Paygle Master Agreement

Paygle Pty Ltd

5 Miller Street

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ABN: 35 104 489 992

ACN: 104 489 992

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Master Licence Agreement

Parties

1.   **Paygle Pty Ltd** ACN 104 489 992 of 5 Miller Street, Prahran, Victoria (**Paygle**)

2.   **Customer:**

     Customer's Company Name……………………………………………….....................

     Address (Principal Place of Business)…………….……………………..…............

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     and;

     Address (Registered Office) …………………..…..…………………………..…..……

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Introduction

A.   The Customer wishes to use the products, services and systems of Paygle (the Licensed System).

B.   Paygle has offered to grant the Customer a non-transferable and non-exclusive licence to use the Licensed System, subject to the terms and conditions set out below.

C.   The Customer requires ongoing supply of products, services and access to systems from Paygle in respect of the Licensed System and simultaneously enters into a Service Level Agreement (**SLA**) with Paygle to govern the supply of products, support services and access for the Licensed System.

Operative clauses

1.   Definitions

1.1   In this Agreement, unless the contrary intention appears:

     AEST means Australian Eastern Standard Time;

     Agreement means:

        a)   This agreement and the SLAs which are attached to this agreement as an Appendix;

        b)   Any individual agreement entered into between the Parties referring to and incorporating the general terms of business and specific terms of business.

     API means Application Programming Interfaces.

     APPS and APP # refers to the Australian Privacy Principles or a particular APP specified in the Privacy Act;

     Base Product means a Paygle product provided by Paygle in quantities of one or more, in the standard, off-the-shelf form of such modules, as they exist prior to the development of, or any modifications to, the Base Product, including the integration of Paygle into accounting software, POS software and other ERP solutions.

     Commencement Date means the date the Customer signs the execution clause at the back of this Agreement;

Confidential Information means the confidential information of a Party which relates to the subject matter of this Agreement and includes information relating to:

(a)   the Licensed System, Base Product, API, SaaS or Result;

(b)   the personnel, policies or business strategies of Paygle;

(c)   the terms upon which the Licensed System is being supplied, serviced and supported pursuant to this Agreement;

(d)   the Customer Data and Customer Technology (which are Confidential Information of Customer);

(e)   Any other information of a party that is disclosed in writing or orally and is designated as *Confidential* or *Proprietary* at the time of disclosure (and, in the case of oral disclosures, summarized in writing within thirty (30) days of the initial disclosure and delivered to the receiving party), or that due to the nature of the information the receiving party would clearly understand it to be confidential information of the disclosing party; and

(f)   the specific terms and conditions of this Agreement, any Order Form, any SOW, and any amendment and attachment thereof, between the parties.

Contractor means an approved Paygle representative (and not an employee) who is a person or a company performing work, on behalf of Paygle and/or the customer, that has a responsibility to provide services in line with agreed to expectations, as per the order form.

Customer Affiliates means any legal entity controlling, controlled by or under common control through the possession of a majority of the shares or votes in the Customer.

Customer Application means the Customer's own proprietary software sold directly to its clients. The Application may not be an API, a software development kit or a function licensed to third parties with which to build functionality that utilises Paygle's technology.

Customer Data means any electronic data uploaded by or for the Customer and the Customer's agents, employees and contractors, and processed in the Subscription Service, excluding Paygle's Core Technology.

Customer Technology means software, methodologies, templates, business processes, documentation or other material authored, invented or otherwise created or licensed (other than by or from Paygle) by the Customer using or for use with the Subscription Service, excluding the Paygle Core Technology.

Defect means a failure of the Base Product used by the Customer to conform to the specifications published at any given time by Paygle that is reproducible by both the Customer and Paygle or, if applicable, a failure of a Modification to conform to specifications prepared by Paygle and approved by the Customer.

Designated Equipment means any equipment, virtual or physical designated in the SLA, upon which the Licensed System, Base Product, API or SaaS may be used;

Development Tools means source code, application programming interfaces (APIs), executable software and tools in human readable format made available by Paygle for the implementation, customisation, configuration, and use of the Subscription Service, such as scripts, code snippets, sample code, and development tools published by Paygle.

Documentation means operating manuals and other printed materials which assist the Customer to use the Licensed System, Base Product, API and SaaS Services including any Development Tools, technical programs, interface documentation and user software material as published by Paygle;

ERP means Enterprise Resource Planning.

Escalation Request is as set out in the SLA;

Enterprise License Fee means a Licence fee for use of the SaaS service.

Enterprise Subscription means Paygle's SaaS Service used on a recurring basis by a Customer and/or a client/s of the Customer on an occasional basis. The Customer will also have multiple users of Paygle's SaaS Service in its organisation accessing the SaaS Service from different devices.

Extra Charge means a charge in accordance with Paygle's standard rates on a time and materials basis plus Travel Expenses, in cases where additional products or services have been requested over and above those specified in the SLA;

Force Majeure means a circumstance beyond the reasonable control of the Parties that result in a Party being unable to observe or perform on time an obligation under this Agreement. Such circumstances include, but are not limited to:

(a)   acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster;

(b)   acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution; and

(c)   strikes;

GST means:

(a)   the same as in the GST Law;

(b)   any other goods and services tax, or any tax applying to this transaction in a similar way; and

(c)   any additional tax, penalty tax, fine, interest or other charge under a law of such a tax;

GST Law means the same as in *A New Tax System (Goods and Services Tax) Act* 1999 (Cth) or Value Added Tax as per other international Law;

GToB means the General Terms of Business as incorporated in this document.

Hardware Product means the hardware equipment specified in a Hardware Agreement.

Intellectual Property Rights means copyright, trademarks, designs, patents, confidential information, trade secrets or know-how;

Licence Fee means the fee specified in the SLA, payable by the Customer to Paygle, for the use of the Licensed System, Base Product, API, SaaS or Result;

Licensed System means the products and/or services and/or systems including the Base product, SaaS Services and or API integration designated in the SLA;

Modifications means the modifications of the Base Product performed by Paygle or a sub-contractor engaged by Paygle.

Normal Business Hours means between 0900am and 1700pm AEST on any day except Saturday, Sunday or any public holiday in Australia;

Order Form means a written ordering document signed by the Customer and Paygle.

Party means either Paygle or the Customer as the context dictates and includes parties;

Paygle means The Paygle Company (i.e. Paygle Pty Ltd).

Paygle Affiliates means any legal entity controlling, controlled by or under common control through the possession of a majority of the shares or votes in Paygle.

Paygle Core Technology means:

(a)   the Licensed System, Software, Development Tools, Documentation, and Paygle technology and methodologies (including, without limitation, products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation) existing as of the Effective Date or otherwise arising outside of work under a Professional Service;

(b)   updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related technical or end user documentation or manuals; and

(c)   Intellectual property anywhere in the world relating to the foregoing.

Paygle Country means the country where Paygle has its registered domicile.

Paygle Products means Base Paygle Products, to which the intellectual property rights are vested in Paygle and which are defined by Paygle as being standard products.

Per Device Subscription means Paygle's SaaS Service used on a recurring basis by the Customer and/or a client of the Customer on a frequent basis on a single device such as a mobile device or a tablet device or a PC or in a virtual environment.

Personal information has the same meaning as in the Privacy Act.

PMSI means a purchase money security interest as defined by the PPSA.

POS means Point of Sale.

PPSA means the Personal Properties Securities Act.

Privacy Act means the Privacy Act 1988 (Cth) and any other laws, codes or principles and any amendments thereto that deal with privacy or the collection, use and disclosure of Personal Information.

Privacy Collection Notice means the notice required by APP 5.

Privacy Policy means the privacy policy used by Paygle as amended from time to time and includes any privacy policies and privacy compliance programs developed by Paygle as notified in writing by Paygle from time to time.

Privacy Officer means the person within the Customer and/or Paygle (as applicable) who is responsible for privacy related matters.

Product / Products means Base Products including Modifications and Third Party Products delivered under and specified in the Agreements.

Product Overview means the description of the ordered products and their functionalities attached to an Order Form or referenced therein.

Professional Services means any services provided by Paygle pursuant to an agreed SOW or Service Description

Result means the result of the Services performed by Paygle.

SaaS Service means the API which will be used in conjunction with the Customer's proprietary Application to process scanned images.

SaaS Subscription Fee means a fee for use of the SaaS service.

"security interest", "purchase money security interest", "attached", "attachment", "perfected", "accession", "commingled" and all related terms have the meanings given them by the PPSA.

Services means the services provided by Paygle to the Customer pursuant to the SLA including but not limited to Maintenance Services and Professional Services delivered by Paygle under and specified in the Agreements;

Service Fees means the charges specified in the SLA, which are payable by the Customer to Paygle in respect of the Services;

Service Level Agreement means a written or unwritten contract, arrangement or understanding entered into between the parties for specific products, services and systems provided by Paygle to the Customer and is also referred to as an SLA; and

(a)   in cases where the SLA is an unwritten contract, arrangement or understanding between Paygle and the Customer, this SLA will continue in force until superseded by a written contract between Paygle and the Customer;

(b)   in cases where the SLA is a written contract, the SLA will be copied and form an Appendix to this Agreement;

(c)   in cases where an SLA concerns a different Licensed System or Services provided by Paygle to the Customer, each SLA will be appended and form a part of this Agreement and each SLA is to be read together with the Master Agreement as the entire agreement pursuant to clause 26, concerning that subject matter; and

(d)   in cases where an SLA is an update of a previously written SLA for the same or substantially similar Licensed System or Services between Paygle and the Customer, the most up to date SLA is the entire agreement along with the Master Agreement pursuant to clause 26 confirming that subject matter.

Site means the location designated in the SLA for delivery, installation and performance of the Licensed System, Base Product, API, SaaS or Services, or the Principal Place of Business;

Software means software provided by Paygle to the Customer that operates on the Customer-provided machines or approved environment and/or network solely to facilitate the use of the Licensed System.

SOW means a statement of work for Professional Services.

SToB means Specific Terms of Business stipulating the specific terms for the delivery of any Product or Service provided by Paygle.

Subscription Service means the Paygle software as a service (SaaS) offering ordered by Customer under an Order Form.

Subscription Term means the term of authorised use of the Subscription Service as set forth in the Order Form.

Sub-contractor means a person or business which has a contract (as an "independent contractor" and not an employee) with a contractor to provide some portion of the work or services on a project which the contractor has agreed to perform.

Third Party means an entity other than the Parties and Paygle Affiliates and Paygle. Where Paygle or a Paygle Affiliate assigns a sub-contractor for the performance of Services, such party will be regarded a sub-contractor and shall not be regarded as a Third Party.

Third Party Products means software or hardware owned by Third Parties or made available to Paygle and/or the Customer by Third Parties, and provided to the Customer by Paygle under an Agreement.

