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PARTIES

- (1) BLUE CAR TECHNOLOGIES LIMITED a company incorporated and registered in England and Wales with registered number 06207650 whose registered office is at Second Floor, 1 Church Terrace, Richmond, Surrey, TW10 6SE, United Kingdom, and regular place of work is 40rty Caversham Business Centre, Reading, RG1 7EB, United Kingdom (**Supplier**)
- (2) Customer as identified by the Sales Order (**Customer**)

BACKGROUND

This Blue Car Technologies Cloud Services Agreement (this “Agreement”), is by and between the Blue Car Technologies Limited entity described in Parties (1) above (“Supplier”), and the customer identified in the applicable Sales Order (“Customer”). Blue Car Technologies and Customer are sometimes referred to herein individually as a “Party” and together as the “Parties.”

WHEREAS, Customer wishes to subscribe to the Services (as defined in Sections 2 and 3), and Blue Car Technologies wishes to provide such Services to Customer, each on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as

Agreed terms

1. Interpretation

The definitions and rules of interpretation in this clause apply in this agreement.

1.1 Definitions:

Authorised Users: those employees and independent contractors of the Customer who are entitled to use the Software through the Hosting Services under this agreement, as further described in 3.2(b).

Business Day: any day which is not a Saturday, Sunday or public holiday in the UK.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.5 or clause 10.6.

Configuration Services: the configuration and related work referred to in clause 2.1 and Schedule 1, to be performed by the Supplier to configure the Software so that the Software conforms with the Software Specification.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

Customer Data: the data inputted into the information fields of the Software by the Customer, by Authorised Users, or by the Supplier on the Customer's behalf.

Customer's Project Manager: the member of the Customer Account Team appointed in accordance with clause 6(c). The Customer's Project Manager at the Effective Date is named in Sales Order.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

Deliverable: a defined level of functionality or other preset milestone within a particular phase of the Configuration Services, to be more particularly described in the Project Plan.

Effective Date: the date the Sales Order is signed by the Customer

Fees: the fees payable to the Supplier, as described in Sales Order.

Hosting Services: the services that the Supplier provides to allow Authorised Users to access and use the Software, including hosting set-up and ongoing services, as described in [Schedule 2](#).

Maintenance and Support: any error corrections, updates and upgrades that the Supplier may provide or perform with respect to the Software and Hosting Services, as well as any other support or training services provided to the Customer under this agreement, all as described in [Schedule 4](#).

Normal Business Hours: 9.00 am to 5.30 pm local UK time, each Business Day.

Sales Order A document agreed between the Supplier or VAR and Customer setting out the Effective Date, price and number of users of the Services

Service Level Arrangements: the service level arrangements set out in [Schedule 5](#).

Services: the Configuration Services, Hosting Services and/or Maintenance and Support as applicable, given the context in which the term **Services** is used.

Software: the Supplier's proprietary software in machine-readable object code form only as described in [Schedule 3](#), including any error corrections, updates, upgrades, modifications and enhancements to it provided to the Customer under this agreement.

Software Specification: the functionality and performance specifications for the Software, as set out in [Schedule 3](#).

Third Party Software: the Customers licensed software which the Suppliers software integrates with as defined in Schedule 3

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent,

impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Vulnerability: a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to **writing** or **written** includes faxes but not e-mail.
- 1.9 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.10 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
- 1.11 If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.
- 1.12 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.13 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Configuration Services

