

BUNDLE MASTER SERVICES AGREEMENT

Updated: 18th June 2026

This Bundle Master Services Agreement ("**BMSA**" or "**Agreement**") is entered into between Assimil8 Ltd ("**Assimil8**") and the Customer identified in the applicable Order Form ("**Customer**").

This Agreement establishes the terms and conditions under which Assimil8 may provide the Bundle Services, including software, managed services, hosted services, support services, professional services, implementation services and related offerings, as described in one or more Order Forms and the applicable Schedules.

By executing an Order Form that references this Agreement, accessing or using any Bundle Services, or permitting any Authorised User to access or use any Bundle Services, Customer agrees to be bound by this Agreement.

The parties acknowledge and agree that:

- A. This Agreement constitutes a legally binding contract between Assimil8 and Customer.
- B. The individual executing an Order Form on behalf of Customer represents and warrants that they have full authority to bind Customer to this Agreement.
- C. The Bundle Services are provided on a subscription and services basis and are not sold to Customer.
- D. Customer's rights to access and use the Bundle Services are subject to the terms and conditions of this Agreement, the applicable Order Form and the applicable Schedules.
- E. Certain Bundle Services may incorporate IBM Software, third-party software, open-source software or third-party services, each of which may be subject to additional terms identified in this Agreement, the applicable Order Form or Schedule D (IBM ESA Flow-Down Terms).
- F. Customer may not access or use the Bundle Services for the purpose of developing, benchmarking, monitoring, evaluating or creating a competing product or service without Assimil8's prior written consent.
- G. Customer shall ensure that all Authorised Users comply with the terms of this Agreement and Customer shall remain responsible for all acts and omissions of its Authorised Users.

1. ORDER OF PRECEDENCE

1.1 Contractual Framework

This Agreement consists of the following documents, which together form the entire agreement between the parties regarding the Bundle Services:

- (a) the applicable Order Form;
- (b) this Bundle Master Services Agreement;
- (c) Schedule A - Customer Hosted Bundle Services;
- (d) Schedule B - Assimil8 Hosted Bundle Services;
- (e) Schedule C - Service Level Agreement (SLA);
- (f) Schedule D - IBM ESA Flow-Down Terms;
- (g) Schedule E - Data Processing Addendum;
- (h) Schedule F - Support and Maintenance Guide;
- (i) Schedule G - Information Security Schedule;
- (j) Schedule H - Professional Services Terms; and
- (k) any other schedule, statement of work, service description or addendum expressly incorporated by reference into an Order Form.

1.2 Order of Precedence

In the event of any inconsistency, conflict or ambiguity between documents forming part of this Agreement, the following order of precedence shall apply:

- (a) the applicable Order Form;
- (b) any Statement of Work expressly referenced in the applicable Order Form;
- (c) Schedule D (IBM ESA Flow-Down Terms), solely with respect to IBM Software, IBM Services, IBM documentation, IBM licensing requirements and IBM-related obligations;
- (d) this Bundle Master Services Agreement;
- (e) the remaining Schedules in the following order:
 - (i) Schedule E (Data Processing Addendum);

- (ii) Schedule G (Information Security Schedule);
- (iii) Schedule C (Service Level Agreement);
- (iv) Schedule F (Support and Maintenance Guide);
- (v) Schedule H (Professional Services Terms);
- (vi) Schedule A (Customer Hosted Bundle Services);
- (vii) Schedule B (Assimil8 Hosted Bundle Services);
- (f) any other incorporated document.

1.3 IBM Software Priority

Customer acknowledges that certain components of the Bundle Services may include IBM Software, IBM Services, IBM technology or IBM intellectual property licensed or otherwise made available to Assimil8 under agreements between Assimil8 and IBM.

To the extent that any provision of this Agreement, an Order Form, a Statement of Work or any other incorporated document conflicts with a mandatory requirement imposed by IBM relating to such IBM Software, IBM Services or IBM intellectual property, the applicable provisions of Schedule D (IBM ESA Flow-Down Terms) shall prevail solely with respect to the relevant IBM component and only to the minimum extent necessary for Assimil8 to comply with its obligations to IBM.

Nothing in this Agreement shall be interpreted as granting Customer greater rights to IBM Software or IBM intellectual property than Assimil8 is authorised to provide under its applicable agreements with IBM.

1.4 No Implied Rights

Except as expressly stated in this Agreement, no document incorporated into this Agreement shall be interpreted as granting Customer any ownership interest, intellectual property right or licence beyond those expressly granted under this Agreement.

1.5 Future Orders

Unless otherwise expressly agreed in writing, all future Order Forms entered into between the parties for Bundle Services shall automatically be governed by this Agreement.

2. Definitions

In this Agreement, unless the context otherwise requires, the following terms shall have the meanings set out below.

"Acceptance Criteria" means the acceptance criteria expressly agreed by the Parties in an Order Form, Statement of Work or other applicable Contract Document.

"Active User" means an individual authorised by the Customer to access or use any Bundle Service during a calendar month and whose access, authentication, activity, consumption or utilisation contributes to the Customer's Bundle Monthly Unit consumption for that month.