Transaction means the generation or creation of an invoice, receipt or any other Customer generated document uploaded into the Licence system.

Transactional service means a service that is calculated on a per transaction basis.

User means a person using the Base Product by logging in as a user profile in the Base Product

Version means a substantial enhancement which Paygle, at its own choice, elects to make to a Base Product. A Version may include new features, functional improvements, or elements of functionality not previously included in the Base Product. Version numbers are identified by a change in the figure to the left of the decimal point (e.g. from 3.66 to 4.0).

Virtual environment means a computer-generated, three-dimensional representation of a setting in which the user of the technology perceives themselves to be and within which interaction takes place; also called virtual landscape, virtual space, virtual world or cloud. This environment includes the Microsoft Azzure platform and any other Paygle approved platforms required to deliver the benefit to the customer;

Trade Marks means the registered and/or unregistered trademarks owned and/or used by Paygle;

Travel Expenses means any out of pocket expenses reasonably incurred including travel, accommodation, meals, tolls and visas;

Warranty Period is the period specified in the SLA.

2. Interpretation

2.1 In this Agreement, unless the contrary intention appears:

(a) the clause headings are for ease of reference, provided for the purpose of convenience only and are not relevant to the construction or interpretation of any of their respective provisions;

(b) a reference to a clause number is a reference to its subclauses;

(c) words in the singular number include the plural and vice versa;

(d) words importing a gender include any other gender;

(e) a reference to a person includes bodies corporate and unincorporated associations and partnerships;

(f) a reference to a clause is a reference to a clause or subclause;

(g) a reference to a subclause is a reference to a subclause within the clause in which that reference is made;

(h) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

(i) a reference to a Appendix includes a reference to any part of that Appendix which is incorporated by reference;

(j) the recitals to this Agreement do not form part of the Agreement;

(k)   monetary references are references to Australian currency.

3.   Access, Assistance and Performance

3.1   Paygle will use its best endeavours to deliver the Licensed System to the Customer, and where relevant install the Licensed System and perform the Services, in accordance with the timeframe specified in the SLA.

3.2   The Customer must, where relevant, ensure Paygle and its support personnel have full and safe access including security clearances, physical and/or electronic as appropriate, to the Licensed System and the relevant equipment at all reasonable times for the purpose of providing the Services and complying with subclause 3.1. The Customer must also ensure that Paygle and its support personnel are provided with all information, facilities, assistance and accessories reasonably required by Paygle to enable Paygle to comply with its obligations under this Agreement.

3.3   The Customer must give Paygle such reasonable assistance, including the provision of personnel and facilities, as Paygle considers necessary to ensure satisfactory delivery, installation and performance of the Licensed System. If reasonably requested by Paygle, the Customer must provide a suitably qualified or informed representative to accompany Paygle' personnel and to provide such advice or assistance to those personnel as may be necessary in order to enable Paygle to access the Licensed System and any Designated Equipment or other equipment and to otherwise effectively perform the Services.

3.4   If, in the opinion of Paygle, the costs associated with the delivery, installation and performance of the Licensed System are greater than Paygle could have reasonably contemplated on execution of this Agreement and are greater than the costs that would normally be associated with a similar installation project, Paygle may make an Extra Charge.

4.   Grant of Licence

4.1   Paygle hereby grants to the Customer a non-exclusive, non-transferable licence for the Licence Fee.

4.2   Subject to the terms of this Agreement, Paygle authorises the Customer to access and use the purchased Subscription Service during the Subscription Term as set forth in an applicable Order Form for its business purposes in accordance with the Documentation. The Customer shall not use or otherwise access the Subscription Service in a manner that exceeds the Customer's authorised use as set forth in this Agreement and the applicable Order Form.

4.3   Paygle grants the Customer a limited, personal, worldwide, non-sub-licensable, non-transferable (except as set forth in Section 28), non-exclusive license during the Subscription Term to install and execute Software on machines operated by or for the Customer solely to facilitate the Customer's authorised access to and use of the purchased Subscription Service. The Software may include code that is licensed under third party license agreements, including open source made available or provided with the Software. Software is licensed and not sold even if for convenience Paygle makes reference to words such as *sale* or *purchase.*

4.4   In support of the Customer's business use of the Subscription Service during the Subscription Term, Paygle grants to the Customer a limited, personal, worldwide, non-sub-licensable, non-transferable (except as set forth in Section 28), non-exclusive license to download and make a reasonable number of copies of the Development Tools, and to use, copy, modify and create derivative works of the Development Tools, in:

(a) using, implementing and integrating the Paygle applications with other software and systems; and

 (b) Creating applications on the Paygle platform (to the extent the Customer has purchased authorised use of the Subscription Service to create applications on the Paygle platform). The Customer shall not use the Development Tools in a manner that causes it to exceed the limits of its authorised use of the Subscription Service as set forth in this Agreement and the Order Form. From time to time, Paygle may provide Development Tools subject to the terms and conditions of separate agreements which will be provided to the Customer for review and to which the Customer will be required to agree prior to use of such Development Tools; provided that Paygle shall not require the Customer to agree to separate terms and conditions for any Development Tool that is necessary for the Customer's use of its ordered Subscription Service in conformance with the Product Overview unless set forth on the Order Form.

4.5   The Customer shall not (and shall not permit others to) do the following with respect to the Paygle Core Technology: (i) use the Subscription Service with external programs in a manner that intentionally circumvents contractual usage restrictions; (ii) license, sub-license, sell, re-sell, rent, lease, transfer, distribute or time share or otherwise make any of it available for access by third parties except as otherwise expressly provided in an Order Form; (iii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition

with the Subscription Service; (iv) disassemble, reverse engineer or decompile it; except to the extent permitted by law, (v) copy, adapt, translate, create derivative works based on or otherwise modify it except as permitted in this Agreement; (vi) remove or modify a copyright or other proprietary rights or restricted use notice in it; (vii) use it to reproduce, distribute, display, transmit or use material protected by copyright or other intellectual property right (including moral rights, any rights of publicity or privacy or confidentiality) without first obtaining the permission of the owner; (viii) use it to create, use, send, store or run viruses or other harmful computer code, files, scripts, agents or other programs or otherwise engage in a malicious act or disrupt its security, integrity or operation; or (ix) access or disable any Paygle or third party data, software or network (other than the Customer's instance of the Subscription Service in accordance with this Agreement). Before the Customer exercises any of the foregoing actions that the Customer believes it is entitled to, the Customer shall provide Paygle with thirty (30) days' prior written notice and provide reasonably requested information to allow Paygle to assess the Customer's claim and, at Paygle's sole discretion, provide alternatives that reduce adverse impacts on Paygle's intellectual property and other rights.

5. Documentation

5.1   The Documentation is licensed to the Customer for the duration of the Agreement.

5.2   Paygle must provide the Customer with such number of copies of the Documentation as the SLA specifies.

5.3   The Customer acknowledges that the Documentation contains sufficient information for the adequate use of the Licensed System, except to the extent Paygle has notified the Customer of any omission or deficiency, or of any variation which it considers necessary for the proper use of the Licensed System.

5.4   The Customer shall not copy or reproduce the Documentation except to the extent otherwise authorised by this Agreement.

6. Licence Conditions

6.1   The Customer may only use the Licensed System as advised and notified by Paygle.

6.2   The Licensed System may only be used pursuant to this Agreement:

(a)   by the Customer; and

(b)   at the Site; and

(c)   only in conjunction with the Application.

(d)   in the case of software, to make one copy for back-up purposes pursuant to clause 7.2;

(e)   if the number of Customers, or the number of Sites increases, or if the size, description or location of the Site changes in the case of software or support, only after paying an additional Licence Fee, and only with the consent of Paygle;

(f)   in the case of services, or access to systems, only after paying an Extra Charge.

6.3   Paygle shall determine whether the Customer will use the SaaS Service on a Per Device Subscription basis, on an Enterprise Subscription basis, or on a Transactional basis (or all), as appropriate for the Customer's business.

(a)   Per Device Subscription basis.

In consideration of payment in full of the monthly SaaS subscription fee for use of the SaaS Service, and subject to all the terms and conditions hereof, Paygle hereby grants to the Customer's clients a right to access and use the SaaS Service only from Customer's Application on a single device during the corresponding subscription period, as well as related materials such as documentation to the extent then available, all made available to Customer in conjunction with and under the terms and conditions of this Agreement.

(b)   Enterprise Subscription Basis.

In consideration of payment in full of the enterprise license fee for use of the SaaS Service, and subject to all the terms and conditions hereof, Paygle hereby grants to the Customer's clients a right to access and use the SaaS Service only from Customer's Application

on any of the client's devices during the term of this Agreement, as well as related materials such as documentation to the extent then available, all made available to Customer in conjunction with and under the terms and conditions of this Agreement.

(c)   Transactional Basis.

In consideration of settling the transactions incurred in full within the trading terms agreed to for use of the SaaS and subject to all the terms and conditions hereof, Paygle hereby grants to the Customer's clients a right to access and use the SaaS Service only from the Customer's Application on a single device during the corresponding subscription period, as well as related materials such as documentation to the extent then available, all made available to the Customer in conjunction with and under the terms and conditions of this Agreement.

(d)   The type of access used by the Customer is specified in the SLA which is attached hereto and made an integral part hereof. A license key will be issued to the Customer either per device using the Customer's Application or a universal key for all Enterprise subscription users of the Customer's Application.

(e)   Paygle shall provide access to its SaaS service, documentation, sample programs, programming libraries, and other files that are intended to assist the Customer with linking the Customer's Application to the SaaS Service. This SaaS Service is licensed to the Customer to be used solely and exclusively with the Application only and may not be transferred to any third party without the prior written consent of Paygle. In no event may the Customer transfer, assign, rent, lease, sell or otherwise dispose of the SaaS service on a temporary or permanent basis except as expressly provided herein.

(f)   Paygle hereby grants the Customer a non- transferable, non-exclusive, terminable, world- wide right to use, sublicense and distribute with the Customer's Application a proprietary interface developed by Paygle consisting of a series of commands that will enable the Customer's Application to connect to the SaaS Service for processing and the return of data to the device via the same proprietary interface (the "**Application Program Interface**" or "**API**"). The Customer is required to provide its clients that may use the SaaS Service with a software license that contains terms of use at least as restrictive as the terms contained herein and Paygle shall be entitled to hold the Customer responsible for the enforcement of the terms of the software license by its clients.

(g)   Paygle may remotely review the Customer's use of the Subscription Service, and upon Paygle's written request the Customer shall provide any reasonable assistance, to verify the Customer's compliance with the Agreement. If Paygle determines that the Customer has exceeded its permitted use of the Subscription Service then Paygle will notify the Customer and within thirty (30) days thereafter the Customer shall either: (i) disable any unpermitted use or (ii) purchase additional subscriptions commensurate with the Customer's actual use.