- 2.1 The Supplier shall use reasonable endeavours to ensure continuity of its personnel assigned to this agreement.
- 2.2 The Supplier shall perform the Configuration Services in accordance with the timetable set out in Schedule 1. The Supplier shall use reasonable endeavours to meet the performance dates set out in Schedule 1 but any such dates shall be estimates only, and time shall not be of the essence in this agreement.
- 2.3 On delivery of each Deliverable, the Customer shall be able to access the Deliverable online. Within five days of the Supplier's delivery to the Customer of any Deliverable, the Customer shall review the Deliverable to confirm that it functions in material conformance with the applicable portion of the Software Specification. If the Deliverable fails in any material respect to conform with the applicable portion of the Software Specification, the Customer shall give the Supplier a detailed description of any such non-conformance (5.2), in writing, within the five-day review period.
- 2.4 With respect to any Errors contained in any Deliverables delivered to the Customer during the Configuration Services, the Supplier shall use reasonable endeavours to correct any such Error within a reasonable time and, on completion, submit the corrected Deliverable to the Customer. The provisions of this clause 2.4 shall then apply again, up to three additional times. If the Supplier is unable to correct such Error after three attempts, either party may terminate this agreement subject to the provisions of 13.
- 2.5 If the Customer does not provide any written comments in the five-day period described above, or if the Deliverable is found to conform with the Software Specification, the Deliverable shall be deemed accepted.

3. Hosting Services, Maintenance and Support

- 3.1 The Supplier shall perform the Hosting Services and Maintenance and Support services. The Service Level Arrangements shall apply with effect from the start of the month after the Configuration Services have been satisfactorily completed.
- 3.2 In relation to Authorised Users:
- (a) the Customer's access to the Hosting Services shall be limited to number of individual Authorised Users, being employees or independent contractors of the Customer as defined in the Sales Order;
 - (b) the Customer shall ensure that each Authorised User keeps a secure password for their use of the Software.;
 - (c) the Supplier may audit the Software regarding the name and password for each Authorised User. Such audit may be conducted no more than once per quarter, at the Supplier's expense, and shall be exercised with reasonable prior notice, in a manner so as to not substantially interfere with Customer's normal conduct of business; and

- (d) if such audit reveals that passwords have been provided to individuals who are not Authorised Users, and without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and shall not issue any new passwords to such individuals.

3.3 In relation to the Software:

- (a) the Supplier hereby grants to the Customer on and subject to the terms and conditions of this agreement a non-exclusive, non-transferable licence to allow Authorised Users to access the Software through the Hosting Services and to use the Software solely for the Customer's business purposes;
- (b) the Customer shall not store, distribute, introduce or transmit through the Hosting Services:
 - (i) any Virus,
 - (ii) any Vulnerability; or
 - (iii) any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;
- (c) the rights provided under this clause 3.3 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer;
- (d) the Customer shall not:
 - (i) attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of the Software except to the extent expressly set out in this agreement or as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties; or
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties; or
 - (iii) access all or any part of the Software or Hosting Services in order to build a product or service which competes with the Software and/or the Services
 - (iv) use the Software or Hosting Services to provide services to third parties; or
 - (v) subject to clause 20.1, transfer, temporarily or permanently, any of its rights under this agreement, or
 - (vi) attempt to obtain, or assist third parties in obtaining, access to the Software, other than as provided under this clause 3.3(d); and
- (e) the Customer shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Software and notify the Supplier promptly of any such unauthorised access or use.

4. Customer Data

- 4.1 The Customer shall own all rights, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of such Customer Data.
- 4.2 The Supplier shall follow its archiving procedures for Customer Data as described in **Schedule 2**. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against the Supplier shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the archiving procedure described in **Schedule 2**. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up for which the Supplier shall remain fully liable under clause **4.7**).
- 4.3 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause **4** is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 4.4 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.
- 4.5 Without prejudice to the generality of clause **4.3**, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of this agreement.
- 4.6 Without prejudice to the generality of clause **4.3**, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under this agreement:
- (a) process that personal data only on the documented written instructions of the Customer] unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier and/or Domestic UK Law (where **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK) to process personal data (**Applicable Laws**). Where the Supplier is relying on Applicable Laws as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, 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 (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- (c) [Removed]
- (d) assist the Customer, at the Customer's cost, 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;
- (e) notify the Customer without undue delay on becoming aware of a personal data breach;
- (f) 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; and
- (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 4 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

4.7 Customer consents to the Supplier appointing the Sub-Processors listed in Schedule 6 as third-party processor of personal data under this agreement. The Supplier confirms that it has entered into a written agreement incorporating terms which are substantially similar to those set out in this clause 4 and in either case which the Supplier undertakes reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 4.