"Affiliate" means, in relation to a Party, any entity that directly or indirectly Controls, is Controlled by, or is under common Control with that Party from time to time.

"Agreement" means this Bundle Master Services Agreement, together with all Schedules, Order Forms, Statements of Work and other documents expressly incorporated by reference.

"Assimil8" means Assimil8 Limited, a company incorporated in England and Wales.

"Assimil8 Hosted Deployment" means a Deployment Model in which the Bundle Services are hosted, operated or managed by or on behalf of Assimil8 within infrastructure controlled by Assimil8 or its approved hosting providers.

"Assimil8 IP" means all Intellectual Property Rights owned by, licensed to, developed by or otherwise controlled by Assimil8, including the Bundle Platform, Bundle Services, software, methodologies, documentation, configurations, templates, workflows, processes, know-how, tools, inventions, enhancements, modifications and derivative works, excluding Customer Data, Customer Materials and IBM IP.

"Authorised User" means an employee, contractor, consultant, agent or other individual authorised by the Customer to access or use the Bundle Services in accordance with this Agreement.

"BMU" or **"Bundle Monthly Unit"** means the unit of measurement used to determine Customer entitlement to Bundle Services under this Agreement. One (1) BMU represents one (1) Active User consuming one (1) month of entitlement to the applicable Bundle Services.

"BMU Entitlement" means the aggregate quantity of Bundle Monthly Units purchased by the Customer under an Order Form during the applicable Subscription Term.

"BMU Consumption" means the quantity of Bundle Monthly Units consumed by the Customer during the applicable measurement period, determined in accordance with Section 4 of this Agreement.

"Business Day" means a day other than a Saturday, Sunday or public holiday in England on which banks are open for general business in London.

"Bundle Platform" means the integrated software platform, technology stack, applications, services, components, interfaces and functionality made available by Assimil8 under the Bundle Services.

"Bundle Services" means the software, hosted services, managed services, support services, professional services and other services provided by Assimil8 under this Agreement, as more particularly described in the applicable Order Form, Statement of Work or Schedule.

"Change Request" means a written request submitted by either Party seeking a change to the scope, functionality, Deliverables, services, timetable, Fees or other aspects of the Services.

"Confidential Information" means any information disclosed by one Party to the other that is identified as confidential or which a reasonable person would understand to be confidential by its nature or circumstances of disclosure, including business plans, commercial information, technical information, software, security information, pricing, trade secrets and customer information.

"Control" means direct or indirect ownership or control of more than fifty percent (50%) of the voting rights or equivalent ownership interests of an entity.

"Contract Document" means this Agreement, any Order Form, Statement of Work, Schedule, Change Request, Service Description or other document expressly incorporated into this Agreement.

"Customer" means the legal entity identified in the applicable Order Form as the customer receiving Bundle Services.

"Customer Data" means all data, information, content, records, files, documents, metadata and materials submitted, uploaded, transmitted, processed, generated, stored or otherwise made available by or on behalf of the Customer through the Bundle Services, excluding Assimil8 IP, IBM IP and Third-Party Software.

"Customer Environment" means any systems, infrastructure, networks, facilities, cloud environments, hardware, software or services owned, leased, controlled or managed by the Customer or its third-party providers.

"Customer Hosted Deployment" means a Deployment Model in which the Bundle Platform or any Bundle Service component is installed, deployed or operated within the Customer Environment.

"Customer Materials" means all materials, software, documentation, data, content, systems, processes, specifications and information provided by or on behalf of the Customer to Assimil8.

"Data Protection Laws" means all applicable laws and regulations relating to privacy, data protection and the processing of personal data, including the UK GDPR, the Data Protection Act 2018 and any successor legislation.

"Deliverables" means any reports, configurations, documentation, work product or other deliverables expressly identified in an Order Form or Statement of Work as being deliverable by Assimil8 to the Customer.

"Deployment Model" means a Customer Hosted Deployment, Assimil8 Hosted Deployment, Hybrid Deployment or any other deployment arrangement agreed between the Parties.

"Documentation" means the technical, operational, functional and user documentation made available by Assimil8 in relation to the Bundle Services.

"Effective Date" means the effective date specified in the applicable Order Form or, if none is specified, the date on which the last Party executes the relevant Contract Document.

"Fees" means all charges payable by the Customer under this Agreement, including subscription fees, BMU fees, professional services fees, support fees, managed services fees and any other charges set out in an Order Form.

"Force Majeure Event" means any event beyond a Party's reasonable control including acts of God, natural disasters, war, terrorism, civil unrest, labour disputes, interruption of utilities, cyber-attacks, governmental action or failure of telecommunications networks.

"Hybrid Deployment" means a Deployment Model combining elements of both a Customer Hosted Deployment and an Assimil8 Hosted Deployment.

"IBM" means International Business Machines Corporation and its Affiliates.

"IBM ESA" means the applicable IBM agreement, licence terms, support terms, programme terms, international programme licence agreement, software subscription terms, cloud service terms or other contractual terms governing IBM Software and associated services.