6.4   Unless specified to the contrary in the SLA, the Licensed System may not be used on equipment other than Designated Equipment save that at the sole risk of the Customer it may be used on alternative equipment if:

(a)   the Designated Equipment is temporarily inoperable due to malfunction, maintenance or change of installation site; or

(b)   Paygle has otherwise given its consent in writing to such alternate use.

6.5   The Customer must not copy, alter, modify or reproduce the Licensed System except to the extent authorised by this Agreement or as expressly authorised under Part III Div. 4A of the *Copyright Act 1968* (Cth).

6.6   The Customer must not allow use of, or data extracted from, the Licensed System by any 3rd party except with written consent from Paygle.

6.7   Paygle reserves the right to collect and utilise data from the Licensed System for the purposes of aggregated analysis and reporting and guarantee anonymity of the source.

6.8   In addition to any other remedies available to Paygle under this Agreement or otherwise, any unauthorised use, alteration, modification, reproduction, publication, disclosure or transfer of the Licensed System will entitle Paygle to any available equitable remedy against the Customer.

6.9   The Customer acknowledges that there is no transfer of title or ownership to the Customer of the Licensed System or the Documentation or any modifications, updates or new releases of the Licensed System.

7. Copying of Software

7.1 Subject to subclause 7.2, the Customer must not copy or reproduce the software in the Licensed System or the Documentation supporting the software by any means or in any form without Paygle's prior written consent.

7.2 The Customer may make one copy of the software in the Licensed System for the purpose of backup and security. The Customer acknowledges this copy as the property of Paygle. The terms of this Agreement, with the necessary modifications, apply to this copy.

7.3 The Customer must ensure any copy of the software in the Licensed System made pursuant to this Agreement bears notice of Paygle' ownership of copyright and a notice stipulating that the Licensed System, Base Product, API or SaaS contains information confidential to Paygle. The Customer must comply with any directions of Paygle as to the form or content of such notices.

7.4 If requested by Paygle, the Customer must issue a notice in a form approved by Paygle to all employees and other authorised users of the software in the Licensed System under its direction or control, advising such persons of the Customer's obligations under this clause and also advising of the possible civil and criminal consequences of a breach of this clause.

8. Modification of Software

8.1 The Customer must not modify or alter the software in the Licensed System or merge all or any part of the Licensed System with any other software without Paygles' written permission.

8.2 If the software in the Licensed System is modified or altered by the Customer with the permission of Paygle pursuant to subclause 8.1:

(a) the costs associated with the modifications or alterations or the costs arising out of the investigation of the effects of proposed modifications or alterations will be borne solely by the Customer; and

(b) the Customer will fully indemnify against all liability which may be incurred by Paygle if such modifications or alterations infringe any Intellectual Property Rights of a third person or otherwise cause Paygle to suffer loss, damages or expense.

8.3 The Licensed System, Base Product, API or SaaS as modified or altered remains the property of Paygle in all respects, whether modified by the Customer, Paygle or a third party and whether or not authorised pursuant to this Agreement. Specifically, the Customer must if necessary assign to Paygle all Intellectual Property Rights arising out of any modifications to the Licensed System.

8.4 This Agreement applies to the Licensed System modified or altered.

8.5 The Licensee must execute such documents and perform such other acts as are necessary in order to give effect to subclause 8.3.

8.6 Paygle is not required to provide support services in respect of Licensed System, which has been modified by the Customer, but may at its sole discretion elect to do so for an Extra Charge.

9. Third Party Products

9.1 In the event that Third Party Products are included in any delivery of Products or any performance of Services carried out under any Agreement, the terms applied by the Third Party apply instead of the terms of the Agreement for such Third Party Products, including the terms for the Customer's right to use the Third Party Product. Any claims for redress presented by the Customer due, among other things, to intellectual property infringements, defects, delays, damages or any other consequences arising from the use or implementation of the Third Party Product is the responsibility of such Third Party Product provider and not Paygle and shall, as such be governed by such Third Party terms and not this Agreement. Paygle shall in no event and in no respect be liable for defects, delays or damages, whether direct, indirect or consequential caused by Third Party Products.

9.2 Paygle shall, however, take reasonable action to influence such Third Party to take action to rectify defects in Third Party Products. Further, Paygle undertakes to forward inquiries and complaints to the Third Party in question.

10. Reverse Engineering

The Customer must not reverse assemble or reverse compile or directly or indirectly allow or cause a third party to reverse assemble or reverse compile the whole or any part of the software or any products supplied as a part of the Licensed System.; Any derivative works of such behaviour, will be considered property of Paygle.

11. Security of the Licensed System

11.1 The Customer is solely responsible for the use, supervision, management and control of the Licensed System, at the Site.

11.2 The Customer must ensure that the Licensed System is protected at all times from misuse, damage, destruction or any form of unauthorised use at the Site.

11.3 The Customer must keep accurate records of use, copying, any modification permitted pursuant to clause 8.1 and disclosure of the Licensed System,. The Customer permits Paygle to inspect such records at any time during the Customer's normal business hours. If Paygle requests, the Customer must furnish to Paygle a copy of all or any part of such records.

12. Nature of Services

12.1 Paygle must perform such services as it considers reasonable to ensure the Licensed System, remains in substantial conformity with the SLA. Such support will, at the sole option of Paygle, take the form of:

(a)   telephone advice;

(b)   remote connection to customer site;

(c)   on-site attendance followed by such advice, programming or re-configuration as Paygle considers necessary; and

(d)   such services as Paygle considers are more effectively provided off-site.

12.2 Paygle must provide the Services in response to a report by the Customer of a suspected defect or error in the Licensed System, which defect or error allegedly causes the Licensed System to deviate from the Licensed System's normal operating conditions.

13. Services Availability

13.1 Paygle must provide the Services between 0900 hours and 1700 hours AEST, Monday to Friday.

13.2 If the Customer requests Paygle to provide on-site support, Paygle will do so as soon as reasonably practicable and an Extra Charge will apply.

13.3 Paygle does not warrant that it will be capable of promptly receiving, processing or otherwise acting upon a request for support which is made outside Paygle's Normal Business Hours or that it can provide on-site Services outside Paygle's Normal Business Hours.

13.4 Immediately after making a request for Services which may involve error correction or program modification, the Customer must provide to Paygle a documented example of the defect or error which it alleges prevents conformity of the Licensed System's normal operating conditions.

13.5 The Customer must, if so requested by Paygle, give Paygle a listing of output and any other data which Paygle requires in order to reproduce operating conditions similar to those present when any alleged defect or error in the Licensed System was discovered.

14. Exclusions

14.1 Services to be provided by Paygle under this Agreement do not include:

(a)   correction of errors or defects caused by operation of the Licensed System in a manner other than that currently recommended by Paygle in its Documentation;

(b)   correction of errors or defects caused by modification, revision, variation, translation or alteration of the Licensed System not authorised by Paygle;

(c)   correction of errors or defects caused by the use of the Licensed System by a person not authorised by Paygle or the Customer;

(d)   correction of errors or defects caused by customer error, fault, negligence or abuse;

(e)   correction of errors or defects caused by causes external to the Licensed System or Designated Equipment, such as, but not limited to, transportation or the fluctuation of power;

(f)   correction of errors or defects caused by transportation of the Licensed System or Designated Equipment by personnel other than from Paygle;

(g)   correction of errors caused in whole or in part by the use of software other than the Licensed System;

(h)   correction of errors caused by entities other than Paygle including third party internet service providers, networks or operating environments;

(i)   correction of errors caused, by the failure of the Customer to provide suitably qualified and adequately trained operating staff for the operation of the Licensed System;

(j)   rectification of operator errors, or errors caused by incorrect use of the Licensed System;

(k)   rectification of errors caused by an equipment fault, or by a failure to maintain equipment adequately;

(l)   diagnosis or rectification of faults not associated with the Licensed System;

(m)   furnishing or maintenance of accessories, attachments, supplies, consumables or associated items, whether or not manufactured or distributed by Paygle or the Customer;

(n)   correction of errors arising directly or indirectly out of the Customer's failure to comply with this Agreement or any other agreement with Paygle; or

(o)   correction of errors or defects which are the subject of a warranty under another agreement;

but each of these services may be provided by Paygle subject to an Extra Charge.

14.2   If so specified in this Agreement, the Services must include the provision of any updates and new releases of the Licensed System.

15.   Updates and New Releases

15.1   If so specified in the SLA, the Services include the provision of updates and new releases of the Licensed System.

15.2   Unless stated in the SLA to the contrary, updates and new releases of the Licensed System must be provided by Paygle as they become available and the Customer must accept them. If Customer does not upgrade, Paygle may request an Extra Charge for its Services.

15.3   When reasonably required to do so by the Customer, Paygle must demonstrate the extent to which an update or new release is capable of providing functions and performance specified in the SLA. Paygle may make an Extra Charge in respect of any such demonstration.

15.4   Where the Customer accepts an update or new release this Agreement applies in all respects to that update or new release to the extent that it is incorporated or replaces the Licensed System.

15.5   Customers are required to remain on the current version of the Licensed System and an Extra Charge may apply if not.

16.   Fees, Invoices and Payments

16.1   The Customer must pay the Licence Fees, SaaS Subscription Fees, Enterprise Licence Fees, Service Fees and any other Paygle invoices at the rate and in the manner specified in the SLA or Order Form. If no invoice period has been specifically agreed, invoices shall be paid within thirty (30) days from the date of invoice.

16.2   Irrespective of the payment terms specified in any SLA or Order Form, the Customer must pay to Paygle;

(a)   A deposit of 10% upon signing of this Agreement;

(b)   Amounts invoiced for any hardware, 3rd party software, licences or services purchased by Paygle pursuant to this Agreement, when the said hardware, 3rd party software, licences or services arrive at Paygle;

(c)   All amounts relating to hardware and/or software maintenance, Licence Fees and any other recurring fee, seven (7) days from receipt of invoice;

(d)   An annual price increase applied to all recurring fees to the same extent as the increase in Paygle's general cost level, provided that such adjustments are notified to the Customer in writing four weeks in advance.

16.3   Unless specifically excluded in an attached Appendix or SLA or Order Form, Travel Expenses will be payable in addition to this Agreement;

16.4   Paygle reserves the right to vary the Licence Fee, SaaS Subscription Fees, and Enterprise Licence Fees with 30 days written notice.

16.5   If the Customer disputes the whole or any portion of the amount claimed in an invoice submitted by Paygle, the Customer must still pay the entire invoice when due, but the amount disputed will be treated as a dispute and escalated in accordance with the Escalation Request provisions set out in the SLA or Order Form or the dispute resolution provisions in clause 31.