4.8 Either party may, at any time on not less than 30 days' notice, revise this clause 4 by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

5. Supplier's obligations

5.1 The Supplier undertakes that the Services will be performed substantially in accordance with the Software Specification and with reasonable skill and care.

5.2 The undertaking at clause 5.1 shall not apply to the extent of any non-conformance which is caused by use of the Software contrary to the Supplier's instructions or modification or alteration of the Software by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Software does not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 5.1. Notwithstanding the foregoing, Supplier

does not warrant that the Software and Services will be free from Vulnerabilities or that the Customer's use of the Software and the Services will be uninterrupted or error-free.

- 5.3 This agreement shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services which are similar to those provided under this agreement.

6. Customer's obligations

The Customer shall:

- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to this agreement; and
 - (ii) all necessary access to such information as may be required by the Supplier;in order to render the Services, including but not limited to Customer Data, security access information and software interfaces to the Customer's other business applications;
- (b) provide such personnel assistance, as may be reasonably requested by the Supplier from time to time. The Supplier shall use reasonable endeavours to ensure continuity of its personnel assigned to this agreement;
- (c) appoint the Customer's Project Manager, who shall have the authority to contractually bind the Customer on all matters relating to this agreement. The Customer shall use reasonable endeavours to ensure continuity of the Customer's Project Manager;
- (d) without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this agreement; and
- (e) carry out all other Customer responsibilities set out in this agreement or in any of the Schedules in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any timetable or delivery Schedule set out in this agreement as reasonably necessary.

7. Charges and payment

- 7.1 The Customer shall pay the amounts set out in Sales Order for the Configuration Services.
- 7.2 The Customer shall pay the annual Software licence and Maintenance and Support fees set out in **Error! Bookmark not defined.**Sales Order for use and maintenance and support of the Software.
- 7.3 The Customer shall pay the initial set-up services fee and annual fees, as set out in Sales Order, for the Hosting Services. The Hosting set-up fee specified in Sales Order shall be paid at the Effective Date.
- 7.4 The Customer shall reimburse the Supplier for all actual, reasonable travel expenses, agreed in writing in advance, including, but not limited to, airfare, hotel and meals incurred by the Supplier in performance of the Services.

- 7.5 All amounts and fees stated or referred to in this agreement are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.
- 7.6 The Supplier shall invoice the Customer annually in advance for all Services to be performed by the Supplier during that period. Each invoice is due and payable 30 days after the invoice date. If the Supplier has not received payment within five days after the due date, and without prejudice to any other rights and remedies of the Supplier:
- (a) the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of National Westminster Bank from time to time (but at 3% a year for any period when that base rate is below 0%), commencing on the due date and continuing until fully paid, whether before or after judgment.
- 7.7 Customer payments by credit card will attract a 4.5% credit card processing fee.

8. Change control

- 8.1 If either party requests a change to the scope, configuration or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
- (a) the likely time required to implement the change;
 - (b) any variations to the Fees arising from the change;
 - (c) the likely effect of the change on the Project Plan and Hosting Service; and
 - (d) any other impact of the change on the terms of this agreement.
- 8.2 If the Supplier requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it.
- 8.3 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed in writing the necessary variations to its charges, the Project Plan and any other relevant terms of this agreement to take account of the change.

