Last Updated June 11 2020

1.   Background

a.   Operata Pty Ltd ABN 33 622 149 142 ("Operata", "we", "us", or "our") provides a Software as a Service (SaaS) for Amazon voice services (including Amazon Connect). Operata continually gathers information across the end-to-end environment and simulates load to measure performance at predicted peaks. It provides correlated quality insights, learning service quality norms to better understand issues, automate actions and speed problem resolution (the "Service" or "Services").

b.   Operata and the Customer (each a "party" and collectively "the parties") agree to be bound to these Terms of Service (the "Agreement") effective from the Effective Date, whether in connection with a paid or free trial subscription to the services.

2.   Definitions

a.   "Service Minutes" means the number of minutes of data collected by the Operata Platform for each customer interaction.

    i.   where only data for the Agent is collected this will be the sum of the 'agent interaction time' and 'customer hold time' metrics.

    ii.   where data is also collected within Amazon Connect this will be the 'end-customer call duration'

b.   "Business Day" means in relation to the doing of any action in a place, any day other than a Saturday, Sunday, or public holiday in that place.;

c.   "Business Hours" means the hours of 08:30 to 17:30 on a Business Day;

d.   "Confidential Information" means any and all information disclosed by a party (the "Discloser") to the other party (the "Recipient") or otherwise coming into the possession of Recipient during the Term which:

    i.   where Operata is the Discloser, is Operata Property as defined in this Agreement;

    ii.   where Customer is Discloser, includes all Customer Data;

    iii.   is marked as "confidential";

    iv.   relates to the business of the Discloser or any other member of its Group, including know-how, trade secrets, ideas, marketing strategies and operational information;

    v.   relates to the business affairs (including products, services, customers and suppliers) or property of the Discloser or any other member of its Group, including any business, property or transaction in which the Discloser or any other member of its Group may be or may have been concerned or interested; or

    vi.   by its nature or by the circumstances of its disclosure, is or could reasonably be expected to be regarded as confidential; including any such information made available to the Discloser or any other member of its Group by any third party, but excluding any information which is:

    vii.   already known or independently developed by Recipient outside the scope of this relationship by personnel not having access to any Discloser's Confidential Information;

      viii.   publicly available through no wrongful act of Recipient;

      ix.   developed independently by the other party without reliance on any of the Discloser's Confidential Information; or

      x.   received by Recipient from a third party who was free to disclose it without restriction and without any breach of confidentiality by the third party.

e.   "Customer" means the party receiving the Services under this Agreement.

f.   "Customer Agent" means all employees or contractors of Customer who communicate with Customer clients using online or telecommunications tools across the Customer's business.

g.   "Customer Application" means any software application, code or web site used by Customer in integration with the Operata Property under the terms of this Agreement.

h.   "Customer Data" means any data, information, content, records and files that Customer or any of its Customer Agents, Platform Users or clients loads, receives through, transmits to or enters into the Operata Platform, and any data, information, content, records and files that the Operata Platform obtains from Customer's servers or systems or from third parties on Customer's behalf, including any and all Intellectual Property rights therein.

i.   "Customer Network" means the Customer provided environment used to connect, integrate with and provide access to the Operata Service, including, but not limited to, the customer data network, security systems, desk-top and cloud compute, under the terms of this Agreement.

j.   "Documentation" means any and all proprietary documentation made available to the Customer by Operata for use with the Licensed Software, including any documentation made available online in connection with the Licensed Software.

k.   "Defect" means any error, defect, omission, deficiency, non-conformity, fault, failure, malfunction or discrepancy in the Services as compared against the scope of work, any requirement, or any warranty or guarantee (including a performance warranty or guarantee) or any aspect of the Services which is otherwise not in accordance with this Agreement.

l.   "Effective Date" means the first day of the Term as notified by Operata following acceptance of these Terms of Service by the Customer.

m.   "Good Industry Practice" means, in relation to any activity, the exercise of that degree of skill, care, diligence, prudence, methods, practices, processes, workmanship and use of materials and equipment that would be reasonably exercised by a skilled and experienced person who:

      i.   is engaged in the carrying out of activities of the same nature and extent as the relevant activity by reference to proper and prudent practices recognised internationally, but as applied to circumstances prevailing in Australia and to the operations contemplated by this Agreement;

      ii.   knows the facts that were known, or should reasonably have been known, to the person performing the activity at that time;

      iii.   complies with all applicable regulatory laws.

