Master Subscription Services Agreement

This Master Subscription Services Agreement is made and entered into as of _____, 2026 (the "Effective Date") by and between Proactis Limited, Riverview Court, Castle Gate, Wetherby, Leeds, LS22 6LE, United Kingdom ("Proactis"), and _____, located at _____ ("Customer")(collectively the "Parties"). Pursuant to this Agreement, Customer will be granted access to, and be provided, certain Services and SaaS Products as set forth in this Agreement and any attachments or Statements of Work agreed to by Proactis and the Customer, collectively referred to as the "Agreement". If there is a conflict between an attachment or Statement of Work and this Master Services Agreement, the provisions of the Master Services Agreement shall take precedence. The Services and SaaS Products provided by Proactis are intended for use only by Customer and Customer's Authorized Users. Customer accepts and agrees to this Agreement and Proactis' Privacy Policy (which is available at https://www.proactis.com/uk/privacy-policy/ and may be reasonably and subsequently amended from time to time).

Attachments to this Master Services Agreement:
Order Form

1) **Definitions.** The following definitions apply to this Agreement. Additional definitions applying solely to a particular attachment to this Agreement will be set forth in that attachment.

   a) "**Additional Services**" means those services described in one or more Statement(s) of Work executed between the Parties.

   b) "**Affiliate**" means with respect to a Party, any corporation or other entity that controls, is controlled by, or is under common control with, a Party. "Control" or "Controlled" means, for purposes of this definition, control of more than a 50% interest in an entity.

   c) "**Authorized User**" means a user who is authorized by Customer to utilize the SaaS Products on its behalf.

   d) "**Confidential Information**" means:
      i) with regard to Proactis, all Proactis Information, Software, inventions, know-how, ideas, programs, apparatus programs, and Intellectual Property Rights related to, connected with or arising out of the SaaS Products or Services;
      ii) with regard to Customer, Customer Information, and any non-public information regarding the business or business partners of Customer, in whole and in part; and
      iii) with regard to either Party, the terms, conditions, pricing and other contents of this Agreement, any other information, technical data, or know-how, including, but not limited to, that which relates to research, product plans, products, services, customers, markets, software, software code, software documentation, developments, inventions, lists, trade secrets, data compilations, processes, designs, drawings, engineering, hardware configuration information, marketing or finances or any other information a reasonable person would understand to be confidential.

      Notwithstanding the foregoing, Confidential Information does not include information, data or know-how which:

      i) is in the public domain at the time of the disclosure or becomes available to the public thereafter without restriction, and not as a result of the act or omission of the receiving Party;
      ii) is rightfully obtained by the receiving Party from a third Party without restriction as to disclosure;
      iii) is lawfully in the possession of the receiving Party at the time of the disclosure;
      iv) is approved for release by written authorization of the disclosing Party;
      v) is developed independently and separately by the receiving Party without use of the disclosing Party's Confidential Information; and/or
      vi) is required to be disclosed by the receiving Party pursuant to law or legally enforceable order of court or judicial body or by any governmental or other regulatory authority, provided that, to the extent it is legally

permissible, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.

e) "**Content**" means any data, information or materials provided to Proactis by a Supplier including, parametric information regarding Products such as item descriptions, product and service attributes, units of measures, categories, price, payment methods, photographs, drawings, audio, video, technical specifications, and any associated marketing literature or point of purchase information, including any updates, revisions, and corrections thereto. Content does not include Transaction Documents or any portion of the Software or SaaS Products.

f) "**Controller**", "**Processor**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**" and "**Processing**": have the meanings given to them in the Data Protection Legislation in relation to Customer's Personal Data provided to Proactis under this Agreement.

g) "**Data Protection Legislation**" means the relevant data protection and data privacy laws, rules and regulations to which Customer Personal Data is subject. Data Protection Legislation shall include, but not be limited to, the EU General Data Protection Regulation 2016/679 ("GDPR") including the Standard Contractual Clauses ("SCCs") if entered into and applicable; the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) ("DPA 2018"); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; the California Privacy Rights Act ("CPRA"), and all other legislation and regulatory requirements in force and as reasonably applicable from time to time which apply to a Party relating to the use of Personal Data.

h) "**Fees**" means all fees payable by Customer to Proactis pursuant to this Agreement.

i) "**Force Majeure**" means events or conditions beyond a Party's reasonable control, including, without limitation, acts of common enemy, earthquakes, floods, fires, epidemics, terrorist attacks, embargoes, strike, fire, governmental acts or orders or restrictions, acts of God, lack of internet availability, cyberattacks including but not limited to DDOS attacks and ransomware, inability to secure products or services from third parties, or any other reason where failure to perform is not caused by the negligence of the nonperforming Party.

j) "**Information**" means any technical, or business information in written, graphical, oral, or other tangible or intangible forms, including but not limited to specifications, drawings, tools, samples, reports, compilations, records, data, computer programs, drawings, models, and secrets.

k) "**Intellectual Property Rights**" means any patent rights, copyrights, trade secrets, trade names, service marks, trademarks, moral rights, know-how and any other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing now or hereafter in force.

l) "**Market Statistics**" means aggregated, non-attributable statistical information associated with Transaction Information, but does not include information or the presentation of information from which could be reasonably determined: (a) the identity of specific transactions or parties, (b) Transaction Information, or (c) Stock Keeping Unit-level pricing contained in specific Content.

m) "**Party**" or "**Parties**" means either individually or collectively, as the case may be, Proactis and Customer and any and all permitted successors and assigns.

n) "**Products**" means the goods and/or services that may be ordered from Suppliers by Customer through its use of the SaaS Products.

o) "**Services**" means the professional services provided by Proactis and Affiliates to Customer in conjunction with the Software as a Service offerings described in the Attachments hereto.

p) "**Software**" means the proprietary computer software programs utilized or provided by Proactis in the delivery of SaaS Products.

q) "**SaaS Products**" means the Software as a Service products provided by Proactis and Affiliates to Customer pursuant to this Agreement and as described in the Attachment(s) attached hereto, including any successor or replacement services offering the same or more functionality than its predecessor.

r) "**Statement of Work**" means the detailed description of Additional Services to be provided by Proactis to Customer as may be executed from time to time between the Parties, in a form to be mutually agreed upon.

s) "**Supplier**" means a person or entity who has agreed to use one or more SaaS Products offered by Proactis for the offering and sale of Products to Customer.

t) "**Transaction Documents"** means any electronic business documents transmitted through the use of the SaaS Products.

u) "**Transaction Information**" means the specific pricing, quantities, parties and terms and conditions of any contract, order, bid, or proposal disclosed directly or indirectly to Proactis in a Transaction Document, but shall not include any information which was at the time of disclosure (1) intended to be disclosed by Proactis to a bidder or other intended recipient on behalf of Customer, or (2) within an enumerated exception to the definition of Confidential Information.

