personal Data to enable the Provider to perform its duties under this Agreement; any access to the Customer Personal Data must be limited to such part or parts of the Customer Personal Data as are strictly necessary.

14.6 The Provider shall take reasonable steps to ensure the reliability of any Provider personnel who have access to the Customer Personal Data. Without prejudice to this general obligation, the Provider shall ensure that all relevant Provider personnel are informed of the confidential nature of the Customer Personal Data, have undertaken training in the laws relating to handling Personal Data, and are aware of the Provider's duties in respect of that Personal Data.

15. Warranties

15.1 The Provider warrants to the Customer that:

- (a) the Provider has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement;
- (b) the Provider will comply with all applicable legal and regulatory requirements applying to the exercise of the Provider's rights and the fulfilment of the Provider's obligations under this Agreement; and
- (c) the Provider has or has access to all necessary know-how, expertise and experience to perform its obligations under this Agreement.

15.2 The Provider warrants to the Customer that:

- (a) the Platform and Hosted Services will conform in all material respects with the Hosted Services Specification;
- (b) the Hosted Services will be free from Hosted Services Defects;
- (c) the application of Updates and Upgrades to the Platform by the Provider will not introduce any Hosted Services Defects into the Hosted Services;
- (d) the Platform will be free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs; and
- (e) the Platform will incorporate security features reflecting the requirements of good industry practice.

- 15.3 The Provider warrants to the Customer that the Hosted Services, when used by the Customer in accordance with this Agreement, will not breach any laws, statutes or regulations applicable under Dutch law.
- 15.4 The Provider warrants to the Customer that the Hosted Services, when used by the Customer in accordance with this Agreement, will not infringe the Intellectual Property Rights of any person in any jurisdiction and under any applicable law.
- 15.5 If the Provider reasonably determines, or any third party alleges, that the use of the Hosted Services by the Customer in accordance with this Agreement infringes any person's Intellectual Property Rights, the Provider may at its own cost and expense:
- (a) modify the Hosted Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or
 - (b) procure for the Customer the right to use the Hosted Services in accordance with this Agreement.
- 15.6 The Customer warrants to the Provider that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.
- 15.7 All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

16. Acknowledgements and warranty limitations

- 16.1 The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, the Provider gives no warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.
- 16.2 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Provider gives no warranty or representation that the Hosted Services will be entirely secure.
- 16.3 The Customer acknowledges that the Hosted Services are designed to be compatible only with that software and those systems specified as compatible in the Hosted Services Specification; and the Provider does not warrant or represent that the Hosted Services will be compatible with any other software or systems.
- 16.4 The Customer acknowledges that the Provider will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Hosted Services; and, except to the extent expressly provided otherwise in this Agreement, the Provider does not warrant or represent that the Hosted Services or the use of the Hosted Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.
- 16.5 The Customer acknowledges that the Hosted Services are designed to be used by multiple customers, including other customers who may operate in the same sector, market, industry,

and/or geography as the Customer; and the Provider does not grant exclusivity, preference, and/or priority of the Hosted Services and/or Services to any Customer.

17. Indemnities

17.1 The Provider shall indemnify and shall keep indemnified the Customer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Customer and arising directly or indirectly as a result of any breach by the Provider of this Agreement (a "**Provider Indemnity Event**").

17.2 The Customer must:

- (a) upon becoming aware of an actual or potential Provider Indemnity Event, notify the Provider;
- (b) provide to the Provider all such assistance as may be reasonably requested by the Provider in relation to the Provider Indemnity Event;
- (c) allow the Provider the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Provider Indemnity Event; and
- (d) not admit liability to any third party in connection with the Provider Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Provider Indemnity Event without the prior written consent of the Provider,

The Provider's obligation to indemnify the Customer under Clause 17.1 shall not apply unless the Customer complies with the requirements of Clause 17.2.

17.3 The Customer shall indemnify and shall keep indemnified the Provider against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Provider and arising directly or indirectly as a result of any breach by the Customer of this Agreement (a "**Customer Indemnity Event**").