"IBM IP" means all Intellectual Property Rights owned by, licensed to, developed by or otherwise controlled by IBM or its licensors, including IBM Software, IBM documentation, IBM trademarks and IBM proprietary technology.

"IBM Software" means software, cloud services, program components, utilities, tools, technologies, documentation or other materials provided by IBM and incorporated into, integrated with, bundled with, required by or used in connection with the Bundle Services.

"Incident" means any unplanned interruption, degradation or reduction in the quality, availability, performance or functionality of the Bundle Services.

"Information Security Requirements" means the security obligations set out in this Agreement, Schedule G or any applicable Order Form.

"Intellectual Property Rights" means patents, rights to inventions, copyright and related rights, database rights, trademarks, trade names, domain names, design rights, trade secrets, confidential information, know-how and all other intellectual property rights of any nature anywhere in the world, whether registered or unregistered.

"Managed Services" means operational, monitoring, administration, maintenance, management or related services provided by Assimil8 in respect of the Bundle Services.

"Open Source Software" means software distributed under an open-source, community-source or similar licensing model requiring source code availability, redistribution rights or similar obligations.

"Order Form" means a written ordering document executed by the Parties which specifies the Bundle Services, BMU Entitlement, Subscription Term, Fees and other commercial terms applicable to the Customer.

"Party" means either Assimil8 or the Customer, and **"Parties"** means both of them.

"Personal Data" shall have the meaning given to it under applicable Data Protection Laws.

"Professional Services" means implementation, consultancy, advisory, integration, migration, training, configuration, development or other professional services provided by Assimil8.

"Schedule" means any schedule attached to and forming part of this Agreement.

"Service Credits" means any credits expressly provided under the Service Level Agreement.

"Service Levels" means the service level commitments specified in Schedule C.

"Software" means software made available under the Bundle Services, including software owned by Assimil8, licensed from IBM or supplied by third parties, as applicable.

"Statement of Work" or **"SOW"** means a document executed by the Parties describing specific services, Deliverables, milestones, assumptions, responsibilities or Fees.

"Subscription Term" means the period specified in the applicable Order Form during which the Customer is entitled to consume the purchased BMU Entitlement.

"Support Services" means maintenance, technical support, troubleshooting, updates, patches, fixes and related support services provided by Assimil8.

"Third-Party Software" means any software, services, applications, libraries, tools, platforms or technology provided by a third party other than Assimil8 or IBM and made available in connection with the Bundle Services.

"Usage Data" means operational, diagnostic, telemetry, performance, security, statistical and analytical information relating to the operation, support, security and improvement of the Bundle Services, provided such information does not identify the Customer or any individual except where necessary for service administration, compliance or legal purposes.

"User" means an Authorised User, Active User or any other individual permitted to access or use the Bundle Services under this Agreement.

"Current Release" means the most recent generally available production release of the applicable Bundle Service, Software or service component made available by Assimil8 for customer use.

"Customer Systems" means the Customer's hardware, software, networks, cloud services, infrastructure, applications, databases, security systems, devices and related technology environments used in connection with the Bundle Services.

"Emergency Maintenance" means maintenance, repair, patching, remediation or operational activities performed by Assimil8 without the normal notice applicable to Planned Maintenance where such activities are reasonably necessary to address security vulnerabilities, service failures, material operational risks, legal compliance requirements or other urgent circumstances.

"End-of-Support Release" means a release, version or edition of Software or a Bundle Service that Assimil8 has designated as no longer eligible for Support Services following a specified end-of-support date.

"Maintenance Window" means a period designated by Assimil8 during which Planned Maintenance may be performed.

"Planned Maintenance" means scheduled maintenance, upgrades, updates, patching, testing, infrastructure changes or other maintenance activities notified in advance by Assimil8.

"Security Incident" means any actual or reasonably suspected unauthorised access to, acquisition of, disclosure of, alteration of, destruction of, loss of, corruption of, or interference with Customer Data, the Bundle Services, Customer Systems or information assets that may compromise confidentiality, integrity or availability.

"Service Description" means any service specification, product description, technical description, service guide, operational guide, published service documentation or similar document issued by Assimil8 describing the scope, functionality, features, operational characteristics or service commitments applicable to the Bundle Services.

"Service Request" means a request submitted by the Customer for information, assistance, access, configuration, standard change, advisory support or other support activity that does not arise from an Incident.

"Supported Environment" means a technical, operational or hosting environment that conforms to the minimum compatibility, configuration, infrastructure, security and operational requirements specified by Assimil8 from time to time.

"Supported Release" means a release, version or edition of Software or a Bundle Service that Assimil8 has designated as eligible for Support Services in accordance with its then-current support policies.

References in this Agreement to the singular include the plural and vice versa. References to persons include individuals, partnerships, companies, corporations, governmental authorities and other legal entities. References to legislation include any amendment, replacement or re-enactment of such legislation from time to time.

3. Bundle Services

The Bundle Services comprise Assimil8 proprietary software, integrations, workflows, configurations, analytics services, artificial intelligence capabilities, deployment services, management services, support services and related intellectual property.

The Bundle Services operate as an integrated solution and provide functionality, capabilities and value beyond any individual software product, cloud service, hosted service or third-party component incorporated within the Bundle Services.

