

This agreement is dated:

PARTIES

- (1) **Benchwink Ltd**, a company registered in England with Company Number 16067502 at 124/128 City Road, London, EC1V 2NX (“Benchwink”);
- (2) **[FULL COMPANY NAME]** incorporated in [COUNTRY] with Company Number [INSERT] whose registered office is at [REGISTERED ADDRESS] (“Customer”)

BACKGROUND

Benchwink has developed certain software, services and platforms which it makes available to customers for the purpose of running and managing clinical development collaborations, documentation, teams and results associated with clinical developments of drugs and treatment methods. Customer wishes to use Benchwink's service in its business operations and clinical development work. Benchwink has agreed to provide and Customer has agreed to take and pay for Benchwink's service subject to the Order and these terms and conditions, which together make up this agreement.

AGREED TERMS

1. INTERPRETATION

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

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| Admin User | means the Customer's employee who is appointed to determine and oversee the identity and number of Authorised Users (in accordance with these terms and conditions) and extent of permissions and functionality available to each such Authorised User. |
| this agreement | means the accepted Order, these terms and conditions and any Schedules together. |
| Authorised Users | those employees, agents and independent contractors of Customer and those third parties involved in the relevant Customer activity who are authorised by Customer to use the Services and the Documentation (including the Admin User) and who have each agreed to abide by the EULA, as further described in <i>clause 2.2.5</i> . |
| Business Day | a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business. |
| Change of Control | the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression change of control shall be construed accordingly. |
| Confidential Information | information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in <i>clause 11.6</i> or <i>clause 11.7</i> . |
| Customer Data | the data inputted by Customer, Authorised Users, or Benchwink on Customer's behalf for the purpose of using the Services or facilitating Customer's use of the Services. |
| Data Protection Legislation | means all legislation and regulations relating to the processing of personal data and privacy applicable in the United Kingdom including (without limitation) the GDPR (for so long as directly applicable in the United Kingdom), the Data Protection Act 2018 (including, without limitation, the “applied GDPR”) and any |

regulations or instruments enacted under that Act, the Privacy and Electronic Communications (EC Directive) Regulations 2003 or any amendments and/or re-enactments and/or replacements from time to time of any of the foregoing.

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| Documentation | the document made available to Customer by Benchwink online (www.benchwink.com) or such other web address notified by Benchwink to Customer from time to time which sets out a description of the Services and the user instructions for the Services. |
| Effective Date | the date of Benchwink's acceptance of the Customer Order. |
| EULA | means the End User Licence Agreement available at app.benchwink.com to which each Authorised User must agree to and abide by in order to access and use the Services. |
| GDPR | means the European Union General Data Protection Regulation 2016/679. |
| Initial Subscription Term | the initial term of this agreement as set out in the Order. |
| Normal Business Hours | 9.00 am to 5.00 pm local UK time for UK and EU based customers, and 9.00am to 5.00pm US East Coast time for US based customers, each Business Day. |
| Order | means the Order for the Services in the form attached hereto and in accordance with which the Customer shall obtain the Services subject to these terms and conditions. |
| Renewal Period | the period described in <i>clause 14.1</i> . |
| Services | the services provided by Benchwink to Customer under this agreement as more particularly described in the Order and the Documentation. |
| Software | the online software applications and platform provided by Benchwink as part of the Services. |
| Subscription Fees | the subscription fees payable by Customer to Benchwink for the User Subscriptions, as set out in <i>the Order</i> . |
| Subscription Term | has the meaning given in <i>clause 14.1</i> (being the Initial Subscription Term together with any subsequent Renewal Periods). |
| Support Fees | the support fees payable by the Customer to Benchwink as set out in the Order. |
| Support Services Policy | Benchwink's policy for providing support in relation to the Services as made available by email contact from time to time or such other website address as may be notified to Customer from time to time. |
| User Subscriptions | the user subscriptions purchased by Customer pursuant to <i>clause 9.1</i> which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement. |
| 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. |

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement. References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and its successors or permitted assigns. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established. Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.4 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. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision. A reference to writing or written includes faxes and email.

2. USER SUBSCRIPTIONS

2.1 Subject to Customer purchasing the User Subscriptions in accordance with *clause 3.4* and *clause 9.1*, the restrictions set out in this *clause 2* and the other terms and conditions of this agreement, Benchwink hereby grants to Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for Customer's internal business and/or clinical activities and associated clinical development work. The number of User Subscriptions shall be as set out in the Order.