16.6   Notwithstanding the aforesaid, and without prejudice to the payment due, the Customer shall be entitled to withhold payment in the event that Paygle delivers a Product or Service which the Customer can prove deviates substantially and materially from what may be expected from a product or service with similar functionalities and technicality as the Product or Service in question, as evident to Paygle, provided that the Customer immediately upon detection of the deviation gives Paygle notice of such deviation in writing specifying Paygle's deviation. The payment withheld shall be proportionate to the deviation. The Customer must pay Paygle interest on any amount due and not paid by the Customer within the timeframe required by this Agreement at the prevailing base market interest rate plus 5%.

16.7   In the event that an amount remains outstanding beyond 45 days, after reasonable notice, Paygle may at its discretion remove access via any means at its disposal (including activating Software Expiry) to any Paygle product or service, whether part of this Agreement or not including suspending its performance of services and its delivery of products..

16.8   In the event that the supply, installation or performance of the Licensed System is delayed and:

(a)   Paygle is required to deliver and install the Licensed System or perform services in circumstances other than those expressly or reasonably anticipated to be associated with the delivery or installation or supply of services of a similar nature; or

(b)   There is a change in the timing or complexity of the delivery, installation of the Licensed System or the supply of Services;

for reasons other than a breach of this Agreement by Paygle, then Paygle is entitled to immediate payment for hardware purchases and any third party costs and an Extra Charge on a time and materials basis in respect of additional resources reasonably utilised in order for Paygle to fulfil its obligations under this Agreement.

16.9   The Licence Fees, SaaS Subscription Fees, Enterprise Licence Fees and Service Fees are exclusive of taxes, duties and charges imposed or levied in Australia or overseas (including withholding tax) in connection with the supply, installation and support of the Licensed System. Without limiting the foregoing, the Customer is liable for any new taxes, duties or charges imposed subsequent to the Commencement Date in respect of the goods and services which are the subject of this Agreement but excluding taxes based solely on Paygle's net income.

16.10   Words defined in the GST Law have the same meaning in this clause, unless the context makes it clear that a different meaning is intended.

16.11   In addition to paying the Licence Fee and Service Fees and any other amount payable under or in connection with this Agreement (which is exclusive of GST), the Customer must:

(a)   pay to Paygle an amount equal to any GST payable for any supply by Paygle in respect of which the Licence Fee, SaaS Subscription Fees, Enterprise Licence Fees and Service Fees or other amount is payable under this Agreement; and

(b)   make such payment either on the date when the Licence Fee and Service Fees or other amounts to which it relates is due or within seven (7) days after the Customer is issued with a tax invoice, whichever is the later.

17.   Warranty

17.1   Paygle shall not be liable for failure of the Licensed System due to causes or conditions beyond Paygle's reasonable control;

17.2   For the duration of the Warranty Period, Paygle warrants that the Licensed System will operate in conformity with the Documentation in all material respects, but the Customer acknowledges that the Licensed System is of such complexity that it may have inherent defects.

17.3   If at any time during the Warranty Period the Customer believes there is a defect in the Licensed System such that the Licensed System does not comply with or cannot be used in conformity with the Documentation in all material respects, the Customer must notify Paygle of such perceived defect.

17.4   Paygle will investigate the perceived defect notified pursuant to subclause 17.3 and will, upon the verification of the existence of the defect, rectify such defect without additional charge to the Customer.

17.5   If due investigation by Paygle of a defect reported pursuant to subclause 17.3 reveals that no such defect in fact exists, Paygle may make an Extra Charge in respect of such investigation.

17.6   Paygle will not be liable under this clause to the extent that a defect is caused by the Customer or a third party, including the failure of the Customer or a third party to maintain the operating environment or any part thereof, designated in the Documentation, the failure of a Customer or a third party to maintain the hardware or network, or to otherwise use the Licensed System in accordance with recommendations made by Paygle from time to time, whether in the Documentation or otherwise.

17.7   When any hardware or network product is no longer supported, or serviced by its supplier and has effectively reached its end of life, the cost of replacement is the responsibility of the Customer. The Customer and Paygle may jointly agree to either:

(a)   the purchase of a replacement from Paygle by the Customer; or

(b)   continued support by Paygle at an agreed Extra Charge.

17.8   Paygle's warranty applies only to the functioning of the Licensed System and is entirely independent of, and Paygle is not responsible for, any warranty provided by a third party supplier of hardware or networks that allow the Customer to use the Licensed System.

18.   Confidentiality

18.1   A Party must not, without the prior written approval of the other Party, disclose the other Party's Confidential Information.

18.2   A Party will not be in breach of subclause 18.1 in circumstances where it is legally compelled to disclose the other Party's Confidential Information.

18.3   Each Party must take all reasonable steps to ensure that its employees, agents, consultants, board members, related body corporate and any sub-contractors engaged for the purposes of this Agreement and who are in direct need of access to such information in order to carry out obligations under the Agreement, do not make public or disclose the other Party's Confidential Information.

18.4   Notwithstanding any other provision of this clause, Paygle may disclose the terms of this Agreement to its related companies, solicitors, auditors, insurers and accountants.

18.5   This clause does not apply to Confidential Information that:

(a)   has been independently developed by the other Party;

(b)   has been rightfully obtained by the other Party without restriction upon the Third Party;

(c)   is publicly available other than through the fault or negligence of the other Party, has been released without restriction to anyone, or must be disclosed pursuant to applicable law, or by order of a court or other authority, provided that the disclosing Party gives prompt notice to the other party of such obligation of disclosure.

Notwithstanding any other provision of this clause, the Parties are entitled to make public the business relationship of the Parties.

18.6   This clause survives the termination of this Agreement.

19.   Intellectual Property Rights

19.1   All proprietary rights to and interests in the Result and other deliveries made by Paygle or its sub-contractors in performing the Services, including – but not limited to – all rights to copyright, patents and other intellectual property rights thereto, shall be the property of Paygle. However, the Customer is granted the right to use the Result for use in its own business once full payment has been received for the Services in question.

19.2   All proprietary rights to and interest in the Paygle Products, including – but not limited to – all rights to copyright, patents and other intellectual property rights thereto, are the property of Paygle. If applicable under the Licence Agreement, the Customer is granted the right by Paygle, as the sub-licensor of Paygle Products, to use such Paygle Products in its own business in accordance with the terms of the Licence Agreement.

19.3   All proprietary rights to and interest in the Paygle Products, including – but not limited to – all rights to copyright, patents and other intellectual property rights thereto, are the property of the Paygle Affiliate supplying the Paygle Product. If applicable under the Licence Agreement, the Customer is granted the right by Paygle to use such Products in its own business in accordance with the terms of the Licence Agreement.

19.4   For any Third Party Product and related documentation which is used in connection with the Base Products or Services, the Third Party shall remain the sole owner of all rights to the Third Party Product.

19.5   All rights and title to and interest in any intellectual property rights to data or materials, including – but not limited to documents, drawings, computerised information, films, tapes, specifications, designs, models and equipment directly furnished to Paygle by the Customer are and shall remain the property of the Customer or the Customer's licensors. The Customer grants Paygle the right to use such materials for the fulfilment of any applicable Agreement.

19.6   Subject to subclauses 19.7, 19.8, 19.9, and 21 Paygle indemnifies the Customer against liability under any final judgment in proceedings brought by a third party against the Customer which determine that the Customer's use of the Licensed System, Base Product or Result constitutes an infringement in Australia of any Intellectual Property Rights in the Licensed System, Base Product or Result.

19.7 Paygle is not required to indemnify the Customer as provided in subclause 19.7 unless the Customer:

(a) notifies Paygle in writing as soon as practicable of any infringement, suspected infringement or alleged infringement;

(b) gives Paygle the option to conduct the defence of such a claim, including negotiations for settlement or compromise prior to the institution of legal proceedings;

(c) provides Paygle with reasonable assistance in conducting the defence of such a claim;

(d) permits Paygle to modify, alter or substitute the infringing part of the Licensed System, Base Product or Result at its own expense in order to avoid continuing infringement, or authorises Paygle to procure for the Customer the authority to continue the use and possession of the infringing Licensed System Base Product or Result.

19.8 Paygle does not indemnify the Customer to the extent that an infringement, suspected infringement or alleged infringement arises from:

(a) use of the Licensed System, Base Product or Result in combination by any means and in any form with other goods or equipment not specifically approved by Paygle;

(b) use of the Licensed System, Base Product or Result in a manner or for a purpose not reasonably contemplated or not authorised by Paygle or otherwise in a way that deviates from the permitted use according to the applicable Agreement or the instructions of Paygle regarding the use of the Licensed System, Base Product or Result;

(c) modification or alteration of the Licensed System, Base Product or Result without the prior written consent of Paygle; or

(d) any transaction entered into by the Customer relating to the Licensed System, Base Product or Result without Paygle' prior consent in writing.

19.9 In the event that proceedings are brought or threatened by a third party against the Customer alleging that the Customer's use of the Licensed System, Base Product or Result constitutes an infringement of Intellectual Property Rights, Paygle may at its option and at its own expense conduct the defence of such proceedings. The Customer must provide all necessary co-operation, information and assistance to Paygle in the conduct of the defence of such proceedings.

19.10 Should the Licensed System, Base Product or Result furnished to the Customer under an Agreement become, or in Paygle's opinion be likely to become, the subject of a claim for infringement, Paygle may, at its sole discretion and expense:

(a) Procure for the Customer the right to continue using the Licensed System, Base Product or Results;

(b) Modify the Licensed System, Base Product or Result so that it is no longer infringing or;

(c) Replace the Licensed System, Base product or Result by other software of equal or superior functional capability.

19.11 If none of the foregoing is, in Paygle' opinion, commercially reasonable, Paygle may terminate any and all licenses and sublicenses to such Licensed System, Base Product or Result whereby all license fees paid for such Licensed System, Base Product or Result shall be refunded, however, with a reasonable deduction there from corresponding to the benefits enjoyed by the Customer for the period during which the Licensed System, Base Product or Result is used.

19.12 The Customer must indemnify Paygle against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party alleging such infringement if:

(a) the claim arises from an event specified in subclause 19.9; or

(b) the ability of Paygle to defend the claim has been prejudiced by the failure of the Customer to comply with any requirements of subclauses 19.7 or 19.9.

19.13 The Customer has a limited licence only to use Paygle' Trade Marks in the manner that Paygle has approved on the signing of this licence, or in a manner subsequently approved by Paygle in writing and there is no transfer of ownership or general right of use of the Paygle Trade Marks as a result of this licence.

19.14

20. Implied Terms

20.1 Subject to subclause 20.2, any condition or warranty which would otherwise be implied in this Agreement is hereby excluded.

