

ONESERVE LIMITED TERMS AND CONDITIONS (“TERMS”)

These Terms apply to all software and services provided by Oneserve Ltd (whose registered office is at 1 Tiger Moth Road, Skypark, Exeter, Devon, EX5 2FW) (“**Oneserve**”) to you, the “**Customer**”, to the exclusion of all other terms, express or implied, including any put forward by you, unless a separate agreement has been signed and entered by both parties. Please read these Terms carefully, as they contain some important provisions about our relationship, including obligations on you that limit our liability to you.

An agreement shall come into existence upon both you and Oneserve signing the document titled “Licence and Professional Services Order Form” (the “**Order**”), upon the terms of these Terms, the Project Specification Document agreed between the parties (“**Specification Document**”) and the Order (together the “**Agreement**”). Please also note that any Oneserve proposal or quotation does not constitute an offer and are valid only for 30 days – after that time Oneserve reserves the right to amend them. Any materials or information submitted in relation to such proposal or quotation do not form part of the Agreement or have any contractual force and remain the exclusive property of Oneserve – you are not entitled to use any such item for any purpose, or provide it to any other person, unless you select Oneserve to provide the relevant services to you, in which case these Terms will apply.

The Agreement constitutes the entire agreement between you and Oneserve and you acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Oneserve which is not set out in the Agreement.

1 AGREEMENT

1.1 These Terms contain terms allowing you to access and use the application portal services in order to use the Software (as defined in Clause 1.2 below) and to receive services covering:

1.1.1 project initiation, discovery, analysis, configuration, build, interfaces, training, testing and go live as detailed in the Specification Document and the Order (“**Professional Services**”);

1.1.2 customer maintenance and support services as detailed in clause 8.2 and the Service Level Agreement (“**SLA**”), a current version of which is attached as an appendix to these Terms (“**Support Services**”); and

1.1.3 such other services not specified in the Specification Document or SLA, such as additional requested training post go-live or change control requests in accordance with clause 11, as may be agreed in writing from time to time (“**Additional Services**”),

(together “the **Services**”), and in each case to be provided by Oneserve on the terms of the Agreement.

1.2 As used herein, the term “**Software**” means the applications accessible via the internet (the “**Online Software**”) and any applications supplied on disk or otherwise for use on your computer(s), mobile device or other equipment (the “**Client Software**”) in each case as detailed in the Order, together with their enhancements/derivatives and all supporting documentation, if any, as well as new releases of the Software from time to time, in which previously identified faults have been remedied or to which any modification, enhancement, revision, upgrade or update has been made, or to which a further function or functions have been added (“**New Release**”). Software, as used herein, does not refer to source code, and no licence is granted in respect of source code of any kind.

2 LICENCE OF SOFTWARE

- 2.1 In consideration of the obligations that you undertake in the Agreement and, in particular but without limitation, in consideration of the payment of the Licence Fees (as defined in clause 10.1 below), Oneserve grants you a non-exclusive, non-transferable licence to use the Online Software via the internet, and a non-exclusive, non-transferable licence to use the Client Software in object-code form (meaning an executable program in machine readable binary code) on your own equipment, in both cases for the licensed number(s) of users, clients and/or properties indicated in the Order and for your own internal business purposes (the "**Licence**"). The Licence shall commence upon the start of Acceptance Testing (as defined in clause 7.3) or 30 days from the date of Order, whichever is the sooner and continue for such further period that you continue to pay the Licence Fees.
- 2.2 You are prohibited from making any permanent copy of the Online Software in any form, and from reverse engineering, decoding, disassembling or decompiling any of the Software, making derivative works incorporating any of the elements of the Software, or modifying, adapting, translating or copying any of the Software in any way, save as is expressly permitted by these Terms or required to be permitted by law. All information required to achieve interoperability of the Software with other software programs in accordance with Section 50B of the Copyright Designs and Patents Act 1988, as amended, is available from Oneserve. You may make copies of the Client Software only to the extent necessary for your proper use of the Software in accordance with these Terms and to the extent necessary for back-up purposes. You shall ensure that all titles, logos, trade marks, copyright and restricted rights notices shall be reproduced in any copies of Client Software made pursuant to this Clause 2.2.
- 2.3 Upon your written request to Oneserve, to be submitted within 30 days of entering the Agreement and at your cost, Oneserve agrees to put the source code relating to the Software into escrow with NCC or other agreed reputable escrow agent on terms that it will be released to you on the release events specified in the escrow agent's standard multi-user escrow agreement.
- 2.4 You acknowledge and agree that Oneserve will supply in machine readable form New Releases from time to time. Oneserve will publish details of New Releases dates for the Software together with relevant release and training notes. It is a condition of receiving the Support Services in relation to the Software that such New Releases are tested by you prior to release.

3 USE OF SOFTWARE

- 3.1 You are responsible for procuring all necessary, compatible equipment and telecommunications facilities and services for your use of the Software.
- 3.2 You may make the Software available for use by your consultants, contractors and third party service providers with whom you trade ("**Access Parties**"), but only for the purposes of your own business use of the Software and provided that you give prior written notice to Oneserve of any such person whom you propose to allow to use the Software.
- 3.3 You agree not to provide or otherwise make available the Software in whole or in part in any form to any person other than your employees and the Access Parties without the prior written consent of Oneserve. You shall ensure that your employees and all Access Parties are aware of and comply with these Terms as if they are party to it, and Oneserve reserves the right to require any Access Party to enter a direct agreement with Oneserve in relation to its use of the Software.
- 3.4 You will be responsible for your use and the use of the Software by Access Parties and will indemnify, defend and hold harmless Oneserve from and against all claims, actions, proceedings, and all damages, losses, fines, judgements, demands, fees, costs and

expenses (including legal fees and disbursements on a full indemnity basis) arising out of or in connection with their use of the Software contrary to the terms of the Agreement.

- 3.5 You may not make the Software available to any other person for any purpose other than as specifically permitted by the Agreement, nor may you operate the Software on a bureau or similar basis for the benefit of any other person.
- 3.6 You agree to notify Oneserve immediately if you become aware of any unauthorised use of the whole or any part of the Software by any person.

4 SECURITY AND LIMITATIONS ON USE

- 4.1 The Software must be used in conjunction with unique IDs, usernames and/or passwords supplied by Oneserve to you, which you must keep safe and confidential.
- 4.2 You will only use the Software in relation to your property and business (whether owned, managed or serviced by you). You acknowledge and agree that you shall not exceed any number of users, clients and/or properties specified in the Order without Oneserve's prior written agreement. You will not attempt to access any part of the Software which you are not authorised to access.
- 4.3 You agree not to use the Software for any purpose for which you are not authorised, or for any illegal, immoral or offensive purpose, or for any purpose which infringes a third party's rights, and not to use the Software to communicate any material which is obscene, defamatory, offensive, abusive, illegal, in breach of a third party's rights or otherwise unacceptable to Oneserve, or for spamming.
- 4.4 You acknowledge and agree that Oneserve shall have the right to attend (at Oneserve's cost) your premises at all reasonable times on reasonable notice in order to check that the Software is being used in accordance with these Terms and to check that the number of users, clients and/or properties specified in the Order has not been exceeded. If it is revealed that you have underpaid the Licence Fees, you shall pay to Oneserve an amount equal to such underpayment within ten (10) days of written notice from Oneserve to that effect.
- 4.5 Oneserve reserves the right to suspend your access to and use of the Software with reasonable notice (24 Hours) to you if it discovers any activity in breach of clauses 2, 3 or 4, and you agree to indemnify, defend and hold harmless Oneserve from and against all claims, actions, proceedings, and all damages, losses, fines, judgements, demands, fees, costs and expenses (including legal fees and disbursements on a full indemnity basis) arising from any such breach.