2.2 In relation to the Authorised Users, Customer undertakes that:

2.2.1 it shall appoint an appropriately skilled, knowledgeable and responsible Admin User and that Admin User shall:

2.2.1.1 determine the number of Authorised Users;

2.2.1.2 determine the level of permissions and functionality availability for each such Authorised Users;

2.2.1.3 ensure and procure that each Authorised User accepts and abides by the EULA and maintains a safe and secure password;

2.2.1.4 keep Benchwink updated with the number of Authorised Users and ensure the correct Subscription Fees are in place for the number of Authorised Users.

2.2.2 the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;

2.2.3 it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;

2.2.4 all Authorised Users shall keep a secure password of sufficient complexity for their use of the Services and Documentation, that such password shall be changed no less frequently than monthly and that all Authorised Users shall keep their password confidential;

2.2.5 it shall maintain a written, up to date list of current Authorised Users and provide such list to Benchwink within 5 Business Days of Benchwink's written request at any time or times;

2.2.6 it shall permit Benchwink to audit the Services in order to establish the name and password of each Authorised User. Such audit may be conducted no more than once per quarter, at Benchwink's

expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with Customer's normal conduct of business;

2.2.7 if any of the audits referred to in *clause 2.2.6* reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Benchwink's other rights, Customer shall promptly disable such passwords and Benchwink shall not issue any new passwords to any such individual; and

2.2.8 if any of the audits referred to in *clause 2.2.6* reveal that Customer has underpaid Subscription Fees to Benchwink, then without prejudice to Benchwink's other rights, Customer shall pay to Benchwink an amount equal to such underpayment as calculated in accordance with the Additional User Subscription prices set out in the Order within 10 Business Days of the date of the relevant audit.

2.3 Customer shall not and shall procure that each Authorised User shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

2.3.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

2.3.2 facilitates illegal activity;

2.3.3 depicts sexually explicit images;

2.3.4 promotes unlawful violence;

2.3.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability;

2.3.6 includes deliberately or negligently inaccurate, untruthful, harmful or misleading information or data; or

2.3.7 is otherwise illegal or causes damage or injury to any person or property;

and Benchwink reserves the right, without liability or prejudice to its other rights to Customer, to disable Customer's access to any material that breaches the provisions of this clause.

2.4 Customer shall not:

2.4.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:

2.4.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or

2.4.1.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

2.4.2 access all or any part of the Services and Documentation in order to build a product or service which competes with or replaces the Services and/or the Documentation; or

2.4.3 use the Services and/or Documentation to provide services to third parties (other than those which are incidental to the conduct of clinical development projects run using the Services and subject to such third parties becoming Authorised Users under this agreement); or

2.4.4 subject to *clause 16.7*, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users; or

2.4.5 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this *clause 2*; and

2.5 Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Benchwink.

2.6 The rights provided under this *clause 2* are granted to Customer only, and shall not be considered granted to any subsidiary or holding company of Customer.

3. ADDITIONAL USER SUBSCRIPTIONS

3.1 Subject to *clause 3.2* and *clause 3.4*, Customer may, from time to time during the Subscription Term, purchase additional User Subscriptions in excess of the number set out in the Order and Benchwink shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of this agreement.

3.2 Benchwink may monitor the Customer's use of the software and the number of [users/sites] accessing via the Customer's subscription/account with Benchwink. Benchwink shall be entitled to invoice for and receive payment on a full monthly basis for actual user numbers of the Customer (subject always to the Minimum User charges) in accordance with clauses 3.3 and 3.4.

3.3 If Customer wishes to purchase additional User Subscriptions, it may add additional Authorised Users at any time during the Subscription Term (subject always to payment of additional user Subscription Fees). Benchwink shall then invoice the Customer for the total number of the Customer's Authorised Users per calendar month in accordance with *clause 9*. Such charges will at all times apply for the entire month for the maximum number of users under the Customer's subscription/account during that month, regardless of whether such user numbers subsequently decrease during that month or the additional users are otherwise only briefly accessing and using the software and platform. The Customer undertakes to pay all such additional user Subscription Fees in accordance with the terms below. Benchwink reserves the right to reject or prevent access to the Services by such additional users on reasonable grounds.

3.4 Customer shall, within 30 days of the date of Benchwink's invoice, pay to Benchwink the relevant fees for such additional User Subscriptions for the full duration of such additional subscriptions, subject always to a minimum period of charge of one month per additional user as further set out in *clause 3.3*.

4. SERVICES

4.1 Benchwink shall, during the Subscription Term, provide the Services and make available the Documentation to Customer on and subject to the terms of this agreement.