20.2 Where legislation implies in this Agreement any condition or warranty, and that legislation avoids or prohibits provisions in a contract excluding or modifying the application of or exercise of or liability under such condition or warranty, the condition or warranty is deemed to be included in this Agreement. However, the liability of Paygle for any breach of such condition or warranty is limited, at the option of Paygle, to one or more of the following:

    (a)   if the breach relates to goods:

          (1)   the replacement of the goods or the supply of equivalent goods;

          (2)   the repair of such goods;

          (3)   the payment of the cost of replacing the goods or of acquiring equivalent goods; or

          (4)   the payment of the cost of having the goods repaired; and

    (b)   if the breach relates to services:

          (1)   the supplying of the services again; or

          (2)   the payment of the cost of having the services supplied again.

21. Liability of Paygle

21.1 Except in relation to liability for personal injury (including sickness and death), Paygle is under no liability to the Customer in respect of any indirect, special, incidental loss or damage (including consequential loss or damage) which may be suffered or incurred or which may arise directly or indirectly in respect of the Licensed System, Base Product, Service or Result furnished under or related to the Agreement, including, without limitation, damages for loss of profits, goodwill, work stoppage, computer failure or malfunction, loss or alteration of data or any and all other commercial damages or losses, supplied pursuant to this Agreement or in respect of a failure or omission on the part of Paygle to comply with its obligations under this Agreement even if Paygle is advised of the possibility thereof

21.2 Subject to subclause 21.3, Paygle's entire liability under any individual agreement shall not exceed the contractual value of each individual agreement under which the damages directly occurred

21.3 In order not to forfeit their rights the Parties shall present claims for damages within twelve months from the time when the damage was discovered or should have been discovered.

21.4 Subject to subclause 21.5, the Customer warrants that it has not relied on any representation made by Paygle which has not been, stated expressly in this Agreement, or upon any descriptions, representations, illustrations or specifications contained in any document including catalogues or publicity material produced by Paygle.

21.5 The Customer acknowledges that to the extent Paygle has made any representation which is not otherwise expressly stated in this Agreement, the Customer has been provided with an opportunity to independently verify the accuracy of that representation.

21.6 The Customer at all times indemnifies and holds harmless Paygle and its officers, employees and agents (those indemnified) from and against any loss (including reasonable legal costs and expenses) or liability reasonably incurred or suffered by any of those indemnified arising from any proceedings against those indemnified where such loss or liability was caused by:

    (a)   a breach by the Customer of its obligations under this Agreement;

    (b)   any wilful, unlawful or negligent act or omission of the Customer.

22. Termination

22.1 Without limiting the generality of any other clause in this Agreement, Paygle may terminate this Agreement immediately by notice in writing if:

    (a)   the Customer is in breach of any term of this Agreement and has not remedied the breach within thirty (30) days following written notice to do so;

    (b)   the Customer for any reason destroys or disposes of or loses custody of the Licensed System, Base Product or Result;

(c)   the Customer becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration;

(d)   the Customer, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving;

(e)   the Customer, being a natural person, dies; or

(f)   the Customer cease or threaten to cease conducting its business in the normal manner,

22.2   If notice is given to the Customer pursuant to subclause 22.1, Paygle may, in addition to terminating the Agreement:

(a)   repossess any copies of the Licensed System, Base Product or Result in the possession, custody or control of the Customer;

(b)   retain any moneys paid;

(c)   charge a reasonable sum for work performed in respect of which work no sum has been previously charged;

(d)   be regarded as discharged from any further obligations under this Agreement; and

(e)   pursue any additional or alternative remedies provided by law.

22.3   Without limiting the generality of any other clause in this Agreement, a customer can terminate this Agreement immediately by notice in writing if:

(a)   Paygle is in breach of any terms of this Agreement and has not remedied the breach within thirty (30) days following written notice to do so;

(b)   Paygle becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration;

(c)   Paygle ceases or threatens to cease conducting its business in the normal manner.

22.4   A Customer can terminate this Agreement by giving Paygle 30 days' notice in writing after a period of six (6) months from the date of commencement of this Agreement has passed.

22.5   If a customer terminates this Agreement pursuant to clause 22.4, the customer is responsible for the payment of all 3rd party costs, including fixed term contracts, incurred by Paygle as part of this Agreement.

22.6   Paygle shall provide Customer Data in its standard database export format, excluding the Paygle Core Technology, to the Customer upon the Customer's written request at an additional cost to the Customer. After forty-five (45) days following the expiration or termination of this Agreement for the Subscription Service (including any Transition Subscription Service term, if applicable), if the Customer has not requested the return of its Customer Data, Paygle shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, have the right to delete all Customer Data in its systems or otherwise in its possession or under its control and delete the Customer's instances of the Subscription Service.

22.7   All provisions concerning payment, confidentiality, non-solicitation, limitation of liability, intellectual property, waiver, assignment and severability shall remain in effect despite the termination of any Agreement(s) hereunder.

23.   GST and Claims

23.1   If a payment to satisfy a claim or a right to claim under or in connection with this Agreement (for example, for misleading or deceptive conduct or for misrepresentation or for a breach of any warranty or for an indemnity or for reimbursement of any expense) gives rise to a liability to pay GST, the payer must also pay, and indemnify the payee against, the amount of that GST.

23.2   If a Party has a claim under, or in connection with this Agreement for a cost on which that Party must pay GST, the claim is for the cost plus all GST (except any GST for which that Party is entitled to an input tax credit).

23.3   If a Party has a claim under or in connection with this Agreement and the amount of the claim depends on actual or estimated revenue or lost revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

24.   Force Majeure

24.1   Neither Party is liable for any delay or failure to perform its obligations pursuant to this Agreement if such delay is due to Force Majeure.

24.2   If a delay or failure of a Party to perform its obligations is caused or anticipated due to Force Majeure, the performance of that Party's obligations will be suspended.

24.3   In the event of Force Majeure, each Party shall promptly notify and furnish the other Party in writing with all relevant information thereto.

24.4   If a delay or failure by a Party to perform its obligations due to Force Majeure exceeds sixty (60) days, either Party may immediately terminate the Agreement on providing notice in writing to the other Party.

24.5   If this Agreement is terminated pursuant to subclause 24.4, Paygle refunds moneys previously paid by the Customer pursuant to this Agreement for goods or services not provided by Paygle to the Customer.

25.   Sub-Contracts

25.1   Paygle may sub-contract for the performance of this Agreement or any part of this Agreement to the extent specified in the SLA or upon obtaining (subject to subclause 25.3) the Customer's prior written consent.

25.2   The Customer must not unreasonably withhold consent for the engagement of a sub-contractor in accordance with subclause 25.1.

25.3   Paygle may, without the consent of the Customer, engage individuals on a sub-contract or consultancy basis, whether or not operating under a corporate structure, to assist in the provision of Services pursuant to this Agreement.

25.4   Paygle will be liable for the work performed by any individuals engaged on a sub-contract or consultancy basis to the same extent as Paygle would be liable for its own work. Paygle shall ensure that any individuals engaged on a sub-contract or consultancy basis comply with the confidentiality provisions set forth in clause 18 of this Agreement.

25.5   In no event shall Paygle be deemed an employee, agent, joint venture or partner of the Customer. Nothing in any Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee by and between Paygle and the Customer or as creating an exclusive arrangement between them.

26.   Entire Agreement

This Agreement constitutes the entire agreement between the Parties concerning this subject matter and supersedes all prior representations, agreements, statements and understandings, whether verbal or in writing.

27.   Precedence

27.1   The documents comprising this Agreement are to be read in the following order of precedence:

(a)   the clauses of this Agreement;

(b)   any SLA

27.2   Where any conflict occurs between the provisions contained in two or more of the documents forming this Agreement, the document lower in the order of precedence shall where possible be read down to resolve such conflict. If the conflict remains incapable of resolution by reading down, the conflicting provisions shall be severed from the document lower in the order of precedence without otherwise diminishing the enforceability of the remaining provisions of that document.

28.   Assignment and Novation

28.1   The benefit of this Agreement must not be assigned by the Customer without Paygle's written consent.

28.2   Paygle may consent to the assignment or novation of this Agreement by the Customer subject to such conditions as it chooses to impose.

28.3   Paygle may, without the consent of the Customer, assign the Agreement:

(a)   to another Paygle Affiliate;

(b)   to a purchaser of all or substantially all of Paygle's assets;

(c)   to a purchaser of a Paygle Affiliate's assets, or;

(d)   to a purchaser of individual Paygle Products.

28.4   Paygle may further assign the right to receive payments under an Agreement to another party.

28.5   The Customer may, with the consent of Paygle assign the Agreement to another Customer Affiliate.

28.6   In the event of an assignment by the Parties, the rights and obligations of the Agreement bind and benefit any successors and assigns of the Parties.

29.   Waiver

29.1   No right under this Agreement is deemed to be waived except by notice in writing signed by each Party.

29.2   A waiver made by Paygle pursuant to subclause 29.1 will not prejudice its rights in respect of any subsequent breach of the Agreement by the Customer.

29.3   A waiver of one provision of the Agreement shall not be deemed a waiver of any other provision therein, nor shall the waiver be construed as a continuing waiver of the Agreement.

29.4   Subject to subclause 29.1, any failure by Paygle to enforce any clause of this Agreement, or any forbearance, delay or indulgence granted by Paygle to the Customer, will not be construed as a waiver of Paygle's rights under this Agreement.

30.   Variation

30.1   The provisions of this Agreement must not be varied, except by agreement in writing signed by the Parties.

30.2   If either Party wishes to vary the Agreement, the proposing Party must submit a copy of the proposed variations to the other Party (the receiving Party), specifying a reasonable period in which the receiving Party is to provide written notice of acceptance or rejection of the proposal.

30.3   If the receiving Party accepts the variations, the Agreement between those parties is deemed to be amended from the date of acceptance.

30.4   If the receiving Party rejects the proposed variations, each Party must perform the Agreement in accordance with the unvaried terms.

31.   Disputes

31.1   The Parties acknowledge that before a dispute arises in connection with this Agreement, the Parties will have first tried to resolve the matter as between the respective company representatives and failing that a disputant may give the other disputant a notice specifying the dispute.

31.2   Within fifteen (15) Business Days after the notice is given, the disputants (each represented by its Chief Executive Officer or other person authorised by the disputant to bind it in connection with the dispute) must confer to resolve the dispute or to decide the method of resolving the dispute.

31.3   Unless the disputants otherwise agree, the dispute must be referred to mediation if not resolved within thirty (30) Business Days after the notice is given.

31.4   The disputants must appoint a mediator within forty-five (45) Business Days after the notice is given. If they fail to agree, the mediator must be nominated by the then current President of the Law Institute of Victoria or nominee. The mediation must be conducted in Victoria, Australia in accordance with the mediation rules of the Law Institute of Victoria.

31.5   The mediator assists in negotiating a resolution of the dispute. The mediator may not make a decision binding on the disputants, unless the disputants have agreed to it in writing.

31.6   The mediation ends if the dispute is not resolved within thirty (30) Business Days after the mediator's appointment.