17.4 The Provider must:

- (a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;
- (b) provide to the Customer all such assistance as may be reasonably requested by the Customer in relation to the Customer Indemnity Event;
- (c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Customer Indemnity Event; and
- (d) not admit liability to any third party in connection with the Customer Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Customer Indemnity Event without the prior written consent of the Customer,

The Customer's obligation to indemnify the Provider under Clause 17.3 shall not apply unless the Provider complies with the requirements of Clause 17.4.

17.5 The indemnity protection set out in this Clause 17 shall be subject to the limitations and exclusions of liability set out in this Agreement.

18. Limitations and exclusions of liability

18.1 Nothing in this Agreement will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

18.2 The limitations and exclusions of liability set out in this Clause 18 and elsewhere in this Agreement:

- (a) are subject to Clause 18.1; and
- (b) govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

18.3 The Provider shall not be liable to the Customer in respect of any losses arising out of a Force Majeure Event.

18.4 The Provider shall not be liable to the Customer in respect of any loss of profits or anticipated savings.

18.5 The Provider shall not be liable to the Customer in respect of any loss of revenue or income.

18.6 The Provider shall not be liable to the Customer in respect of any loss of use or production.

18.7 The Provider shall not be liable to the Customer in respect of any loss of business, contracts or opportunities.

18.8 The Provider shall not be liable to the Customer in respect of any loss or corruption of any data, database or software; providing that this Clause 18.8 shall not protect the Provider unless the Provider has fully complied with its obligations under Clause 8.3 and Clause 8.4.

18.9 The Provider shall not be liable to the Customer in respect of any special, indirect or consequential loss or damage.

18.10 The liability of the Provider to the Customer under this Agreement in respect of any event or series of related events shall not exceed the total amount paid and payable by the Customer to the Provider under this Agreement in the 12-month period preceding the commencement of the event or events.

18.11 The aggregate liability of the Provider to the Customer under this Agreement shall not exceed the total amount paid and payable by the Customer to the Provider under this Agreement in the 12-month period preceding the commencement of the event or events.

19. Force Majeure Event

- 19.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under this Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.
- 19.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under this Agreement, must:
- (a) promptly notify the other; and
 - (b) inform the other of the period for which it is estimated that such failure or delay will continue.
- 19.3 A party whose performance of its obligations under this Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

20. Termination

- 20.1 Either party may terminate this Agreement by giving to the other party not less than 30 days' written notice of termination after the end of the Minimum Term.
- 20.2 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:
- (a) the other party commits any material breach of this Agreement, and the breach is not remediable;
 - (b) the other party commits a material breach of this Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or
 - (c) the other party persistently breaches this Agreement (irrespective of whether such breaches collectively constitute a material breach).
- 20.3 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:
- (a) the other party:
 - (i) is dissolved;
 - (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this Agreement); or
- (d) if that other party is an individual:
 - (i) that other party dies;
 - (ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
 - (iii) that other party is the subject of a bankruptcy petition or order.

20.4 The Provider may terminate this Agreement immediately by giving written notice to the Customer if:

- (a) any amount due to be paid by the Customer to the Provider under this Agreement is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and
- (b) the Provider has given to the Customer at least 30 days' written notice, following the failure to pay, of its intention to terminate this Agreement in accordance with this Clause 20.4.

21. Effects of termination

21.1 Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 4.10, 9, 12.2, 12.4, 13, 17, 18, 21, 24, 25, 26, 27, 28.1, 28.2, 29, 30 and 31.

21.2 Except to the extent that this Agreement expressly provides otherwise, the termination of this Agreement shall not affect the accrued rights of either party.

21.3 Within 30 days following the termination of this Agreement for any reason:

- (a) the Customer must pay to the Provider any Charges in respect of Services provided to the Customer before the termination of this Agreement; and
- (b) the Provider must refund to the Customer any Charges paid by the Customer to the Provider in respect of Services that were to be provided to the Customer after the termination of this Agreement,

without prejudice to the parties' other legal rights.

22. Notices

22.1 Any notice from one party to the other party under this Agreement must be given by one of the following methods (using the relevant contact details set out in Clause 22.2 and Schedule 1 (Hosted Services Specification)):

- (a) delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery; or
- (b) sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting,

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

22.2 The Provider's contact details for notices under this Clause 22 are set out in Schedule 1 (Hosted Services Specification).

22.3 The addressee and contact details set out in Clause 22.2 and Schedule 1 (Hosted Services Specification) may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 22.