n.   "Group" means, in relation to a body corporate, that body corporate and all its related bodies

corporate (as that term is defined in the Corporations Act 2001 (Cth)).

o.   "Integrated Product" means any Customer Application and/or Customer Network.

p.   'Intellectual Property' means any patent, copyright, database rights, software element, registered design or other design right, utility model, trade mark (whether registered or not and including any rights in get up or trade dress), brand name, service mark, trade name, eligible layout right, chip topography right and anything of a proprietary nature in or to the results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether registrable or not, including all renewals, extensions and revivals..

q.   "Licensed Software" means the Operata Platform, associated software and Documentation owned by Operata and licensed to the Customer under this Agreement.

r.   "Modifications" means modifications, improvements, customizations, updates, enhancements, aggregations, compilations, derivative works, translations, adaptations, and results from processing (including analyses, reports, databases, datasets, recommendations, and visual representations) in any form or medium, and "Modify" has a corresponding meaning.

s.   "Operata API" means the application programming interface, sample source code, tools, webhooks, instructions, documentation, other materials and any Modifications thereto, made available by Operata to Customer to assist Customer in developing its Customer Application that interoperates with the Operata Platform.

t.   "Operata Platform" means the software, hardware, and systems used by Operata to host and make the Services available for Customer's use, including the Operata Website and any Modifications thereto.

u.   "Operata Property" means the Documentation, Operata API, Operata Platform, any software supplied or developed by Operata and any Modifications to any of the foregoing.

v.   "Operata Website" means any websites used by Operata to provide, or provide information on, the Services, including the website located at www.Operata.com

w.   "Personal Data" means any information relating to an identified or identifiable natural person.

x.   "Personnel" means those persons who Operata uses to perform any obligation, whether an employee, director, officer, representative, agent of or secondee to, Operata.

y.   "Platform User" means an individual who is an employee, contractor or client of Customer or its related bodies corporate and that Customer wishes to have access to and use of the Operata Platform.

z.   "Simulate Module" means the feature within the Operata Platform that enables the creation and run of load testing calls as part of configured campaigns.

aa.   "Simulate Minutes" means the number of dialled call minutes made using the Simulate Module as part of a load test campaign

bb.   "Specification" means, in respect of the Services, the specifications for those Services set out, incorporated or referred to in this Agreement and in the applicable service order.

cc.   'Term' means a 12-month period unless otherwise specified in applicable service order.

dd.   "Quotation" means the written quotation provided to the Customer by Operata in the applicable service order, or, if no such document exists, the prices made available on the Operata Website from time to time.

3.   Interpretation

a.   In this Agreement, unless the context requires another meaning:

   i.   a reference:

      I.   to the singular includes the plural and vice versa;

      II.   to a gender includes all genders;

      III.   to a document (including this Agreement) is a reference to that document (including any schedules and annexures) as amended, consolidated, supplemented, novated or replaced;

      IV.   to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding whether written or not;

      V.   to a person (including a party) includes an individual, company, other body corporate, association, partnership, firm, joint venture, trust or government agency and the person's successors, permitted assigns, substitutes, executors and administrators;

      VI.   to a person includes the person's successors, permitted assigns, substitutes, executors and administrators;

      VII.   to time is to the time in Melbourne, Australia; and

   ii.   the word including or includes means including, without limitation, or includes, without limitation;

   iii.   a warranty, representation, covenant, or obligation given or entered into by more than one person binds them jointly and severally;

   iv.   headings are for convenience only and do not affect interpretation;

   v.   if a payment or other act must (but for this clause) be made or done on a day that is not a Business Day, then it must be made or done on the next Business Day;

   vi.   if a period occurs from, after or before a day or the day of an act or event, it excludes that day; and

   vii.   this Agreement may not be construed adversely to a party only because that party was responsible for preparing it.