4.2 Benchwink shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

4.2.1 planned maintenance carried out during the maintenance window [to be announced no less than ONE week in advance] and

4.2.2 unscheduled maintenance performed outside Normal Business Hours, provided that Benchwink has used reasonable endeavours to give Customer notice in advance.

4.3 Benchwink will, in consideration of the Support Fees, provide Customer with Benchwink's customer support services during Normal Business Hours in accordance with Schedule 2 of this Agreement.

5. CUSTOMER DATA

5.1 Customer shall own all right, title and interest in and to all of Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of Customer Data.

5.2 Benchwink shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by an act or omission of the Customer or any third party (except those third parties sub-contracted by

Benchwink to perform services related to Customer Data maintenance and back-up) Benchwink shall follow its archiving procedures for Customer Data as set out in its Back Up Policy available on request or at Audit as such document may be amended by Benchwink in its sole discretion from time to time. In the event of any loss or damage to Customer Data, Customer's sole and exclusive remedy shall be for Benchwink to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Benchwink in accordance with the archiving procedure described in such Back-Up Policy. Benchwink 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 Benchwink to perform services related to Customer Data maintenance and back-up).

- 5.3 Benchwink shall, in providing the Services, comply with its Privacy and Security Policy relating to the privacy and security of Customer Data. The Benchwink Privacy Standard (GDPR and DPA 2018) (UK) can be made available with prior authorisation from the DPO.
- 5.4 The terms used in this clause 5 shall be construed in accordance with the terms as defined in the Data Protection Legislation as amended or replaced from time to time. Customer shall on to the Services of Benchwink only load fully anonymised data which has been fully stripped of any personally identifiable information or markers which might otherwise bring the Data within the ambit of the applicable Data Protection Legislation.
- 5.5 To the extent the Customer intends to upload personal data, special category data (within the meaning of Article 9 of the GDPR) and/or sensitive data onto the Services, Customer undertakes to provide advance notice in writing to Benchwink of that intention and the Customer undertakes to obtain all necessary consents and abide by all applicable Data Protection Legislation in respect of the same, including as further set out below.
- 5.6 To the extent that Benchwink does process any personal data on Customer's behalf when performing its obligations under this agreement, the parties record their intention that Customer shall be the data controller and Benchwink shall be a data processor (as defined in the applicable Data Protection Legislation) and in any such case:
- 5.6.1 both parties will comply with all applicable requirements of the Data Protection Legislation and this clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation;
 - 5.6.2 Benchwink shall process that personal data only on the lawful written instructions of the Customer unless Benchwink is required by UK law, the laws of any member state of the European Union or by the laws of the European Union applicable to Benchwink to process Personal Data (**Applicable Laws**) differently and where Benchwink is relying on laws of the UK, laws of a member state of the European Union or European Union laws as the basis for processing Personal Data, Benchwink shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Benchwink from so notifying the Customer;
 - 5.6.3 Customer shall ensure that Customer is entitled to transfer the relevant personal data to Benchwink so that Benchwink may lawfully use, process and transfer the personal data in accordance with this agreement on Customer's behalf;
 - 5.6.4 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction 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 that personal 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 that personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to that 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);
 - 5.6.5 both parties shall ensure that all personnel who have access to and/or process personal data are obliged to keep that personal data confidential; and

- 5.6.6 Benchwink shall not transfer any of that personal data outside of the European Economic Area unless appropriate safeguards are in place.
- 5.6.7 Benchwink shall 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;
- 5.6.8 Benchwink shall notify the Customer without delay on becoming aware of a Personal Data breach; and
- 5.6.9 each party shall maintain complete and accurate records and information to demonstrate its compliance with this clause and the Data Protection Legislation.
- 5.7 Customer warrants that it shall comply with its obligations under all applicable Data Protection Legislation and Customer shall indemnify, keep indemnified and hold Benchwink harmless against all costs, claims, fines, damages or expenses for failing to comply with its obligations under this clause.
- 5.8 On termination of this agreement, Benchwink shall within a reasonable time, return or destroy at the option of the Customer (provided that notice of the Customer's option is given to Benchwink within 14 days of termination) and at the Customer's expense, any personal data provided to it by the Customer and processed by it on behalf of the Customer. If the Customer's option is not notified to Benchwink within fourteen (14) days of termination of this Agreement, then Benchwink shall destroy any such personal data in Benchwink's possession which was provided by the Customer pursuant to this Agreement.
- 5.9 Each party shall adopt reasonable and appropriate measures including the use of up-to-date and reputable anti-virus software/systems and other commercially reasonable cybersecurity and data security measures to avoid creating and/or introducing into the Customer Data and/or Services any Virus or other destructive, compromising or contaminating program or permit any other party to do so.
- 5.10 Benchwink reserves the right, without liability or prejudice to Benchwink's other rights, to disable the Customer's access to any material or any Services where the Customer is in breach or is reasonably likely to breach the provisions of this Section.