9. Proprietary rights

- 9.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Software and the Services. Except as expressly stated herein, this agreement does not grant the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Software, Services or any related documentation.
- 9.2 The Supplier confirms that it has all the rights in relation to the Software that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

10. Confidentiality

- 10.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving party; or
 - (b) was in the other party's lawful possession before the disclosure; or
 - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
- 10.2 Subject to clause 10.4, each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.
- 10.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.
- 10.4 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 and is given in accordance with this clause 10.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 10.5 The Customer acknowledges that the Software, the results of any performance tests of the Software and the Services constitute the Supplier's Confidential Information.
- 10.6 The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.
- 10.7 No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 10.8 The above provisions of this clause 10 shall survive termination of this agreement, however arising.

11. Indemnity

- 11.1 The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Software or Services, provided that:
- (a) the Customer is given prompt notice of any such claim;
 - (b) the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
 - (c) the Customer is given sole authority to defend or settle the claim.
- 11.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the use of Software by the Customer in accordance with this Agreement infringes any [United Kingdom] patent effective as of the Effective Date, copyright, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in final or unappealed judgment or settlement of such claims, provided that:
- (a) the Supplier is given prompt notice of any such claim;
 - (b) the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
 - (c) the Supplier is given sole authority to defend or settle the claim.
- 11.3 In the defence or settlement of the claim, the Supplier may obtain for the Customer the right to continue using the Software, replace or modify the Software so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this agreement without liability to the Customer. The Supplier shall have no liability if the alleged infringement is based on:
- (a) a modification of the Software by anyone other than the Supplier; or
 - (b) the Customer's use of the Software in a manner contrary to the instructions given to the Customer by the Supplier; or
 - (c) the Customer's use of the Software after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- 11.4 The foregoing and clause 12.5(b) state the Customer's sole and exclusive rights and remedies, and the Supplier's entire obligations and liability, for patent, copyright, database or right of confidentiality infringement.

12. Limitation of liability

- 12.1 This clause 12 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
- (a) arising under or in connection with this agreement;
 - (b) in respect of any use made by the Customer of the Services, the Software, the Deliverables or any part of them; and

- (c) in respect of any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this agreement.
- 12.2 Except as expressly and specifically provided in this agreement all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement.
- 12.3 Nothing in this agreement excludes the liability of the Supplier:
- (a) for death or personal injury caused by the Supplier's negligence; or
 - (b) for fraud or fraudulent misrepresentation.
- 12.4 The Service Level Arrangements state the Customer's full and exclusive right and remedy, and the Supplier's only obligation and liability in respect of, the performance and/or availability of the Service, or their non-performance and non-availability.
- 12.5 Subject to clause 12.3 and clause 12.4:
- (a) the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss costs, damages, charges or expenses however arising under this agreement; and
 - (b) the Supplier's total aggregate liability in contract (including in respect of the indemnity at clause 11.2)], tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the price paid for the Services during the 12 months preceding the date on which the claim arose.

13. Term and termination

- 13.1 This agreement shall commence on the Effective Date and shall continue for the period of 1 year, unless otherwise terminated as provided in this clause 13. After 1 year, this agreement shall automatically renew for yearly periods, unless either party notifies the other, in writing, at least 90 days before the end of the then current term.
- 13.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - (b) the other party commits a material breach of any [other] term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

- (c) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
- (e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company);
- (h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2(d) to clause 13.2(j) (inclusive);
- (l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (m) there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

13.3 On termination of this agreement for any reason:

- (a) all licences granted under this agreement shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;

- (c) the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession unless the Supplier receives, no later than ten days after the effective date of the termination of this agreement, a written request, in accordance with clause 4.6(f), for the delivery to the Customer of the then most recent back-up of the Customer Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Customer Data; and
- (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

14. Export

- 14.1 Neither party shall export, directly or indirectly, any technical data acquired from the other party under this agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations (Export Control Laws), including United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 14.2 Each party undertakes:
 - (a) contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out in clause 14.1; and
 - (b) if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

15. Force majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network or the internet, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for six months, the party not affected may terminate this agreement by giving 30 days' written notice to the other party.