2) **SaaS Products Access.**

a) Use. Subject to payment of the applicable Fees, Customer's compliance with the terms of this Agreement and reasonable Customer assistance as is necessary in the performance of Services, Proactis hereby grants Customer a non-exclusive, non-transferable, non-assignable, limited right to access and utilize the SaaS Products and the Software to manage the purchase and sale of Products, subject to the following restrictions: (i) Customer may use the SaaS Products and the Software solely for Customer's own internal business purposes; and (ii) Customer shall not (A) make any copies of all or any portion of the Software or the SaaS Products, (B) sell, sublicense, distribute, rent, lease, publish, display, disclose, loan, distribute or assign the SaaS Products or the Software to any other person or entity, (C) modify, reverse engineer, decompile, disassemble, translate, alter, adapt, create the source code from the object code, or create derivative works based on the SaaS Products or the Software, (D) permit any non-Authorized User or other third Party to use the SaaS Products or the Software; (E) cause any damage to the Proactis Software, Services, SaaS Products or any related components; or (F) access it in order to (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Service, or (3) copy any ideas, features, functions or graphics of the Service. If Proactis perceives a reasonable risk to the functioning of the computer systems or the network of Proactis or third parties and/or the Services or SaaS Products via a network, particularly due to excessive email or other data traffic, poorly secured systems or activities of viruses, Trojans and similar software, Proactis is entitled to take any measures which it reasonably considers necessary to combat or avert this danger. Proactis shall take reasonable precautions to prevent hacking, virus infection and other electronic attacks affecting the security or validity of the Customer's data held by Proactis but do not guarantee the same will not occur. Customer shall not alter or remove any copyright, trade secret, patent, trademark, proprietary and/or other legal notices contained on or in copies of the SaaS Products or Software.

b) QlikTech Products (Qlikview). To the extent that the SaaS Products and Software purchased under this Agreement utilize third Party products from QlikTech, the following additional provisions apply:

i) Customer shall use the SaaS Products and Services only in accordance with the provisions of this Agreement.

ii) Customer shall be prohibited from using the QlikTech products provided under this Agreement in any way other than as integrated with the data structures of the Proactis SaaS Products and Software provided under this Agreement. The customer may not, under any circumstances whatsoever, use the QlikTech Products provided under this Agreement independently or separated from the Proactis SaaS products and Software provided under this Agreement.

iii) Proactis reserves the right to conduct reasonable audits to ascertain whether the Customer's use of the Proactis SaaS Products and Services complies with the provisions of this Agreement.

iv) Upon termination of the End User License Agreement between Proactis and QlikTech related to QlikTech products, Proactis may immediately terminate, and Customer's shall immediately discontinue, access and use of the QlikTech products. In the event of termination of the QlikTech products End User License Agreement, Proactis will refund the pro-rated portion of any pre-paid Fees covering the period of time during which the QlikTech product was to be provided by Proactis.

c) Code of Conduct.

i) The Parties shall refrain from storing or distributing, nor allow such storage of distribution, of data or information understood to be:

(1) in violation of the provisions of applicable law including, e.g. GDPR, etc.;
(2) defamatory or libelous;
(3) erotic or pornographic, unless explicitly permitted in the quotation;
(4) an infringement of the rights of third parties, including, but not limited to, copyrights, trademark rights and portrait right;
(5) a violation of the personal privacy of third parties, including, but not limited to, the distribution of personal data of third parties without permission or necessity, or a repeated harassment of third parties with communications unsolicited by them; and/or
(6) containing malicious content such as viruses or spyware.

In the event Proactis, in its sole discretion, i) deems any data or information with its SaaS Product, Software or systems in violation of this Section 2(c), "Code of Conduct"; or ii) if any part of any data or information within its SaaS Product, Software or system becomes the subject of an actual or threatened lawsuit; or iii) if Proactis believes such data or information may violate a third Party's Intellectual Property Rights or applicable law, Proactis shall be entitled to remove such data or information without incurring any liability to Customer. Additionally, in the event the Customer violates Section 2(c) Proactis may take any remedial actions necessary, up to and including termination of Customer's SaaS Product access, without incurring any liability to Customer. Notwithstanding the foregoing, Proactis has no legal obligation to remove or control such data or information.

d) User IDs and Passwords. Proactis shall provide to Customer user IDs and passcodes or other secured means to access the SaaS Products, as applicable. Customer may request additional user IDs and passcodes, subject to the payment of the applicable additional fees. Customer is responsible for maintaining the confidentiality of its user IDs and passcodes and will be solely liable for all activities that occur under Customer's user IDs. Customer shall immediately notify Proactis of any unauthorized use of Customer's user IDs and change any affected passcodes. Customer agrees to access the SaaS Products in a secure manner in compliance with Proactis' reasonable standards established from time to time which currently require, to the extent applicable, Customer's use of web browsers utilizing 256 bit SSL encryption.

e) Cookies. As part of this Agreement, Customer hereby expressly "opts-in" and consents to the use by Proactis of any cookies necessary for the Proactis SaaS Products to function properly. Customer may "opt-out" or revoke consent of the use of cookies by the Proactis SaaS Products at any time, upon reasonable notice to Proactis. If Customer "opts-out" or revokes consent of the use of cookies by the Proactis SaaS Products, Proactis may discontinue providing the Proactis SaaS Products to Customer without breaching this Agreement.

f) Audit. Proactis may audit Customer's use of the SaaS Products during normal business hours on reasonable notice and at Proactis' expense. Customer will provide reasonable assistance to Proactis as is reasonably

required to perform such audits. To the extent that any audit indicates that Customer has underpaid any Fees due to Proactis, Customer shall immediately pay such underpayment together with any applicable interest due.

3) **Scope, Availability, and Modifications.**

a) Scope of SaaS Products. The SaaS Products are intended to enable transactions between Customer and Suppliers. Proactis is not a Party to, third Party beneficiary of, or a guarantor of performance with respect to any subsequent agreement between Customer and any third Party. Specifically, (i) Proactis does not control the quality, safety, legality or availability of Products accessed through the SaaS Products, the terms and conditions on which those Products are offered or purchased, or the third Party's compliance with an agreement that it may execute with Customer; (ii) Proactis undertakes no duties to distribute or ship the Products of a Supplier; (iii) under no circumstances shall Proactis take title to, or in any manner obtain an interest in, or otherwise be deemed to be within the chain of title of, any Products of a Supplier; and (iv) the Customer acknowledges that it will not hold Proactis liable nor make any claim that Proactis is liable in relation to the provision of goods and/or services by any third Party supplier to the Customer. The Customer acknowledges that Proactis takes no responsibility for the terms and conditions governing the purchase, sale and delivery of Products. Where Customer is receiving SaaS Products or Services from Proactis where Customer communicates with Supplier's via Proactis' SaaS Products, then Customer shall use its best efforts to ensure that its' Suppliers enter into the relevant terms for accessing and using Proactis' SaaS Products and will provide all reasonable co-operation with Proactis to ensure such terms are complied with by their Suppliers. Proactis shall provide such Additional Services as may be agreed to between the Parties and set forth in a properly executed Statement of Work.

b) Availability of SaaS Products. Notwithstanding anything to the contrary stated herein, Customer acknowledges and agrees that the availability of the SaaS Products is subject to the availability of connection services to and within the Internet and to other network functions within and around the Internet and that the Internet, by its nature, is not fault-tolerant and Proactis shall not have any liability for any breach of any representation, warranty or covenant of this Agreement that arises out of or relates to the unavailability of such connection services and other network functions.

c) Modification of SaaS Products. Customer understands and agrees that Proactis may modify the SaaS Products, their names, or the manner in which the SaaS Products are made available, and that those modifications may create differences in how Customer accesses the SaaS Products. Customer further understands and agrees that, upon reasonable advance written notice to Customer, Proactis reserves the right to replace any of the SaaS Products with SaaS Products offering the same or more functionality than its predecessor.

d) Customer Assistance and Cooperation. The Customer shall reasonably cooperate with Proactis in a timely manner in response to any reasonable request from Proactis related to this Agreement. Reasonable cooperation shall include, but is not limited to, providing access to personnel, systems, data, Customer suppliers and information in a timely manner, and ensuring that such information is accurate in all material respects.