For the avoidance of doubt, no individual software component, including any IBM Software, shall constitute the Bundle Services independently of the overall Bundle solution.

3.1 Provision of Bundle Services

3.1.1 Subject to the terms of this Agreement, Assimil8 shall make available to the Customer the Bundle Services specified in the applicable Order Form during the applicable Subscription Term.

3.1.2 The Bundle Services constitute an integrated portfolio of software, platform capabilities, data processing functionality, analytics services, automation services, artificial intelligence functionality, reporting capabilities, support services, managed services, professional services, and related service components made available by Assimil8 and its licensors, including IBM Software and Third-Party Software where expressly identified in an Order Form.

3.1.3 The Bundle Services may be provided as Customer Hosted Bundle Services, Assimil8 Hosted Bundle Services, Bundle Services may be provided through a Hybrid Deployment , or any combination thereof, as specified in the applicable Order Form.

3.1.4 The Bundle Services are provided as a bundled service offering and are licensed, subscribed to, accessed, consumed, or otherwise made available solely in accordance with the terms of this Agreement, the applicable Order Form, and any applicable Schedules.

3.1.5 The Customer acknowledges that the Bundle Services may comprise multiple technologies, software components, service layers, integrations, infrastructure elements, and supporting services which collectively form the Bundle solution.

3.2 Scope of Bundle Services

3.2.1 The Bundle Services may include, as applicable:

(a) software applications and platform components developed, owned, licensed, or distributed by Assimil8;

(b) software, products, technologies, services, or components supplied by IBM;

(c) Third-Party Software;

- (d) Open Source Software;
- (e) data integration services;
- (f) workflow automation capabilities;
- (g) artificial intelligence and machine learning functionality;
- (h) analytics, reporting, dashboard, visualisation, and business intelligence capabilities;
- (i) application programming interfaces (APIs);
- (j) managed services;
- (k) support and maintenance services;
- (l) professional services;
- (m) implementation, onboarding, configuration, migration, and transition services;
- (n) hosting, infrastructure, monitoring, backup, recovery, and operational services; and
- (o) such other services, features, functionality, or components as may be specified in an Order Form.

3.2.2 The specific Bundle Services purchased by the Customer shall be identified in the applicable Order Form.

3.2.3 No functionality, feature, service component, deliverable, hosting arrangement, support service, managed service, professional service, software product, or third-party capability shall be deemed included unless expressly identified in an Order Form, Service Description, Schedule, Statement of Work, or other written document executed by the parties.

3.3 Service Delivery Model

3.3.1 Assimil8 may provide the Bundle Services directly or through Affiliates, subcontractors, cloud service providers, hosting providers, technology providers, licensors, professional service providers, support providers, or other authorised third parties.

3.3.2 Assimil8 shall remain responsible for the performance of its obligations under this Agreement notwithstanding the use of subcontractors.

3.3.3 The Customer acknowledges that certain components of the Bundle Services may be delivered through infrastructure, software, platforms, tools, services, or technologies provided by third parties.

3.3.4 Assimil8 may modify the operational delivery methods used to provide the Bundle Services provided that such modifications do not materially reduce the overall functionality of the purchased Bundle Services.

3.4 Access and Use Rights

3.4.1 During the applicable Subscription Term and subject to compliance with this Agreement, Assimil8 grants the Customer a limited, non-exclusive, non-transferable, non-sublicensable right to access and use the Bundle Services solely for the Customer's internal business purposes.

3.4.2 The rights granted under this Agreement are subscription and service rights only and do not constitute a sale, assignment, transfer, or conveyance of ownership of any software, intellectual property rights, technology, platform, service component, documentation, or other materials.

3.4.3 Except as expressly permitted by applicable law or this Agreement, the Customer shall not:

(a) copy, modify, adapt, translate, reverse engineer, decompile, disassemble, or otherwise attempt to derive source code from any component of the Bundle Services;

(b) create derivative works based upon the Bundle Services;

(c) sell, lease, rent, sublicense, distribute, assign, transfer, provide timesharing services, or otherwise make the Bundle Services available to any third party;

(d) use the Bundle Services to provide outsourced services, service bureau services, managed services, or commercial hosting services for third parties;

(e) remove or obscure proprietary notices or intellectual property markings; or

(f) use the Bundle Services in violation of applicable laws or regulations.

3.4.4 The Customer may permit Authorised Users to access and use the Bundle Services solely in accordance with this Agreement.

3.5 Service Components

3.5.1 The Bundle Services may include one or more service components, software products, technology modules, integrations, managed services, support services, professional services, or other service elements.

3.5.2 Service components may be added, removed, upgraded, replaced, or modified through an executed Order Form, Statement of Work, Change Request, or other written agreement between the parties.

3.5.3 Certain service components may be subject to supplementary terms, technical requirements, usage restrictions, documentation requirements, security requirements, or flow-down obligations, including those relating to IBM Software, Third-Party Software, and Open Source Software.

3.6 Service Changes and Enhancements

3.6.1 Assimil8 may from time to time introduce updates, enhancements, patches, fixes, modifications, improvements, upgrades, security updates, or new functionality relating to the Bundle Services.