4.   License to Operata Property

a.   Subject to Customer's compliance with this Agreement, Operata grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to Customer's related bodies

corporate), irrevocable license during the Term to use the Operata Property solely in connection with the operation of the Operata Platform for the purposes of:

    i.   obtaining the benefit of the Services via the Operata Platform;

    ii.   enabling interoperability of the Customer Application and the Operata Platform; and

    iii.   developing or enabling Customer Applications that will be used exclusively by Customer to interoperate with the Operata Platform in accordance with the terms of this Agreement and any other policies and guidelines published by Operata from time to time.

b.   Customer must not:

    i.   use the Licensed Software for any purpose or in any manner other than as set out in this clause 4;

    ii.   use the Licensed Software in any way that could damage the reputation of the Licensor or the goodwill or other rights associated with the Licensed Software;

    iii.   permit any third party to use the Licensed Software other than as set out in this clause 4;

    iv.   permit any person to link or integrate to any part of the Licensed Software without the Licensor's written consent, not to be unreasonably withheld;

    v.   reproduce, make error corrections to or otherwise modify or adapt the Licensed Software or the Documentation or create any derivative works based upon the Licensed Software or the Documentation;

    vi.   de-compile, disassemble or otherwise reverse engineer the Licensed Software or permit any third party to do so; or

    vii.   modify or remove any copyright or proprietary notices on the Licensed Software or the Documentation.

5.   Trademark License

a.   During the Term, Operata may use Customer's trademarks and logos made available to Operata by Customer, solely in connection with the marketing, advertising, and promotion of the Operata Platform, including listing the Customer and the Customer Application on the Operata Website, subject to review and prior written approval by Customer as to each such use (not to be unreasonably withheld). Operata will take all commercially reasonable steps to comply with any reasonable trademark usage guidelines provided by Customer.

b.   Customer may revoke the license granted under this clause 5 with 7 days' notice if:

    i.   this Agreement terminates under clause 19(e); or

    ii.   in the reasonable opinion of Customer, the continued display of Customer's trademarks and logos on the Operata Website would cause a materially adverse effect on Customer's business and the goodwill associated therewith.

6.   Customer Obligations

a.   Customer must ensure that any Integrated Products it uses in connection with the Services are capable of interoperation with the Operata Platform and must take all steps necessary to enable

and maintain such interoperability throughout the Term, including by acquiring any necessary approvals or API keys to enable such interoperation and undertaking any other reasonable measures required by Operata to provide Customer with the Services. Operata's access to the Customer's computer hardware, software, networks and systems is solely to enable Operata to deploy and resolve any issues associated with the Services, and is subject to prior written approval of Customer (not to be unreasonably withheld).

7.   Operata Property

a.   All right, title and interest in the Operata Property will remain with Operata (or Operata's third party suppliers, as applicable). Operata expressly reserves all right, title, and interest in, and, subject to the limited license granted in clause 4, Customer will not acquire any right, title or interest in the Operata Property and any other materials or content provided by Operata under this Agreement, including any and all Modifications.

b.   Operata indemnifies Customer against any claim or from any liability (and releases Customer from, and waives, all claims against Customer) arising out of, in relation to or in connection with (whether directly or indirectly) any alleged or actual infringement of any Intellectual Property rights related to or in connection with use of the Service in accordance with this Agreement.

8.   Data Privacy

a.   Operata will only collect Customer Data as agreed with the Customer.

b.   Operata must comply with The Operata privacy policy in processing any personal Information in the Customer Data.

c.   Operata may store, use, reproduce, Modify, and transfer to its subcontractors, Customer Data, solely for the purpose of delivering the Services under this Agreement.

d.   Operata may store, use, reproduce, Modify, and transfer data that is not related to an identified or identifiable natural person, including aggregated or de-identified data, for its internal business purposes Including but not limited to such purposes as analytics, quality assurance, product and service improvement and new product and service development.

e.   Customer represents and warrants that the Customer Data will only contain Personal Data in respect of which Customer has obtained all necessary consents required under applicable law to enable Customer to legally provide such Personal Data to Operata and its third party service providers and that Customer otherwise has full legal authority to disclose the Customer Data to Operata to enable Operata to provide the Services, including with respect to the collection, storage, access, use, disclosure and transmission of Personal Data.

f.   Operata must comply with its Information Security Policy in processing Customer Data and in providing the Services

9.   Use Restrictions

a.   When Customer completes the sign-up process, Operata will issue one or more user admin level access accounts for the Platform (the "Accounts") to the Customer that provides Customers with the:

     i.   Capability to create accounts for use by Platform Users.

     ii.   Capability to whitelist numbers able to be dialled by the Operata Platform and the costs thereof when exceeding any allowances.

b.   the Customer will ensure that Platform Users only use the Operata Platform through their Account.

c.   the Customer will ensure that the Platform is not used for fraudulent, disruptive or illegal purposes.

d.   the Customer will not share the Accounts with any other person and will not allow Platform Users to share their Account with any other person.