e) Use of Third Party Software. Proactis may provide access to certain third Party software and/or services. To the extent that SaaS Products or Services contains or provide access to any third Party software and/or services, the third Party software and/or services are provided on an "as is" basis without warranty of any kind. Furthermore, Proactis has no express or implied obligation to provide any technical or other support for such software or services. Additionally, any provision of unlimited licenses pertains solely to Proactis products. Any third Party integrated products are excluded from unlimited licensing provisions.

f) Replacement of Third Party Software. At any time during the Term, if any third Party software then currently used in the provision of the SaaS Software and/or Services under this Agreement ceases to be commercially available or suitable for use, Proactis will investigate a replacement product for such third Party software in a timely manner. Proactis shall evaluate, technically review, and select a replacement product offering the same or more functionality than its predecessor. In the event a replacement product offering the same or more functionality than its predecessor cannot be obtained, then either Party may terminate the affected Services and Proactis will provide a pro-rata refund of any pre-paid Fees covering the period of time during which the

affected Services were to be provided by Proactis. Customer shall be liable for any fees accrued prior to the date of termination.

4) **Payment.**

a) During the term of this Agreement, Customer agrees to compensate Proactis for the SaaS Products and Services as set forth in the applicable Order Form or Statement of Work. Except as otherwise specified in this Agreement or an applicable Order Form or Statement of Work, payment obligations are non-cancellable, Fees paid are non-refundable, and subscriptions purchased cannot be decreased or exchanged for alternative services during the relevant subscription term.

All payment obligations of Customer under this Agreement shall be paid in Great British Pounds. Proactis shall invoice Customer for the first Annual SaaS Fee for all SaaS Products and Services as of the Order Form Effective Date, and payment shall be made within thirty (30) days of the invoice date. Subsequent Annual SaaS Fees shall be due and payable on each anniversary of the Order Form Effective Date during the Initial Term and any Renewal Term. Unless otherwise stated in an applicable Order Form or Statement of Work, Proactis shall submit invoices to Customer and all amounts invoiced shall be paid within thirty (30) days of the invoice date, without set-off, counterclaim, deduction or withholding, except as required by law.

Invoice Disputes. Customer shall notify Proactis in writing of any good-faith dispute relating to an invoice within ten (10) Business Days after the invoice date. The notice must identify the amount disputed and provide reasonable details of the basis of the dispute. Customer shall pay the undisputed portion of the invoice by the applicable due date, and the Parties shall work together in good faith to resolve the disputed portion promptly. No invoice or amount shall be treated as disputed solely because Customer has withheld or delayed payment without providing the written notice and supporting details required by this paragraph.

Late Payment Charge. If any undisputed invoice, or undisputed portion of an invoice, remains unpaid for more than thirty (30) days after its due date, Proactis may apply a one-time late payment charge equal to ten percent (10%) of the total overdue and undisputed amount. The Parties acknowledge that this charge is intended to protect Proactis' legitimate commercial interests in receiving timely payment and reflects the additional administrative, financing, collection and operational costs associated with materially overdue accounts. The late payment charge shall become immediately due and payable upon written notification by Proactis and shall not relieve Customer of its obligation to pay the underlying invoice.

Interest and Recovery Costs. Proactis may, as an alternative to the late payment charge, charge interest on any overdue and undisputed amount from its due date until payment in full at the rate permitted under the Late Payment of Commercial Debts (Interest) Act 1998, or any legislation that replaces or supersedes it, together with any applicable fixed compensation and reasonable debt-recovery costs. Proactis shall not recover both the ten percent (10%) late payment charge and statutory interest or compensation in respect of the same overdue amount to the extent that doing so would result in double recovery.

Suspension for non-payment. Without prejudice to any other right or remedy available to Proactis, if any undisputed amount remains unpaid for more than thirty (30) days after its due date, Proactis may suspend Customer's access to the affected SaaS Products and/or the provision of the affected Services by giving Customer not less than ten (10) Business Days' prior written notice.

Proactis shall not be liable for any loss, damage, cost or inconvenience arising from a suspension properly exercised under this Clause. Customer shall remain liable for all Fees accruing during the period of suspension. Proactis shall restore the affected SaaS Products and Services promptly following payment in full of all overdue and undisputed amounts, together with the applicable late payment charge or statutory amounts due.

b) Expenses. Customer shall reimburse Proactis for all out-of-pocket, travel-related expenses reasonably incurred by Proactis in performing the Services hereunder.

c) Taxes. All amounts due to Proactis shall be exclusive of value added tax (VAT) or GST or similar taxes which shall be added to such amounts. Customer shall calculate and pay all taxes, duties or charges of any kind (including withholding or value added taxes) imposed by any governmental entity for the SaaS Products and Services provided under this Agreement, excluding only taxes based solely on Proactis' net income. Customer shall hold Proactis harmless from all claims and liability arising from Customer's failure to support or pay any such taxes, including duties, tariffs or charges.

d) Annual Fee Adjustment**.** On each anniversary of the applicable Order Form Start Date, Proactis may increase the Fees payable under this Agreement and any applicable Order Form by a percentage equal to the increase in the United Kingdom Consumer Prices Index (CPI) (or any successor index replacing CPI) published by the Office for National Statistics during the preceding twelve (12) month period, plus an additional three percent **(3%)**. Any such increase shall take effect from the relevant anniversary date and shall apply to all recurring Fees payable thereafter. Proactis shall provide Customer with not less than thirty (30) days' prior written notice of the adjusted Fees.

5) **Proprietary Rights.**

a) Title to Technology. All Intellectual Property Rights pertaining to Proactis, the Software, Services, and the SaaS Products, in whole or in part, shall be, vest with and remain the exclusive property of Proactis and its third Party licensors. Furthermore, Customer will not contest Proactis' or such third Party licensor's rights or title in or to the same. Proactis may take technical measures to protect the Software, Services, SaaS Products and other Intellectual Property. If Proactis has secured the Software, Services or SaaS Products which are under its control by means of technical protection, the Customer is not permitted to remove or to evade this protection. This protection shall not inhibit the Customer in its use of the SaaS Product. Additionally, Customer shall not alter or remove any copyright, trade secret, patent, trademark, proprietary and/or other legal notices contained on or in copies of the SaaS Product. If Customer is permitted by Proactis to make any copies of the SaaS Product, then Customer shall reproduce all relevant notices on or in all copies.

b) Title to Transaction Information. As between the Parties, all Intellectual Property Rights in Transaction Information supplied by Customer and/or its Suppliers in connection with the SaaS Products are and shall remain the exclusive property of Customer. Proactis makes no claims, warranties or representations with regard to the ownership of Transaction Information. Notwithstanding the foregoing, all Intellectual Property Rights in Market Statistics are and shall remain the exclusive property of Proactis.

c) Title to Content and Information. All title, right, and interest in and to Content submitted to Proactis in the course of performing the Services shall remain the property of the applicable Supplier or other third Party owners. All title, right and interest in and to Information licensed by Proactis from third Party licensors and utilized in the process of providing the SaaS Products, if any, shall remain the exclusive property of Proactis or its third Party licensors. If all or part of any Content or Information becomes the subject of an actual or threatened lawsuit or if Proactis believes such Content or Information may violate a third Party's Intellectual Property Rights or applicable law, Proactis will immediately be entitled to remove such Content or Information without incurring any liability to Customer.

d) Suggestions. Proactis shall have a royalty-free, worldwide, perpetual license to use or incorporate into the Service any suggestions, ideas, enhancement requests, feedback, recommendations or other information

provided by Customer or its Authorized Users relating to the SaaS Products.

