

Software as a Service Terms and Conditions

NOTICE TO ALL USERS,

Please read through the terms of the Licence granted to you (“the Customer”) by McLaren Software Limited (“the Service Provider”) for the use of the service (“Service”) as more particularly described in your order. If you do not agree to all of the terms contained herein please do not attempt to use the Service.

1. DEFINITIONS

1.1 In this Agreement the following expressions have the meanings set opposite unless the context requires otherwise:

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| ‘Agreement’ | means these Terms and Conditions, the acceptance of which by the Customer creates an agreement between the Customer and the Service Provider; |
| ‘Business Partners’ | means those third parties who the Customer wants to access the Shared Workplace and use the Service for the Project and who have registered with and been accepted by the Service Provider; |
| ‘Charges’ | means the non-refundable fees which the Customer agrees to pay to the Service Provider for the use of the Service pursuant to Clause [6.1]; |
| ‘Documents’ | means any electronic documents relating to the Project; |
| ‘Intellectual Property Rights’ | means any patents, copyright, database rights, design rights, registered designs, trademarks or service marks or knowhow (whether registered or not and including any applications or rights to apply for registration) and all rights or forms of protection of a similar nature subsisting anywhere in the world; |
| ‘Project’ | means the project(s) carried out by the Customer and its Business Partners for which the Customer requires the Service; |
| ‘Service’ | means the service (together with any related support) and the set-up provided by the Service Provider and by which the Customer and its Business Partners can access the Shared Workplace, post, amend and annotate Documents and view the progress of the Project over the internet; |
| ‘Service Level Agreement’ | means the service levels the Service Provider will provide to the Customer for the Service and set up as set out in Annex 1 below; |
| ‘Shared Workplace’ | means that part of the Web Site dedicated to use by the Customer and its Business Partners on a Project and where the Documents and other information relating to the Project is stored; |

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| ‘Software’ | means any software owned by or licensed to the Service Provider by third party licensors for the provision of the Service; |
| ‘Term’ | means the term for which the Service Provider will provide the Services to the Customer on a Project; |
| ‘Web Site’ | means www.opidis.com/clientlogins and all web pages and content of that web site (including the Shared Workplace) from time to time; |
| ‘Working Day’ | shall mean 9.00am to 5.30pm Monday to Friday except English public holidays. |

2. USE OF THE SERVICE

- 2.1 The Service is owned and operated by the Service Provider and is provided to the Customer for use by the Customer and its Business Partners. The Customer agrees to take and pay for, and the Service Provider agrees to provide the Service for a particular project for the agreed Term.
- 2.2 Each Project’s Shared Workspace shall be entitled to such amount of storage space as agreed between the parties.

3. LICENCE

- 3.1 The Service Provider on behalf of itself and any third party licensor(s) of the Software retains all rights and title to the Software, the Web Site and the Service and, except as set out below, no Intellectual Property Rights or goodwill therein are transferred to the Customer or its Business Partners.
- 3.2 In relation to the Service and the Software:
 - 3.2.1 the Customer is granted a non-exclusive, non-transferable right to use the Service and the Software together with the right to permit its Business Partners to use the same;
 - 3.2.2 the Customer agrees not to (and agrees to procure that its Business Partners do not) copy or transfer the Service or Software or reverse assemble, decompile or otherwise attempt to derive source code from the Service or Software; and
 - 3.2.3 the Customer (on behalf of itself and its Business Partners) agrees to comply with all governmental or other regulations relating to the use of the Service or Software.
- 3.3 The Customer and its Business Partners may only download and print extracts from the Web Site for their own use.
- 3.4 The Customer and its Business Partners must not remove or alter copyright and other proprietary notices contained on the Web Site.
- 3.5 Other than proper use of the Service in accordance with an Agreement, the Customer and its Business Partners may not commercially exploit the Web Site (or any part of it) in any way.
- 3.6 The Customer and its Business Partners own the Content placed on the Shared Workplace. Except for the rights granted herein, an Agreement does not transfer any Intellectual Property Rights in the Documents posted on the Shared Workplace from the Customer or its Business Partners to the Service Provider.

- 3.7 In relation to the Documents posted on the Shared Workplace the Customer (on behalf of itself and its Business Partners) grant the Service Provider a non-exclusive, non-transferable right to have the Documents posted in the Shared Workplace and any other Intellectual Property Rights required but only for the purposes of the Service Provider fulfilling its obligations under an Agreement. The Service Provider shall have no right to use the Intellectual Property Rights of the Customer or its Business Partners for any purpose other than providing the Service.
- 3.8 The Customer accepts responsibility and liability for the acts and/or omissions of its temporary staff or sub-contractors or Business Partners in relation to any breaches of the Software licence or its/their obligations under these terms and conditions by such temporary staff or sub-contractors or Business Partners and will indemnify and hold harmless the Service Provider against all liability, loss, damages, reasonable costs and expenses incurred or suffered by the Service Provider as a result of any such breach.