e.   the Customer will promptly notify Operata of any actual or suspected unauthorized use of the Operata Platform.

f.   Operata may suspend, deactivate, or replace any Accounts if it reasonably believes that the Account may have been used for an unauthorized purpose.

g.   Customer acknowledges and agrees that it is responsible for the activities, charges and communications of all Platform Users on the Operata Platform and the compliance by all Platform Users with this Agreement and any guidelines and policies published by Operata from time to time. Without limiting the generality of any of the foregoing, Customer will not, and will not permit any other person, including any Customer Agents or Platform Users to:

     i.   use or cause Operata or any third party to use the Operata Platform to send, upload, collect, transmit, store, use, disclose or process any Customer Data:

         (a)   that contains any computer viruses, worms, malicious code, or any software intended to damage or alter a computer system or data;

         (b)   that Customer or the applicable Platform User does not have the lawful right to send, upload, collect, transmit, store, use, disclose, process, copy, transmit, distribute and display;

         (c)   that is false, intentionally misleading, or impersonates any other person;

         (d)   that is bullying, harassing, abusive, threatening, vulgar, obscene, or offensive, or that contains pornography, nudity, or graphic or gratuitous violence, or that promotes violence, racism, discrimination, bigotry, hatred, or physical harm of any kind against any group or individual;

         (e)   that is harmful to minors in any way or targeted at persons under the age of 16;

         (f)   that violates any applicable laws, or infringes, violates or otherwise misappropriates the Intellectual Property or other rights of any third party (including any moral right, privacy right or right of publicity); or

         (g)   that encourages any conduct that may violate any applicable laws or would give rise to civil or criminal liability;

     ii.   disable, overly burden, impair, or otherwise interfere with servers or networks connected to the Operata Platform (e.g., a denial of service attack);

     iii.   attempt to gain unauthorized access to the Operata Platform;

     iv.   use any data mining, robots, or similar data gathering or extraction methods, or copy;

     v.   Modify, reverse engineer, reverse assemble, disassemble, or decompile the Operata Platform or any part thereof or otherwise attempt to discover any source code, except as expressly provided for in this Agreement;

     vi.   use the Operata Platform for the purpose of building a similar or competitive product or service; or

     vii.   use the Operata Platform other than as permitted by this Agreement;

10. Support Services

a.   It is intended that the Operata Platform be used by all Customer Agents and this enables the Services to be provided most effectively.

b.   Operata shall provide Customer with access to the Support Services detailed in Schedule 1.

11. Service management

a.   Operata will provide monthly reports, no later than five working days after the end of the calendar month, on the performance of the Services ("Service Report") to the nominated Customer contact. The Service Report will include:

     i.   summary of Customer's usage of the Services over the last month;

     ii.   any changes or improvements made or to be made to the Operata Platform or Services; and

     iii.   Service issues over the last month.

b.   Operata will organise quarterly Service management reviews with Customer with the following agenda items:

     i.   review of Service Reports for the quarter;

     ii.   any high severity incidents that have occurred in the previous quarter;

     iii.   any issues, concerns or suggested improvements the Customer may have regarding the delivery, support or management of the Services, which will be captured in a Service improvement plan with clearly stated objectives, deliverables and timescales;

     iv.   any maintenance releases or features for the upcoming quarter; and

     v.   Customer's usage details for the Services over the last quarter and a forecast for usage during the next quarter, for the purpose of capacity planning.

     If the Customer becomes aware of any urgent concerns relating to the Operata Platform or Support Services, which the Customer reasonably believes require immediate attention, the Customer must advise its designated Operata customer success manager as soon as possible.

c.   The Customer may raise any concerns relating to the Operata's provision of the Services as defined in this Agreement, with the Customer success manager. Agreed actions and updates in respect of these concerns will be part of the Service management review process.