6) **Confidentiality.**

a) Nondisclosure of Confidential Information. Each Party shall retain the other Party's Confidential Information in the strictest confidence (need to know basis) and shall not disclose such Confidential Information to any third Party except as is necessary in the performance of the Services under this Agreement. Each Party agrees: (i) to use the Confidential Information only for the purposes of this Agreement and as expressly permitted by this Agreement; (ii) not to make copies of or store Confidential Information or any part thereof except as expressly permitted by this Agreement or as is necessary in the performance of Services; (iii) to reproduce and maintain on any copies of any Confidential Information such proprietary legends or notices (whether of disclosing Party or a third Party) as are contained in or on the original or as the disclosing Party may otherwise reasonably request; (iv) to take reasonable steps to ensure that any Confidential Information is not disclosed or distributed in violation of this Agreement; and (v) to treat this Agreement as Confidential Information. The recipient of any Confidential Information shall restrict disclosure of the Confidential Information to its employees, agents or sub-contractors on need to know basis solely for the purpose of discharging its obligations to the other Party and shall ensure that any employee, agent or sub-contractor receiving the Confidential Information is subject to obligations of confidentiality at least as restrictive as those contained within this Agreement. The Parties shall be responsible for any breach of this Agreement as a result of any action or disclosure by them or any of their employees, agents or subcontractors. Notwithstanding the foregoing, the Customer shall provide information to third parties if required to do so by law, including but not limited to, the Freedom of Information Act (FOIA), but shall allow Proactis to redact content as allowed by law. A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.

b) Remedies. The Parties agree that, notwithstanding any other section of this Agreement, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to preliminary and permanent injunctive relief, as well as money damages. Nothing stated herein shall be construed to limit any other remedies available to the Parties.

7) **Term and Termination.**

a) Term. This Agreement shall become effective on the Effective Date and shall continue in force so long as one or more of the SaaS Products is being provided by Proactis.

b) Order Form Term. The Initial Order Form Term shall commence as of the "Start Date" listed on the applicable Order Form and continue until the "End Date" listed on the applicable Order Form (the "Initial Order Form Term"). At the end of the Initial Order Form Term, the term for the Order Form shall automatically renew for successive periods equal to the Initial Order Form Term unless either party gives notice of its intent not to renew such term no later than ninety (90) days prior to the end of the Initial Order Form Term or any Renewal Term (each a "Renewal Term").

c) Termination for Cause. Proactis may, by written notice to Customer, terminate this Agreement if any of the events described under (i), (ii) or (iii) below occurs, and Customer may, by written notice to Proactis, terminate this Agreement if either of the events described under (ii) or (iii) below occurs (in each case, "Cause"). In the event Customer terminates this Agreement for Cause, Proactis will refund the pro-rated portion of any pre-paid Fees covering the period of time during which SaaS Products were to be provided by Proactis. In the event Proactis terminates this Agreement for Cause, the Customer will forfeit any pre-paid Fees paid to Proactis.

i) Customer fails to pay any undisputed amount due to Proactis within ten (10) days after Proactis gives Customer written notice requiring payment, provided that the relevant amount has remained unpaid for

more than thirty (30) days after its original due date;

ii) The other Party is in breach of any material, non-monetary term, condition or provision of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after the non-breaching Party gives the breaching Party written notice of such breach; or

iii) The other Party (a) terminates or suspends its business activities, (b) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or (c) becomes subject to any bankruptcy or insolvency or similar proceeding under any applicable law which is not rescinded within sixty (60) days.

d) Acceleration of Payments. If Customer is in default in paying any undisputed amount due to Proactis, Proactis may, subject to the notice requirements set out in Clause 4(a), suspend Customer's access to the SaaS Products and Proactis' performance of the affected Services until Customer has paid all overdue undisputed amounts, together with any applicable late payment charge or statutory amounts due. At Proactis' sole option, at any time Customer is in default of any payment due under this Agreement, and regardless of whether Proactis terminates this Agreement for Cause, Proactis shall have the right to declare all amounts payable hereunder, under the Order Form, any Statement of Work or otherwise, and including, without limitation, all costs, expenses, interest charges and fees, to be immediately due and payable without notice to Customer and Proactis shall have all remedies available to it at law or in equity for collection of such amounts payable. Proactis' failure to exercise such option to accelerate shall not constitute a waiver of such right to accelerate at any subsequent time or waive any future right to accelerate. In addition, Customer agrees that if it is in default, and regardless of whether Proactis terminates this Agreement for Cause, damages will be difficult to ascertain such that Proactis shall be entitled to: (i) all amounts due and owing under all uncompleted SaaS Products hereunder, and; (ii) all amounts which would have become due hereunder had this Agreement continued for the entire Initial Term or any Renewal Term, as applicable, including, without limitation, all costs, expenses, interest charges and fees, to compensate Proactis for lost opportunities, as liquidated damages, and not as a penalty, in addition to all other rights and remedies available to Proactis.

e) Effect of Termination. Upon termination of this Agreement consistent with the terms herein, Proactis may immediately discontinue Customer's access and use of the SaaS Products. Customer shall promptly discontinue use of any SaaS Products, Software and Confidential Information that Customer has received from Proactis and destroy all tangible copies and purge and/or permanently delete all electronic, magnetic, and other copies of the SaaS Products, Software and Confidential Information in its possession and certify the same if requested by Proactis.

f) Return Of Materials. Upon termination or expiration of this Agreement, Customer will have four (4) weeks to determine if Customer wants Proactis to return a copy of all or any part of Customer data. If Customer requests a copy of all or any part of Customer data, the data will be provided in a mutually agreed upon format in compliance with Proactis' standard off-boarding process. If Customer does not affirmatively elect to have a copy of the Customer data returned to Customer within four (4) weeks of the termination or expiration of this Agreement or after such time as a copy of the Customer data was returned to Customer, Proactis will, at its sole discretion, no longer hold or be responsible for and may delete, any and all data held on behalf of the Customer.

g) Survival. Notwithstanding any termination of this Agreement, Section 6 ("Confidentiality") shall survive for a period of five (5) years, Section 12(c) ("Employee Solicitation") shall survive for a period of one (1) year, while Sections 5 ("Proprietary Rights"), 7(d) ("Acceleration of Payments"), 8 ("Disclaimer; Limitation of Liability"), 9 ("Indemnification") and 12(e)("Governing Law") shall survive termination of this Agreement indefinitely. All other rights granted hereunder will cease upon termination.

