



Date

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Parties

1. e4enable Ltd, a company incorporated in England and Wales (registration number 11593521) having its registered office at Wainwright Road, Altrincham, WA14 4BW (the "Provider"); and
2. [INSERT COMPANY NAME HERE] having its registered office at [INSERT REGISTERED ADDRESS HERE] (the "Customer").

Agreement

1. Definitions

1.1 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 a party;

"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 England;

"Charges" means the following amounts:

- (a) the amounts specified in Part 2 of Schedule 1 (Hosted Services particulars); and
- (b) such amounts as may be agreed in writing by the parties from time to time;

"Customer Confidential Information" means:

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

"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 (but excluding analytics data relating to the use of the Platform and server log files);

"Customer Personal Data" means any Personal Data that is processed by the Provider on behalf of the Customer in relation to this Agreement, but excluding personal data with respect to which the Provider is a data controller;

"**Data Protection Laws**" means all applicable laws relating to the processing of Personal Data including, while it is in force and applicable to Customer Personal Data, the General Data Protection Regulation (Regulation (EU) 2016/679);

"**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 the e4enable platform which will be made available by the Provider to the Customer as a service via the internet in accordance with this Agreement;

"**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;

"**Personal Data**" has the meaning given to it in the Data Protection Laws;

"**Platform**" means the platform managed by the Provider and used by the Provider to provide the Hosted Services;

"**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;

"**Supported Web Browser**" means the current release from time to time of Google Chrome, 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 3.1 and ending in accordance with Clause 3.2;

"**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. Credit

2.1 This document was created using a template from Docular (<https://docular.net>).

3. Term

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

3.2 This Agreement shall continue in force for an initial period of 12 months commencing on the Effective Date, subject to earlier termination in accordance with Clause 11 or any other provision of this Agreement (the “Initial Term”). Thereafter the Customer may extend the duration of the Agreement by giving the Provider 30 days’ notice of its intention to do so prior to the expiry of the Initial Term.

4. Hosted Services

4.1 The Provider shall create an Account for the Customer and shall provide to the Customer login details for that Account on or promptly following the Effective Date.

4.2 The Provider hereby grants to the Customer a worldwide, non-exclusive licence 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 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. For the avoidance of doubt the Customer’s Affiliates shall be permitted to use the Hosted Services as though such Affiliate(s) were a party to this Agreement, subject always to any license or usage caps in force from time to time;
- (d) the Customer must not republish or redistribute any content or material from the Hosted Services; and
- (e) the Customer must not conduct or request that any other person conduct any load testing or penetration testing on the Platform or Hosted Services without the prior written consent of the Provider.

4.4 The Provider shall use reasonable endeavours to maintain the availability of the Hosted Services to the Customer at the gateway between the public internet and the network of the hosting services provider for the Hosted Services, but does not guarantee 100% availability.

4.5 For the avoidance of doubt, downtime caused directly or indirectly by any of the following shall not be considered a breach of this Agreement:

- (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 material breach by the Customer of this Agreement; or
- (e) scheduled maintenance carried out in accordance with this Agreement.

4.6 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.

4.7 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.

4.8 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.

4.9 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 where practicable give to the Customer at least 3 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 main body of this Agreement.

5.3 The Provider shall give to the Customer at least 3 Business Days' prior written notice of the application of an Upgrade to the Platform.

5.4 The Provider shall give to the Customer written notice of the application of any security Update to the Platform and at least 3 Business Days' prior written notice of the application of any non-security Update to the Platform.

5.5 The Provider shall provide the Maintenance Services with reasonable skill and care.

5.6 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. No assignment of Intellectual Property Rights

6.1 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.

7. Charges

7.1 The Customer shall pay the Charges to the Provider in accordance with this Agreement.

7.2 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.

7.3 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 expiring on any anniversary of the date of execution of this Agreement provided that no such variation shall exceed the percentage

increase in the Retail Prices Index (all items) published by the UK Office for National Statistics for the 12 months immediately preceding the increase.

8. Payments

8.1 The Provider shall issue invoices for the Charges to the Customer on or after the invoicing dates set out in Part 2 of Schedule 1 (Hosted Services particulars).

8.2 The Customer must pay the Charges to the Provider within the period of 15 days following the receipt of an invoice issued in accordance with this Clause 8, providing that the Charges must in all cases be paid before the commencement of the period to which they relate.

8.3 The Customer must pay the Charges by bank transfer (using such payment details as are notified by the Provider to the Customer from time to time).

8.4 If the Customer does not pay any amount properly due to the Provider under this Agreement the Provider may, but shall not be obliged, to charge the Customer interest on the overdue amount at the rate of 2% above the Bank of England base rate from time to time (which interest shall accrue daily until the date of actual payment and be compounded at the end of each calendar month).