16. Waiver

- 16.1 A waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 16.2 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

17. Rights and remedies

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

18. Severance

- 18.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 18.2 If any provision or part-provision of this agreement is deemed deleted, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

19. Entire agreement

- 19.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 19.2 Each party acknowledges that in entering into this agreement it does not rely on[, and shall have no remedies in respect of,] any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 19.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.
- 19.4 Nothing in this clause shall limit or exclude any liability for fraud.

20. Assignment

- 20.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under this agreement.
- 20.2 The Supplier may at any time assign, transfer, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under this agreement.

21. No partnership or agency

Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

22. Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

23. Third party rights

This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

24. Notices

24.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this agreement.

24.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

25. Governing law

This agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England.

26. Jurisdiction

The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This has been entered into on the date stated at the beginning of it.

Schedule 1 Configuration Services

1. Timetable

Refer to Sales Order for Configuration Services timetable.

2. Planning

The Supplier shall prepare the Project Plan and Pre-installation Questionnaire in co-operation with the Customer during this stage of the Configuration Services.

3. Implementation

The Supplier shall provide a configuration of a Microsoft Azure hosting server environment designed to provide access to the Software in the region requested in Sales Order. The implementation shall include redundancy recovery systems across application servers, database servers, and DNS entries in order to allow for minimum disruption in the event of certain component malfunctions.

4. Implementation

The Supplier and the Customer shall co-operate in implementing the Services in accordance with the implementation provisions of the Timetable in Sales Order.

5. Rollout

The Supplier and the Customer shall co-operate in rolling out the Services to the Customer's Authorised Users in accordance with the roll-out provisions of the Timetable in Sales Order.

Schedule 2 Hosting Services

1. Hosting set-up

The set-up phase of the Hosting Services includes those services provided by the Supplier or its contracted third parties to provision, install, configure and test the Hosting Services.

2. Installation and configuration

The Supplier shall provision and configure the Microsoft Azure hosting tenant and services to provide access to the Software. The Supplier will configure the software to the Customers requirements based on the supported functionality of the software as set out in Schedule 3.

3. Facility

The hosting facility will be provided by Microsoft Azure in the region specified by the customer in a Supplier owned Microsoft Azure Tenant. Details of Microsoft's SLA, and legal agreements can be found here: <https://azure.microsoft.com/en-gb/support/legal/>

4. Internet connectivity

4.1 The Supplier shall provide internet connectivity to the Service through Microsoft Azure. The Customer shall, and shall ensure that its Authorised Users shall, make their own arrangements for internet access in order to access the Software.

5. Continuing Hosting Services

The continuing Hosting Services provided by the Supplier or its contracted third parties, which allow for availability of the Software, include internet connectivity (as detailed in paragraph 4 above), , security services, monitoring, back-up, release management and change control, and administration services.

The Supplier shall provide load-balancing services to distribute load and redundancy across application servers.

6. Security services

In addition to the security services provided by the Microsoft Azure Platform, the Supplier shall provide:

- (a) Microsoft Azure virtual machine Operating system patching
- (b) Network operation centre (noc) monitoring and email notification, of the virtual machine, and alerts relating to memory, cpu, disk and Windows services utilised by the Software provided by its partner SIRE
- (c) Multi factor authentication to access any Azure tenant containing Customer Hosted Software

7. Monitoring services

The Supplier shall provide, 24 hours a day and seven days a week, monitoring of the computing, operating and networking infrastructure to detect and notify the Supplier of abnormalities by its partner SIRE. This includes, network monitoring, web server and database monitoring Blue Car Software monitoring.

8. Back-up, archiving and recovery services

The Supplier shall back-up the Microsoft Azure Hosted Virtual Machine daily, and will retain the back-ups for 30 days.

The Supplier shall back-up the Microsoft Azure SQL Database with a point in time restore within the last seven days. Weekly backups are kept for four weeks.

The Supplier shall retain a Microsoft Azure recovery site and associated services in order to try to restore the most recent backup should it be required.