8) **Disclaimer; Limitation of Liability.**

a) Disclaimer. TO THE MAXIMUM EXTENT ALLOWED BY LAW AND EXCEPT AS UNAMBIGUOUSLY AND EXPRESSLY SET FORTH IN ANY EXHIBIT, SCHEDULE OR ATTACHMENT, THE SAAS PRODUCTS AND SERVICES ARE PROVIDED "AS IS" AND PROACTIS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND REASONABLE SKILL AND CARE WITH RESPECT TO THE SAAS PRODUCTS AND SERVICES CONNECTED WITH, RELATED TO OR ARISING OUT OF THIS AGREEMENT. PROACTIS EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT ACCESS OR USE OF THE SAAS PRODUCTS WILL BE ERROR-FREE, SECURE OR UNINTERRUPTED, OR THAT INFORMATION OR CONTENT WILL BE ACCURATE OR TIMELY.

b) Limitation of Liability. TO THE MAXIMUM EXTENT ALLOWED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGIES OR SERVICES, COST OF COVER OR PUNITIVE OR EXEMPLARY, OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE SERVICES OR SAAS PRODUCTS PERFORMED HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, PROACTIS SHALL HAVE NO LIABILITY IN RELATION TO THE USE OF ANY SOFTWARE LICENSED DIRECTLY FROM A THIRD PARTY WHETHER ARRANGED BY PROACTIS OR NOT. IN ADDITION, PROACTIS WILL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN DELIVERY OR FURNISHING THE SERVICES OR SAAS PRODUCTS. PROACTIS' TOTAL LIABILITY UNDER THIS AGREEMENT OR THE TERMINATION OF THIS AGREEMENT WHETHER FOR DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL AND/OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, RESTITUTION, WILL NOT, IN ANY EVENT, EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO PROACTIS PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRIOR TO THE OCCURRENCE OF THE BREACH OR DAMAGE.

9) **Indemnification.**

a) By Proactis. Proactis agrees to defend or, at its option, to settle, any claim brought against Customer for infringement of any copyright, trade secret, trademark, or other Intellectual Property Right by the SaaS Products as delivered, and to indemnify Customer against all damages and costs assessed against Customer under any such claim or action. Customer agrees that Proactis shall be released from the foregoing obligation unless Customer has taken all reasonable steps to mitigate any potential expenses and provides Proactis with: (i) prompt written notice of any such claim or action, or possibility thereof; (ii) sole control and authority over the defense or settlement of such claim or action; (iii) proper and full information and assistance to settle and/or defend any such claim or action; and (iv) Customer is not in breach of this Agreement. Customer shall have the right to employ separate counsel and participate in the defense at its own expense provided that Proactis shall remain in control of the defense. In addition, Proactis may, at its sole option and expense, either: (a) procure for Customer the right to use the infringing SaaS Products; (b) replace the infringing SaaS Products with non-infringing, functionally equivalent services; (c) modify the infringing SaaS Products so that they are not infringing; or if (a), (b), and (c) are not commercially feasible, then (d) will cease to provide the infringing SaaS Products, pay as liquidated damages an amount equal to any Fees covering any period of time during which such infringing SaaS Products were to be provided and terminate this Agreement as it relates to such infringing SaaS Products. Upon exercise of option (d) in the previous sentence, Proactis shall have no further obligations or liability to Customer with respect to the infringing SaaS Products. Except as specified above, Proactis will not be liable for any costs or expenses incurred without its prior written authorization. The foregoing obligations do not apply with respect to SaaS Products or Software or portions or components thereof (i) not supplied by Proactis, (ii) made in whole or in part in accordance to Customer specifications, (iii) that are modified by anyone not explicitly authorized by Proactis; (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would

have avoided the alleged infringement, or (vi) where Customer's use of such SaaS Products or Software is not strictly in accordance with this Agreement. Customer will indemnify Proactis from all damages, settlements, attorneys' fees and expenses related to any claim of infringement or misappropriation excluded from Proactis' indemnity obligation by the preceding sentence.

b) By Customer. Customer shall indemnify and hold harmless Proactis and its Affiliates, and their directors, shareholders, members, agents and employees from and against any fine, penalty, costs, losses, liabilities and expenses (including reasonable attorneys' fees) arising out of or relating to the Customer's use of the SaaS Products under this Agreement.

c) Exclusive Remedy. THE FOREGOING PROVISIONS OF THIS SECTION 9 STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF PROACTIS AND ANY OF ITS LICENSORS, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT BY THE SAAS PRODUCTS, ANY SOFTWARE, OR ANY PART THEREOF.

10) **Data Protection**.

a) Both parties will comply with all applicable requirements of the Data Protection Legislation and any other legislation or regulatory requirements in force applicable to a Party using data in relation to this Agreement. This clause is in addition to, and does not relieve, remove, or replace, a party's obligations under the Data Protection Legislation.

b) The Parties acknowledge that for the purposes of the Data Protection Legislation, Customer is the Data Controller and Proactis is the Data Processor, where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation. Attachment 2, "Data Processing Addendum" sets out the scope, nature and purpose of Processing by Proactis, the duration of the Processing and the types of Personal Data, as defined in the Data Protection Legislation, and categories of Data Subjects.

c) Without prejudice to the generality of Section 10(a), the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Proactis for the duration and purposes of this Agreement.

d) Without prejudice to the generality of Section 10(a) Proactis shall, in relation to any Personal Data Processed in connection with the performance by Proactis of its obligations under this Agreement:

i) process that Personal Data only on the written instructions of the Customer unless Proactis is required by the laws of any member of the European Union or by the laws of the European Union applicable to Proactis to process Personal Data ("Applicable Laws");

ii) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

iv) only transfer Personal Data outside of the United Kingdom or European Economic Area to destinations listed in the Proactis Sub-Processor or Supplier List as it appears on the Proactis website where the following conditions are fulfilled:
(1) the Customer or Proactis has provided appropriate safeguards in relation to the transfer;
(2) the Data Subject has enforceable rights and effective legal remedies;

(3) Proactis complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
(4) Proactis complies with reasonable instructions notified to it in advance by the Customer with respect to the Processing of the Personal Data;

v) assist the Customer in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

vi) notify the Customer without undue delay on becoming aware of a Personal Data breach involving Customer's Personal Data; and

vii) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by Applicable Law to store the Personal Data.

e) The Customer consents to Proactis appointing the third-party processors of Personal Data currently listed in the Proactis Sub-Processor and Supplier List as it appears on the Proactis website under this Agreement. If Proactis considers it necessary to change the third-party processor used for Customer Data, Proactis shall notify Customer prior to the change of sub-processor such that the Customer has an opportunity to reasonably object. As between the Customer and Proactis, Proactis shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.

11) **Insurance.**

Proactis shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts stated herein, with responsible insurance carriers duly qualified in those states (locations) where the SaaS Products are to be performed, covering the operations of Proactis, pursuant to this Agreement.

Types of Insurance	**Limits of Liability** (Minimum Amounts)
Global Professional Indemnity	£2,000,000 any one claim and in the aggregate costs inclusive
Global Cyber	£2,000,000 any one claim and in the aggregate costs inclusive
Employer's Liability	£2,000,000 any one event
Public and Products Liability	£2,000,000 any one occurrence unlimited in the period of insurance for Public Liability and in the aggregate for Products and Pollution Liability total £4,000,000

Upon Customer's request, Proactis shall provide Customer with certificates of insurance evidencing all of the above coverage, including all special requirements specifically noted above, and shall provide Customer with certificates of insurance evidencing renewal or substitution of such insurance within thirty (30) days after the effective date of such renewal or substitution.