5 DATA

- 5.1 You will own all data input and processed on the Software relating to your activities and you shall have the sole responsibility for the legality, reliability, integrity, accuracy and quality of such data. You agree that Oneserve has the right to use statistical data following removal of any personal identifiers, for its own business purposes; provided that it shall not use such information for any purpose that conflicts with your interests and that you have the option to review such statistical data before release. For the purposes of this clause 5.1, "**business purposes**" means use of such data to monitor, develop and improve the Software and Services and customers' experience, cost of ownership analysis and ensuring the Software is setup to maximise performance i.e. load/balance of servers.
- 5.2 You agree at all times to comply with the General Data Protection Regulation 2016/679 (**GDPR**) the Privacy and Electronic Communications (EC Directive) Regulations 2003 and

all other data protection, privacy or similar legislation in force from time to time including the Data Protection Act 2018 ("Applicable Laws").

5.3 Without prejudice to the generality of clause 5.2, you shall:

5.3.1 ensure that you are entitled to transfer the relevant personal data (as defined in the GDPR) to Oneserve so that Oneserve may lawfully use, process and transfer the personal data in accordance with the Agreement on your behalf; and

5.3.2 ensure that all relevant parties, including the relevant third parties have been informed of, and have given their express and explicit consent to, such use, processing and transfer as required by the Applicable Laws and that this consent is recorded in writing in your records.

5.4 For the purposes of the GDPR, you are the data controller (as defined in the GDPR) in respect of all personal data (as defined in the GDPR) processed for you using the Software, and Oneserve acts as a data processor (as defined in the GDPR) on your behalf. 'Personal Data' shall have the meaning set out in GDPR. Accordingly, to the extent that the provision of the Software and/or Services involves the processing of personal data in respect of which you are the data controller, Oneserve shall:

5.4.1 maintain appropriate technical and organisational measures, which are consistent with good industry practice and compliant with the Applicable Laws (as defined below), against unauthorised or unlawful processing, accidental loss or destruction of or damage occurring in relation to such personal data and use and exercise all reasonable care and skill; and

5.4.2 Oneserve may only process Personal Data received from the Customer:

5.4.3 for the purpose of processing as confirmed with the Customer; (the "Purpose") and for no other Purpose

5.4.4 in accordance with your written and legally compliant instructions;

- a) to the extent and in the manner necessary for the Purpose; and
- b) in accordance with this agreement, the Applicable Laws and any instructions given by or on behalf of Oneserve under this clause 5.
- c) not perform its obligations under this agreement or any other agreement or arrangement with the Customer in such way as to cause the Customer to breach any of its obligations under the Applicable Laws;

5.4.5 ensure that all personnel who have access to and/or process Personal Data:

- are obliged to keep the Personal Data confidential;
- have all the requisite skill, experience, qualifications and knowledge necessary to carry out the tasks assigned to them; and
- adopt reasonable and proper standards of behaviour;

5.4.6 not transfer any Personal Data outside of the European Economic Area unless:

- a) it has obtained the prior written consent of the Customer; and
 - b) the Customer or Oneserve has provided appropriate safeguards in relation to the transfer; and
 - c) the Data Subject will have enforceable rights and effective legal remedies in relation to the relevant Personal Data after the transfer; and
 - d) Oneserve complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - e) Oneserve complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 5.4.7 as soon as Oneserve receives a complaint or request from a data subject under the Applicable Laws, forward the complaint or request to the Customer;
- 5.4.8 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with the Customer's obligations under the Applicable Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 5.4.9 at the written direction of the Customer (and at the Customer's cost), delete or return all Personal Data and copies of any Personal Data to the Customer on termination of the agreement unless required by Applicable Laws to store the Personal Data; and
- 5.4.10 maintain complete and accurate records and information to demonstrate its compliance with this clause 5.
- 5.5 With prior consent, the Customer consents to Oneserve appointing approved contractors as a third-party processor of Personal Data.
- 5.6 Oneserve's liability under the warranties in this clause 5 will not exceed its insurance cover of £1,000,000 for breach of the terms of this Agreement and GDPR.
- 5.7 Oneserve shall notify the Customer in writing of any breach of this clause 5.
- 5.8 If, in Oneserve's opinion, an instruction of the Customer constitutes a breach of GDPR, Oneserve shall notify the Customer in writing and may suspend its execution of the instruction until the Customer has confirmed the instruction in writing.
- 5.9 Oneserve backs-up its customer data once every twenty-four hours. In the event of any loss of data, your sole and exclusive remedy shall be for Oneserve to use reasonable endeavours to restore the lost or damaged data from the latest back-up of such data and up to the point of the last committed transaction as maintained by Oneserve in accordance with its back-up procedures.
- 5.10 Interface file storage is retained on a 90 day rolling basis only. Data beyond this timescale will not be available
- 5.11 Aside from where the loss or damage is caused by Oneserve, the Customer shall indemnify and keep the Oneserve indemnified against all costs, claims, losses, expenses and fines that it may suffer as a result of the Customer's breach of this clause 5 and GDPR.

6 IMPLEMENTATION AND PROFESSIONAL SERVICES

- 6.1 In consideration of the payment of the Professional Services Fees, as detailed in clause 10, Oneserve shall carry out the Professional Services as specified in the Order.
- 6.2 Oneserve shall supply to you, within a reasonable time before any delivery date, such information and assistance as may be necessary to enable you to prepare the site for installation of the Software.
- 6.3 The Professional Service days quoted in the Order may include not only the time spent on your affairs but also on the level of skill and responsibility and the importance and value that we provide.
- 6.4 You shall be responsible for ensuring that your systems and site are prepared and ready in accordance with information provided by Oneserve for installation purposes. You agree to provide timely turnaround to Oneserve's questions and requests to validate approaches and shall ensure your personnel and third-party contractors do so accordingly. You furthermore agree to carry out any responsibilities for implementation as detailed in the Specification Document.
- 6.5 Further costs may be incurred as a result of delayed information, decisions, postponements or changes. We will notify you in advance of any charges.
- 6.6 If any Software delivery is delayed at your request, or because of your acts or omissions, any implementation dates in the Specification Document shall be amended by agreement to take account of such delay. If Oneserve can demonstrate that the delay has resulted in an increase in cost to Oneserve of carrying out its obligations under the Agreement, Oneserve may, at its sole discretion, notify you that it wishes to increase the Licence Fees by an amount not exceeding any such demonstrable cost.