23. Subcontracting

23.1 The Provider may subcontract any of its obligations under this Agreement, providing that the Provider must give to the Customer, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question.

23.2 The Provider shall remain responsible to the Customer for the performance of any subcontracted obligations.

23.3 Notwithstanding any other provision of this Agreement, the Customer acknowledges and agrees that the Provider may subcontract to any reputable third party hosting business the hosting of the Platform and the provision of services in relation to the support and maintenance of elements of the Platform.

24. Assignment

24.1 The Customer hereby agrees that the Provider may assign, transfer or otherwise deal with the Provider's contractual rights and obligations under this Agreement. OR The Provider must not assign, transfer or otherwise deal with the Provider's contractual rights and/or obligations under this Agreement without the prior written consent of the Customer, such consent not to be unreasonably withheld or delayed, providing that the Provider may assign the entirety of its rights and obligations under this Agreement to any Affiliate of the Provider or to any successor to all or a substantial part of the business of the Provider from time to time.

24.2 The Customer must not assign, transfer or otherwise deal with the Customer's contractual rights and/or obligations under this Agreement without the prior written consent of the Provider, such consent not to be unreasonably withheld or delayed, providing that the

Customer may assign the entirety of its rights and obligations under this Agreement to any Affiliate of the Customer or to any successor to all or a substantial part of the business of the Customer from time to time.

25. No waivers

- 25.1 No breach of any provision of this Agreement will be waived except with the express written consent of the party not in breach.
- 25.2 No waiver of any breach of any provision of this Agreement shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of this Agreement.

26. Severability

- 26.1 If a provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.
- 26.2 If any unlawful and/or unenforceable provision of this Agreement would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

27. Third party rights

- 27.1 This Agreement is for the benefit of the parties, and is not intended to benefit or be enforceable by any third party.
- 27.2 The exercise of the parties' rights under this Agreement is not subject to the consent of any third party.

28. Variation

- 28.1 This Agreement may not be varied except in accordance with this Clause 28.
- 28.2 This Agreement may be varied by means of a written document signed by or on behalf of each party.
- 28.3 The Provider may vary this Agreement by giving to the Customer at least 30 days' written notice of the proposed variation, providing that if the Provider gives to the Customer a notice under this Clause 28.3, the Customer shall have the right to terminate this Agreement by giving written notice of termination to the Provider at any time during the period of 14 days following receipt of the Provider's notice.

29. Entire agreement

- 29.1 The main body of this Agreement and the Schedules shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 29.2 Neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into this Agreement.

29.3 The provisions of this Clause 29 are subject to Clause 18.1.

30. Law and jurisdiction

30.1 This Agreement shall be governed by and construed in accordance with Dutch law.

30.2 Any disputes relating to this Agreement shall be subject to the exclusive jurisdiction of the courts of The Netherlands.

31. Interpretation

31.1 In this Agreement, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

31.2 The Clause headings do not affect the interpretation of this Agreement.

31.3 References in this Agreement to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

31.4 In this Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

Schedule 1

Hosted Services Specification

1 Hosted Services consist of the following:

- 1.1 A web-based application for financial reporting, financial consolidation, budgeting and forecasting. The application is available on a public web URL using a Supported Web Browser, but only accessible after user and password validation.
- 1.2 The back-end API, server software, servers, networking, and databases.
- 1.3 Security certificates to encrypt user data.
- 1.4 An online support center with user documentation.
- 1.5 Automated data backups.

2 Setup Services

- 2.1 Customer account setup is provided as a self-service to Customer on our website with automated account creation. Once the Customer has signed up for an account using a valid email address, the account is available immediately including an initial standard setup.
- 2.2 Any additional, custom, or consulting setup services are to be agreed separately between the Provider and the Customer.

3 Contact details

- 3.1 Contact details need to be maintained at all times by the Customer in the My Account section of the Hosted Services.

4 Payment schedule

- 4.1 Payment is due on every anniversary of the purchased contract term (monthly or annual), calculated from the initial date of purchase.