12) **General.**

a) Notices. Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (i) delivered in person; (ii) sent by first class registered mail, or air mail, as appropriate; or (iii) sent by overnight air courier. Notice to Customer shall be sent to the address set forth on the cover of this Agreement. Notice to Proactis shall be delivered to: Proactis Limited, Riverview Court, Castle Gate, Wetherby, Leeds, LS22 6LE, United Kingdom, Attention: Legal Department. Either Party may change its address for notice by notice to the other Party given in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, three (3) business days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service. The Parties shall

immediately notify each other in writing of any changes with respect to name, postal address, email address, telephone number and, if requested, bank account number.

b) Representations. Each Party represents and warrants that: (i) It is duly organized, validly existing and in good standing under the laws of its domicile; (ii) It has the power and authority to execute, deliver and perform under this Agreement; (iii) This Agreement constitutes a valid and binding obligation enforceable in accordance with its terms; and (iv) That no-one employed by, contracted to or otherwise influenced by the Customer, whether or not authorized to have access to the SaaS Products, Software or Services shall take any action in violation of this Agreement.

c) Employee Solicitation. Customer shall not, directly or indirectly, for itself, or on behalf of any other person, firm, corporation or other entity, whether as principal, agent, employee, stockholder, partner, member, officer, director, sole proprietor, or otherwise, solicit, participate in or promote the solicitation of Proactis' employees or independent contractors to leave the employ or service of Proactis, during the period such employee or independent contractor is working with Customer and for one (1) year immediately following the period for which such employee or independent contractor last performed services for the Customer. Notwithstanding the forgoing, Customer shall not be in breach of this Section 12(c) if it hires a Proactis employee or independent contractor as a result of a general solicitation or other recruitment campaign not specifically targeted to any Proactis employees or independent contractor.

d) Assignment. Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by either Party, in whole or in part, whether voluntarily or by operation of law without the prior written consent of the other Party, which consent shall not unreasonably be withheld or delayed. Notwithstanding the foregoing, Proactis may assign this Agreement including, but not limited to, in connection with a sale of its assets, merger or consolidation or other transaction commonly known as a business combination or to any Affiliate. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors and assigns. Notwithstanding anything to the contrary, Proactis shall have the right to subcontract any of its obligations hereunder to third parties, provided that Proactis shall remain primarily responsible for the performance of any such obligations.

e) Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of England and Wales and the Parties submit exclusively to the jurisdiction of the English Courts. In any action or proceeding to enforce rights under this Agreement, the prevailing Party will be entitled to recover costs and reasonable attorney's fees from the other Party. The validity of the UN Convention on Contracts for the International Sale of Goods is excluded.

f) Independent Contractors. The relationship of Proactis and Customer established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed or implied to give either Party the power to direct or control the day-to-day activities of the other or constitute the Parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking.

g) Publicity. The Parties agree that any press release, public announcement, confirmation or other information regarding this Agreement or the transactions contemplated hereby shall be made only after each Party has approved in writing the time, form and content of any such information to be disseminated to third parties or the public. Customer hereby grants Proactis the right to refer to the name of Customer and Customer's products or services, in its client listings, on its web site, in a client profile, and in future press releases. Provided that Proactis is performing in a satisfactory manner, Customer will act as a reference for the SaaS Products, including providing access and availability of Customer management for these purposes at times that are convenient for Customer.

h) Third Party Rights. The Parties do not intend that any third party gains any rights in connection with this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 unless expressly agreed in writing and incorporated into this Agreement.

i) Compliance with Laws. Proactis Policies and Procedures. Customer agrees to comply with all applicable laws, executive orders and regulations issued, where applicable. Customer shall comply with Proactis policies and procedures where the same are posted, conveyed, or otherwise made available to Customer. Without limiting Customer's other obligations of indemnification herein, Customer shall defend, indemnify, and hold Proactis Indemnitees harmless from and against any and all Claims, including reasonable expenses suffered by, accrued against, or charged to or recoverable from Proactis, on account of the failure of Customer to perform its obligations imposed herein.

j) Discrimination. Proactis will not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of his or her age, race, color, disability, family status, marital status, political affiliation, religion, sex/gender (including gender identity and expression), sexual orientation, union membership, veteran status, national origin or ancestry or any other characteristic required by law.

k) Customer's Primary Support Contact. The Customer's Primary Support Contact shall be the individual Proactis communicates with regarding all maintenance and support services and shall be identified on the applicable Order Form. The Customer's Primary Support Contact must receive training from Proactis on the use of the Proactis SaaS Solution, the Proactis reporting desk, and any other necessary matters in relation to this Agreement. The Customer's Primary Support Contact may be substituted or replaced from time to time upon notice to Proactis. However, at all times, the Primary Contact must have adequate expertise in the Proactis SaaS solutions and be trained by Proactis to fully operate the SaaS solution, understand the full functionality of SaaS solution, and be able to work effectively and efficiently with the Proactis support desk. If Proactis does not reasonably consider the Customer's Primary Support Contact to be suitable, Proactis may request the Customer appoint a different, acceptable contact who shall then be deemed to be the Customer's Principal Support Contact. Proactis is not obliged to provide any training free of charge to the Customer's Principal Support Contact, or any other representative of Customer, other than as specifically delineated in this Agreement.

l) Miscellaneous. The Parties agree that this Agreement states the entire agreement between them with respect to its subject matter and supersedes all prior agreements, representations, conditions or warranties whether verbal or in writing. No terms or representations sought by the Customer to apply to this Agreement shall apply or be incorporated unless reduced to writing, signed by both parties and expressly incorporated into this Agreement. In the event that any provision of this Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction: (i) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law; and (ii) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect. The failure of either Party to enforce at any time any of the provisions of this Agreement shall not be deemed to be a waiver of the right of either Party thereafter to enforce any such provisions. No waiver, amendment, modification, or variation to this Agreement shall be valid unless in writing and signed by a duly authorized representative of each Party. Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by Force Majeure. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same Agreement. Section and Attachment headings are for ease of reference only and do not form part of this Agreement. This is an integrated Agreement and all exhibits, schedules and attachments hereto and incorporated herein constitute the entire, final, complete and exclusive agreement between the Parties and supersede all previous agreements, intentions, or representations, oral or written, relating to this Agreement. Any and all terms and conditions contained in, incorporated into, or reference by any purchase order or other document relating to the Services that add to or conflict with the terms in this Agreement shall be deemed invalid. Any use of the word "including" will be interpreted to mean "including, but not limited to," unless otherwise indicated. Both Parties acknowledge having read the terms and conditions set forth in this Agreement and all attachments hereto, understand all terms and conditions, and agree to be bound thereby. No employee, agent, representative, or affiliate of Proactis has authority to bind Proactis to any oral representations or warranty

concerning the Software or the SaaS Products or Services. Any written representation or warranty not expressly contained in this Agreement (including any Attachments) will not be enforceable.

By signing below, the undersigned certify that they have read and understand, and agree to be legally bound by, this Master Services Agreement.

ACCEPTED AND AGREED: Proactis Limited		**ACCEPTED AND AGREED: [CUSTOMER NAME]**	
Name:		Name:	
Title:		Title:	
Date:		Date:	
Signature:		**Signature:**	

ANNEX 1

Payments

Item	Description	Price (£)
Licensed Product and License Fees		
License Type	Subscription License with Initial Term of 1 year	
Licensed Software and Modules Description	P1-Procontract	
Capacity:	No. of users	
License Fee	Annually in Advance starting on the Effective Date	**£**
Hosted System	Yes	
Hosting Fee:	Annually in Advance starting on the Effective Date	Included in License Fee

ANNEX 2

SERVICE LEVEL AGREEMENT

Availability is the period that the application(s) can actually be accessed by the Customer. The Availability of the application(s) is defined as 99.5% of 7 days a week, 24 hours a day, 365 days per year, with the exception of any Scheduled **Maintenance or downtime due to Force Majeure[1].**
Scheduled Maintenance is the time period in which regular or scheduled maintenance can take place on the system and/or the application(s). Scheduled Maintenance shall be conducted between 6:00pm and 8:00am (Europe – GMT +1; United Kingdom – GMT; United States – EST) during weekdays and the full days on weekends. Except in the case of critical hotfixes, Proactis will inform the Customer of any Scheduled Maintenance on the system or the application(s) at least forty-eight (48) hours in advance.