6. THIRD PARTY PROVIDERS

Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Benchwink makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between Customer and the relevant third party, and not Benchwink. Benchwink recommends that Customer refer to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Benchwink does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

7. BENCHWINK'S OBLIGATIONS

- 7.1 Benchwink undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
- 7.2 The undertaking at *clause 7.1* shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Benchwink's instructions, or modification or alteration of the Services by any party other than Benchwink or Benchwink's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Benchwink will, at its expense and discretion, use all reasonable commercial

endeavours to correct any such non-conformance promptly, or provide Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes Customer's sole and exclusive remedy for any breach of the undertaking set out in *clause 7.1*. Notwithstanding the foregoing, Benchwink:

7.2.1 does not warrant that Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by Customer through the Services will meet Customer's requirements; and

7.2.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7.3 This agreement shall not prevent Benchwink from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.

7.4 Benchwink warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

8. CUSTOMER'S OBLIGATIONS

8.1 Customer shall:

8.1.1 provide Benchwink with:

8.1.1.1 all necessary co-operation in relation to this agreement; and

8.1.1.2 all necessary access to such information as may be required by Benchwink;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

8.1.2 comply with all applicable laws and regulations with respect to its activities under this agreement;

8.1.3 carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner and in the event of any delays in Customer's provision of such assistance as agreed by the parties, Benchwink may adjust any agreed timetable or delivery schedule as reasonably necessary;

8.1.4 ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and the EULA and shall be responsible for any Authorised User's breach of this agreement or the EULA;

8.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for Benchwink, its contractors and agents to perform their obligations in respect of the Customer under this agreement, including without limitation the Services;

8.1.6 ensure that its network and systems comply with the relevant specifications provided by Benchwink from time to time; and

8.1.7 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Benchwink's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Customer's network connections or telecommunications links or caused by the internet.

9. CHARGES AND PAYMENT

9.1 Customer shall pay the Subscription Fees to Benchwink for the User Subscriptions in accordance with this *clause 9* and the Order and the Support Fees in accordance with *clause 4.3* and the Order.

- 9.2 Customer shall on the Effective Date provide to Benchwink valid, up-to-date and approved purchase order information acceptable to Benchwink and any other relevant valid, up-to-date and complete contact and billing details and, if Customer provides:
- 9.2.1 its approved purchase order information to Benchwink, Benchwink shall invoice Customer:
- 9.2.1.1 on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
- 9.2.1.2 subject to *clause 14.1*, at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period,
- and Customer shall pay each invoice within [30] days after the date of such invoice unless otherwise agreed and set out in the order.
- 9.3 If Benchwink has not received payment within [30] days after the due date, and without prejudice to any other rights and remedies of Benchwink:
- 9.3.1 Benchwink may, without liability to Customer, disable Customer's password, account and access to all or part of the Services and Benchwink shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- 9.3.2 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 Benchwink's bankers in the UK, Barclays Bank PLC from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 9.4 All amounts and fees stated or referred to in this agreement:
- 9.4.1 shall be payable in the currency stipulated in the invoice and the Customer's original Order;
- 9.4.2 are, subject to *clause 13.3.2*, non-cancellable and non-refundable;
- 9.4.3 are exclusive of value added tax, which shall be added to Benchwink's invoice(s) at the appropriate rate.
- 9.5 If, at any time whilst using the Services, Customer exceeds the amount of disk storage space specified in the Documentation, Benchwink shall charge Customer, and Customer shall pay, Benchwink's then current excess data storage fees. Benchwink's excess data storage fees current as at the Effective Date are set out in the Order.
- 9.6 Benchwink shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to *clause 3.4*, the support fees payable pursuant to *clause 4.3* and/or the excess storage fees payable pursuant to *clause 9.5* at the start of each Renewal Period upon 90 days' prior notice to Customer and the Order shall be deemed to have been amended accordingly.
- 9.7 In addition, there will be an annual inflationary increase for all Subscription Fees in line with RPI.

10. PROPRIETARY RIGHTS

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

11. CONFIDENTIALITY

11.1 Each party may be given access to Confidential Information from the other party in order to exercise its rights or perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:

11.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

11.1.2 was in the receiving party's lawful possession before the disclosure;

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

11.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence.