Schedule 2

Acceptable Use Policy

1. Introduction

- 1.1 This acceptable use policy (the "**Policy**") sets out the rules governing:
- (a) the use of the Hosted Services, any successor website, and the services available on that website or any successor website] (the "**Services**"); and
 - (b) the transmission, storage and processing of content by you, or by any person on your behalf, using the Services ("**Content**").
- 1.2 References in this Policy to "you" are to any Customer for the Services and any individual user of the Services (and "your" should be construed accordingly); and references in this Policy to "us" are to the Provider (and "we" and "our" should be construed accordingly).
- 1.3 By using the Services, you agree to the rules set out in this Policy.
- 1.4 We will ask for your express agreement to the terms of this Policy before you upload or submit any Content or otherwise use the Services.
- 1.5 You must be at least 18 years of age to use the Services; and by using the Services, you warrant and represent to us that you are at least 18 years of age.

2. General usage rules

- 2.1 You must not use the Services in any way that causes, or may cause, damage to the Services or impairment of the availability or accessibility of the Services.
- 2.2 You must not use the Services:
- (a) in any way that is unlawful, illegal, fraudulent or harmful; or
 - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
- 2.3 You must ensure that all Content complies with the provisions of this Policy.

3. Unlawful Content

- 3.1 Content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).
- 3.2 Content, and the use of Content by us in any manner licensed or otherwise authorised by you, must not:
- (a) be libellous or maliciously false;
 - (b) be obscene or indecent;

- (c) infringe any copyright, moral right, database right, trade mark right, design right, right in passing off, or other intellectual property right;
- (d) infringe any right of confidence, right of privacy or right under data protection legislation;
- (e) contain any personally identifiable information, financial information, health or medical information about any persons;
- (f) constitute negligent advice or contain any negligent statement;
- (g) constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;
- (h) be in contempt of any court, or in breach of any court order;
- (i) constitute a breach of racial or religious hatred or discrimination legislation;
- (j) be blasphemous;
- (k) constitute a breach of official secrets legislation; or
- (l) constitute a breach of any contractual obligation owed to any person.

3.3 You must ensure that Content is not and has never been the subject of any threatened or actual legal proceedings or other similar complaint.

4. Graphic material

- 4.1 Content must be appropriate for all persons who have access to or are likely to access the Content in question.
- 4.2 Content must not depict violence in an explicit, graphic or gratuitous manner.
- 4.3 Content must not be pornographic or sexually explicit.

5. Factual accuracy

- 5.1 Content must not be untrue, false, inaccurate or misleading.
- 5.2 Statements of fact contained in Content and relating to persons (legal or natural) must be true; and statements of opinion contained in Content and relating to persons (legal or natural) must be reasonable, be honestly held and indicate the basis of the opinion.

6. Negligent advice

- 6.1 Content must not consist of or contain any medical or personally identifiable information.
- 6.2 Content must not consist of or contain any advice, instructions or other information that may be acted upon and could, if acted upon, cause death, illness or personal injury, damage to property, or any other loss or damage.

7. Etiquette

- 7.1 Content must be appropriate, civil and tasteful, and accord with generally accepted standards of etiquette and behaviour on the internet.
- 7.2 Content must not be offensive, deceptive, threatening, abusive, harassing, menacing, hateful, discriminatory or inflammatory.
- 7.3 Content must not be liable to cause annoyance, inconvenience or needless anxiety.
- 7.4 You must not use the Services to send any hostile communication or any communication intended to insult, including such communications directed at a particular person or group of people.
- 7.5 You must not use the Services for the purpose of deliberately upsetting or offending others.
- 7.6 You must not unnecessarily flood the Services with material relating to a particular subject or subject area, whether alone or in conjunction with others.
- 7.7 You must ensure that Content does not duplicate other content available through the Services.
- 7.8 You must ensure that Content is appropriately categorised.
- 7.9 You should use appropriate and informative titles for all Content.
- 7.10 You must at all times be courteous and polite to other users of the Services.

8. Marketing and spam

- 8.1 You must not without our written permission use the Services for any purpose relating to the marketing, advertising, promotion, sale or supply of any product, service or commercial offering.
- 8.2 Content must not constitute or contain spam, and you must not use the Services to store or transmit spam - which for these purposes shall include all unlawful marketing communications and unsolicited commercial communications.
- 8.3 You must not send any spam or other marketing communications to any person using any email address or other contact details made available through the Services or that you find using the Services.
- 8.4 You must not use the Services to promote or operate any chain letters, Ponzi schemes, pyramid schemes, matrix programs, "get rich quick" schemes or similar letters, schemes or programs.