3.6.2 Assimil8 may discontinue obsolete, redundant, unsupported, deprecated, or superseded functionality where such discontinuation does not materially diminish the overall functionality of the Bundle Services purchased by the Customer.

3.6.3 Where a change materially affects the operation of the Bundle Services, Assimil8 shall provide reasonable advance notice where reasonably practicable.

3.7 Dependencies and Third-Party Services

3.7.1 Certain Bundle Services may require the use of third-party infrastructure, cloud services, software products, communication services, databases, security services, identity services, or integration technologies.

3.7.2 The availability of certain functionality may be dependent upon the continued availability of such third-party services.

3.7.3 Assimil8 shall not be responsible for failures, interruptions, delays, degradation, or unavailability caused solely by third-party systems, networks, infrastructure, services, software, or technologies outside Assimil8's reasonable control.

3.8 Documentation

3.8.1 Assimil8 may make available user guides, technical documentation, implementation guides, operational documentation, knowledge base materials, support materials, service descriptions, and other documentation relating to the Bundle Services.

3.8.2 Such documentation may be updated from time to time to reflect operational, technical, security, regulatory, or functional changes to the Bundle Services.

3.8.3 The Customer shall use the Bundle Services in accordance with applicable documentation made available by Assimil8.

3.9 No Guaranteed Future Functionality

3.9.1 The Customer acknowledges that purchasing decisions are not dependent upon the future availability of any functionality, feature, enhancement, product, service, integration, capability, release, roadmap item, development objective, or future service offering.

3.9.2 Unless expressly agreed in writing, no statement, roadmap, proposal, presentation, demonstration, marketing material, product description, or communication shall create an obligation on Assimil8 to deliver future functionality or services.

3.10 Relationship to BMU Entitlements

3.10.1 The Customer's right to access and use the Bundle Services is subject to the Customer maintaining sufficient Bundle Monthly Unit entitlement in accordance with this Agreement and the applicable Order Form.

3.10.2 Entitlement to access and consume the Bundle Services shall be measured using Bundle Monthly Units as further described in Section 4 (Bundle Monthly Unit (BMU) Entitlement Model).

3.10.3 Nothing in this Section 3 shall alter, replace, limit, or supersede the Bundle Monthly Unit entitlement model established under this Agreement.

4. BUNDLE MONTHLY UNIT (BMU) ENTITLEMENT MODEL

4.1 Entitlement Framework

4.1.1 The Parties acknowledge and agree that the commercial entitlement model governing the Bundle Services is based upon Bundle Monthly Units ("BMUs").

4.1.2 Subject to the terms of this Agreement and the applicable Order Form, Customer shall purchase a specified quantity of BMUs for a defined Subscription Term.

4.1.3 Customer's right to access and use the Bundle Services shall be measured and governed by the quantity of BMUs purchased under the applicable Order Form and not by any processor, server, device, virtual machine, core, container, user account, named user, authorised user, concurrent user, PVU, RVU, capacity metric, infrastructure metric, or other technology-based licensing mechanism unless expressly stated in the applicable Order Form.

4.1.4 BMUs constitute the primary commercial unit of entitlement for all Bundle Services provided under this Agreement.

4.1.5 The BMU entitlement model applies irrespective of whether the Bundle Services are provided through a Customer Hosted Deployment, an Assimil8 Hosted Deployment, a Hybrid Deployment, Managed Services, Professional Services, Support Services, or any combination thereof, except where expressly stated otherwise in an Order Form.

4.2 Definition of a BMU

4.2.1 One (1) BMU represents one Active User consuming one month of entitlement to the applicable Bundle Services.

4.2.2 BMUs are consumed based upon actual usage during the Subscription Term and are not allocated permanently to individual persons, named users, departments, systems, locations, business units, servers, environments or devices.

4.2.3 For illustrative purposes only:

Active Users	Duration	BMUs Consumed
100	1 Month	100 BMUs

100	12 Months	1,200 BMUs
250	6 Months	1,500 BMUs
500	24 Months	12,000 BMUs

4.2.4 The examples set out in Clause 4.2.3 are illustrative only and shall not alter the interpretation of this Agreement.

4.3 Active User Measurement

4.3.1 An Active User shall consume one BMU for each calendar month, or part thereof, during which such individual accesses, uses, receives, benefits from, or is enabled to utilise the applicable Bundle Services.

4.3.2 An individual shall be deemed an Active User regardless of:

- (a) the number of logins performed;
- (b) the volume of transactions processed;
- (c) the duration of use;
- (d) the number of devices utilised;
- (e) the geographic location from which access occurs; or
- (f) whether access occurs directly or indirectly through integrated systems.

4.3.3 A single individual shall not consume multiple BMUs solely by reason of using multiple devices, systems, browsers, sessions, environments or applications during the same monthly period.

4.3.4 Customer shall maintain reasonable records sufficient to identify Active Users and to substantiate BMU consumption during the Subscription Term.