9. Release management and change control

The Supplier shall provide release management and change control services to ensure that versions of servers, network devices, storage, operating system software and utility and application software are audited and logged, and that new releases, patch releases and other new versions are implemented as deemed necessary by the Supplier to maintain the Hosting Services.

10. Administration services

These services include the installation and administration of additional hardware, operating system and other software, and other resources as necessary to maintain the Hosting Services.

Schedule 3 Software

1. Supplier Software

1.1 The Software is an application that enables DocuSign to be integrated with the Customers Document Management System via the internet. The Software consists of the following components:

Windows Service

MVC Web site to host any DMS specific integration for web clients.

Microsoft Azure SQL database for processing information.

The software's functionality is defined in the Administration and configuration guide.

2. Third Party Software

DocuSign DTM

iManage Work 10.x

Schedule 4 Maintenance and Support

1. Knowledge Transfer

The Supplier shall provide knowledge transfer to the nominated technical contact.

2. Maintenance Events

2.1 Routine, planned maintenance of the hosting equipment, facility, Software or other aspects of the Hosting Services that may require interruption of the Hosting Services (**Maintenance Events**) shall, except for any emergency maintenance, not be performed during Normal Business Hours. The Supplier may interrupt the Services to perform emergency maintenance during the daily window of [09.00 am to 12.00 am Saturdays UK time]. In addition, the Supplier may interrupt the Hosting Services outside Normal Business Hours for unscheduled maintenance, provided that it has given the Customer at least [three] days' advance notice. Any Maintenance Events which occur during Normal Business Hours, and which were not requested or caused by the Customer, shall be considered downtime for the purpose of service availability measurement. The Supplier shall at all times endeavour to keep any service interruptions to a minimum.

2.2 The Supplier may determine, at its sole discretion, that providing appropriate service levels requires additional Microsoft Azure services and/or bandwidth, and may install or reconfigure those services and/or bandwidth without approval from the Customer. The Supplier may increase the corresponding Hosting Services fees (only), as specified in **Error! Bookmark not defined.** Sales Order in respect of any such installation.

3. Maintenance

3.1 Maintenance includes all regularly scheduled error corrections, software updates and those upgrades limited to improvements to features described in the Software Specification. Support for additional features developed by the Supplier, as requested by the Customer, may be purchased separately at the Supplier's then current rates.

3.2 The Supplier shall maintain and update the Software. Should the Customer determine that the Software includes a defect, the Customer may at any time file error reports. During maintenance periods, the Supplier may, at its discretion, upgrade versions, install error corrections and apply patches to the hosted systems. The Supplier shall use all reasonable endeavours to avoid unscheduled downtime for Software maintenance.

3.3 The Supplier shall maintain technical support on the two most current releases of the Software.

4. Technical support services

4.1 The Supplier shall accept voicemail, e-mail and web-form-based incident submittal from the Customer 24 hours a day, seven days a week. The Supplier shall accept telephone calls for English language telephone support during Business Hours. The Supplier shall use reasonable endeavours to process support requests, issue ticket tracking numbers if necessary, determine the source of the

problem and respond to the Customer. The Supplier shall use reasonable endeavours to respond to all support requests within the time periods specified in table 1.4 below, according to priority.

4.2 Accepted methods for requesting Services are:

Blue Car Technologies Limited

- (a) Telephone +44(0)1183 382916
- (b) Email: support@bluecartechnologies.co.uk
- (c) Web: <https://support.bluecartechnologies.co.uk>

SIRE Network Operation Centre may be contacted on:

- (d) Telephone: +44 (0)1344 758700
- (e) Email: support@sire.co.uk
- (f) Web Form: <https://sire.support/<Customer Name>>

4.3 Requests will only be accepted from nominated contacts as provided by the Customer.

4.4 The Supplier shall determine the priority of any incident in accordance with the following table:

Impact	Urgency		
	High	Medium	Low
Business - Impacts the business as a whole or a substantial part of the user base	1	2	3
Group - Impacts a group of users or a single department	2	3	4
Single User - Impacts one user of the Customer	3	3	4
None - No impact felt by either the business or any single user of the Customer	4	4	5