12.   Fees and Payment

    a.   Where the Operata Platform has been contracted for using AWS marketplace, the AWS marketplace payment terms will apply.

    b.   Where AWS marketplace has not been used to contract for the Operata Platform the following terms apply;

        i.   Customer will pay to Operata the fees set out in the applicable service order during the Term in accordance with the payment terms set out therein.

        ii.   Operata will invoice the Fees monthly in arrears 5 Business Days after the end of the previous month.

        iii.   Subject to section 12(d) below, all amounts payable by Customer under this Agreement must be paid in full within 30 days from date of invoice without set-off, deduction or other withholding of any amount which may be due to the Customer, and all set-off or similar rights are expressly waived by Customer. The Fees are inclusive of all costs, expenses and taxes (other than GST). The Customer must pay the Fees in the method agreed between the parties.

        iv.   If Customer in good faith disputes any portion of an Operata invoice or charge, Customer may provide a dispute notice to Operata with written documentation identifying and substantiating the disputed amount within forty-five (45) days from receipt of the applicable invoice or charge. If Customer does not report or does not provide such substantiating documentation within that period, the Customer shall be deemed to have waived its right to dispute any and all portions of that invoice. Customer shall pay all undisputed amounts of that invoice in accordance with section 12 (a) above.

        v.   Operata may suspend the provision of the Support Services if any amount (except for disputed amounts under clause 12(d)) due to be paid by the Customer to Operata under this Agreement is overdue, and Operata has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Support Services on this basis.

        vi.   Operata may increase the Fees on an annual basis by not more than 2%, but may not increase the Fees within the first 12 months of the Term.

13.   Confidential Information

    a.   Recipient hereby agrees that during the Term and at all times thereafter it will not:

        i.   disclose Confidential Information of the Discloser to any person, except to its own personnel or affiliates having a "need to know" and that have entered into written agreements no less protective of such Confidential Information than this Agreement, and to such other recipients as the Discloser may approve in writing;

        ii.   use Confidential Information of the Discloser except to exercise its rights or perform its obligations under this Agreement; or

        iii.   alter or remove from any Confidential Information of the Discloser any proprietary markings.

b.   Notwithstanding Section 13(a), Recipient may disclose Discloser's Confidential Information:

i.   to the extent that such disclosure is required by applicable law or by the order of a court or similar judicial or administrative body, provided that the Recipient promptly notifies the Discloser in writing of such required disclosure and cooperates with the Discloser to seek an appropriate protective order;

ii.   to its employees, accountants, internal and external auditors, legal counsel and other professional advisors if and to the extent such persons need to know such Confidential Information in order to provide applicable professional advisory services related to the Recipient's business; or

iii.   where Operata is the Recipient, to potential assignees, acquirers or successors of Operata if and to the extent such persons need to know such Confidential Information in connection with a potential sale, merger, amalgamation or other corporate transaction involving the business or assets of Operata.

14.   Quality of Services.

a.   Operata represents, warrants and guarantees that:

i.   the Services shall be diligently performed with competent and skilled personnel in a good workmanlike manner, consistent with Good Industry Practice;

ii.   the Services shall be complete, free of Defects in design and shall meet the Specifications and any mutually agreed specifications, materials and workmanship;

iii.   the Services and every component of them shall fully comply with all laws; and

b.   Except as specifically provided in this Agreement, the Operata Platform (or any part thereof), and any other products and services provided by Operata to Customer are provided "as is".

15.   Service Inclusions

a.   Where the the Operata Platform charges provide included Service Minutes and Simulate Minutes the following conditions apply:

i.   All Customer endpoints must have the Operata software installed to collect data.

ii.   Included Simulate Minutes are to PSTN numbers in the following locations only;

a.   United States
b.   Australia
c.   United Kingdom
d.   France
e.   Ireland
f.   Italy
g.   Sweden
h.   Spain
i.   Israel
j.   Norway
k.   China
l.   Switzerland

m.   NewZealand

n.   Hong Kong

o.   Korea Republic of

p.   Singapore

q.   Japan

iii.   If there is a requirement to dial numbers in other locations then the number included call minutes and overage charges will change.

16.   Limitation of Liabilities

a.   Subject to the remainder of this Clause 16, in no event will the total aggregate liability of either party in connection with or under this Agreement whether in contract, tort (including negligence, gross negligence, fundamental breach, breach of a fundamental term) or otherwise exceed the greater of:

i.   the amount of fees paid by Customer under this Agreement; and

ii.   AU$5,000.

b.   The limitation of liability in Clause 16(a) does not apply to Operata liability:

i.   Under the Intellectual Property Indemnity in Clause 7(b);

ii.   For breach of Clause 8 or Clause 13 of this Agreement.

c.   The existence of one or more claims under this Agreement will not increase this maximum liability amount.

d.   To the extent permitted by applicable law, in no event will either party be liable to the other party for any:

i.   special, exemplary, punitive, indirect, incidental or consequential damages,

ii.   lost savings, profit, or goodwill;

iii.   business interruption;

iv.   any costs for the procurement of substitute products or services;

regardless of the cause of action or the theory of liability, whether in contract, tort (including negligence, gross negligence, fundamental breach, breach of a fundamental term) or otherwise and even if notified in advance of the possibility of such damages.