11.2 Subject to *clause 11.4*, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other party's Confidential Information for any purpose other than the implementation of this agreement.

11.3 Each party shall take all reasonable steps to ensure that the other party'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.

11.4 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 11.4*, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

11.5 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

11.6 Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Benchwink's Confidential Information.

11.7 Benchwink acknowledges that Customer Data is the Confidential Information of the Customer.

11.8 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.

11.9 The above provisions of this *clause 11* shall survive termination of this agreement, however arising.

12. INDEMNITY

12.1 Customer shall defend, indemnify and hold harmless Benchwink 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 Customer's use of the Services and/or Documentation, provided that:

12.1.1 Customer is given prompt notice of any such claim;

12.1.2 Benchwink provides reasonable co-operation to Customer in the defence and settlement of such claim, at Customer's expense; and

12.1.3 Customer is given sole authority to defend or settle the claim.

12.2 Benchwink shall defend Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any United Kingdom patent effective as of the Effective Date, or any United Kingdom

copyright, trade mark, database right or trade secret or right of confidentiality, and shall indemnify Customer for any amounts awarded against Customer in judgment or settlement of such claims, provided that:

- 12.2.1 Benchwink is given prompt notice of any such claim;
 - 12.2.2 Customer provides reasonable co-operation to Benchwink in the defence and settlement of such claim, at Benchwink's expense; and
 - 12.2.3 Benchwink is given sole authority to defend or settle the claim.
- 12.3 In the defence or settlement of any claim, Benchwink may procure the right for Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to Customer without any additional liability or obligation to pay liquidated damages or other damages or additional costs to Customer.
- 12.4 In no event shall Benchwink, its employees, agents and sub-contractors be liable to Customer to the extent that the alleged infringement is based on:
- 12.4.1 a modification of the Services or Documentation by anyone other than Benchwink; or
 - 12.4.2 Customer's use of the Services or Documentation in a manner contrary to the instructions given to Customer by Benchwink; or
 - 12.4.3 Customer's use of the Services or Documentation after notice of the alleged or actual infringement from Benchwink or any appropriate authority.
- 12.5 The foregoing and *clause 13.3.2* states Customer's sole and exclusive rights and remedies, and Benchwink's (including Benchwink's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or trade secret or right of confidentiality.

13. LIMITATION OF LIABILITY

- 13.1 Except as expressly and specifically provided in this agreement:
- 13.1.1 Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by Customer, and for conclusions drawn from such use and Benchwink shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Benchwink by Customer in connection with the Services, or any actions taken by Benchwink at Customer's direction;
 - 13.1.2 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; and
 - 13.1.3 the Services and the Documentation are provided to Customer on an "as is" basis.
- 13.2 Nothing in this agreement excludes the liability of either party:
- 13.2.1 for death or personal injury caused by that party's negligence; or
 - 13.2.2 for fraud or fraudulent misrepresentation.
- 13.3 Subject to *clause 13.1* and *clause 13.2*:
- 13.3.1 Benchwink shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, 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

- 13.3.2 Benchwink's total aggregate liability in contract (including in respect of the indemnity at *clause 12.2*), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the total Subscription Fees paid for the User Subscriptions during the [12] months immediately preceding the date on which the claim arose.

14. TERM AND TERMINATION

- 14.1 This agreement shall, unless otherwise terminated as provided in this *clause 14*, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a **Renewal Period**), unless:

14.1.1 either party notifies the other party of termination, in writing, at least [60 days] before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

14.1.2 otherwise terminated in accordance with the provisions of this agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.

- 14.2 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:

14.2.1 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 14 days after being notified in writing to make such payment;

14.2.2 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 28 days after being notified in writing to do so;

14.2.3 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 ;

14.2.4 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 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;

14.2.5 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 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;

14.2.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

14.2.7 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

14.2.8 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;

14.2.9 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;

- 14.2.10 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 14.2.3* to *clause 14.2.9* (inclusive);
- 14.2.11 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 14.3 On termination of this agreement for any reason:
- 14.3.1 all licences granted under this agreement shall immediately terminate and Customer shall immediately cease all use of the Services and/or the Documentation;
- 14.3.2 each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- 14.3.3 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;
- 14.3.4 Benchwink may destroy or otherwise dispose of any of Customer Data in its possession unless Benchwink receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to Customer of the then most recent back-up of Customer Data in which case Benchwink shall use reasonable commercial endeavours to deliver the back-up to Customer within 30 days of its receipt of such a written request, provided that 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); and
- 14.3.5 Customer shall pay all reasonable expenses incurred by Benchwink in returning or disposing of Customer Data.