If Availability falls below the applicable Service Level in any calendar month, Customer shall be entitled, upon written request, to the applicable Service Credit set out below. Service Credits shall be Customer's sole and exclusive remedy for any failure to meet the Availability Service Level.

Availability is calculated as follows:

$$\{(T - DT) / T\} * 100\%$$

Where:

T: total Availability for the month, and
DT: total downtime during the month

In which:

- only the components of SaaS Products managed by Proactis are included in the calculation;
- non-Availability for planned downtime during the Scheduled Maintenance is not included in the calculation;
- non-Availability due to Force Majeure is not included in the calculation;
- non-Availability due to any failure in the elements of the Internet is not included in the calculation;
- non-Availability of non-production environments, including but not limited to, development, stage or test environments are not included in the calculation; and
- non-Availability due to modifications that the Customer has implemented itself via a user's access to the application(s); or Customer's failure to take avoidance actions or affirmative actions as specified by Proactis; or Customer data issues where data is erroneous, corrupted, invalid or not in an agreed upon format are not included in the calculation.

[1] Force Majeure shall mean events or conditions beyond a Party's reasonable control and shall include, but is not limited to, embargoes, government measures, power failures, disruption of the internet outside the domain control of Proactis, major calamities in the hosting environment, war, revolution and/or any similar situation, defective goods, equipment or materials the usage of which the Customer has prescribed to Proactis, explosion, water damage, lightning and storm damage, flooding and/or earthquakes/tremors. Both Availability and Support Services and Response Time do not apply under circumstances of Force Majeure.

If Availability deviates for two successive months from the agreed standard due to an attributable shortcoming of Proactis, Proactis will draw up an improvement plan. If, for the subsequent two month period the agreed standard is not met, Proactis will apply a discount structure to the SaaS fee in conformity with the following table. The relevant discount will be calculated on the monthly amount for the month(s) in which the breach has been observed:

Service levels	Measured Availability	Discount
Availability of the Application(s)	99.5% - 100%	0%
Availability of the Application(s)	97% - 99.49%	10%
Availability of the Application(s)	95% - 96.99%	15%
Availability of the Application(s)	< 95%	20%

Support Services
During the term of the Agreement, the Proactis service desk will be available to the Customer for the reporting and management of issues relating to the maintenance and support of the application(s).

Standard Support Times
The Proactis service desk will provide technical assistance for the application(s) electronically and via telephone during its normal working hours identified in the standard support time chart below.
Standard support is not available on Proactis holidays.

Standard Support Time Chart			
Region	**Local Hours**	**Time Zone**	**Language Support**
Europe	Monday through Friday 9:00am – 5:30pm	GMT +1H (Brussels)	English, French, German
United Kingdom	Monday through Friday 9:00am- 5:30pm	GMT	English
United States	Monday through Friday 8:00am -8:00pm	EST	English

Recording an Issue
During the term of the Agreement, Proactis shall investigate any issues reported by the Customer of any defect in the application(s) which involves a material failure of the application(s) or degradation of any material functionality specified the application(s) documentation.

An issue begins at the time of notification to the Proactis service desk and ends at the time when the issue has been signed off or a suitable workaround has been provided. Notification to Proactis service desk begins upon Proactis' receipt of a Customer phone call; Proactis' receipt of a Customer email; or Proactis' receipt of a ticket in the official Proactis ticketing system. Details of any issue will be stored in an automated system. Proactis will provide support services only for the then-current or immediately prior release of the application(s).

Priority of Issues
Issues can be categorized as follows in terms of priority:

Priority	Issue type
1 Critical	• Failure: application is not operational nor accessible and this affects 100% of the application(s) users. • No workaround exists.
2 High	• Not all application modules are available. • Application Interfaces (with customer systems) are not operational. • Significant performance loss of critical functionality. • Loss of application availability or critical functionality affects more than 25% and less than 100% of application(s) users which causes a major impact to the business operations of the Customers.
3 Medium	• Function loss within an application module where a workaround exists. • Application Interfaces (with customer systems) are functioning, but issues exist. • Performance loss on other components of the application which do not have a material effect on the availability of the application or system.
4 Low	• Function of an application module does not appear to be working as expected. • A workaround exists. • Other issues such as: requests for technical or functional assistance with routine operation of application(s); requests for information on application updates; upgrade requests; requests for support or guidance where information can be found in standard documentation; requests for non-standard support such as training, development of additional documentation, etc.

Response Time
As soon as reasonably possible after the notification of an issue, the resolution process shall begin. Target response and follow up times for each priority level are listed in the chart below. These are not resolution times but expected windows for Proactis to provide updates to Customers. Once an issue has been assigned to the development team, the target response and follow up times will no longer apply. The defect will become part of the development cycle and scheduled into a maintenance or full feature release based on priority, development hours required, and overall impact on Customers' business processes. The priority level of an issue will be determined by Proactis. Proactis will handle the issues as shown in the table below:

Priority	Initial Target Response Time*	Ongoing Follow Up Target Response Times*	Target Resolution Time*
1 Critical	1 hour	Commencing from the Initial Response Time, Proactis will provide progress updates every 2 hours.	A workaround or solution will be provided as soon as reasonably possible, with a target resolution time within 8 hours.
2 High	2 hours within standard support times	Commencing from the Initial Response Time, Proactis will provide progress updates at least once a day within standard support times.	A workaround or solution will be provided as soon as reasonably possible, with a target resolution time within 5 Working Days.

3 Medium	4 hours within standard support times	Not Applicable	In accordance with release planning
4 Low	8 hours within standard support times	Not Applicable	In accordance with release planning

* Proactis shall use commercially reasonable efforts to provide an initial response, including a proposed action plan, within the response times listed above. Proactis shall also use commercially reasonable efforts to provide ongoing follow ups within the ongoing follow up response times listed above and to provide a proposed action plan for resolution within the target resolution times listed above. Proactis does not guarantee a "fix" within the response times or resolution times set forth herein. Additionally, Proactis does not issue discounts or service credits related Support Services and Response Times.

Because Proactis monitors the SaaS service, it is possible that an issue is detected by Proactis before it is reported by the Customer. In such cases, therefore, immediate action will be taken by Proactis.
Where, in the reasonable opinion of Proactis, an issue resolution is not possible because the issue is outside the Proactis service desk responsibility in compliance with the terms of the Agreement between the parties, the issue shall be re-categorized. Proactis shall, however, use reasonable endeavors to further investigate the cause(s) of the issue and promptly report its findings to the Customer where practicable. Should the task of investigation be, in Proactis' sole reasonable opinion, lengthy or complex with an outcome that the incident was outside of the Proactis Service Desk Responsibility, Proactis will consult with the Customer to determine if the Customer requests that Proactis further investigate the incident in return for a reasonable sum payable by the Customer for Proactis' expended time. If the parties agree to the additional work and the associated fees, the parties will create a mutually agreed upon writing signed by both parties.

Additional Terms
If the configuration and structure (functional management) of the application(s) is the responsibility of the Customer, the failing operation of the application(s) that is attributable to the Customer shall be treated in the same manner as other issues, however these issues fall outside this SLA document and any work performed by Proactis as a result hereof can be charged to the Customer based on actual costs.

This Service Level Agreement, including both Availability and Support Services and Response Time, applies only to the Proactis application(s) and does not include Customer's hardware, third party applications or software, or non-Proactis interfaces.