31.7   Each disputant must keep confidential:

(a)   any information or documents disclosed in the course of the mediation;

(b)   any discussions between the disputants in the course of the mediation.

These may be used only to resolve the dispute.

31.8   Unless disclosure is required by law:

(a) each disputant must keep confidential all information about the existence, conduct, status or outcomes of the mediation and the terms of any mediation settlement agreement;

(b) this information and these terms may be published or announced only with the consent of the disputants and in terms agreed by them in writing.

31.9 The dispute resolution process does not affect any party's obligations under this Agreement

31.10 Neither disputant may commence Court proceedings in respect of the dispute until the mediation period ends. This does not affect a disputant's right to seek injunctive or urgent declaratory relief.

31.11 Each disputant must pay its own costs in respect of the dispute resolution process. The disputants must pay the mediator's costs in equal shares and the cost of third party reports and enquiries requested by the mediator.

31.12 Regardless of the form of action, whether based upon breach of contract, tort or otherwise, an Agreement and all causes of action arising out of an Agreement or the relationship of the Parties shall be governed by and construed under the laws of Australia in the State of Victoria. All disputes arising out of an Agreement shall be finally settled by the relevant Court in the State of Victoria. The proceedings shall take place in the State of Victoria. The language to be used in the arbitral proceedings, the documentation and the award shall be in the English language unless otherwise agreed between the Parties.

32. Survival of Agreement

32.1 Subject to any provision to the contrary, the benefit and the obligations of this Agreement shall be only for the Parties and their successors, trustees, permitted assigns or receivers, but shall not enure to the benefit of any other persons.

32.2 The covenants, conditions and provisions of this Agreement which are capable of having effect after the expiration of the Agreement shall remain in full force and effect following the expiration of the Agreement.

33. Severability

If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, the Agreement shall remain otherwise in full force apart from such provision which shall be deemed deleted.

34. Governing Law

34.1 This Agreement will be governed by the law of Victoria.

34.2 The parties irrevocably submit to the exclusive jurisdiction of the Courts of Victoria and the Federal Court of Australia in that jurisdiction, and the Courts of appeal from them.

34.3 No party may object to the jurisdiction of any of those Courts on the ground that it is an inconvenient forum or that it does not have jurisdiction.

35. Notices

35.1 Notices under this Agreement may be delivered by hand, by mail or by facsimile to the addresses specified in the Registered Office at the front of this Agreement and must be in writing.

35.2 Notices are deemed to be given:

(a) in the case of hand delivery, upon written acknowledgment of receipt by an officer or other duly authorised employee, agent or representative of the receiving Party;

(b) in the case of posting, three (3) days after despatch;

(c) in the case of facsimile, upon receipt of transmission if received on a business day or otherwise at the commencement of the first business day following transmission;

(d) In the case of email, upon receipt by the sender of an automatic confirmation that the e-mail has been received;

(e) In the case of courier, upon written acknowledgment of receipt by an officer or other duly authorised employee, agent or representative of the receiving Party

36.   Personal Properties Securities Act

36.1   The Buyer hereby acknowledges that these Terms and Conditions of Trade constitute a security agreement which creates a security interest in favour of the Company in all Goods previously supplied by the Company to the Buyer (if any) and all after acquired Goods supplied by the Company to the Buyer (or for the Buyer's account) to secure the payment from time to time and at a time, including future advances. The Buyer agrees to grant a "Purchase Money Security Interest" to the Company.

36.2   The Buyer acknowledges and agrees that by assenting to these terms the Buyer grants a security interest (by virtue of the retention of title clause in these Terms and Conditions of Trade) to the Company and all Goods previously supplied by the Company to the Buyer (or for the Buyers account) and these terms shall apply notwithstanding anything express or implied to the contrary contained in the Buyer's purchase order.

36.3   The Buyer undertakes to:

(a)   sign any further documents and/or provide any further information (which information the Buyer warrants to be complete, accurate and up-to-date in all respects) which the Company may reasonably require to enable registration of a financing statement or financing change statement on the Personal Property Securities Register ("PPSR");

(b)   not register a financing change statement as defined in section 10 of the PPSA or make a demand to alter the financing statement pursuant to section 178 of the PPSA in respect of the Goods without the prior written consent of the Company;

(c)   give the Company not less than 14 days written notice of any proposed change in the Buyer's name and/or any other changes in the Buyer's details (including by not limited to changes in the Buyer's address, facsimile number, email address, trading name or business practice);

(d)   pay all costs incurred by the Company in registering and maintaining a financing statement (including registering a financing change statement) on the PPSR and/or enforcing or attempting to enforce the security interest created by these Terms and Conditions of Trade including executing subordination agreements;

(e)   be responsible for the full costs incurred by the Company (including actual legal fees and disbursements on a solicitor and client basis) in obtaining an order pursuant to section 182 of the PPSA; and

(f)   the Buyer waives any rights it may have under sections 115 of the PPSA upon enforcement.

36.4   Pursuant to the relevant section of the PPSA, unless otherwise agreed to in writing by the Company, the Buyer waives the right to receive the verification statement in respect of any financing statement or financing change statement relating to the security interest.

36.5   The Buyer agrees that immediately on request by the Company the Buyer will procure from any persons considered by the Company to be relevant to its security position such agreement and waivers as the Company may at any time require.

37.   Privacy

37.1   The Customer acknowledges that granting Paygle access pursuant to clauses 3 and 14 of this Agreement, may involve disclosure to Paygle of Personal Information of the Customer's directors, employees, suppliers and customers.

37.2   The Customer agrees that the Customer has read and understood the Privacy Policy and consents to and authorises the collection, use and disclosure of the Customer's Personal Information, the Personal Information of the Customer's directors, employees, suppliers and customers in accordance with the Privacy Policy, this Agreement and the SLA.

37.3   The Customer warrants and represents to Paygle that, if required by law, it complies with the Privacy Act.

37.4   Irrespective of whether the Customer is required by law to comply with the Privacy Act, the Customer agrees to take reasonable steps to ensure that each of the Customer's directors, employees, suppliers and customers is aware that their Personal Information will be disclosed to Paygle

and that the Customer may require Paygle to disclose their Personal Information to other third parties, and agree such reasonable steps includes the provision of a compliant Privacy Collection Notice to each such individual at the time Personal Information is collected by the Customer or as soon as reasonably practicable thereafter.

37.5   The Customer warrants and agrees that it will not disclose Personal Information of its directors, employees, suppliers and customers to Paygle if it has not taken the reasonable steps specified above.

37.6   The Customer shall provide full details in writing to Paygle' Privacy Officer of any and all requests for amendment to Personal Information held by Paygle, all complaints about alleged breaches of the Privacy Act involving Paygle, and all opt-out notifications, immediately upon becoming aware of them.

37.7   Without limiting the effect of clause 21.6 the Customer agrees to indemnify Paygle for any loss or damage, including legal costs, it suffers or incurs as a result of a breach of the Privacy Act or this clause 37 by the Customer.

38.   Non-solicitation

The Parties agree not to actively solicit for employment or in any other way directly or indirectly hire any of the other Party's employees during the term of any Agreement and for a period of six months thereafter. In the event that either Party is in breach of this obligation, such Party shall be liable to pay the other Party a penalty equivalent to the yearly salary of the solicited employee.

39.   Execution

This Agreement may be executed in counterparts by the respective Parties, each of which when so executed is deemed to be an original and all of which taken together constitute one and the same agreement, provided that this Agreement is of no force and effect until the counterparts are exchanged.

40.   Renewal

This Agreement (subject to the provisions of clause 22) will automatically be renewed for a three (3) year period at the end of the defined initial term, unless either party gives to the other party written notice of intention to terminate the Agreement ninety days (90) prior to its termination date.

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Executed as an agreement on _____ / _____ / _____ **(AGREEMENT DATE – PLEASE FILL IN)**

Executed by Paygle

PAYGLE - SIGN HERE

....

Paygle Director/Company Secretary - Signature

....

Paygle Director/Company Secretary - Name (please print)

Date _____ / _____ / _____

Executed by Paygle

PAYGLE ACCOUNT MANAGER - SIGN HERE

....

Paygle Account Manager - Signature

....

Paygle Account Manager - Name (please print)

Date _____ / _____ / _____

Executed by the Customer

CUSTOMER - SIGN HERE

....

Customer's Director/Company Secretary – Signature

....

Customer's Director/Company Secretary - Name (please print)

Date _____ / _____ / _____

SERVICE LEVEL AGREEMENT

SUBSCRIPTION SERVICE GUIDE

1.   Support

During the Subscription Term, Paygle shall provide support for the Subscription Service as set forth in the **Customer Support Policy** attached hereto, and incorporated herein by reference.

2.   Upgrades

Paygle determines whether and when to develop, release and apply any Upgrade (as defined in the **Upgrade Policy** attached hereto, and incorporated herein by reference) to the Customer's instances of the Subscription Service.

3.   Data Security

Paygle shall implement and maintain security procedures and practices appropriate to information technology service providers to protect Customer Data from unauthorised access, destruction, use, modification, or disclosure, as described in the **Data Security Guide** attached hereto, and incorporated herein by reference.

4.   Availability service level

4.1.   DEFINITIONS

(a)   "**Available**" means that the Subscription Service can be accessed by authorised users.

(b)   "**Excused Downtime**" means: (i) Maintenance Time of up to two (4) hours per month; and (ii) any time the Subscription Service is not Available due to circumstances beyond Paygle's control, including without limitation modifications of the Subscription Service by any person other than Paygle or a person acting at Paygle's direction, a Force Majeure Event, general Internet outages, failure of the Customer's infrastructure or connectivity (including without limitation, direct connectivity and virtual private network (VPN) connectivity to the Subscription Service), computer and telecommunications failures and delays, and network intrusions or denial-of-service or other criminal attacks.

(c)   "**Maintenance Time**" means the time the Subscription Service is not available due to service maintenance.

(d)   "**Availability SLA**" means the percentage of total time during which the Customer's production instances of the Subscription Service are available during a calendar month, excluding Excused Downtime.

4.2.   AVAILABLITY

If the Customer's production instances of the Subscription Service fall below the Availability SLA of ninety-nine and eight-tenths percent (99.8%) during a calendar month, Customer's exclusive remedy for failure of the Subscription Service to meet the Availability SLAs is either: (1) to request that the affected Subscription Term be extended for the number of minutes the Subscription Service was not Available in the month in accordance with the Availability SLA; or (2) to request that Paygle issue a service credit to the Customer for the dollar value of the number of minutes the Subscription Service was not Available in the month in accordance with the Availability SLA (determined at the deemed per minute rate Paygle charges to the Customer for the Customer's use of the affected Subscription Service), which the Customer may request Paygle apply to the next invoice for subscription fees.