9. Data protection

9.1 Each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.

9.2 The Customer shall only supply to the Provider, and the Provider shall only process, in each case under or in relation to this Agreement:

(a) the Personal Data of data subjects falling within the categories specified in Part 1 of Schedule 2 (Data processing information) (or such other categories as may be agreed by the parties in writing); and

(b) Personal Data of the types specified in Part 2 of Schedule 2 (Data processing information) (or such other types as may be agreed by the parties in writing).

9.3 The Provider shall only process the Customer Personal Data for the purposes specified in Part 3 of Schedule 2 (Data processing information).

9.4 The Provider shall only process the Customer Personal Data during the Term and for not more than 30 days following the end of the Term, subject to the other provisions of this Clause 9.

9.5 The Provider shall only process the Customer Personal Data on the documented instructions of the Customer (including with regard to transfers of the Customer Personal Data to any place outside the European Economic Area), as set out in this Agreement or any other document agreed by the parties in writing.

9.6 The Provider shall promptly inform the Customer if, in the opinion of the Provider, an instruction of the Customer relating to the processing of the Customer Personal Data infringes the Data Protection Laws.

9.7 Notwithstanding any other provision of this Agreement, the Provider may process the Customer Personal Data if and to the extent that the Provider is required to do so by applicable law. In such a case, the Provider shall inform the Customer of the legal

requirement before processing, unless that law prohibits such information on important grounds of public interest.

9.8 The Provider shall ensure that persons authorised to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

9.9 The Provider and the Customer shall each implement appropriate technical and organisational measures to ensure an appropriate level of security for the Customer Personal Data.

9.10 The Provider must not engage any third party to process the Customer Personal Data without the prior specific or general written authorisation of the Customer. In the case of a general written authorisation, the Provider shall inform the Customer at least 14 days in advance of any intended changes concerning the addition or replacement of any third party processor, and if the Customer objects to any such changes before their implementation, then the Customer may terminate this Agreement on 30 days' written notice to the Provider, providing that such notice must be given within the period of 30 days following the date that the Provider informed the Customer of the intended changes. The Provider shall ensure that each third party processor is subject to equivalent legal obligations as those imposed on the Provider by this Clause 9.

9.11 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Customer with the fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.

9.12 The Provider shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 9.11.

9.13 The Provider must notify the Customer of any Personal Data breach affecting the Customer Personal Data without undue delay and, in any case, not later than 24 hours after the Provider becomes aware of the breach.

9.14 The Provider shall make available to the Customer all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 9. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 9.12, providing that no such charges shall be levied with respect to the completion by the Provider (at the reasonable request of the Customer, not more than once per calendar year) of the standard information security questionnaire of the Customer.

9.15 The Provider shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services relating to the processing, and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Data.

9.16 The Provider shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer. The Provider

may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 9.14, providing that no such charges shall be levied where the request to perform the work arises out of any breach by the Provider of this Agreement or any security breach affecting the systems of the Provider.

9.17 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under this Agreement, then the parties shall use their best endeavours promptly to agree such variations to this Agreement as may be necessary to remedy such non-compliance.

10. Limitations and exclusions of liability

10.1 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.

10.2 The limitations and exclusions of liability set out in this Clause 10 and elsewhere in this Agreement:

- (a) are subject to Clause 10.1; 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.

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

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

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

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

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

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

10.10 The aggregate liability of each party to the other party under this Agreement shall not exceed two times the total amount payable by the Customer to the Provider under this Agreement.

11. Termination

11.1 Either party may terminate this Agreement by giving to the other party at least 30 days' written notice of termination.

11.2 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if the other party commits a material breach of this Agreement.

11.3 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; or
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up.

12. Effects of termination

12.1 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, 4.8, 8.2, 9, 10, 12 and 13.

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

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 no less onerous than those contained in this Agreement;
- (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 provision of Services pursuant to this Agreement.

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 this Agreement 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. Force Majeure Event

14.1 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.

14.2 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.

14.3 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.

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 the Hosted Services, when used by the Customer in accordance with this Agreement, will not breach any laws, statutes or regulations applicable under English law.

15.3 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.

15.4 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.

16. Notices

16.1 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 on the front page of this Agreement):

(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.

17. General

17.1 This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

17.2 Except to a successor in a merger or acquisition, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

17.3 This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

17.4 This Agreement shall be governed by and construed in accordance with English law.

17.5 The courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

Execution



The parties have indicated their acceptance of this Agreement by executing it below.

SIGNED BY (Name): _____ SIGNED BY (Name): _____

Date _____ Date _____

e4enable Signature _____ Customer Signature: _____

Schedule 1 (Hosted Services particulars)

1. **Specification of Hosted Services**

Access to the e4enable portal and the provision of Maintenance Services in connection with the Hosted Services.

2. **Financial provisions**

Charges annually, in advance, in accordance with the standard price list.

Schedule 2 (Data processing information)

1. Categories of data subject

The employees, workers and individual subcontractors of the Customer

2. Types of Personal Data

Name, job title, postal addresses and location details, manager/company hierarchy details, email addresses and telephone numbers

3. Purposes of processing

To support the development of the employees, workers and individual subcontractors of the Customer