7 ACCEPTANCE TESTS

- 7.1 Following delivery of the Software (excluding New Releases), Oneserve shall provide you with such assistance with the implementation of the Software as may reasonably be required. You shall notify Oneserve of the fact that it has successfully completed such implementation promptly after completion.
- 7.2 You shall be responsible for the delivery of the proposed user acceptance criteria to test data for acceptance testing of the Software (excluding New Releases) ("**Acceptance Tests**"). These criteria and data shall be such as are reasonably required to show that the Software complies with the Specification Document. Any requested changes to the Acceptance Tests need to be sent to Oneserve within ten days from the date of delivery of the proposed criteria and data. If no such requested changes are received by Oneserve within such period, then such criteria and data for the Acceptance Tests shall be deemed to be agreed.
- 7.3 You shall carry out the agreed Acceptance Tests for the Software within any timescales agreed for testing following the analysis stage ("**Timescales**") and allow Oneserve to observe all or any part of the testing ("**Acceptance Testing**").
- 7.4 If the Software fails to pass the Acceptance Tests, you shall, within the Timescales, provide a written notice to Oneserve to this effect, giving details of such failure(s). Oneserve shall remedy the defects and/or deficiencies and the relevant test(s) shall be repeated within a reasonable time.

- 7.5 If the Software fails in some material respect to pass any repeated Acceptance Tests within any relevant Timescales, then you may, by written notice to Oneserve, choose at your sole discretion:
- 7.5.1 to fix (without prejudice to your other rights and remedies) a new date for carrying out further tests on the Software on the same terms and conditions. If the Software fails such further tests then you may request a repeat test under this clause 7.5.1;
 - 7.5.2 to permit installation of the Software subject to such change of acceptance criteria, amendment of the Specification Document and/or reduction in the Licence Fees as, after taking into account all the relevant circumstances, is reasonable; or
 - 7.5.3 if Oneserve is unable to correct material defects within the relevant Timescales from the commencement of Acceptance Testing, to reject the Software as not being in conformity with the Agreement, in which event you may terminate the Agreement, subject to paying all reasonable costs.
- 7.6 Acceptance of the Software shall be deemed to have occurred on whichever is the earliest of:
- 7.6.1 the signing by you of an acceptance certificate for the Software to pass the Acceptance Tests;
 - 7.6.2 the expiry of five days after the completion of all the Acceptance Tests, unless you have given any written notice under clause 7.5;
 - 7.6.3 the expiry of twenty days after the installation of the Software if the Acceptance Tests have not started, or have not been pursued with due diligence; or
 - 7.6.4 the use by you of Software in a live production environment.
- 7.7 Oneserve shall be given an extension of the timetable of any one or more of the implementation stages in Specification Document if one of more of the following events occurs:
- 7.7.1 a variation to the Software is made at your request under the change control procedures detailed in clause 11;
 - 7.7.2 a force majeure event occurs as described in clause 19;
 - 7.7.3 a delay is caused in whole or in part by your act or omission or that of your employees, agents or third-party contractors.
- 7.8 If Oneserve is entitled to an extension of time under clause 7.7, it shall give written notice to you not later than seven days after the beginning of the event. Such notice shall specify the event relied on and, in the case of a force majeure event under clause 19, shall estimate the probable extent of the delay.
- 7.9 Each party's Project Manager (as detailed in the Specification Document) shall use best endeavours to agree in writing, what extension of time is reasonable in the circumstances and the implementation dates in the Specification Document shall be deemed amended accordingly.
- 7.10 Oneserve's assistance with Acceptance Testing shall form part of the Professional Services.

8 SUPPORT SERVICES AND ADDITIONAL SERVICES

- 8.1 The provision of Support Services is included as part of the Licence Fees and shall consist of operational assistance and technical support to be rendered via an email and telephone helpdesk operated through Oneserve's Call Centre during "**Working Hours**" (7.30am - 5.30pm Monday to Friday excluding public holidays). Support Services will be provided in accordance with the then current version of SLA as provided by Oneserve to you and for the duration of the Term (as defined in clause 13.4. below).
- 8.2 Additional Services are available as agreed in writing between the parties. Oneserve shall discuss any Additional Services proposed by you and such discussion may result in Oneserve providing a quotation for such work. Such Additional Services will be provided in accordance with these Terms.

9 SERVICES AND CUSTOMER OBLIGATIONS

- 9.1 During the Term, you shall not, without Oneserve's prior written approval, allow any person other than a Oneserve representative to modify, repair or maintain any part of the Software.
- 9.2 You shall co-operate with Oneserve in any manner reasonably required by Oneserve in order to carry out the Services, including provision of information and data, making available suitably qualified employees and contractors and, subject to the Oneserve's compliance with your normal security requirements:
 - 9.2.1 provide necessary access to your systems and personnel for the purpose of carrying out the Services;
 - 9.2.2 when Oneserve staff are working on the your site, provide facilities and supplies reasonably required by Oneserve, such as power and computer consumables.
- 9.3 You shall make available a minimum of 2 qualified staff to act as System Administrators, who will undergo compulsory training and commit to ongoing self-learning of Oneserve features and functionality. Only certified System Administrators can raise tickets with the Oneserve Helpdesk. Paid training or chargeable support may be applied if the System Administrator fails to achieve minimum requirements to support the product efficiently.
- 9.4 If applicable and where provided by Oneserve, you are responsible for the installation of IOT sensors and the suitability of the environment for which it is intended and installed.

10 CHARGES

- 10.1 In the Agreement, the "**Fees**" means the periodic fees payable for the Licence ("**Licence Fees**"), the fee for carrying out the Professional Services in accordance with clauses 6 and 7 ("**Professional Services Fee**"), each as specified in the Order, and such other fees as are payable for the Additional Services, chargeable at the rate notified to you at the time ("**Additional Services Fee**"). The Professional Services Fee and the Additional Services Fee are charged on a time-and-materials basis.
- 10.2 Not more than once per year, Oneserve may increase the Licence Fees by up to the percentage change in the Retail Prices Index since the Licence Fees were last set, or such other amount as may be agreed in writing by the parties. For the purposes of this clause 10.2, "Retail Price Index" means the Retail Price Index (all items) or such index as shall replace it published monthly by the Office for National Statistics (or by any replacement or successor body). Oneserve retains the right to increase the Oneserve's applicable daily rates for calculation of the Professional Services Fee and Additional Services Fee.
- 10.3 License fees are payable in advance and will be invoiced on the Order Form date. The License period will activate on commencement of user acceptance testing (UAT) or 30 days from date of Order whichever is the sooner.