4.3.   REQUESTS

The Customer must request all service credits or extensions in writing to Paygle within thirty (30) days of the end of the month in which the Availability SLA was not met, identifying the support requests relating to the period Customer's production instances of the Subscription Service was not Available. The total amount of service credits for any month may not exceed the subscription fee for the affected Subscription Service for the month, and has no cash value. Paygle may delay issuing service credits until such amounts reach one thousand AUS. dollars ($1,000) or equivalent currency specified in the applicable Order Form.

CUSTOMER SUPPORT POLICY

This Customer Support Policy governs the support that Paygle will provide for its Subscription Service. This Policy may be updated from time to time.

Scope

The purpose of Customer Support is to resolve defects that cause the Subscription Service to perform not in substantial conformance to the Product Overview. A resolution to a defect may consist of a fix, workaround or other relief Paygle deems reasonable.

Customer Support does not include:

- implementation services
- configuration services
- integration services
- customization services or other custom software development
- training
- assistance with administrative functions

Customer Support is not required to provide resolutions for immaterial defects or defects due to modifications of the Subscription Service made by any person other than Paygle or a person acting at Paygle's direction.

Business Hours

Customer Support is available during normal business hours and where requested on weekends and holidays.

Access Contacts

- Support Portal at https://paygle.com/. Customer may get login access to this self-service portal by contacting its Paygle administrator.
- Phone using one of the numbers at http://paygle.com/support/contact-support.html.

Incident Priority

Incident priority for a defect is determined using the guidelines below:

Priority	Definition
P1	Any defect that causes an instance to be unavailable.
P2	Any defect that causes a critical function to fail.
P3	Any defect that significantly impedes work or progress.
P4	Any defect that does not significantly impede work or progress.

Response Times and Level of Effort

The Customer submits an incident with Paygle via phone or web. All support requests are tracked online and can be viewed by the Customer's authorised contacts. Response times do not vary if the incident was filed via phone or web.

Paygle will use reasonable efforts to meet the target response times and target level of effort stated in the table below.

Priority	Target Response Times	Target Level of Effort
P1	30 minutes	Continuously, 24 hours per day, 7 days per week
P2	2 hours	Continuously, but not necessarily 24 hours per day, 7 days per week
P3	1 business day	As appropriate during normal business hours
P4	2 business days	Varies

Customer Responsibilities

The Customer's obligations are as follows:

(a)   The Customer agrees to receive from Paygle communications via email, phone or through the Support Portal regarding the Subscription Service.

(b)   The Customer shall appoint no more than five (5) contacts ("*Customer Authorised Contacts*") to engage Customer Support for questions and/or technical issues.

   (i)   Only Customer Authorised Contacts are authorised to contact Customer Support.

   (ii)   The Customer must ensure the information for these contacts is current in the Support Portal at paygle.com/.

   (iii)   The Customer Authorised Contacts are trained on the use and administration of the Subscription Service.

(c)   The Customer shall cooperate to enable Paygle to deliver the Subscription Service and support for the service.

(d)   The Customer is solely responsible for the use of the Subscription Service by its authorised users.

Support Resources

- Paygle Website (http://www.paygle.com)
- Paygle Documentation (http://docs.paygle.com)
- Paygle Support (https://paygle.uservoice.com)

UPGRADE POLICY

1.   Upgrades

"*Upgrades*" are Paygle's releases of the Subscription Service for repairs, enhancements or new features applied by Paygle to the Customer's instances of the Subscription Service at no additional fee during the Subscription Term. Paygle has the discretion to provide new functionality as an Upgrade or as different software or service for a separate fee. Paygle determines whether and when to develop, release and apply any Upgrade to the Customer's instances of the Subscription Service.

2.   NOTICE; MAINTENANCE DOWNTIME

Paygle shall use reasonable efforts to give the Customer thirty (30) days prior notice of any Upgrade to the Subscription Service. Paygle shall use reasonable efforts to give Customer ten (10) days prior notice of any Upgrade to the cloud infrastructure network, hardware, or software used by Paygle to operate and deliver the Subscription Service if Paygle in its reasonable judgment believes that the infrastructure Upgrade will impact the Customer's use of its production instances of the Subscription Service. Paygle will use commercially reasonable efforts to limit the period of time during which the Subscription Service is unavailable due to the application of Upgrades to no more than two (2) hours per month. Notwithstanding the foregoing, Paygle may provide the Customer with a shorter or no notice period of an Upgrade if necessary, in the reasonable judgment of Paygle, to maintain the availability, security or performance of the Subscription Service or the ability of Paygle to efficiently provide the Subscription Service.

3.   NOMENCLATURE

A pending Upgrade may be a "Feature Release", "Patch" or "Hotfix." A "*Feature Release*" is an Upgrade that includes new features or enhancements. A "*Patch*" or a "*Hotfix*" is an Upgrade to a Feature Release that maintains the functionality of the Feature Release and does not include new functionality. Paygle refers to each Feature Release and its associated Patches and Hotfixes as a "*Release Family*." For example, Paygle's Feature Release "Aspen" established the "Aspen" Release Family, and Paygle's subsequent Feature Release "Berlin" established the "Berlin" Release Family.

4.   PINNING REQUESTS

The Customer may submit a support request for "no Upgrade" not fewer than five (5) business days' prior to a pending Upgrade of the Subscription Service. Subject to the terms and conditions of this Upgrade Policy, the Customer's "no Upgrade" request shall be granted, and the Upgrade shall not be applied to Customer's instances of the Subscription Service.

5.   SUPPORTED and non-supported RELEASE FAMILIES

Paygle offers support for the then current Release Family and the prior two (2) Release Families ("*Supported Release Families*") as set forth in the Customer Support Policy. A Customer using a Supported Release Family may be required to Upgrade to a Patch or Hotfix within the Supported Release Family to correct a defect. At its discretion, Paygle may offer limited support for additional Release Families ("*Non-Supported Release Families*"). Without limiting Paygle's discretion to determine the availability of support for Non-Supported Release Families, a Customer using a Non-Supported Release Family may be required to Upgrade to a Supported Release Family to correct a defect. Any service level agreements, recovery time objectives or recovery point objectives are not applicable to Non-Supported Release Families. Details of Paygle support are further set forth in the Customer Support Policy.

The Customer acknowledges that the current Release Family is the most current feature, availability, performance and security version of the Subscription Service. Within a Supported Release Family, the most recent Patch contains the most current feature, availability, performance and security version of the Subscription Service for that Release Family. A Customer that has submitted a "no Upgrade" request may experience defects, for which the Customer hereby agrees that Paygle is not responsible, including without limitation those that affect the features, availability, performance and security of the Subscription Service, that are fixed in the most current version of the Subscription Service.

6.   REQUIRED UPGRADES

If the Customer has requested "no Upgrade" it may nevertheless be required to Upgrade if in the reasonable judgment of Paygle the Upgrade is necessary to maintain the availability, security or performance of the Subscription Service or the ability of Paygle to efficiently provide the Subscription Service, as follows:

6.1. <u>SUPPORTED RELEASE FAMILY</u>. If the Customer is using a Supported Release Family, it may be required to Upgrade to a Patch or Hotfix within the Supported Release Family.

6.2. <u>NON-SUPPORTED RELEASE FAMILY</u>. If the Customer is using a Non-Supported Release Family, it may be required to Upgrade to a Supported Release Family.

7. EXCEPTIONS

Notwithstanding the other provisions of this Upgrade Policy, the Customer may not submit a support request for "no Upgrade" for any Upgrade to, or that is essential for, the infrastructure network, hardware, or software used by Paygle to operate and deliver the Subscription Service.

DATA SECURITY GUIDE

Security Statement of an Enterprise IT Cloud Company

The Paygle cloud is built for the enterprise customer with every aspect aimed towards meeting the customer's demand for reliability, availability and security. Paygle's comprehensive approach to address this demand is enabled by the following: (a) Paygle's robust cloud infrastructure runs on its own applications and utilises industry best-of-breed technology to automate mission critical functionalities in the cloud service with around-the-clock and around-the-world delivery; (b) Paygle achieves flexibility and control in its ability to deliver a stable user experience to the customer by having a logical single tenant architecture; (c) Paygle's application development which has a paramount focus on quality, security, and the user experience is closely connected to the operations of delivering those applications in a reliable and secure cloud environment; (d) Paygle invests in a comprehensive compliance strategy that allows its customers to attain their own compliance to applicable laws by obtaining attestations and certifications and running its subscription service from paired data centers situated close to where its customers are located; and (e) Paygle's homogeneous environment where all applications are on a single platform offers Paygle a competitive advantage in being able to concentrate its efforts to make the customer's user experience the best possible.

This Data Security Guide describes the measures Paygle takes to protect Customer Data when it resides in the Paygle cloud. This Data Security Guide forms a part of any legal agreement into which this Data Security Guide is explicitly incorporated by reference (the "*Agreement*") and is subject to the terms and conditions of the Agreement. Capitalized terms that are not otherwise defined herein shall have the meaning given to them in the Agreement.

1. Security Program

While providing the Subscription Service, Paygle shall maintain a written information security program of policies, procedures and controls ("*Security Program*") governing the processing, storage, transmission and security of Customer Data. The Security Program includes industry standard practices designed to protect Customer Data from unauthorised access, acquisition, use, disclosure, or destruction. Paygle may periodically review and update the Security Program to address new and evolving security technologies, changes to industry standard practices, and changing security threats, provided that any such update does not materially reduce the commitments, protections or overall level of service provided to the Customer as described herein.

2. Certifications and Attestations

2.1.   Certifications and Attestations. Paygle shall establish and maintain sufficient controls to meet the objectives stated in ISO 27001 and SSAE 16 / SOC 1 and SOC 2 Type 2 (or equivalent standards) (collectively, the "*Standards*") for the information security management system supporting the Subscription Service. At least once per calendar year, Paygle shall perform an assessment against such Standards ("*Assessment*"). Upon the Customer's written request, which shall be no more than once per calendar year, Paygle shall provide a summary of the Assessment(s) to the Customer. Assessments shall be Confidential Information of Paygle.

2.2.   Safe Harbor. Paygle shall maintain self-certified compliance under the U.S.-EU and U.S.-Swiss Safe Harbor Frameworks developed by the U.S. Department of Commerce regarding the collection, use and retention of Personal Data (defined in Section 6 below) from European Union member countries, Australia and Switzerland.

3. Physical, Technical and Administrative Security Measures

The Security Program shall include the following physical, technical and administrative measures designed to protect Customer Data from unauthorised access, acquisition, use, disclosure, or destruction:

3.1.   Physical Security Measures

(a)   Data Center Facilities: (i) Physical access restrictions and monitoring that may include a combination of any of the following: multi-zone security, man-traps, appropriate perimeter deterrents (for example, fencing, berms, guarded gates), on-site guards, biometric controls, CCTV, and secure cages; and (ii) fire detection and fire suppression systems both localized and throughout the data center floor.