4.4 BMU Pool Consumption

4.4.1 BMUs shall be consumed from a pooled entitlement purchased by Customer under the applicable Order Form.

4.4.2 Customer may increase or decrease the number of Active Users during the Subscription Term provided that cumulative BMU consumption does not exceed the total quantity of BMUs purchased under the applicable Order Form.

4.4.3 The Parties acknowledge that monthly usage may fluctuate significantly during the Subscription Term and that such fluctuations do not constitute a breach of this Agreement provided cumulative BMU consumption remains within the purchased entitlement.

4.4.4 Customer shall not be required to maintain a fixed monthly user count unless expressly stated in the applicable Order Form.

4.4.5 BMUs may be consumed by different individuals at different times during the Subscription Term, provided total BMU consumption does not exceed the purchased entitlement.

4.5 Subscription Term Consumption

4.5.1 BMUs purchased under an Order Form may be consumed at any time during the applicable Subscription Term.

4.5.2 Unless expressly stated otherwise in the applicable Order Form:

- (a) BMUs are non-refundable;
- (b) unused BMUs expire at the end of the applicable Subscription Term;
- (c) unused BMUs shall not carry forward into any renewal term; and
- (d) unused BMUs have no cash value.

4.5.3 Renewal BMUs purchased under a renewal Order Form shall constitute a separate entitlement for the renewal term unless otherwise expressly agreed in writing.

4.6 Forecasting and Usage Planning

4.6.1 Any forecasts, estimates, projections or anticipated usage levels discussed by the Parties before or after execution of an Order Form are provided solely for planning and commercial purposes.

4.6.2 Forecasts shall not create a minimum consumption commitment unless expressly stated in the applicable Order Form.

4.6.3 Customer acknowledges that it remains responsible for managing BMU consumption to ensure compliance with purchased entitlement levels.

4.7 Excess Consumption

4.7.1 Customer shall not consume BMUs in excess of the quantity purchased under the applicable Order Form.

4.7.2 If Assimil8 reasonably determines that Customer has exceeded its purchased BMU entitlement, Assimil8 may:

- (a) notify Customer of the excess consumption;
- (b) require Customer to purchase additional BMUs;
- (c) issue an invoice for the additional BMUs consumed at Assimil8's then-current pricing or the pricing specified in the applicable Order Form; and
- (d) implement reasonable measures to prevent further excess consumption until the entitlement position is regularised.

4.7.3 Excess BMU consumption shall not diminish or invalidate Customer's payment obligations.

4.7.4 Failure by Assimil8 to immediately identify or invoice excess BMU consumption shall not constitute a waiver of its rights.

4.8 Measurement and Reporting

4.8.1 Assimil8 may utilise technical, administrative, operational or contractual methods to measure BMU consumption.

4.8.2 Where the Bundle Services include hosted, managed or monitored service components, Customer authorises Assimil8 to collect and process usage information reasonably required to determine BMU consumption.

4.8.3 For Customer Hosted Deployments, Customer shall provide accurate usage information reasonably requested by Assimil8 for the purpose of verifying BMU consumption and compliance with purchased entitlements.

4.8.4 Usage information collected pursuant to this Clause shall be used solely for:

- (a) entitlement management;
- (b) billing and invoicing;
- (c) service administration;
- (d) support and maintenance activities;
- (e) compliance verification; and
- (f) service improvement and operational management.

4.9 Additional BMU Purchases

4.9.1 Customer may purchase additional BMUs at any time during the Subscription Term by executing an additional Order Form.

4.9.2 Additional BMUs shall become available upon the effective date specified in the applicable Order Form.

4.9.3 Unless expressly stated otherwise, additional BMUs purchased during an existing Subscription Term shall expire concurrently with the existing Subscription Term.

4.10 BMUs and Service Components

4.10.1 BMUs grant entitlement to the Bundle Services identified in the applicable Order Form.

4.10.2 Certain service components, professional services engagements, consulting activities, implementation services, training services, third-party services, managed services or support services may be subject to additional fees or commercial terms specified in the applicable Order Form.

4.10.3 The inclusion of IBM Software, Third-Party Software or Open Source Software within the Bundle Services shall not alter the BMU entitlement model unless expressly stated in the applicable Order Form.

4.11 Relationship to IBM Software

4.11.1 The Parties acknowledge that BMUs constitute a commercial measurement mechanism established by Assimil8 for the Bundle Services.

4.11.2 BMUs do not constitute a licence metric recognised or administered by IBM.

4.11.3 Nothing in this Agreement shall be interpreted as granting Customer ownership of, or rights beyond those authorised by, any IBM Software, IBM IP, Third-Party Software or Open Source Software incorporated within or used in connection with the Bundle Services.

4.11.4 Any rights relating to IBM Software remain subject to the applicable IBM ESA Flow-Down Terms, IBM licensing requirements and the provisions of Section 8 of this Agreement.

4.12 Compliance

4.12.1 Customer shall use the Bundle Services in a manner consistent with the BMU entitlement purchased under the applicable Order Form.

4.12.2 Compliance with BMU entitlements shall form part of Customer's obligations under this Agreement.

4.12.3 Any material or repeated excess consumption may constitute a material breach of this Agreement if not remedied within a reasonable period following written notice from Assimil8.