- 10.4 The Professional Services Fee will be invoiced as follows where such fee (ex vat) is greater than £20,000:
- 10.4.1 65% of the total fee on the date of the Order;
 - 10.4.2 30% of the total fee upon commencement of Acceptance Testing; and
 - 10.4.3 5% of the total fee on Go Live.
- 10.5 The Professional Services Fee, where such fee (ex vat) is less than £20,000, and the Additional Services Fee, will be invoiced on the date of signature of the Order.
- 10.6 All invoices are payable in accordance with the timescales set out in the Order or quotation
- 10.7 In carrying out the Services, Oneserve may charge you for reasonable out-of-pocket expenses at cost, on production of reasonable evidence of expenditure. Where any necessary travel time is greater than one hour, then such time will be charged on a time-and-materials basis at the hourly rate applicable for such Service.
- 10.8 You agree to pay the Fees specified in the Agreement. If you fail to pay any such Fees when due, then without prejudice to any other rights Oneserve may have, it may:
- 10.8.1 terminate the Agreement by giving you not less than seven (7) days prior written notice to that effect; and/or
 - 10.8.2 suspend your use of the Software pending payment of all sums due; and/or
 - 10.8.3 charge interest at the annual rate of 4% over the Bank of England's base rate on the full amount due from the due date until receipt of full payment, before and after judgement. Such interest shall accrue on a daily basis and shall be payable by you immediately on demand.
- 10.9 If you dispute any invoice or other request for payment, you shall immediately notify Oneserve in writing clearly identifying the dispute. The parties shall negotiate in good faith to attempt to resolve the dispute promptly and provide all such evidence as may be reasonably necessary to verify the dispute. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in the payment terms.
- 10.10 All amounts stated in the Agreement shall be payable in pounds sterling and are stated exclusive of value added tax and all similar taxes and duties payable in respect of such amounts. All such amounts shall be subject to the addition of VAT, which you agree to pay.

11 CHANGE CONTROL

- 11.1 You may request a change to the Software or Specification Document or an Additional Service by raising a ticket. You shall ensure any person who requests such change has authority to do so on your behalf. Any such changes will then be dealt with in accordance with the Change Control Process detailed in Schedule 1 and subject to these Terms.
- 11.2 For the avoidance of doubt, chargeable items are enhancements to, or new requests for but not limited to search views, reports, surveys, forms, documents, product functionality or major changes to configuration like new processes. Minor configuration changes and data loads will not usually be chargeable unless the estimated time to complete the work is greater than 15 minutes. All chargeable works will be quoted and both your approval and a purchase order are required in advance of any work being undertaken.

12 ASSIGNMENT

- 12.1 You may not transfer or sub-licence any of your rights or obligations under the Agreement to any other person unless Oneserve gives its prior written consent, which it will not unreasonably withhold.
- 12.2 Oneserve may assign all its rights and obligations under this Agreement to any person which is its group undertaking (as defined at s.1161(5) Companies Act 2006) or as part of solvent reorganisation or sale of business and will give you notice of the assignment. Oneserve will not otherwise transfer the Agreement to another person without your consent, which you may not unreasonably withhold.
- 12.3 Oneserve may, without Client consent, subcontract its rights and obligations in relation to delivery of Support Services and Professional Services to a nominated reseller or integration partner.

13 DURATION AND TERMINATION

- 13.1 Unless terminated earlier under this clause 13, this Agreement shall continue in force for the initial period specified in the Order (the "**Initial Period**").
- 13.2 On the expiry of the Initial Period and on each anniversary thereof, this Agreement shall automatically renew for a further period of one year unless terminated by either party giving written notice to the other of termination not less than three months before such expiry of the Initial Period or anniversary thereof. On expiry of the initial period, the rates agreed in the initial Order will expire and will revert to the standard Oneserve rates.
- 13.3 If the parties are unable to agree the Specification, either party shall be entitled to terminate this Agreement and the Order with immediate effect. Upon giving notice;
 - 13.3.1 the Customer shall pay all costs associated with producing the Specification;
 - 13.3.2 neither party shall have any further liability to the other in respect to the termination of this Agreement.
- 13.4 In this Agreement, any reference to "**Term**" means the duration of the Agreement as determined in accordance with clauses 13.1 and 13.2.
- 13.5 Either party may terminate the Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party if:
 - 13.5.1 the other commits a material breach of this or any other associated agreement and, in the case of a material breach capable of remedy and directly concerning the Software or Services (other than non-payment), after providing thirty (30) days written notice to the other specifying the material breach and requiring its remedy and allowing an additional sixty (60) days to cure the breach; or
 - 13.5.2 the other becomes insolvent, unable to pay its debts as they fall due or the subject of a members' or creditors' arrangement or if bankruptcy, liquidation, winding up, administration, receivership or similar proceedings are commenced or issued by or against it, or if it is a partnership or trust, any of the above events occur in relation to all or any of its current partners or trustees or the partnership or trust as a whole.

- 13.6 Upon termination for any reason, you shall immediately cease using the Software, destroy or return to Oneserve all Client Software and supporting documentation and certify to Oneserve that you have done so. Oneserve reserves the right to remove any Client Software from your systems either remotely or by entering your premises to do so. Oneserve will provide reasonable assistance in returning your data to you by providing a single gratis Data Cut and copy of file system either by SFTP or encrypted on a removable data device provided by the customer. Upon receiving notice, Oneserve will liaise with the customer to arrange the transfer of their data. Once a date and the mechanism for providing the data has been established, the data will be returned and the system switched off. Data will be archived and can be requested or restored at a later date for a charge. This may take up to two weeks to restore. This facility would only be available for up to seven years following the date of termination.
- 13.7 In the event of any termination of the Agreement other than by you in accordance with the terms of this agreement, then any Fees payable hereunder shall continue to be payable for the remainder of the term of Agreement as at the date of such termination.
- 13.8 The parties shall have no further obligations or rights under the Agreement after the date of termination, without prejudice to any obligations or rights which have accrued to either party at the time of such termination save that clauses 3.4, 4.5, 13.6, 13.7, 14.2, 15, 16 and 17 and this clause 13.8 together with those other clauses the survival of which is necessary for the interpretation or enforcement of the Agreement, shall continue to have effect after the end of termination.

14 WARRANTIES AND INDEMNITY

- 14.1 Oneserve warrants that it has title or authority to grant the licences in accordance with the Agreement and permit your use of the Software.
- 14.2 Subject to clause 15, Oneserve shall indemnify you from and against all claims, actions, proceedings, and all damages, losses, fines, judgements, demands, fees, costs and expenses (including legal fees and disbursements on a full indemnity basis) arising as a result of any action or claim of infringement of copyright, database, and software rights, trade and service marks or names, design rights, patents, rights to apply for any of them, and any other intellectual property rights of a third party arising from your use of the Software during the Licence Period in accordance with these Terms but excluding any materials that you provide or any data processed using the Software, provided that:
- 14.2.1 Oneserve is given prompt notice of such claim;
- 14.2.2 you provide information and reasonable co-operation to Oneserve in the defence and settlement of such claim;
- 14.2.3 Oneserve is given sole authority to defend or settle the claim; and
- 14.2.4 to the extent permitted to do so by law, you shall not make any admissions which may be prejudicial to the defense or settlement of any such claim.
- 14.3 Oneserve shall not in any circumstances have any liability pursuant to clause 14.2:
- 14.3.1 caused or contributed to by your use of the Software in combination with software not supplied or approved in writing by Oneserve;
- 14.3.2 based on use of any version of the Software other than the latest version supplied by Oneserve, if such claim could have been avoided by the use of such supplied version;

14.3.3 where the claim for infringement arises in respect of a feature of the Software which was specified by you in the Specification Document; or

14.3.3 for the failure or incompatibility of equipment, property damage or incorrect data readings as a result of failed, damaged or incorrectly installed IoT sensors.