4. CONTENT

- 4.1 The Service Provider does not verify or assume any responsibility for the completeness or accuracy of the content provided by the Customer or its Business Partners or any other third parties accessing the Shared Workplace or elsewhere on the Web Site. This includes, without limitation, any Documents, requests for further information or responses to them (together the "Content").
- 4.2 The Customer and its Business Partners must ensure that they have, and maintain, adequate computer hardware and software to ensure transmission of the Documents and to access the other functions of the Service. The Service Provider shall not be responsible for any delay or failure to transmit, download or upload data from, to or via its computer systems if the Customer or its Business Partners fail to comply with this requirement.
- 4.3 The Service Provider may remove any of the Content within 7 days of giving written notice that it considers it to be defamatory, offensive or otherwise illegal if the Customer has not provided an adequate written explanation as to why it should remain in the Shared Workplace.

5. THE SERVICE PROVIDER'S OBLIGATIONS, RIGHTS AND WARRANTIES

- 5.1 The Service Provider warrants that it will:
 - 5.1.1 provide the Service with due care and skill and in accordance with good industry practice;
 - 5.1.2 provide the Service and Set in accordance with the Service Level Agreement, at Annex 1 below;
 - 5.1.3 use all reasonable endeavours to maintain the Service as an uninterrupted Service;
 - 5.1.4 use any data supplied to it solely for the purposes of providing the Service;
 - 5.1.5 not disclose personal data supplied to it for the Shared Workplace to any third party other than to Business Partners authorised to access the Shared Workplace or otherwise in accordance with any Agreement;
- 5.2 Apart from the express terms set out above, no conditions, warranties or other terms apply to the Service and the Service is provided on an "as is" basis. The Service Provider does not make, and hereby disclaims to the extent permitted under applicable law, any and all other express and/or implied warranties, included but not limited to warranties of merchantability, fitness for a particular purpose and any warranties arising from a course of dealing, usage or trade practice. The Service Provider does not warrant that the Service will be uninterrupted, error-free or completely secure. The Customer acknowledges that the Service may be down for normal maintenance.
- 5.3 The Service Provider does not and cannot control the flow of data to or from its network and other portions of the internet. Such flow depends in large part on the performance of internet

services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt the Customer's connections to the internet (or portions thereof). Although the Service Provider will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, it cannot guarantee that such events will not occur. Accordingly, provided the Service Provider is not at fault, the Service Provider disclaims any and all liability resulting from or related to such events.

- 5.4 The Customer accepts responsibility and liability for the acts and/or omissions of its temporary staff or sub-contractors in relation to any breaches of the Software licence or its/their obligations under these terms and conditions by such temporary staff or sub-contractors and will indemnify and hold harmless the Service Provider against all liability, loss, damages, reasonable costs and expenses incurred or suffered by the Service Provider as a result of any such breach.
- 5.5 Title, copyright and all other proprietary rights in the Software and the Documentation and all parts and copies thereof shall remain vested in the Service Provider and/or its Service Providers.

6. CUSTOMER'S OBLIGATIONS

- 6.1 The Customer will keep the Service Provider informed of any matters which relate to the Customer or its Business Partners that may have an effect on the Service Provider's ability to provide the Service.
- 6.2 The Customer shall not utilise the Service other than for use on a particular Project and shall not resell the Service to any third parties or allow any third parties to use the Service other than its Business Partners for the Project.

7. USE BY BUSINESS PARTNERS

- 7.1 The Customer agrees to ensure that its Business Partners are made aware of the Customer's obligations under this Agreement. In case a Business Partner is not utilising the Service in the interest of a Project, the Customer authorises the Service Provider to take any necessary and appropriate action in relation to such Business Partner.