4.5 The Supplier shall determine the response times of any fault in accordance with the following table.

Priority	Notes	Response Time	Target resolution time
1	Priority 1 incidents shall be reported by telephone only.	Within two Business Hours.	Four Business Hours. Continuous effort after initial response and with Customer co-operation.
2	Priority 2 incidents shall	Within four Business	Within eight Business

	be reported by telephone only.	Hours.	Days after initial response.
3	Certain non-essential features of the Service are impaired while most major components of the Service remain functional.	Within twelve Business Hours.	Within ten Business Days after initial response.
4 & 5	Errors that are non-disabling or cosmetic and clearly have little or no impact on the normal operation of the Services.	Within twenty-four Business Hours.	When reasonably possible.

- (a) If no progress has been made on a Priority 1 or Priority 2 incident within the target response time, the incident shall be escalated to a Director of the Supplier and deemed a Service Level Problem.
- (b) The Customer can request an increase or decrease in Priority. The Supplier reserves the right to revert to the priority matrix defined in 1.4.
- (c) Response times are measured using the Supplier's ticketing system which tracks faults and issues from initial reporting to resolution.
- (d) The Supplier warrants the response time only.

5. ITEMS EXCLUDED FROM THE SERVICE

- 5.1 The Support Services shall not include any Services required by the Customer that are not identified in Sales Order or:
- 5.2 any parts required to affect a repair; or
- 5.3 in relation to the Software the diagnosis and rectification of any fault resulting from:
 - (a) the improper use, operation or neglect of the Software;
 - (b) the modification of the Software or its merger (in whole or in part) with any other Software;
 - (c) the use of the Software on any equipment other than that approved in advance by the Supplier;
 - (d) the failure by the Customer to implement recommendations in respect of solutions or faults previously advised by the Supplier;
 - (e) any repair, adjustment, alteration or modification of the Software by any person other than the Supplier without the Supplier's prior written consent;
 - (f) use of the Software for any purpose for which it was not designed;
 - (g) any breach of the Customer's obligations under this agreement howsoever arising; or
 - (h) the Customer having the Software maintained by a third party; or

- 5.4 in relation to the Hardware or Customer's Equipment or Customers Third Party Software, the diagnosis and rectification of any fault resulting from:
- (a) the Customer's failure to maintain a suitable environment for the Hardware at the Customer's premises in accordance with the Supplier's written specifications or instructions, including without limitation failure to maintain a constant power supply, air-conditioning or humidity control;
 - (b) the Customer's neglect or misuse of the Hardware or its failure to operate the Hardware in accordance with the applicable instruction manuals or for the purposes for which it was designed;
 - (c) the alteration, modification or Maintenance of the Hardware by any party other than the Supplier without the Supplier's prior consent;
 - (d) the transportation or relocation of the Hardware except where the same has been performed by or under the direction of the Supplier;
 - (e) the use of defective or inappropriate supplies with the Hardware;
 - (f) the Customer's installation of Software which the Customer has installed and the Supplier has not agreed to maintain in accordance with this agreement;
 - (g) any defect or error in any Software used upon or in association with the Hardware;
 - (h) any accident or disaster affecting the Hardware including without limitation fire, flood, water, wind, lightning, transportation, vandalism or burglary;
 - (i) the Customer's failure, inability or refusal to provide the Supplier's personnel proper access to the Customer's Equipment;
 - (j) the provision of supplies for use in association with the Customer's Equipment.
 - (k) The failure by the Customer to maintain access, and licensing of Third Party Software required by the Suppliers software to operate.

5.5 The failure by the Customer to implement recommendations in respect of solutions or faults previously advised on by the Supplier.

5.6 The Supplier may, upon request by the Customer, provide other Services but shall be entitled to charge the Additional Charges, which Charges shall be invoiced by the Supplier monthly in arrears and payable by the Customer within 30 days of the date of the invoice.