(b)   Systems, Machines and Devices: (i) Physical protection mechanisms; and (ii) entry controls to limit physical access.

(c)   Media: (i) Industry standard destruction of sensitive materials before disposition of media; (ii) secure safe for storing damaged hard disks prior to physical destruction; and (iii) physical destruction of all decommissioned hard disks storing Customer Data.

3.2. Technical Security Measures

(a) Access Administration. Access to the Subscription Service by Paygle employees and contractors is protected by authentication and authorization mechanisms. User authentication is required to gain access to production and sub-production systems. Access privileges are based on job requirements and are revoked upon termination of employment or consulting relationship. Production infrastructure includes appropriate user account and password controls (for example, the required use of virtual private network connections, complex passwords with expiration dates, and a two-factored authenticated connection) and is accessible for administration.

(b) Logging and Monitoring. The production infrastructure log activities are centrally collected and are secured in an effort to prevent tampering and are monitored for anomalies by a trained security team.

(c) Firewall System. An industry-standard firewall is installed and managed to protect Paygle systems by residing on the network to inspect all ingress connections routed to the Paygle environment.

(d) Vulnerability Management. Paygle conducts periodic independent security risk evaluations to identify critical information assets, assess threats to such assets, determine potential vulnerabilities, and provide for remediation. When software vulnerabilities are revealed and addressed by a vendor patch, Paygle will obtain the patch from the applicable vendor and apply it within an appropriate timeframe in accordance with Paygle's then current vulnerability management and security patch management standard operating procedure and only after such patch is tested and determined to be safe for installation in all production systems.

(e) Antivirus. Paygle updates anti-virus, anti-malware, and anti-spyware software on regular intervals and centrally logs events for effectiveness of such software.

(f) Change Control. Paygle ensures that changes to platform, applications and production infrastructure are evaluated to minimize risk and are implemented following Paygle's standard operating procedure.

3.3. Administrative Security Measures

(a) Data Center Inspections. Paygle performs routine reviews at each data center to ensure that it continues to maintain the security controls necessary to comply with the Security Program.

(b) Personnel Security. Paygle performs background and drug screening on all employees and all contractors who have access to Customer Data in accordance with Paygle's then current applicable standard operating procedure and subject to applicable law.

(c) Security Awareness and Training. Paygle maintains a security awareness program that includes appropriate training of Paygle personnel on the Security Program. Training is conducted at time of hire and periodically throughout employment at Paygle.

(d) Vendor Risk Management. Paygle maintains a vendor risk management program that assesses all vendors that access, store, process or transmit Customer Data for appropriate security controls and business disciplines.

4. Data Protection and Service Continuity

4.1. Data Centers; Data Backup. Paygle shall host the Customer's instances in primary and secondary SSAE 16 Type II or ISO 27001 certified (or equivalent) data centres in the geographic regions specified on the Order Form for the Subscription Term using the Microsoft Azure platform. Each customer instance is supported by a network configuration with multiple connections to the Microsoft Azure platform. Paygle backs up all Customer Data in accordance with Paygle's standard operating procedure.

4.2. Personnel. In the event of an emergency that renders the customer support telephone system unavailable, all calls are routed to an answering service that will transfer to a Paygle telephone support representative, geographically located to ensure business continuity for support operations.

5. Incident Management and Breach Notification

5.1. Incident Monitoring and Management. Paygle shall monitor, analyse and respond to security incidents in a timely manner in accordance with Paygle's standard operating procedure. Depending on the nature of the incident, Paygle security group will escalate and engage response teams necessary to address an incident.

5.2. Breach Notification. Unless notification is delayed by the actions or demands of a law enforcement agency, Paygle shall report to Customer the unauthorised acquisition, access, use, disclosure or destruction of Customer Data (a "Breach") promptly following determination by Paygle that a Breach occurred. The initial report shall be made to Customer security contact(s) designated in Paygle's customer support portal. Paygle shall take reasonable measures to promptly mitigate the cause of the Breach and shall take reasonable corrective measures to prevent future Breaches. As information is collected or otherwise becomes available to Paygle and unless prohibited by law, Paygle shall provide information regarding the nature and

consequences of the Breach that are reasonably requested to allow the Customer to notify affected individuals, government agencies and/or credit bureaus. The Customer is solely responsible for determining whether to notify impacted Data Subjects (defined in 6.1 below) and for providing such notice, and for determining if regulatory bodies or enforcement commissions applicable to the Customer or Customer Data need to be notified of a Breach.

5.3. **Customer Cooperation**. The Customer agrees to cooperate with Paygle in maintaining accurate contact information in the customer support portal and by providing any information that is reasonably requested to resolve any security incident, identify its root cause(s) and prevent a recurrence.

6. Data Processing Guidelines; Compliance with Laws

6.1. **Compliance with Privacy Laws.** The parties agree to comply with the requirements of the Privacy Act 1988 (Cth), as may be amended from time to time.

6.2. **European Data Privacy**. In so far as it is a legal requirement that the parties comply with European Union, the European Economic Area and their member states' Data Protection Laws, then clauses 6.3 and 6.4 apply.

6.3. **Customer as Data Controller**. The Customer acknowledges that in relation to Personal Data supplied and/or processed under the Agreement it acts as Controller and it warrants that it will duly observe all of its obligations under all applicable laws and regulations of the European Union, the European Economic Area and their member states regarding the processing of Personal Data (collectively referred to as "Data Protection Laws") including, without limitation, obtaining and maintaining all necessary notifications and obtaining and maintaining all necessary Data Subject Consents. The Customer shall (i) have sole responsibility for the accuracy, quality, integrity, legality and reliability of Personal Data and of the means by which it acquired Personal Data, (ii) ensure that data processing instructions given to Paygle comply with applicable Data Protection Laws, and (iii) comply with all applicable Data Protection Laws in collecting, compiling, storing, accessing and using Personal Data in connection with the Subscription Service. For the purposes of this Data Security Guide, "Personal Data", "Controller", "Data Subject" and "Data Subject Consent" shall have the meaning given to these terms in Directive 95/46/EC. For clarity, "process" or "processing" means any operation or set of operations performed upon Customer Data.

6.4. **Paygle as Data Processor**. Paygle shall process or otherwise use Personal Data (including possible onward transfers) on behalf of Customer solely for the purpose of providing the services described in the Agreement and only in accordance with the Customer's lawful instructions (limited to those instructions which Paygle can reasonably carry out in the provision of the Subscription Service), the terms of the Agreement, and this Data Security Guide. Paygle shall ensure that those employees to whom it grants access to such Personal Data are directed to keep such Personal Data confidential and are informed of any additional data protection obligations applicable to such Personal Data. Paygle shall, to the extent legally permitted, promptly notify the Customer with respect to any request or communication Paygle receives from any regulatory authority in relation to any data processing activities Paygle conducts on behalf of the Customer. In addition, Paygle will cooperate and assist the Customer, at the Customer's cost, in relation to any such request and to any response to any such communication. Paygle will pass on to the Customer any requests of a Data Subject to access, delete, correct, or block Personal Data processed under the Agreement. If Paygle is compelled by law to disclose the Customer's information as part of a civil proceeding to which Customer is a party, and the Customer is not contesting the disclosure, the Customer will reimburse Paygle for its reasonable cost of compiling and providing secure access to that information.

6.5. **Subcontractors**. Paygle may engage subcontractors for processing Customer Data under the Agreement, provided Paygle shall ensure compliance by such subcontractor(s) with the requirements of this Section 6 by entering into written agreements with such subcontractors which provide that the subcontractor will apply the Safe Harbor principles to the processing of Personal Data. Paygle's use of any subcontractor will not relieve, waive or diminish any obligation Paygle has under the Agreement or this Data Security Guide.

7. Penetration Tests

7.1. **By a Third Party**. Paygle contracts with third party vendors to perform an annual penetration test on the Paygle platform to identify risks and remediation that help increase security.

7.2. **By the Customer**. No more than once per calendar year the Customer may request to perform, at its own expense, an application penetration test of its instances of the Subscription Service. The Customer shall notify Paygle in advance of any test by submitting a request using Paygle's online support portal and completing a penetration testing agreement. Paygle and the Customer must agree upon a mutually acceptable time for the test; and the Customer shall not perform a penetration test without Paygle's express written authorization. The test must be of reasonable duration, and must not interfere with Paygle's day-to-day operations. Promptly upon completion of the penetration test, the Customer shall provide Paygle with the test results including any detected vulnerability. Upon such notice, Paygle shall, consistent with industry standard practices, use all commercially reasonable efforts to promptly make any necessary changes to improve the security of the Subscription Service. The Customer shall treat the test results as Confidential Information of Paygle.

8. Sharing the Security Responsibility

8.1.   Product Capabilities. The Subscription Service has the capabilities to: (i) authenticate users before access; (ii) encrypt passwords; (iii) allow users to manage passwords; and (iv) prevent access by users with an inactive account. Customer manages each user's access to and use of the Subscription Service by assigning to each user a credential and user type that controls the level of access to the Subscription Service.

8.2.   Customer Responsibilities. Paygle provides the cloud environment via the Microsoft Azure platform, that permits the Customer to use and process Customer Data in the Subscription Service. The architecture in the Subscription Service includes, without limitation, column level encryption functionality and the access control list engine. The Customer shall be responsible for using the column level encryption functionality and access control list engine for protecting all Customer Data containing Personal Data and sensitive data, including without limitation, credit card numbers, social security numbers, financial and health information, and sensitive personal data. The Customer is solely responsible for the results of its decision not to encrypt such Personal Data or sensitive data. Paygle protects all Customer Data in the Paygle cloud infrastructure equally in accordance with this Data Security Guide, regardless of the classification of the type of Customer Data. The Customer shall be responsible for protecting the confidentiality of each user's login and password and shall manage each user's access to the Subscription Service.

8.3.   Customer Cooperation. The Customer shall promptly apply any application upgrade that Paygle determines is necessary to maintain the security, performance or availability of the Subscription Service.

8.4.   Limitations. Notwithstanding anything to the contrary in the Agreement or this Data Security Guide, Paygle's obligations extend only to those systems, networks, network devices, facilities and components over which Paygle exercises control. This Data Security Guide does not apply to: (i) information shared with Paygle that is not data stored in its systems using the Subscription Service; (ii) data in the Customer's virtual private network (VPN) or a third party network; or (iii) any data processed by the Customer or its users in violation of the Agreement or this Data Security Guide.

9.   CUSTOMER'S AUDIT RIGHTS.

The Customer shall have the right to conduct an audit of Paygle's documents, records, systems, policies and procedures governing or relating to the security of Customer Data, provided the audit is requested by a government authority with proper jurisdiction as required by law, or is requested due to an actual material unauthorised disclosure of Customer Data.