14.4 If use of the Software or receipt of the Support Services becomes, or in the opinion of qualified legal counsel is likely to become, the subject of any such claim, Oneserve may:

14.4.1 replace all or part of the Software with functionally equivalent software without any charge to you;

14.4.2 modify the Software as necessary to avoid such claim, provided that Software (as amended) functions in substantially the same way as before modification;

14.4.3 procure for you a licence from the relevant claimant to continue using the Software.

14.5 If:

14.5.1 use of the Software is determined in a court of law to be infringing;

14.5.2 Oneserve is advised by a barrister of at least ten years' call that use or possession by you of the Software in accordance with these Terms is likely to constitute infringement of a third party's rights; or

14.5.3 an injunction or similar order is granted in connection with a claim of the types referred to in clause 14.2 which prevents or restricts the use or possession by you of the Software in accordance with these Terms;

and Oneserve is unable, after best efforts, to procure for you the right to continue using the Software or to provide you with functionally equivalent non-infringing software, the Agreement (including the Licence) will be terminated.

14.6 Nothing in this clause shall restrict or limit your general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

14.7 Oneserve further warrants that the Services will be provided with reasonable skill and care and that the Software and any equipment (at the time of delivery) provided by Oneserve will, in all material respects, match any description given to it by Oneserve. Your sole remedy for breach of this warranty will be the re-performance by us of any defective Services and the repair or replacement of defective Software or equipment free of additional charge.

14.8 Oneserve will use reasonable endeavours to keep the Software in working order. If the Software is not working during Working Hours, Oneserve will use reasonable endeavours to reinstate it through the provision of support. Due to the nature of the internet, Oneserve cannot be responsible for any failure of telecommunications or other third party systems needed for use of the Software nor shall it be responsible for any other loss or damage resulting from the transfer of data over telecommunications networks and facilities, including the internet. Oneserve does not warrant that the Software will operate error-free or uninterrupted.

14.9 Oneserve will use reasonable endeavours to ensure that any anticipated go live date is met, but will not be liable for any delays, and time is not of the essence for these purposes.

15 LIABILITY

15.1 No warranties, conditions or other terms, whether expressed or implied, including without limitation those relating to quality or fitness for a particular purpose, are made by Oneserve and all such terms are excluded, save as expressly set out in these Terms. The Software is made available on an “as is” basis. Subject to clause 15.4, in no event will Oneserve be liable to you or any other party whether in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise:

15.1.1 for any indirect or consequential loss; or

15.1.2 any loss (whether direct or indirect) of profits, time, business, money, anticipated savings, contract, goodwill or data, or any failure to process data adequately or at all; and/or

15.1.3 for any other loss relating to this Agreement, in a total aggregate amount exceeding a sum equal to the Fees received by Oneserve from you in relation thereto in the twelve months preceding the date on which such liability arose.

15.2 You must use the Software in accordance with all instructions relating to its use that Oneserve provides and you shall assume sole responsibility for results obtained from your use of the Software and any conclusions drawn from such use. Oneserve will not be liable, in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise for any failure, defect, damage, loss or liability to the extent caused by:

15.2.1 your failure to use the Software in accordance with those instructions;

15.2.2 your use of the Software beyond the scope authorised by these Terms;

15.2.3 your use of the Software in conjunction with equipment or software not supplied or authorised by Oneserve; and/or

15.2.4 any incorrect or inaccurate data stored or processed on the Software;

15.2.5 any attachments, documents or files uploaded that contain malicious content;

15.2.6 any incorrect, incompatible or old versions of operating systems or software used to run the Software;

and Oneserve may charge at its normal rates for any support required as a result of any such failure or use.

15.3 Oneserve will not be liable for any use, misuse or abuse of the Software made by Access Parties (if any) and you will indemnify, defend and hold harmless Oneserve from and against all claims, actions, proceedings, and all damages, losses, fines, judgements, demands, fees, costs and expenses (including legal fees and disbursements on a full indemnity basis) arising in relation to such use. Oneserve may, without liability to you, terminate or suspend any Access Party’s use of the Software if they breach any term of their agreement with Oneserve (if any) or if they do anything which would, if done by you, constitute a breach of these Terms.

15.4 The foregoing limitations upon liability shall not apply to any liability for:

15.4.1 death or personal injury caused by the negligence of Oneserve;

15.4.2 fraud or fraudulent misrepresentation;

15.4.3 a breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

15.4.4 liability under clause 14.2; or

15.4.5 any matter for which it would be unlawful for the parties to exclude liability.

15.5 The parties agree that, given the nature of the Agreement, the above limitations are fair and reasonable.

16 INTELLECTUAL PROPERTY

16.1 You acknowledge and agree that you hereby acquire only the right to use the Software and, subject to your rights to your data in accordance with clause 5.1, Oneserve or its licensors (as the case may be) own all copyright, database, and software rights, trade and service marks or names, design rights, patents, rights to apply for any of them, and any other intellectual property rights, in all jurisdictions, relating to the Software and all developments to it. Oneserve Ltd reserves the right to grant licences to use the Software to third parties.

16.2 You will not do anything to alter or remove any of Oneserve's trade marks, copyright notices or other markings from any aspect of the Software or materials supplied to you.

17 CONFIDENTIALITY AND PUBLICITY

17.1 Neither party shall disclose to another person or use for any purpose other than the performance of the Agreement any information obtained from the other which is of a confidential nature or marked as confidential. In particular, but without limitation, you will not disclose to any other person, or use for any other purpose, any of the knowhow, structures, code or other information relating to the Software.

17.2 The restriction at clause 17.1 shall not apply to information that:

17.2.1 is already in the public domain other than through the act or omission of a party to the Agreement;

17.2.3 was in the other party's lawful possession prior to the disclosure;

17.2.4 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

17.2.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body, provided that the party subject to such requirement to disclose gives the other prompt written notice of the requirement, to the extent it is permitted to do so by law.

17.3 Subject to compliance with this clause 17, Oneserve may disclose the existence, but not the content, of the Agreement to its clients and prospective clients and in its publicity and marketing materials and reference sites as an indication of its experience.

18 DATA BREACH

18.1 Oneserve shall notify the data controller within 24 hours if it becomes aware of any potential or actual data breach.

