

# Hosted Service Terms (Version 1)

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These provisions shall apply to any Hosted Service Terms supplied to a Customer by Proactis from 1<sup>st</sup> February 2021 until superseded by a later version.

## 1. Definitions

The following terms shall have the following meanings, others will be set out in the Customer Contract or other incorporated terms:

**“Hosted Service”** means that service agreed between the Parties whereby Proactis provides the System which allows the connectivity, provides the hosting and ensures the functionality and availability of certain software services to the Customer.

**“Hosted Service Terms”** means these terms.

**“Proactis Holidays”** means English bank and public holidays.

**“Service Credits”** means financial credits that are applied when amounts are deducted from amounts to be paid by the Customer under the Customer Contract or rebated to the Customer as set out in Hosted Service Terms.

**“Service Levels”** means the levels of service defined in Hosted Service Terms.

**“Working Days”** mean Monday to Friday in the UK, excluding Proactis Holidays.

**“Working Hours”** mean 9:00 am to 5:30 pm during the Working Days.

## 2. Hosted Period

2.1 Subject to these terms the Hosted Service is agreed to be included with the purchase of a subscription license and the Hosted Period shall be the length of the term of such subscription license unless expressly agreed otherwise in writing between the parties. If a perpetual license is being hosted, the Hosted Period will be that which has been agreed in writing between the relevant Reseller and the Customer.

2.2 If Customer breaches any of its obligations to Proactis under the Customer Contract Proactis may suspend the performance of the Hosted Service during the continuation of such breach.

## 3. Hosted Service

3.1 Proactis shall provide the Hosted Service subject to the following conditions:

- a) the Customer’s payment by any due date to either Proactis or the relevant Reseller (as appropriate); and
- b) the Customer providing all information reasonably requested by Proactis and/or the relevant Reseller (as appropriate) from time to time.

3.2 Any Updates and/or Enhancements that are supplied by Proactis as part of the Hosted Service shall be deemed to be part of the Licensed Product.

## 4. Hosted Service Fees, Data Fees; Payment

4.1 Customer will pay Data Fees as described in the Customer Contract which shall be subject to review. Additional Data Fees will be payable should the Customer exceed the initial data levels stated, or any subsequently agreed data levels. Such Additional Data Fees will become payable from the point at which the initial or subsequently agreed data levels are exceeded.

## 5. Hosted Service Availability

- 5.1 Availability of the Service, excluding scheduled downtime shall be 99.95% during Working Hours; and 99.9% outside Working Hours on Working Days.
- 5.2 Downtime attributable to any of the following causes shall be disregarded in calculating availability:
- a) failure by the Customer to take any specified avoidance action previously agreed between the Customer and Proactis; and/or
  - b) failure of the Customer's infrastructure; and/or
  - c) failure of any systems provided for demonstration or testing purposes; and/or
  - d) Customer data issues e.g. provision of data materials or content that is erroneous, corrupted, invalid or not in agreed format; and/or (e) failure by the Customer's users to use the Hosted Service in accordance with Proactis guidelines and / or instructions; and/or
  - e) failure of the internet or Customer's connection to the internet; and/or
  - f) scheduled downtime.
- 5.3 The Hosted Service availability percentage shall be calculated as the following fraction expressed as a percentage:
- $$\frac{((\text{Total Users} \times \text{Hosted Service Working Hours in the Quarter}) - (\text{Unscheduled Downtime hours} \times \text{affected Users}))}{\text{Total Users} \times \text{Hosted Service Working Hours in the Quarter}} \times 100$$
- 5.4 All scheduled downtime will be notified to the Customer in writing at least 48 hours in advance for live systems.
- 5.5 Any emergency outages will be notified by Proactis or any relevant third party where practicable to do so and the Customer will be notified as to the cause of the outage when known in the form of a written incident report.

## 6. Service Levels and Credits

- 6.1 If Proactis fails to achieve the agreed Service Levels in any relevant three-month period, then service credits will be allocated in accordance with the table below.
- 6.2 Calculations for the accrual of service credits shall commence from the point at which Proactis has failed to meet the appropriate Service Level and shall apply only during Working Hours.
- 6.3 Availability of the Hosted Service shall be subject to Service Credits in the event that Proactis fails to achieve the availability Service Level in any relevant quarter.
- 6.4 Where, in the relevant quarter, the availability percentage calculated pursuant to paragraph 5.3 is less than ninety-nine-point nine five percent (99.95%), a Service Credit shall be calculated so that for each tenth of one percent (0.1%) or part thereof below ninety-nine point nine five per cent (99.95%), fifty (50) Service Credits shall be credited.
- 6.5 All Service Credits shall be calculated over a quarter. Additional Service Credits shall be applied if the condition persists.
- 6.6 The value of a Service Credit shall be calculated as a percentage of the total service charge for the quarter to which the Service Credit is allocated, increasing at an exponential rate at two (2) break points as set out in Table 2. For the avoidance of doubt, where the number of Service Credits accrued in any quarter is greater than five hundred (500) the value of each Service Credit for that quarter shall be 0.01%.

6.7 The maximum total value of Service Credits accrued during a quarter shall not exceed ten per cent (10%) of the service charge for that quarter.

<b>TABLE 2</b>		
<b>Column 1</b> <b>Service Credits</b>	<b>Column 2</b> <b>Value per Service Credit</b> <b>(% of Service Charge)</b>	<b>Column 3</b> <b>Total % of the Infrastructure</b> <b>Service Charge at the</b> <b>maximum number of Service</b> <b>Credits in Column 1</b>
1 – 500	0.0075%	3.75%
501 – 1000	0.01%	10%

Proactis shall determine the measurement of Service Levels and Hosted System availability, and the calculation of Service Credits.

Proactis' measurement of Service Levels and Hosted System availability and calculation of Service Credits shall be notified to the Customer from time to time.

## **7. Back-up Procedures for the Hosted Service**

7.1 Daily backup will be taken of the Customer's data to an off-site location and will be retained for 7 calendar days.

7.2 Hourly log files will be backed up every hour both during and outside of standard working hours and will be retained between full backups of the data as advised in paragraph.

## **8. Data Security for the Hosted Service**

8.1 Proactis acknowledges that if the Customer owns any data held through the Hosted Service it will not disclose, delete or alter the data except where expressly agreed between the Customer and Proactis or as required by law (in which case Proactis will notify the Customer of the requirement as soon as practical).

8.2 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.

8.3 Access to the Customer's data by Proactis employees or those of the hosting provider will only be granted where necessary for the support, service, maintenance and availability of the Hosted Service.

8.4 Remote access to the Hosted Service will be only be undertaken by authorised Proactis employees.

8.5 On-site access to Hosted Service will only be undertaken by authorised Proactis employees and/or employees of any authorised third party processor.