This Service Level Agreement, including both Availability and Support Services and Response Time, only applies where Customer has the paid all applicable Fees under their Agreement; has not breached any of its obligations to Proactis under the terms of the Agreement; is using the applications under normal operations in accordance with the application documentation and Proactis instructions; and where Customer has provided its users adequate training.

If Customer is unavailable for consultation or fails to provide all information reasonably requested by Proactis, Proactis will not be liable for adhering to these response or resolution times.
In the eventuality any of the situations listed above under the "Additional Terms" occurs, then Proactis may determine that a resolution to a reported issue may not be possible. Then Proactis may, in its sole discretion, re-categorize the issue as closed. Alternatively, if Proactis chooses, in its sole discretion, to remedy the issue, then Proactis will consult with the Customer to determine if Proactis should further investigate the incident in return for a reasonable sum payable by the Customer for Proactis' expended time. If the parties agree to the additional work and the associated fees, the parties will create a mutually agreed upon writing signed by both parties.

Security Incident Response
This is missing completely and should be added because you are modernising the MSA.

Security Incident Response
In the event of a Security Incident affecting Customer Data, Proactis shall:
- notify Customer without undue delay after becoming aware of the Security Incident;
- investigate and contain the Security Incident;

- take reasonable steps to mitigate adverse effects;
- keep Customer informed regarding remediation activities; and
- comply with its obligations under the Data Processing Addendum.

Exclusions
The current exclusions are scattered throughout the document.
I would consolidate them into a single section.

SLA Exclusions
The Availability and Support commitments in this SLA shall not apply to:
- Scheduled Maintenance;
- Emergency Maintenance;
- Force Majeure Events;
- failures of internet or telecommunications services not under Proactis' control;
- Customer systems, networks or hardware;
- third-party software not provided by Proactis;
- Customer-developed integrations;
- Customer configuration changes;
- Customer failure to follow Proactis documentation or instructions;
- corrupted, invalid or improperly formatted Customer Data;
- Customer failure to provide timely information or cooperation reasonably requested by Proactis; or
- Customer's breach of the Agreement.

ANNEX 3

DATA PROCESSING ADDENDUM

Proactis shall comply with any further written instructions with respect to Processing by the Customer. Any such further instructions shall be incorporated into this Attachment 2, "Data Processing Addendum".

Description	Details
Subject matter of the Processing	The **Licensee** uses Proactis' procurement solution modules. The modules specified in the Customer Contract will fall into one or more of the following categories: **Sourcing and contract management (Rego, S2C, ProContract, P9, Marketplace, eBuy, eContract, eSource, TBN,)** This module is used to carry out the functions of the tendering process, from the initial advertisement to the awarding of the contract. Catalogue imports of items which can be uploaded into the system to allow for users within the same organisation as the **Licensee** to purchase. Documents can be raised or received electronically in conjunction with purchase requests or order fulfilment. The software may also manage supplier relationships and contracts, through optional modules. **Invoice handling (Invoice Capture with or without Managed Service, Rego/P9 Invoice Modules)** This module is used to capture the data from which the original source is a paper or electronic invoice document. An image record will be stored alongside the extracted data, which will be located in the Purchase to Pay solution the **Licensee** uses. **Purchase-to-Pay (Rego, P2P, P9, Marketplace)** This module is used to carry out the functions of the purchasing process, from the initial recording of the requisition or purchase order, through to the payment of the received invoice. The invoice may be received electronically into the system, with an image record of that stored with the purchase order.
Duration of the Processing	The processing will last for the length of the contract between Proactis and the **Licensee**.
Nature and purposes of the processing	**Sourcing and contract management (Rego, S2C, ProContract, P9, Marketplace, eBuy, eContract, eSource, TBN)** The nature of the processing within this module includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction of data (whether or not by automated means) The purpose for the processing is to carry out the functions of tendering process, from the initial advertisement to the awarding of the contract. Contract Management processes and Supplier Management processes are other, optional, functions within this module which the **Licensee** can use.

	The Contract Management module allows for the storage of a contract and tasks associated with contracts, such as reminding of when a contract is due for renewal. The Supplier Management module, if used, will allow the **Licensee** to capture Supplier details in the product. Data access is restricted to those registered users of the software and Proactis staff, in respect to the development and support of such software, for the purposes of maintaining / correcting errors within the product that the **Licensee** reports. **Invoice handling (Invoice Capture with or without Managed Service, Rego/P9 Invoice Modules)** The nature of the processing within this module includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction of data (whether or not by automated means) The purpose for the processing is to carry out the functions of the invoice scanning process which will then allow a document or scanned image to be associated with the relevant data fields in the purchase to pay solution being used. Data access is restricted to those registered users of the software and Proactis staff, in respect to the development and support of such software, for the purposes of maintaining / correcting errors within the product that the **Licensee** reports. **Purchase-to-Pay (Rego, P2P, P9, Marketplace)** The nature of the processing within this module includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction of data (whether or not by automated means) The purpose for the processing is to carry out the functions of purchasing process, from the initial raising of the purchase order or requisition to recording acceptance of the purchase of the goods or services received. Data access is restricted to those registered users of the software and Proactis staff, in respect to the development and support of such software, for the purposes of maintaining / correcting errors within the product that the **Licensee** reports.
Type of Personal Data	**Sourcing and contract management (Rego, S2C, ProContract, P9, Marketplace, eBuy, eContract, eSource, TBN)** The data sets include: name, email address, telephone number, business address, and are used within the product for basic operations of the software. Tender documents can be uploaded to the software, which are compiled entirely by the Buying organisation (the **Licensee**) which can include other data which Proactis has no control over being included nor is necessarily needed for the functionality of the product. Contract documents can be uploaded to the software, which can contain an address (usually this is a business address), contact name, email address and telephone number. Supplier information can also be uploaded to the software, which can include a name, email address, telephone number, address (for Sole Trader organisations this can be classified as personal data).

	Invoice documents can be uploaded to the software, which can contain an address (usually this is a business address), contact name, email address and telephone number. A description of the goods / services the Invoice covers may contain personal data. Similarly, on the electronic invoice lines, there will be description fields available which can include other content and personal (or sensitive personal) data which Proactis has no control over being included nor is necessarily needed for the functionality of the product. **Invoice handling (Invoice Capture with or without Managed Service, Rego/P9 Invoice Modules)** The data sets include: name and email address within the product for basic operations of the software The scanned invoice documents can contain an address (usually this is a business address), contact name, email address and telephone number. A description of the goods / services the Invoice covers may contain personal data. **Purchase-to-Pay (Rego, P2P, P9, Marketplace)** The data sets include: name, email address, telephone number, business address, and are used within the product for basic operations of the software Invoice documents can be uploaded to the software, which can contain an address (usually this is a business address), contact name, email address and telephone number. A description of the goods / services the Invoice covers may contain personal data. Similarly, on the electronic invoice lines, there will be description fields available which can include other data which Proactis has no control over being included nor is necessarily needed for the functionality of the product.
Categories of Data Subject	**Licensee** Staff (including volunteers, agents, and temporary workers), **Licensee's** suppliers or potential suppliers; Proactis employees
Data Protection Officer	The Proactis Group has appointed Mark Anderson, Compliance and Quality Officer to act as its Data Protection Officer. He is contactable at compliance@proactis.com or at: Proactis Riverview Court 1 Castle Gate Wetherby LS22 6LE UK Please mark any posted documents 'for the attention of the Data Protection Officer'
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Data retention periods will be as per contract between Proactis and **Licensee**, unless required by other laws.