8. CHARGES

- 8.1 The period for payment from receipt of a correctly presented invoice is thirty (30) calendar days.
- 8.2 Any expenses incurred in the provision of the Services will be paid by the Customer to the Service Provider.
- 8.3 All Charges payable are exclusive of Value Added Tax or any other relevant taxes which will be added at the prevailing rate from time to time.
- 8.4 If the payment of any sum under the Agreement shall be delayed by the Customer other than in legitimate dispute, the Service Provider shall be entitled to charge interest at 3% per annum over the Bank of England current base rate on the amount of the delayed payment for the period of the delay.
- 8.5 Where relevant, the Service Provider shall supply to the Customer such forms as are required by the tax authorities in the country in which the Customer is based to permit the Customer to make payments gross, failing which the Customer shall be entitled, if so required by law, to deduct any applicable withholding tax. The Customer shall supply withholding tax certificates to the Service Provider to support any such deductions within seven (7) calendar days of making such deductions.
- 8.6 In any case where Charges are calculated or incurred by reference to a currency other than pounds sterling, fees and expenses will be converted into pounds sterling on the billing date at the then applicable average National Bank exchange rate.

9. PERFORMANCE

- 9.1 The Service Provider warrants that it has full title to and/or the authority to conclude the contract. As such, it claims to be the owner of all intellectual property rights in the Software.
- 9.2 Save for the warranty set out above any and all other terms, conditions, representations, warranties and undertakings, whether express or implied are hereby excluded to the furthest extent permitted by applicable law.

10. TERMINATION

- 10.1 An Agreement may be terminated forthwith by either party on written notice if the other party is in material breach of the terms of the Agreement and, in the event of a breach capable of being remedied, fails to remedy the breach within thirty (30) calendar days of receipt of notice thereof in writing.
- 10.2 Either party may terminate this Agreement immediately by notice to the other:
- 10.2.1 If any distress or execution is levied on any of the other's property or assets or the other party goes into liquidation;
- 10.2.2 If the other makes or offers to make any arrangement or composition with creditors; or
- 10.2.3 If any resolution or petition to wind up the other's business (other than for the purpose of solvent amalgamation or reconstruction) shall be passed or presented or if a receiver or administrative receiver of the other's undertaking, property or assets shall be appointed or a petition presented for the appointment of an administrator.
- 10.3 The Service Provider may terminate an Agreement immediately if the Customer fails to pay any amount due to the Service Provider within ninety (90) calendar days of the date of the invoice
- 10.4 Termination of an Agreement shall not prejudice any rights of either party which have arisen on or before the date of termination.
- 10.5 If the Customer breaches any of its obligations under an Agreement (including any obligations as to payment), the Service Provider shall, upon two (2) weeks prior notice (without prejudice to any other right or remedy available to it) have the right to suspend performance of the Service until the breach has been fully and properly performed.
- 10.6 The Service Provider shall not be liable to the Customer or its Business Partners or any third party for any termination of access to the Service in accordance with clause 10.3
- 10.7 On termination of an Agreement the Service shall cease and terminate all existing Projects thereunder.

11. CONFIDENTIALITY

- 11.1 Each party agrees that it will not without the prior written agreement of the other party permit the duplication, use or disclosure of any Confidential Information to any third party unless at the time of disclosure such information is within the public domain.
- 11.2 For the purposes of this Agreement, "Confidential Information" shall mean (without limitation) any information whether oral, written or on electronic or optical media relating to this Agreement (although not its existence), the business and affairs of the parties and their respective clients, the Software and other materials delivered by the Service Provider to the Customer pursuant hereto and technical and commercial data, customer account details, marketing and business plans, client lists, prices and pricing information, commercial agreements between the parties and between either party and a third party, information on communications, hardware and programming interfaces, protocols and integration, data, drawings, diagrams, software programs, trade secrets, know-how, algorithms, software architectures, designs and documentation (including in particular screen designs), all proprietary information and other

intellectual property or rights thereto belonging to either party or held by either party under a duty of care to a third party to treat such information as confidential and any other information specifically identified by either party as confidential.

11.3 Notwithstanding the foregoing, the receiving party shall be entitled to make any disclosure required by law or other regulatory authority.

11.4 The obligations of both parties under this clause survive termination of this Agreement.

12. LIMITATION OF LIABILITY

12.1 Each party will indemnify the other against any claim for or in respect of death or personal injury of any person if and to the extent that it is caused by the negligence of such party or any employee of such party.

12.2 The Service Provider will be liable for damage to the Customer's premises proven to have been caused by its negligence up to a maximum of £1,000,000 (one million pounds).

12.3 Subject always to Clauses 13.1 and 13.2, in the event that the Service Provider fails to comply with its obligations of whatever nature arising under an Agreement, its liability for:

12.3.1 loss or damage or corruption of the Content in the Shared Workplace (whether in contract, tort (including negligence), restitution or otherwise); and/or

12.3.2 loss or damage in relation to loss or damage caused by the provision of the Support Services, (whether in contract, tort (including negligence), restitution or otherwise)

12.3.3 the maximum liability of the Service Provider to the Customer for each claim will be 5% of the total contract value.