18.2 A notification under this clause 18 shall include at least:

18.2.1 the nature of the data breach, including:

- a) the categories and approximate number of data subjects concerned; and
- b) the categories and approximate number of records of personal data concerned;
- c) the name and contact details of the data protection officer or other point of contact from which further information can be obtained;
- d) the likely consequences of the data breach;
- e) the measures taken or proposed by the data processor to address the data breach including, where appropriate, measures to mitigate any possible adverse effects;
- f) whether, before the data breach, Oneserve had implemented technical and organisational measures, such as encryption, that render the personal data affected by the data breach unintelligible to any person who is not authorised to access it; and
- g) whether, after the data breach, the data processor implemented measures to ensure that a high risk to the rights and freedoms of the data subjects would be unlikely to materialise.

18.3 In addition to its obligations under clauses 18.1 and 18.2, Oneserve will provide all reasonable assistance necessary to enable the Customer to handle a potential or actual data breach promptly and in accordance with the Applicable Laws, including:

18.3.1 co-operating with the data controller and any data protection authority;

18.3.2 investigating the data breach and its cause;

18.3.3 containing, restoring and recovering any compromised personal data;

18.3.4 co-ordinating with the Customer to manage public relations and public statements relating to the data breach. For the avoidance of doubt, Oneserve shall not make any public statement in relation to a data breach without the prior written consent of the Customer such consent not to be unreasonably withheld or delayed.

19 FORCE MAJEURE

If circumstances beyond the reasonable control of the parties (including, but not limited to Acts of God, severe weather, strikes, telecommunications or other service failures or natural disasters) temporarily make it impossible for either or both of them to perform their obligations under the Agreement, then the obligations of the parties will be temporarily suspended during the force majeure period to such extent as is reasonable in the circumstances and they will not be liable to the other party to that extent. You will not be liable to pay fees in respect of any period of suspension under this clause.

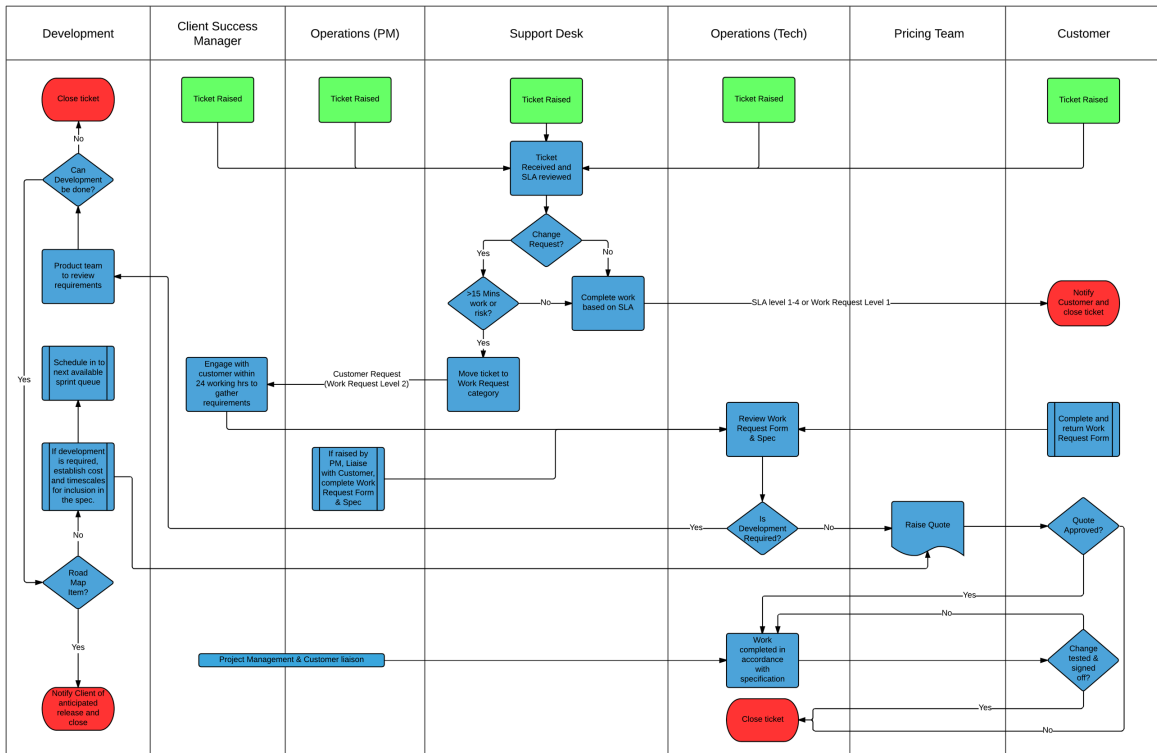
20 GENERAL

20.1 Any notice to be given under the Agreement shall be delivered or sent to the relevant party's registered office, or such other address as is notified for this purpose, by hand or by registered post or by fax to the number stated in the Order, in each case for the attention of the party's Company Secretary or Financial Director. Notices will be deemed received

on the working day following delivery by hand, two working days after posting and upon evidenced successful completion of transmission by fax. For the avoidance of doubt, notice given under the Agreement shall not be validly served if sent by email.

- 20.2 In these Terms (except where the context otherwise requires) a reference to "**writing**" does not include email.
- 20.3 The Agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter. Each party acknowledges that, in entering into the Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the Agreement. Nothing in this clause shall limit or exclude any liability for fraud.
- 20.4 Subject to any changes notified in accordance with clause 11, no amendment or variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 20.5 No failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 20.6 If any provision of these Terms shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these Terms which shall remain in full force and effect.
- 20.7 Nothing in these Terms 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.
- 20.8 A person who is not a party to the Agreement has no right under the Agreements (Rights of Third Parties) Act 1999 to rely upon or enforce any term of the Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 20.9 The Agreement shall be governed and construed in accordance with English law and you hereby submit to the exclusive jurisdiction of the English Courts in connection with the determination of all disputes arising under the Agreement.

SCHEDULE 1 – CHANGE CONTROL PROCESS



APPENDIX – SERVICE LEVEL AGREEMENT

Delivering the application as a service to users

Maintaining the integrity of a solution and its ability to operate error-free despite changes in configuration, software versions, operating systems, hardware and communication platforms requires the effective management of:

- Configuration and Development
- Testing and Backups
- Infrastructure
- Information Servers
- Disaster Recovery and Business Continuity

In the event of any problems with the then current version or release of the Software, the service levels detailed within this document will apply.

Service Levels

Oneserve Ltd work to the service levels described below. In each case normal working hours are Monday - Friday 07:30 – 17:30 (UK Time) excluding public holidays and, where agreed, Saturday 08:00 – 12:00noon:

Details of our SLA, Service notices and upgrades are available at <https://oneserve.zendesk.com/hc/en-us/categories/200084497-Support>

Oneserve Helpdesk

During normal working hours a response time of 30 minutes for urgent calls, 2 hours for high calls and 8 hours for normal call will apply from the time that a fault is detected or reported by the customer whether received by phone or logged into Oneserve's support system. Response for these purposes includes initiating the investigation of the fault.

Customers are required to forward all requests to their internal System Administrator or refer to online helpdesk documentation to resolve minor issues i.e. setting up user rights, adding new users, adding sites, configuration, etc in the first instance. If they are unable to resolve the issue, a ticket must be logged by the System Administrator via the support portal <https://oneserve.zendesk.com/hc>.