15. FORCE MAJEURE

Benchwink shall have no liability to Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Benchwink or any other party), failure of a utility service or transport or telecommunications network, 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 Benchwink or sub-contractors, provided that Customer is notified of such an event and its expected duration.

16. GENERAL

- 16.1 **Conflict** - 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.
- 16.2 **Variation** - No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 16.3 **Waiver** - No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.4 **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.
- 16.5 **Severance** - If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were

deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

- 16.6 **Entire Agreement** - 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. 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. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement. Nothing in this clause shall limit or exclude any liability for fraud.
- 16.7 **Assignment** - Customer shall not, without the prior written consent of Benchwink, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement. Benchwink may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 16.8 **No Partnership or Agency** - Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 16.9 **Third Party Rights** - This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 16.10 **Notices** - 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 email to the other party's designated point of contact as set out in this agreement. 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 email shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).
- 16.11 **Governing Law and Jurisdiction** - This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1**ORDER**

Submission of this Order to Benchwink is an offer by the Customer to enter into an agreement with Benchwink on the basis of the terms and conditions attached hereto. Once Benchwink has accepted that Order (either by written confirmation, or by allowing the Customer access to the Services) the parties shall be bound by the agreement between Benchwink and the Customer dated [as indicated on database] (the "MSA") and this Order which together form the agreement. No Customer terms or conditions shall apply to this agreement.

1. PARTIES

- 1.1 **Benchwink Limited**, a company registered in England with Company Number 16067502 at 124-128 City Road, London, EC1V 2NX ("**Benchwink**");
- 1.2 [FULL COMPANY NAME] incorporated in [COUNTRY] with Company Number [INSERT] whose registered office is at [REGISTERED ADDRESS] ("**Customer**"), digitally represented on the Benchwink database.

2. SERVICES

- 2.1 []

3. SUBSCRIPTION FEES

- 3.1 The Subscription Fees shall be defined based on number of user queries at £120 per 200 queries, digitally represented on the Benchwink System.

4. ADDITIONAL USER SUBSCRIPTION FEES

- 4.1 None

5. EXCESS STORAGE FEES

- 5.1 The agreed storage allowance is up to [1TB] of data. Cost for additional storage capacity is available upon request.

6. SUPPORT FEES

- 6.1 Benchwink's standard and enhanced support fees are set out as £100 per hour, including consultancy and support.

7. SUBSCRIPTION FEE INCREASE

- 7.1 As described in clauses 9.6 and 9.7 of the MSA, any price changes at the start of each renewal period will be notified upon 1 days' prior notice to Customer and the Order shall be deemed to have been amended accordingly. This includes (without limitation) an annual inflationary increase to all Subscription Fees

8. INITIAL SUBSCRIPTION

- 8.1 Initial Subscription Term: ONE MONTH;
- 8.2 Initial Authorised User Numbers: [10]. With a minimum of five (5) Authorised User plus one (1) Admin User, numbers may be increased in accordance with the terms and conditions.

SCHEDULE 2

SERVICE LEVEL ARRANGEMENTS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this schedule.

1.1 Definitions:

| | |
|--|---|
| Business Day | a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business. |
| Commercially Reasonable Efforts | the same degree of priority and diligence with which Benchwink meets the support needs of its other similar Customers. |
| Contact List | a current list of Benchwink contacts, email addresses and telephone numbers to enable the Customer to escalate its Support Requests, including: <ul style="list-style-type: none">(a) the first person to contact; and(b) the persons in successively more qualified or experienced positions to provide the support sought. |
| Customer Cause | any of the following causes: <ul style="list-style-type: none">(a) any improper use, misuse or unauthorised alteration of the Products or Services by the Customer;(b) any use of the Products or Services by the Customer in a manner inconsistent with the then-current Benchwink instructions or product user manuals;(c) the use by the Customer of any hardware or software not provided by Benchwink or approved by Benchwink in writing for use by the Customer in connection with the Products/Services; or(d) use of any version of the Products/Services other than the latest release of the Products/Services. |
| Fault | any material failure of the Products/Services, including any failure or error referred to in the Service Level Table. |
| Fee | the fee payable for the relevant Product or Services as detailed in the respective Order. |
| Help Desk Support | any support provided by help desk technicians sufficiently qualified and experienced to identify and resolve most support issues relating to the Services. |
| Higher-level Support | any higher-level support provided by an individual on the Contact List. |
| Main Agreement | the forgoing agreement entered into between the parties together with the relevant Order to which this SLA relates. |
| Out-of-scope Services | either of the following services: <ul style="list-style-type: none">(a) any services provided by Benchwink in connection with any apparent problem regarding the Products/Services reasonably determined by |