12.4 The Service Provider shall not be liable to the Customer for any representation (unless fraudulent), implied warranty, condition or other term, any duty at common law, or any express terms of an Agreement, for any special, indirect or consequential loss including but not limited to loss of business, loss of contracts, loss of anticipated savings or revenue, or goodwill, or loss of or damage to or corruption of data or software.

12.5 The Service Provider accepts unlimited liability for the infringement of any third party's intellectual property rights caused by the Service.

12.6 Subject to any express term of this Agreement, where permitted by statute, the Service Provider excludes any statement whatsoever and howsoever arising out of this Agreement as to the quality, merchantability, suitability or fitness for purpose of any part of the Software.

12.7 Each party acknowledges that any breach of its obligations with respect to the proprietary rights of the other party or such party's licensors may cause such other party irreparable injury for which there may be inadequate remedies at law and that such other party and its licensors will be entitled to equitable relief, in addition to all other remedies available to it.

12.8 The Service Provider shall not be liable to the Customer (or any of its Business Partners) for any representation (unless fraudulent), implied warranty, condition or other term, or any special, indirect or consequential loss (including but not limited to

12.8.1 any costs associated with the recreation of lost or damaged Shared Workplace content

12.8.2 any liquidated damages or other compensation which may be payable by the Customer for Projects delays;

12.8.3 delays and failures in the Service resulting from causes beyond the Service Provider's reasonable control which might (but will not necessarily) include, loss of power, breakdown or failure or delay in telecommunications or otherwise in those internet connections falling

outside of the Service Provider's control, act of any competent authority, war, epidemic, civil unrest, fire, flood, weather conditions or industrial action) loss of business, loss of contracts, loss of anticipated savings or revenue, or goodwill

- 12.8.4 any actions taken out against the Customer by any of its Business Partners or other third parties in relation to the Project
- 12.8.5 cuts or any other problem that occurred on the network or equipment of internet provider partners
- 12.8.6 lack of sufficient availability of servers, lack of veracity of transmitted and received data, inadequate information needed by the Client
- 12.9 bad or incomplete transmission of data.
- 12.10 The Client is thus solely responsible for the consequences of any damage for which it is determined that it is:
 - 12.10.1 suffered because of the use by a third party any confidential and personal information related to the subscription will be made available to the Client (password, PIN)
 - 12.10.2 caused the Service Provider or any third party due to the wrongful use the Customer has made its Internet connection
 - 12.10.3 related to the operation and / or incorrect use of data and information that the Customer has introduced Internet.
 - 12.10.4 make a connection or use material non-compliant and / or pirated, providing access to unsubscribed services may constitute criminal offenses..
- 12.11 The parties acknowledge that the Service Provider has set its prices and entered into the Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply, subject to law, even if found to have failed of their essential purpose.

13. INTELLECTUAL PROPERTY AND OTHER PROPERTY

- 13.1 The Service Provider shall indemnify and hold harmless the Customer against the costs of any claims made or damages (including costs) that may be awarded or agreed to be paid to any third party in respect of any claim or action that the normal operation, possession or use of the Software by the Customer during the term of an Agreement infringes any intellectual property rights of any third party ("Intellectual Property Infringement Claim") provided that the Customer:
 - 13.1.1 gives notice to the Service Provider of any Intellectual Property Infringement Claim immediately it becomes aware of it;
 - 13.1.2 gives the Service Provider the sole conduct of the defence to any claim or action in respect of any Intellectual Property Infringement Claim and does not at any time admit liability or otherwise settle or compromise or attempt to settle or comprise any such claim without the express instructions of the Service Provider; and
 - 13.1.3 acts in accordance with the reasonable instructions of the Service Provider and gives to the Service Provider such assistance as it shall reasonably require in respect of the conduct of

the said defence including without prejudice to the generality of the foregoing the filing of all pleadings and other court process and the provision of all relevant documents.

14. SERVICE LEVELS

14.1 Service levels will be as set out in Annex 1.

15. DATA PROTECTION

15.1 Each party shall for the duration of this Agreement comply with the provisions of the Data Protection Act 1998 (including the Data Protection Principles set out in that Act) and any similar or analogous laws, regulatory requirements or codes of practice governing the use, storage or transmission of personal data and shall not do or permit anything to be done which might cause or otherwise result in breach of the same.

15.2 The Supplier acknowledges that for the purpose of the Data Protection Act 1998 it is the data processor and the Customer is the data controller of any personal data provided to it by the Customer or obtained by it as part of its obligations under this Agreement. In its capacity as data processor, the Supplier undertakes to keep such personal data secure to ensure that the Customer is not in breach of its obligations under the Seventh Principle of the Data Protection Act 1998.