9. Gambling

- 9.1 You must not use the Services for any purpose relating to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.

10. Monitoring

10.1 You acknowledge that we may actively monitor the Content and the use of the Services.

11. Data mining

11.1 You must not conduct any systematic or automated data scraping, data mining, data extraction or data harvesting, or other systematic or automated data collection activity, by means of or in relation to the Services.

12. Hyperlinks

12.1 You must not link to any material using or by means of the Services that would, if it were made available through the Services, breach the provisions of this Policy.

13. Harmful software

13.1 The Content must not contain or consist of, and you must not promote or distribute by means of the Services, any viruses, worms, spyware, adware or other harmful or malicious software, programs, routines, applications or technologies.

13.2 The Content must not contain or consist of, and you must not promote or distribute by means of the Services, any software, programs, routines, applications or technologies that will or may have a material negative effect upon the performance of a computer or introduce material security risks to a computer.

Schedule 3

Availability SLA

1. Introduction to availability SLA

- 1.1 This Schedule 3 sets out the Provider's availability commitments relating to the Hosted Services.
- 1.2 In this Schedule 3, "uptime" means the percentage of time during a given period when the Hosted Services are available at the gateway between public internet and the network of the hosting services provider for the Hosted Services.

2. Availability

- 2.1 The Provider shall use reasonable endeavours to ensure that the uptime for the Hosted Services is at least 99.9% during each calendar month.
- 2.2 The Provider shall be responsible for measuring uptime, and shall do so using any reasonable methodology.
- 2.3 The Provider shall report uptime measurements to the Customer in writing in respect of each calendar month, within 10 Business Days following the end of the relevant calendar month.

3. Service credits

- 3.1 In respect of each calendar month during which the Hosted Services uptime is less than the commitment specified in Paragraph 2.1, the Customer shall earn service credits in accordance with the provisions of this Part 3.
- 3.2 The service credits earned by the Customer shall be as follows:

| Monthly uptime | Service credit |
|-------------------------|------------------------------|
| Between 99.1% and 99.9% | 5% of Charges for the month |
| Between 98.1% and 99.0% | 10% of Charges for the month |
| Between 97.1% and 98.0% | 15% of Charges for the month |
| 97.0% or less | 20% of Charges for the month |

- 3.3 To receive a service credit for a particular calendar month, Customer must submit a claim by email to the Provider within 30 days of the end of the month during which the Hosted Services did not meet the Provider SLA.

- 3.4 Upon approval of the service credit claim, the Provider shall deduct an amount equal to the service credits due to the Customer under this Part 3 from amounts invoiced in respect of the Charges for the Hosted Services. All remaining service credits shall be deducted from each invoice issued following the reporting of the relevant failure to meet the uptime commitment, until such time as the service credits are exhausted.
- 3.5 Service credits shall be the sole remedy of the Customer in relation to any failure by the Provider to meet the uptime guarantee in Paragraph 2.1, except where the failure amounts to a material breach of this Agreement.
- 3.6 Upon the termination of this Agreement, the Customer's entitlement to service credits shall immediately cease, save that service credits earned by the Customer shall be offset against any amounts invoiced by the Provider in respect of Hosted Services following such termination.

4. Exceptions

- 4.1 Downtime caused directly or indirectly by any of the following shall not be considered when calculating whether the Provider has met the uptime guarantee given in Paragraph 2.1:
- (a) a Force Majeure Event;
 - (b) a fault or failure of the internet or any public telecommunications network;
 - (c) a fault or failure of the Customer's computer systems or networks;
 - (d) any breach by the Customer of this Agreement; or
 - (e) scheduled maintenance carried out in accordance with this Agreement.

Schedule 4

Maintenance SLA

1. Introduction

1.1 This Schedule 4 sets out the service levels applicable to the Maintenance Services.

2. Scheduled Maintenance Services

2.1 The Provider shall where practicable give to the Customer at least 10 Business Days' prior written notice of scheduled Maintenance Services that are likely to affect the availability of the Hosted Services or are likely to have a material negative impact upon the Hosted Services, without prejudice to the Provider's other notice obligations under this Schedule 4.