Customers are also required to review support documentation and self-help guides first, which are available on the Oneserve Help Centre - <https://oneserve.zendesk.com/hc>

Raising a call with Oneserve Helpdesk

To raise an issue or submit a work request, log in to the customer portal and raise a new issue/request.

- Once a request has been made, the customer will be issued with a unique ticket number via the automated email service.
- Oneserve monitors all incoming requests which are reviewed and prioritised by our dedicated support team. An SLA priority, in accordance with the severity of the problem, is then agreed and assigned to the request.
- The customer is notified of the priority via email
- Update/changes to the ticket will be communicated automatically via email.
- Based on the SLA priority assigned we will carry out the work in accordance with the SLA table below. If additional information is required, the ticket status is changed to pending, at which time the SLA will stop until the information is received and agreed. If the

information is not received within 10 working days the ticket will be closed. We will attempt to contact you prior to this happening. The customer will have to create a follow up ticket to reopen the case.

- On receipt of confirmation the ticket will be closed. You can follow up a ticket by contacting our helpdesk on 01392 367367, option 1.

Oneserve Application/Service

When a defect is reported, it will be assigned a priority level, which will be notified to the customer. Oneserve will use its reasonable endeavours to achieve a resolution of defects within the following resolution times:

Level	Impact	Description	Response	Resolution	Maximum Fix Time	Example	Escalation
1	Urgent	Production application down or major malfunction resulting in majority of users unable to perform their normal functions and no workaround available	Expected response time within 1/2 working hour	Expected Resolution within 3 working hours unless agreed otherwise by both parties. In the case of any such exceptions we will provide an assessment of the issues and detail the required steps to resolve	3 Working Hours	Service unavailable, significant performance issues, inability to schedule work or engineers to receive work which impacts more than 10% of users	To Support Manager 1 hr after first response time and to the Client Success Manager 2 hrs after first escalation
2	High	Critical loss of application functionality or performance resulting in high number of users unable to perform their normal functions	Expected response time within 2 working hours	Expected Resolution within 8 working hours unless agreed otherwise by both parties or a suitable workaround is in place	8 Working Hours	Noticeable performance issues Less than 10% of users experiencing issues receiving work or scheduling, Interface errors, unable to invoice, mobile errors, financial discrepancies, data loss	To Support Manager 2 hrs after first response time and to Client Success Manager 4 hrs after first escalation
3	Normal	Moderate loss of application functionality or performance resulting in multiple users impacted in their normal functions	Expected response time within 8 working hours	Expected Resolution within 16 working hours unless agreed otherwise by both parties or a suitable workaround is in place	16 working Hours	Minor system errors, problems with workflow, incorrect reporting data or inability to run existing reports (Excluding Business Objects)	To Support Manager 4 hrs after first response time and to Client Success Manager 24 hrs after first escalation
4	Low	Minor loss of application functionality or product feature question	Expected response time within 16 working hours	Expected Resolution within 40 working hours unless agreed otherwise by both parties or a suitable workaround is in place	40 working hours	Bespoke report and document formatting issues, Support/configuration advice and guidance	
5	Work Request Level 1	A Non-chargeable Request for change/work	Expected response time within 16 working hours	Change/work request completed within 40 working hours unless agreed otherwise by both parties.		Data uploads and minor changes /work <15 minutes to complete.	
6	Work Request Level 2	A Chargeable Request for a change/work	Expected response time within 24 working hours	Following acceptance of the charge a delivery date will be provided by Oneserve		New functionality requests, project work, integrations	

SLA fix time commences from the first working hour of the next working day and not from the time of raising the ticket if raised outside of working hours.

Change/work requests and bugs identified with a normal to low impact will be delivered in the next available quarterly release cycle.

If Oneserve is not able to achieve a resolution of a defect within the times specified above, it will use its reasonable endeavours to put in place a work-around as soon as possible.

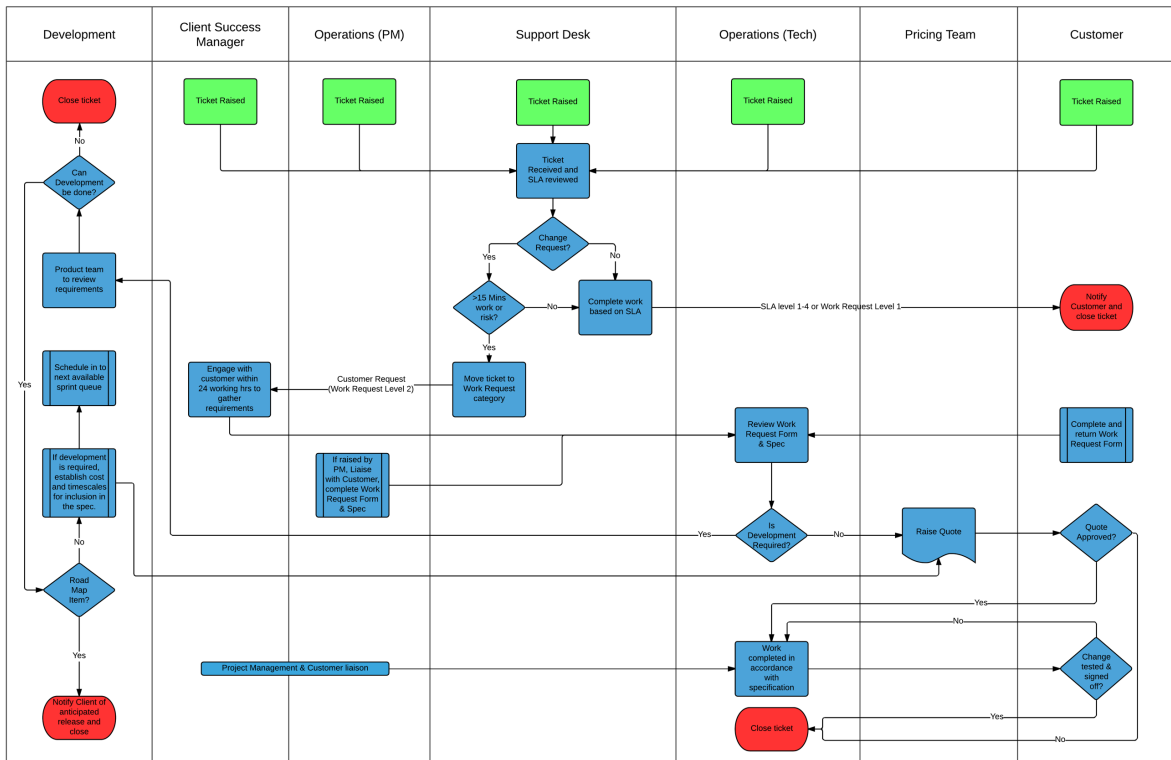
If the software is unavailable for more than 24 elapsed hours, or there is an outstanding Level 1 defect for more than 24 elapsed hours within any calendar month then, provided the defect is not as a result of an act of omission of the customer and is notified promptly to Oneserve, Oneserve shall:

- (a) Escalate the issue to board level; and
- (b) Issue a credit against the following Periodic Licence Fee equal to the fees payable in respect of the time for which the software was unavailable, or, if no further invoices are payable under the Agreement, shall refund that sum to you. This shall be the exclusive remedy for the customer for such service failure.