15.3 Without limitation to clauses 15.1 and 15.2 the Supplier undertakes:

15.3.1 To ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from any unauthorised or unlawful processing or accidental loss, destruction of or damage to any such personal data; and

15.3.2 To ensure the Supplier's employees and subcontractors who have access to personal data comply with this clause 25.

15.4 The Supplier shall comply with any of the Customer's instructions in relation to the collection, processing and disposal of any personal data.

16. COMPLIANCE WITH LAWS

16.1 The Customer will comply with all applicable laws, statutes, ordinances and regulations regarding its use of the Service, including all applicable laws regarding the transmission of technical data exported from the country in which it resides or other relevant jurisdiction.

17. APPLICABLE LAW

17.1 Unless otherwise agreed in writing between the parties, these terms and conditions shall be subject to and construed and interpreted in accordance with the laws of England and Wales and shall be subject to the non-exclusive jurisdiction of the courts of England and Wales.

Annex 1 Service Level Agreement

This Service Level Agreement defines the service levels to be provided by the Service Provider.

1. SHARED WORKPLACE

1.1 All requests for assistance are to be dealt with in accordance with the service level response times set out below.

1.2 the Service Provider will provide the current help facility which describes the operation and functionality of the Shared Workplace (the “Online Help”).

1.3 The Online Help will be periodically updated to include any additional functionality, modifications, adaption or enhancements that have been made or added to the Shared Workplace. From the date of issue of an updated Online Help the Shared Workplace will perform in compliance with the updated version.

1.4 A help desk facility will be provided to Customers and their Business Partners between the hours of 8.00 a.m. to 6:00 p.m. GMT Monday to Friday (excluding UK public holidays). Support will be available in English and upon Customer request the Service Provider can organise bespoke local language support. Response times will as per the table below.

| Priority Level | Definition | Initial Response Goal | Resolution Goal (from initial response time) |
|------------------------|---|-----------------------|---|
| 1 – Critical | Production system is inoperative and business is being impacted. No work can be done. | 2 business hours | 4 business hours |
| 2 – Urgent / High | Production/development system is adversely affected or development system is inoperative. Productivity is being compromised; work can be done but not at full capacity. | 6 business hours | 8 business hours |
| 3 – Important / Medium | Production or development system has encountered a non-critical problem or defect. | 12 business hours | 16 business hours |
| 4 – Normal | Request for assistance with no immediate production or development system impact: a non-critical problem. | 24 business hours | 15 business days |

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| 5 – Low | A low priority request for information on the products functionality or use. | 48 business hours | 20 business days |
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2. IMPLEMENTATION AND TRAINING SERVICES

2.1 The training services to be provided to Customers and their Business Partners are to be of a standard which should allow a reasonably competent Customer or Business Partner to operate the Service.

2.2 The Service Provider will set-up a Project as soon as reasonably practical following an order being submitted and accepted.

3. SHARED WORKPLACE AVAILABILITY

3.1 The Service Provider will use all reasonable endeavours to provide the following level of operational service:

- (a) 99% service uptime of the Shared Workplace during the hours from Monday to Friday (excluding bank holidays) between 0800hrs and 2000 hours UK time (“Normal Business Hours”); and
- (b) 98% of time outside of Normal Business Hours, excluding Planned Downtime (as defined below).

3.2 The Service Provider will ensure that all Documents will be replicated to a secondary location to a disaster recovery facility on a daily basis.

3.3 Planned Downtime consists of:

- (a) a maintenance window between 0800 and 1400 hours (GMT) on Saturday of each week; and
- (b) any additional planned downtime which is communicated by the placement of a notice on the login page of the Service Provider at least 48 hours prior to the downtime event.

4. ACCESS TO THE SHARED WORKPLACE

4.1 The Shared Workplace is designed to be accessed via the internet. The Customer acknowledges that the Service Provider does not and cannot control the flow of data to or from its network and other portions of the internet. Such flow depends in large part on the performance of internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt the Customer’s and Business Partner’s connections to the internet (or portions thereof). Although the Service Provider will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, the Customer acknowledges that it cannot guarantee that such events will not occur.

4.2 The Service Provider will use all reasonable endeavours to ensure that the provision of servers, bandwidth to those servers and data storage is sufficient at all times to achieve the level of performance for the Service.

4.3 Contact between the Customer and the Service Provider for the purposes of this Service Level Agreement will be through nominated IT points of contact.