17.   Term

a.   This Agreement shall come into force upon the Effective Date and continue in force for a 12-month period, unless otherwise specified in applicable service order (the "Term") after which time it will:

i.   if on the order form, the Customer elects an ongoing subscription: automatically renew for a further period of the same length as specified on the order form at the then-current subscription rate described on the Operata Website or the Quotation; or

ii.   if on the order form, the Customer elects a fixed subscription period: automatically terminate at the end of the Term; or

iii.   If ordered using AWS marketplace, then the relevant AWS marketplace renewal terms will

apply.

18. **Insurance**

a. Operata must maintain the following insurances with a major insurance company: (a) workers' compensation insurance covering liability to the Personnel; (b) third party public and product liability insurance covering liability to any third party for death or bodily injury (including illness) and loss of or damage to property arising out of anything done or omitted to be done by Operata for $20,000,000 per incident and in aggregate; and (c) professional indemnity insurance for up to $5,000,000 per incident and $10,000,000 in the aggregate. Operata must, from time to time, provide Customer with certificates of currency for the insurances described in this clause 19A if so requested by Customer.

19. **Termination**

a. *Termination For Convenience*. Customer may elect to terminate this Agreement at the end of the then-current Term by providing notice at least thirty (30) days before the end of the Term.

b. *No Refunds*. Subject to clause 19(e) and (f), Customer will not be entitled to any refunds or credit of any Fees, pro rata or otherwise, if it elects to terminate this Agreement prior to the end of the Term.

c. *Early Termination and Termination for Cause by Operata.* If you terminate this Agreement prior to the end of the Term, or if Operata terminates for cause under clause 19(d), in addition to other amounts you may owe Operata, you must immediately pay any unpaid Fees for the remainder of the Term.

d. *Termination for Cause*. A Party may terminate this Agreement for cause:

   i. upon thirty (30) days' written notice to the other Party of a material breach if such breach remains uncured at the expiration of such period; or

   ii. if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

e. *Termination for Cause by Customer.* If Customer terminates under clause 19(d) for material breach by Operata, then it will not be required to pay Fees for the remainder of the Term under clause 19(c) and Operata will refund Customer any prepaid Fees covering the remainder of the Term after the effective date of termination.

f. *Fees for Services Rendered prior to Termination.* In no event will termination relieve Customer of its obligation to pay any Fees payable to Operata for Services rendered prior to termination.

20. **Survival.**

a. The following Sections, together with any other provision of this Agreement which expressly or by its nature survives termination or expiration, or which contemplates performance or observance subsequent to termination or expiration of this Agreement, will survive expiration or termination of this Agreement for any reason: clauses 7, 8, 9, 12, 13, 20 and 21.

21.   **General Provisions**

    a.   Notice.

        i.   Notices sent to either Party will be deemed to be effective:

            I.   immediately upon delivery in person or by email;

            II. two days after being sent by courier within Australia to the official contact designated by the relevant Party;

            III. ten days after being sent by express post within Australia to the official contact designated by the relevant Party; or

            IV. fifteen days after being sent by registered post within Australia to the official contact designated by the relevant Party.

        ii.   Notices must be in writing and sent:

            I.   if to Operata, to the address set out in the applicable service order or, if Operata has posted new contact information on the Operata Website or otherwise given notice of a change of contact information to Customer; to such new contact point; and

            II. if to Customer, to the current postal or email address that Operata has on file with respect to Customer. Customer is solely responsible for keeping its contact information on file with Operata through the Operata Platform current at all times during the Term.

    b.   ***Assignment and Subcontracting***. Customer will not assign this Agreement to any third party without Operata's prior written consent, which will not be unreasonably withheld. Operata may freely assign this Agreement and any rights under this Agreement to any third party in connection with any merger or change of control of Operata or the sale of all or substantially all of Operata's assets. Operata remains liable for each act and omission of its subcontractors and third parties as though it were an act or omission of Operata.

    c.   ***Choice of Law***. This Agreement and any action related thereto will be governed by and construed in accordance with the laws of the state of Victoria, without regard to conflicts of law principles. The U.N. Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

    d.   ***Jurisdiction.*** Each party irrevocably and unconditionally:

        i.   submits to the exclusive jurisdiction of the courts of Victoria; and

        ii.   waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

    e.   ***Rights Cumulative***. Except as otherwise provided in this Agreement, the Parties rights and remedies under this Agreement are cumulative.