Benchwink not to have been caused by a Fault, but rather by a Customer Cause or a cause outside Benchwink's control (including any investigational work resulting in such a determination); or

- (b) any Higher-level Support provided in the circumstances specified in paragraph 2.3.

| | |
|----------------------------|---|
| Service Levels | the service level responses and response times referred to in the Service Level Table. |
| Service Level Table | the table set out in paragraph 7.1. |
| SLA | this Schedule 2. |
| Support Fees | fees for the Support Services as set out in the Order. |
| Support Hours | Business Hours and US Business Hours. |
| Support Period | the term as set out in the Order. |
| Support Request | request made by the Customer in accordance with this SLA for support in relation to the Products/Services, including correction of a Fault. |
| Support Services | maintenance of the then-current version or release of the Products/Services, including Help Desk Support and Higher-level Support, but excluding any Out-of-scope Services. |
| UK Business Hours | 9am to 5pm (UK time) on a Business Day. |
| US Business Days | any day the banks in New York are open for business, being Monday to Friday excluding public/federal holidays in New York. |
| US Business Hours | 9am to 5pm (EST) on US Business Days. |

2. SUPPORT SERVICES

2.1 During the Support Period Benchwink shall perform the Support Services during the Support Hours in accordance with the Service Levels.

2.2 As part of the Support Services, Benchwink shall:

2.2.1 provide Help Desk Support by means of the following:

| | |
|-----------|---------------------|
| Telephone | +07808658363 |
| E-Mail | hello@benchwink.com |

2.2.2 commit appropriate resources to the provision of Higher-Level Support;

2.2.3 where Help Desk Support is not provided within the relevant Service Level response time and the Customer escalates its Support Request to an individual of appropriate qualification or experience on the Contact List, provide Higher-Level Support;

2.2.4 use Commercially Reasonable Efforts to correct all Faults notified under paragraph 6.3.1; and

2.2.5 provide technical support for the Services in accordance with the Service Levels.

2.3 Any Higher-level Support specifically requested by the Customer to be and which is provided by an individual whose qualification or experience is greater than that reasonably necessary to resolve the relevant Support

Request shall be deemed an Out-of-scope Service, provided that an appropriately qualified or experienced individual was in fact available at the time when the Higher-level Support was sought.

2.4 Benchwink may reasonably determine that any services are Out-of-scope Services. If Benchwink makes any such determination, it shall promptly notify the Customer of that determination.

2.5 The Customer acknowledges that Benchwink is not obliged to provide Out-of-scope Services, and that the fees payable to Benchwink for such Out-of-scope Services shall be in addition to the Support Fees and the Fees for Services set out in the Order.

3. HOSTING

3.1 The Services provided by Benchwink are hosted by Digital Ocean pursuant to a separate hosting agreement between Digital Ocean and Benchwink. In the event that there is an issue with the availability of the Services which is due to the third party host's servers or internet connectivity issues, the Customer's sole remedy from Benchwink is for Benchwink to use Commercially Reasonable Efforts to assist the Customer in contacting the third party to find a solution to the problem.

4. DATA BACKUP

4.1 Benchwink shall back up data in accordance with its separate standard operating procedures document (the Back-up Policy, as further described in the foregoing agreement), the full policy is available for inspection upon Customer request.

4.2 In the event that Data becomes lost or corrupted, Benchwink shall use Commercially Reasonable Efforts to assist the Customer in recovering the Data.

5. FEES

5.1 The provision of Support Services on a remote, off-site basis (such as over the telephone or by e-mail) within the Support Period shall be included in the Support Fees.

5.2 The provision of Support Services outside the Support Period or at the Customer's Site or the provision of Out-of-scope Services shall be charged for based on Benchwink's standard day rate charges.

6. SUBMITTING SUPPORT REQUESTS AND ACCESS

6.1 The Customer may request Support Services by way of a Support Request.

6.2 Each Support Request shall include a description of the problem and the start time of the incident.

6.3 The Customer shall provide Benchwink with:

6.3.1 Prompt and complete notice of any Faults; and

6.3.2 such output and other data, documents, information, assistance and remote access to the Customer System, as are reasonably necessary to assist Benchwink to reproduce operating conditions similar to those present when the Customer detected the relevant Fault and to respond to the relevant Support Request.