5. Deployment Models

5.1 General

5.1.1 The Bundle Services may be provided under one or more Deployment Models as specified in the applicable Order Form.

5.1.2 The Deployment Model selected by the Customer shall determine the respective operational, hosting, infrastructure, security, management and support responsibilities of the Parties, subject always to the terms of this Agreement and the applicable Schedules.

5.1.3 The Parties acknowledge that the commercial entitlement granted under this Agreement is based on Bundle Monthly Units (BMUs) and not upon any particular Deployment Model. The selection, modification or combination of Deployment Models shall not alter the Customer's BMU entitlement unless expressly stated in an Order Form.

5.1.4 The Customer may utilise a single Deployment Model or a combination of Deployment Models during the Term, subject to technical feasibility, the Parties' mutual agreement and any applicable fees specified in an Order Form.

5.1.5 Unless expressly stated otherwise in an Order Form, all Deployment Models shall be governed by the same contractual framework established under this Agreement.

5.2 Customer-Hosted Deployment

5.2.1 Under a Customer-Hosted Deployment:

(a) the Bundle Services are deployed within infrastructure owned, leased, controlled or designated by the Customer;

(b) the Customer is responsible for providing and maintaining the required infrastructure, operating systems, databases, networking components, cloud resources and associated environments necessary for operation of the Bundle Services;

(c) Assimil8 shall provide the software components, installation materials, deployment artefacts, updates and support services specified in the applicable Order Form, Support Guide or Schedule A;

(d) the Customer shall be responsible for system administration, infrastructure availability, backup operations, disaster recovery arrangements and security controls except to the extent expressly assumed by Assimil8 under an Order Form; and

(e) any IBM Software, Third-Party Software or Open Source Software deployed within the Customer environment shall remain subject to the applicable licence, subscription or entitlement terms governing such software.

5.2.2 The Customer acknowledges that service availability, performance, resilience and security outcomes in a Customer-Hosted Deployment may depend upon the Customer's infrastructure, operational practices and compliance with the technical requirements communicated by Assimil8.

5.2.3 Assimil8 shall have no responsibility for failures, interruptions, degradation or security incidents arising from infrastructure, systems or services not under Assimil8's control.

5.2.4 Additional obligations applicable to Customer-Hosted Deployments are set out in Schedule A.

5.3 Assimil8-Hosted Deployment

5.3.1 Under an Assimil8-Hosted Deployment:

(a) the Bundle Services are hosted, operated and managed by Assimil8 or its approved subcontractors within cloud or data centre environments selected by Assimil8;

(b) Assimil8 shall be responsible for the operation, maintenance, monitoring and administration of the hosting environment forming part of the Bundle Services;

(c) the Customer shall access the Bundle Services through authorised interfaces, connections and access methods approved by Assimil8;

(d) Assimil8 shall provide service availability, maintenance and support in accordance with this Agreement and the applicable Service Level Agreement; and

(e) the Customer shall remain responsible for the management of its users, access credentials, business processes and Customer Data.

5.3.2 The Customer shall not interfere with, access, modify or attempt to circumvent the hosting environment, security controls or operational systems used by Assimil8 in delivering the Bundle Services.

5.3.3 Assimil8 may update, modify or replace infrastructure components, hosting providers, technologies or operational methods used to provide the Bundle Services provided that such changes do not materially reduce the functionality of the Bundle Services.

5.3.4 Additional obligations applicable to Assimil8-Hosted Deployments are set out in Schedule B.

5.4 Hybrid Deployment

5.4.1 Under a Hybrid Deployment:

(a) one or more components of the Bundle Services are operated within infrastructure controlled by the Customer; and

(b) one or more components of the Bundle Services are operated within infrastructure controlled by Assimil8 or its authorised subcontractors.

5.4.2 The allocation of responsibilities between the Parties for a Hybrid Deployment shall be documented in the applicable Order Form, Statement of Work or relevant Schedule.

5.4.3 Where responsibility for a service component is allocated to a Party, that Party shall remain responsible for the operation, security and maintenance of that component unless otherwise agreed in writing.

5.4.4 The Parties shall cooperate in good faith to ensure interoperability between Customer-controlled and Assimil8-controlled environments.

5.4.5 Neither Party shall be responsible for failures, delays, service degradation or security events attributable to systems or infrastructure controlled by the other Party.

5.5 Managed Service Deployments

5.5.1 The Customer may procure Managed Services as part of any Deployment Model where specified in an Order Form.

5.5.2 Managed Services may include:

- (a) operational administration;
- (b) platform management;
- (c) application management;
- (d) monitoring;
- (e) incident management;
- (f) release management;
- (g) configuration management;
- (h) service reporting;
- (i) security administration; and
- (j) such additional services as may be specified in an Order Form.

5.5.3 Where Managed Services are provided, Assimil8 shall perform the Managed Services using reasonable skill and care and in accordance with any applicable service descriptions and service levels.

5.5.4 Managed Services do not transfer ownership or control of Customer systems, infrastructure, Customer Data or business processes to Assimil8.