    f.   ***Force Majeure***. Neither Party will be liable for delays caused by any event or circumstances beyond that party's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems (other than those involving that party's employees), Internet failures or delays. To avoid doubt, failures of Operata subcontractors are not

Force Majeure events.

g.   **Severable**. Any provision of this Agreement found by a tribunal or a court of competent jurisdiction to be illegal or unenforceable will be severed from this Agreement and all other provisions of this Agreement will remain in full force and effect.

h.   **Waiver**. A waiver of any provision of this Agreement must be in writing and a waiver in one instance will not preclude enforcement of such provision on other occasions.

i.   **Independent Contractors**. The parties are independent contractors and neither Party is an agent or partner of the other. Customer will not have, and will not represent to any third party that it has, any authority to act on behalf of Operata.

j.   **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all other communications, whether written or oral.

k.   **Amendments**. No amendment, supplement, modification, waiver, or termination of this Agreement and, unless otherwise expressly specified in this Agreement and no consent or approval by any Party, will be binding unless executed in writing by both Parties via a change request.

SCHEDULE 1 (Support Services

> **Introduction**
>
> This Schedule 1 sets out the Support Services provided by Operata under the Agreement

1. **Support Services**

   a. Customer must raise a request for Support Services to Operata as soon as practical upon becoming

   b. aware of reasonable grounds to suspect that the Operata Platform, or Customer's access thereto, is not operating in accordance with this Agreement. The Support Services will be offered only during Business Hours via:

      i. Email: help@operata.com

      ii. Web chat: within the application

   c. The Customer must ensure that all requests for Support Services that it may make from time to time are made through the above contact points and Operata will not be obligated to respond to any Support Services requests made by any other means.

2. **Response and resolution**

   a. Upon receipt of a Support Services request under clause 1 of this Schedule, Operata and Customer will determine which Severity Level is applicable to the underlying issue.

   b. Operata will use reasonable endeavours to provide an initial response to the Support Services requests promptly and in any event within the corresponding timeframe set out below:

Severity Level	Underlying Issue	Initial Response Timeframe	Restoration Target
Critical	the Software is inoperable or a core function of the Software is unavailable	2 Business Hours	6 Business Hours
Serious	a core function of the Software is significantly impaired	4 Business Hours	12 Business Hours
Moderate	a core function of the Software is impaired, where the impairment does not constitute a serious issue; or a non-core function of the Software is significantly impaired	8 Business Hours	24 Business Hours
Minor	any impairment of the Software not falling into the above categories; and any cosmetic issue affecting the Software	16 Business Hours	160 Business Hours

c.   The initial response will set out the anticipated timeframe for resolution of the issue raised in the Support Service Requests. To the extent commercially practical, Operata will use reasonable endeavours to provide a Final Resolution to the underlying issue promptly in proportion to the applicable severity level.

d.   If the Customer becomes aware of any urgent concerns relating to the Operata Platform or Support Services, which the Customer reasonably believes require immediate attention, the Customer must advise its designated Operata customer success manager as soon as possible.

e.   At the time of writing the customer success manager is Andy Scott (andy@operata.com)

3.   Operata Service availability target

a.   The target availability for the Operata service is 99.8%

b.   Availability measurement will be the percentage of any Critical level service unavailability time over the agreed service time (Hours of Customer Business operation) in any calendar month.

4.   Provision of Support Services

a.   The Support Services shall be provided remotely, save to the extent that the parties agree otherwise in writing.

5.   Limitations on Support Services

a.   Operata shall have no obligation to provide Support Services in respect of any issue caused by:
    i.   any Integrated Product or third party or Customer software used by the Customer in connection with the Operata Platform;
    ii.   the improper use of the Software by the Customer; or
    iii.   any alteration to the Software made without Operata's prior written consent.
b.   If Operata provides Support Services at the request of the Customer and Operata, after beginning the provision of those Support Services, reasonably concludes that Operata has no obligation to provide those Support Services by virtue of the exceptions set out in clause 4 and 5.the Customer must pay any additional charges advised by Operata in respect of:
c.   those Support Services; and
d.   any subsequent Support Services provided in relation to the issue with the consent of the Customer charged at its standard time-based rates.