5.7 Without prejudice to the above, the Supplier shall be entitled to charge the Additional Charges in the manner described above if Support Services are provided in circumstances where any reasonably skilled and competent technician would have judged the Customer's request to have been unnecessary.

6. SERVICE LEVEL ARRANGEMENTS

6.1 Application of Service Level Arrangements

- (a) This Part 1 shall not apply to any of the following elements of the Services:

- (i) Loss of data caused by Customer actions or actions of third parties contracted by the Customer.
- (ii) Any Customer installed applications.

6.2 Service Level Problem

- (a) Within 2 hours of detecting or receiving notification by the Customer by telephone or email of a Service Level Problem, the Supplier shall use reasonable endeavours to determine the cause of the Service Level Problem and if: -
 - (i) the Supplier determines that the source of the Service Level Problem is not attributable to the Supplier or the Service, the Supplier shall use reasonable endeavours to identify the source of the Service Level Problem within a further 2 hours;
 - (ii) the Supplier determines that the source of the Service Level Problem is attributable to the Supplier, the Supplier shall use reasonable endeavours to remedy the Service Level Problem within 2 hours of determining the source thereof;
 - (iii) the Supplier determines that the source of the Service Level Problem is not attributable to the Supplier; the Supplier shall use reasonable endeavours to notify the party responsible for the source of the Service Level Problem and cooperate with them to resolve the Service Level Problem as soon as possible.

Schedule 5 Service Level Arrangements

1. Service availability

The Supplier shall provide at least a [99.5%] uptime service availability level (**Uptime Service Level**). This availability refers to an access point on the Supplier hosting provider's backbone network. It does not apply to the portion of the circuit that does not transit the hosting provider's backbone network, as the Customer is responsible for its own internet access. Availability does not include Maintenance Events as described in paragraph **Schedule 42.1** of **Schedule 4**, Customer-caused or third party-caused outages or disruptions (except to the extent that such outages or disruptions are caused by those duly authorised third parties sub-contracted by the Supplier to perform the Services), or outages or disruptions attributable in whole or in part to force majeure events within the meaning of clause **15**. The Supplier does not offer Service Credits.

Schedule 6 Processing, Personal Data and Data Subjects

1. Processing by the Supplier

1.1 Scope

Blue Car Technologies are providing an outsourced Hosting Service for the Suppliers Software. The Suppliers privacy notice can be found at. <https://www.bluecartechnologies.com/privacy-notice>

1.2 Purpose of processing

The purpose of processing the data is for the fulfilment of the contractual terms, and to allow the Software to identify user accounts within DocuSign.

1.3 Duration of the processing

The duration of the processing will be for the term of the contract and to fulfil legal obligations.

1.4 Sub Processors

<u>Organization Name</u>	<u>Type of processing</u>
Microsoft Corporation, One Microsoft Way, Redmond, WA 98052-6399,USA	Azure Platform
Sire Technology Limited, 23 Wellington Business Park, Crowthorne, Berkshire RG45 6LS, United Kingdom Company Number: 02803958	NOC Management and Alerting, Virtual Machine Operating System Patching
Ingram Micro (UK) Limited, CBXII West, Midsummer Boulevard, Milton Keynes, MK9 2EA, United Kingdom Registration Number 1609968	Microsoft Indirect CSP Provisioning and support services for Microsoft Azure
Enhancesoft LLC, 338 Florence Ave, Alexandria, LA71301, USA Employer ID Number 27-4681566	Support ticketing system for raising issues or obtaining support for the connector service Data hosted in UK, Software hosted in US

2. Types of personal data

Contact information for the purpose of fulfilling the contract will be stored in the companies finance system QuickBooks Online.

The Software stores the account identifier (email address), of users making signing requests to DocuSign in the Microsoft SQL Azure database.

3. Categories of data subject

Employees of the Customer