Enhancements will be logged and reviewed with the customer on an individual basis to determine priorities and timescales.

Oneserve reserves the right to conduct scheduled maintenance and emergency maintenance on the software and supporting infrastructure. Scheduled maintenance will not take place between the hours of 07:30 and 20:00 weekdays and 08:00 and 12:00 on Saturdays. In the event of either scheduled or emergency maintenance, Oneserve Ltd will use reasonable endeavours to ensure that use of the software is not adversely affected, but this cannot be guaranteed. Oneserve will notify the customer in advance of any scheduled downtime which may affect their service. Oneserve will attempt to agree suitable times with customers within the constraints of the maintenance programme. Oneserve target system uptime – 99.5% availability in relation to the software.

All changes will be managed through the Oneserve control process.



For the avoidance of doubt, chargeable items are enhancements to, or new requests for but not limited to search views, reports, surveys, forms, documents, product functionality or major changes to configuration like new processes. Minor configuration changes and data loads will not usually be chargeable unless the estimated time to complete the work is greater than 15 minutes. All chargeable works will be quoted and both customer approval and Purchase Order required in advance of any work being undertaken.

Escalation Process

In the unlikely event that our customers are unhappy with any stage of the process, communication or service that they receive, the customer can raise the issue directly with their Client Success Manager, at any time, stating the reasons of dissatisfaction. The Client Success Manager will work through any issues and liaise with the Support desk, Technical team and/or Business Development to try to resolve the issues quickly and satisfactorily.

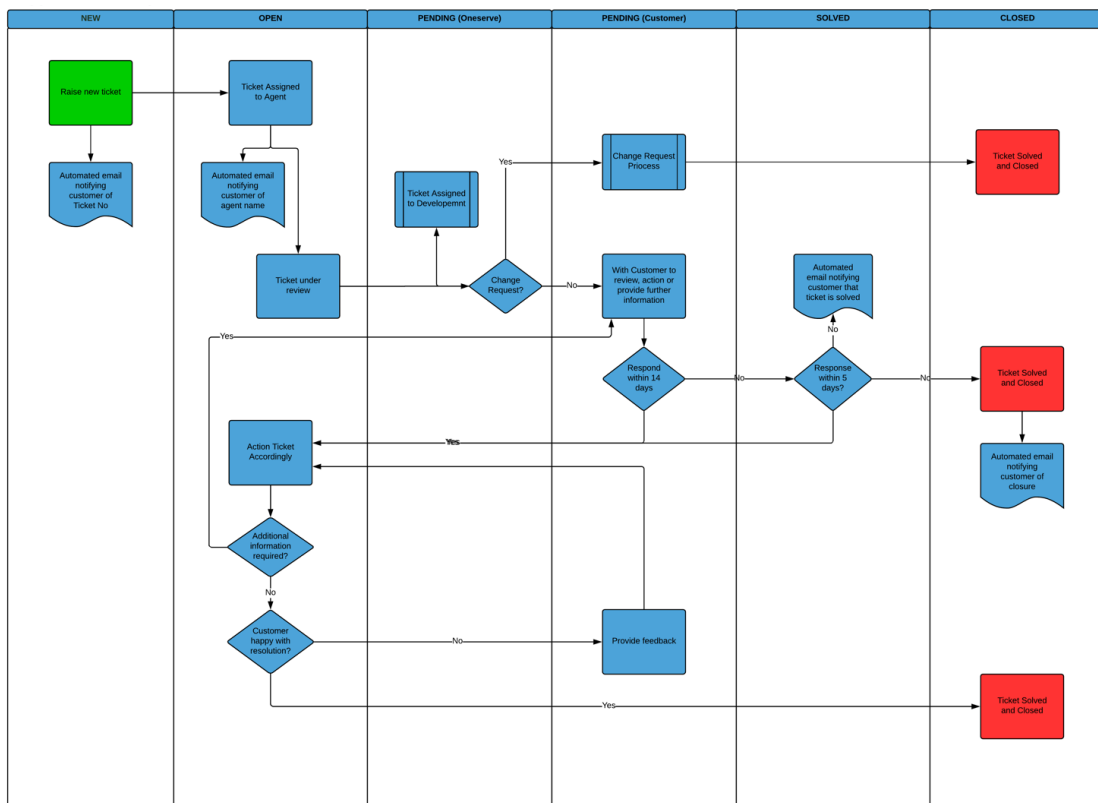
Where the customer and Client Success Manager are unable to resolve an issue, the Client Success Manager will escalate the issue to the Chief Operations Officer.

Service Reviews

Your dedicated Client Success Manager will arrange regular service reviews, the timing and content will be agreed.

Management of Support Tickets

Tickets will be managed in accordance with the process below. Tickets in pending with the customer will automatically be marked as solved after 14 working days. You will be notified of the action and given the opportunity to reopen the ticket, however, if no further action has been taken within 5 additional working days the ticket will be closed and you will need to raise a new ticket if required.



Information Servers

Oneserve's IT teams work to ensure the application servers are available for use by all users for as many hours as possible. Support for the application/service is available from 07:30 - 17:30 on workdays although a member of the IT team is notified whenever a hardware failure occurs.

The Oneserve servers are normally available 24 hours 365 days of the year with the following conditions and exceptions:

- Onsite system backups are performed nightly – the application will still be available with minimum impact to performance
- Offsite data backups are performed nightly – the application will still be available for users but performance may be slightly reduced
- Server upgrades and patches are always performed before 07:30 and after 20:00 – the servers may be unavailable for short periods of time - Security patches may be so critical that they may be applied at any time. Where possible, impacted customers will be contacted in advance to ensure minimal impact to business critical activities.
- New Application versions are applied to the servers out of normal working hours, during which time the Application may be unavailable for short periods of time. Impacted customers will be contacted in advance to ensure minimal impact to business-critical activities.
- Out of hours the service is maintained by a combination of resources from both our hosting provider and Oneserve. Outside working hours our hosting provider monitors the service and proactively deals with issues to maintain service availability wherever possible. In cases where this is not possible work is escalated to Oneserve engineering.
- As a chargeable option Oneserve can provide an out of hours contact number to report service failures and receive updates on resolution.

Upgrades

Oneserve typically release upgrades on a quarterly basis, usually January, April, July and October. Release notes and clear instructions will be issues in advance of any upgrade. The dates and time of upgrades are agreed with customers in advance. A test site will be temporarily made available during release cycles. It is a requirement for the customer to test the product prior to release. It is deemed that all customers have tested before an upgrade. Oneserve are not responsible for issues or down time caused as a result of the failure to test.

Oneserve are unable to support customers who are more than one version behind the current latest release.

In the event that an upgrade is missed due to incomplete testing or business readiness the customer will have to wait for the next upgrade cycle.