2.2 The Provider shall provide all scheduled Maintenance Services outside Business Hours.

3. Updates

3.1 The Provider shall give to the Customer written notice of the application of any security Update to the Platform and at least 10 Business Days' prior written notice of the application of any non-security Update to the Platform.

3.2 The Provider shall apply Updates to the Platform as follows:

- (a) third party security Updates shall be applied to the Platform, promptly following release by the relevant third party, providing that the Provider may acting reasonably decide not to apply any particular third party security Update;
- (b) the Provider's security Updates shall be applied to the Platform, promptly following the identification of the relevant security risk and the completion of the testing of the relevant Update; and
- (c) other Updates shall be applied to the Platform in accordance with any timetable notified by the Provider to the Customer or agreed by the parties from time to time.

4. Upgrades

4.1 The Provider shall produce Upgrades at least once in each calendar year during the Term.

4.2 The Provider shall give to the Customer at least 10 Business Days' prior written notice of the application of an Upgrade to the Platform.

4.3 The Provider shall apply each Upgrade to the Platform within any period notified by the Provider to the Customer or agreed by the parties in writing.

Schedule 5

Support Services SLA

1. Introduction

1.1 This Schedule 5 sets out the service levels applicable to the Support Services.

2. Helpdesk

2.1 The Provider shall make available to the Customer a helpdesk in accordance with the provisions of this Schedule 5.

2.2 The Customer may use the helpdesk for the purposes of requesting and, where applicable, receiving the Support Services; and the Customer must not use the helpdesk for any other purpose.

2.3 The Provider shall ensure that the helpdesk is accessible by telephone, email and using the Provider's web-based ticketing system.

2.4 The Provider shall ensure that the helpdesk is operational and adequately staffed during Business Hours during the Term.

2.5 The Customer shall ensure that all requests for Support Services that it may make from time to time shall be made through the helpdesk.

3. Response and resolution

3.1 Issues raised through the Support Services shall be categorised as follows:

- (a) critical: the Hosted Services are inoperable or a core function of the Hosted Services is unavailable;
- (b) serious: a core function of the Hosted Services is significantly impaired;
- (c) moderate: a core function of the Hosted Services is impaired, where the impairment does not constitute a serious issue; or a non-core function of the Hosted Services is significantly impaired; and
- (d) minor: any impairment of the Hosted Services not falling into the above categories; and any cosmetic issue affecting the Hosted Services.

3.2 The Provider shall determine, acting reasonably, into which severity category an issue falls.

3.3 The Provider shall use reasonable endeavours to respond to requests for Support Services promptly, and in any case in accordance with the following time periods:

- (a) critical: 2 Business Hours;
- (b) serious: 4 Business Hours;

- (c) moderate: 2 Business Days; and
 - (d) minor: 5 Business Days.
- 3.4 The Provider shall ensure that its response to a request for Support Services shall include the following information (to the extent such information is relevant to the request): an acknowledgement of receipt of the request, where practicable an initial diagnosis in relation to any reported error, and an anticipated timetable for action in relation to the request.
- 3.5 The Provider shall use reasonable endeavours to resolve issues raised through the Support Services promptly, and in any case in accordance with the following time periods:
- (a) critical: 4 Business Hours;
 - (b) serious: 8 Business Hours;
 - (c) moderate: 4 Business Days; and
 - (d) minor: 10 Business Days.

4. Provision of Support Services

- 4.1 The Support Services shall be provided remotely, save to the extent that the parties agree otherwise in writing.

5. Limitations on Support Services

- 5.1 If the total hours spent by the personnel of the Provider performing the Support Services during any calendar month exceed 4 hours then:
- (a) the Provider will cease to have an obligation to provide Support Services to the Customer during the remainder of that period; and
 - (b) the Provider may agree to provide Support Services to the Customer during the remainder of that period, but the provision of those Support Services will be subject to additional Charges.
- 5.2 The Provider shall have no obligation to provide Support Services in respect of any issue caused by:
- (a) the improper use of the Hosted Services by the Customer; or
 - (b) any alteration to the Hosted Services made without the prior consent of the Provider.