6.4 All Support Services shall be provided from Benchwink's office.

6.5 The Customer acknowledges that, to properly assess and resolve Support Requests, it may be necessary to permit Benchwink remote access at the Client's site, to the Customer system and the Customer's files, equipment and personnel.

6.6 The Customer shall provide such access promptly, provided that Benchwink complies with all the Customer's security requirements and other policies and procedures relating to contractors remote working on the Customer site notified to Benchwink.

7. SERVICE LEVELS

7.1 Benchwink shall:

- 7.1.1 prioritise all Support Requests based on its reasonable assessment of the severity level of the problem reported; and
- 7.1.2 respond to all Support Requests in accordance with the responses, and response times, specified in the table set out below:

| Severity level of Fault | Definition | Service Level response, and response time |
|-------------------------|--|--|
| 1 | <p>Business Critical Failures: An error in, or failure of, the Products/Services that:</p> <ul style="list-style-type: none"> a) materially impacts the operations of the Customer's business or reliability of its service or product; b) prevents necessary work from being done; or c) disables major functions of the Products from being performed. | <p>Level 1 Response:</p> <p>Acknowledgment of receipt of a Support Request within 1 Business Day.</p> <p>Level 2 Response:</p> <p>Benchwink shall:</p> <ul style="list-style-type: none"> a) exercise Commercially Reasonable Efforts in an attempt to restore the Products/Services to a state that allows the Customer to continue to use all functions of the Products/Services in all material respects within one (1) Business Day after the Level 1 Response time has elapsed provided the request was received within Support Hours; and b) exercise Commercially Reasonable Efforts until full restoration of function is provided. <p>Level 3 Response:</p> <p>Benchwink shall use Commercially Reasonable Efforts in an attempt to implement a Solution within three (3) Business Days of receipt of the Support Request if received within Support Hours.</p> <p>If Benchwink delivers a Solution by way of a workaround reasonably acceptable to the Customer, the severity level assessment shall reduce to a severity level 2 or lower.</p> |
| 2 | <p>System Defect with Workaround:</p> <ul style="list-style-type: none"> a) a critical error in the Products for which a work-around | <p>Level 1 Response:</p> <p>Acknowledgment of receipt of a Support Request within two (2)</p> |

| | | |
|----------|---|---|
| | <p>exists; or</p> <p>b) a non-critical error in the Products that affects the operations of the Customer's business or marketability of its service or product.</p> | <p>Business days.</p> <p>Level 2 Response:</p> <p>Benchwink shall, within two (2) Business Days after the Level 1 Response time has elapsed, use Commercially Reasonable Efforts to provide:</p> <p>a) an emergency software fix or workaround, or; and</p> <p>b) temporary release or update release,</p> <p>which allows the Customer to continue to use all functions of the Products in all material respects.</p> <p>Level 3 Response:</p> <p>Benchwink shall provide a permanent Fault correction as soon as practicable and no later than in the next version or maintenance release of the affected Product/Service after Benchwink's receipt of the Support Request.</p> |
| <p>3</p> | <p>Minor Error:</p> <p>An isolated or minor error in the Products that:</p> <p>a) does not significantly affect Products functionality;</p> <p>b) may disable only certain non-essential functions; or</p> <p>c) does not materially impact the Customer's business performance.</p> | <p>Level 1 Response:</p> <p>Acknowledgment of receipt of the Support Request within three (3) Business days.</p> <p>Level 2 Response:</p> <p>Benchwink shall use Commercially Reasonable Effectors to provide a permanent Fault correction in an updated version or maintenance release of the affected Products/Services after the Level 1 Response time has elapsed (this may not be the next release). The customer will be notified of the timing of the release that includes the relevant fix.</p> |

7.2 The parties may, on a case-by-case basis, agree in writing to a reasonable extension of the Service Level response times.

7.3 Issues are handled and escalated within Benchwink as follows:

| Ticket Type | Escalated To |
|-------------|--------------|
|-------------|--------------|

| | |
|------------------------|----------|
| Database Accessibility | Director |
| Application Problems | Director |
| Application Support | Director |
| Complaints | Director |

8. COMMUNICATIONS

- 8.1 In addition to the mechanisms for giving notice specified in clause 16.10 of the foregoing agreement, the parties may communicate in respect of any matter referred to in this Schedule 2 by e-mail (unless specified otherwise).
- 8.2 All Support Services shall be provided in the English language only and during Support Hours only. Requests for Support Services to be provided in additional languages and/or outside the Support Hours shall be subject to additional charges payable by the Customer.

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