5.6 Changes to Deployment Models

5.6.1 The Customer may request a change from one Deployment Model to another during the Term.

5.6.2 Any change of Deployment Model shall be subject to:

(a) technical feasibility;

(b) security assessment;

(c) infrastructure requirements;

(d) applicable IBM Software entitlement requirements;

(e) any Third-Party Software requirements;

(f) agreement between the Parties regarding implementation activities; and

(g) payment of any applicable migration, professional services or transition fees.

5.6.3 Assimil8 shall not be obliged to perform any migration or deployment transition activities unless expressly agreed in writing.

5.6.4 A change in Deployment Model shall not constitute a termination of this Agreement or create any right to refund, credit or adjustment unless expressly agreed in writing.

5.7 Third-Party Hosting and Infrastructure Providers

5.7.1 Assimil8 may utilise subcontractors, cloud providers, hosting providers, infrastructure providers or other third parties in connection with delivery of the Bundle Services.

5.7.2 Assimil8 shall remain responsible for the performance of its obligations under this Agreement notwithstanding the engagement of subcontractors.

5.7.3 The Customer acknowledges that certain infrastructure, hosting, communications, security or platform services may be supplied by third parties and may be subject to operational limitations outside Assimil8's reasonable control.

5.8 Deployment Dependencies

5.8.1 The Customer shall provide all information, access, personnel, approvals and cooperation reasonably required for deployment, implementation, migration, operation and support of the Bundle Services.

5.8.2 Any implementation dates, deployment milestones or service commencement dates shall be dependent upon the Customer's timely fulfilment of its obligations.

5.8.3 Assimil8 shall not be liable for delays arising from:

(a) Customer acts or omissions;

- (b) Customer infrastructure deficiencies;
- (c) third-party provider delays;
- (d) failures of Customer-managed systems;
- (e) failures of third-party systems not under Assimil8's control; or
- (f) changes requested by the Customer.

5.9 IBM Software and Deployment Models

5.9.1 Certain Bundle Services may incorporate, interface with, depend upon or facilitate the use of IBM Software.

5.9.2 The availability of particular Deployment Models may be subject to IBM Software technical requirements, entitlement requirements or restrictions imposed by IBM or applicable IBM agreements.

5.9.3 Nothing in this Agreement shall be interpreted as granting ownership of, or intellectual property rights in, any IBM Software or IBM Intellectual Property to the Customer.

5.9.4 The Customer's rights relating to IBM Software shall remain subject to the IBM ESA Flow-Down Terms and any applicable IBM licensing requirements incorporated into this Agreement.

5.10 No Implied Hosting Rights

5.10.1 Except as expressly stated in an Order Form, no Party grants the other Party any right to host, operate, distribute, sublicense, transfer or make available any software, technology or intellectual property beyond the rights expressly granted under this Agreement.

5.10.2 Deployment of the Bundle Services under any Deployment Model shall not confer ownership of any software, source code, platform, methodology, technology, intellectual property rights or proprietary materials belonging to Assimil8, IBM or any third-party supplier.

6. SERVICE COMPONENTS

6.1 Composition of Bundle Services

6.1.1 The Bundle Services comprise one or more integrated service components made available by Assimil8 under this Agreement and identified in the applicable Order Form.

6.1.2 The Bundle Services are designed to provide a unified commercial, operational and contractual framework through which the Customer may acquire, access and consume software, hosted services, managed services, support services, professional services and related capabilities using Bundle Monthly Units (BMUs) as the primary entitlement and consumption metric.

6.1.3 The specific service components made available to the Customer shall be those expressly identified in the applicable Order Form and may include any combination of:

- (a) Bundle Platform Components;
- (b) Software Components;
- (c) Hosted Service Components;
- (d) Customer Hosted Components;
- (e) Hybrid Service Components;
- (f) Managed Service Components;
- (g) Support Service Components;
- (h) Professional Service Components;
- (i) Integration Components;
- (j) Data Processing Components;
- (k) Reporting and Analytics Components;
- (l) IBM Software Components;
- (m) Third-Party Software Components; and
- (n) such other service components as may be agreed in writing between the Parties.

6.1.4 The inclusion of a service component within the Bundle Services shall not alter the ownership of any Intellectual Property Rights associated with that component.

6.1.5 Unless expressly stated otherwise in an Order Form, all service components shall be deemed integrated elements of the Bundle Services and shall be governed by this Agreement.

6.2 Bundle Platform Components

6.2.1 Assimil8 may provide platform functionality forming part of the Bundle Services, including software applications, workflow capabilities, automation tools, orchestration services, integration services, dashboards, reporting functions, analytics capabilities and related technologies.

6.2.2 Bundle Platform Components may be deployed through:

- (a) Customer Hosted Deployments;
- (b) Assimil8 Hosted Deployments; or
- (c) Hybrid Deployments.

6.2.3 The scope, functionality and availability of Bundle Platform Components may vary according to the deployment model, service tier, technical architecture and applicable Order Form.

6.2.4 Bundle Platform Components shall remain part of the Assimil8 IP and nothing in this Agreement shall transfer ownership of such components to the Customer.

6.3 Software Components

6.3.1 Software Components may include software applications, executable code, modules, libraries, interfaces, scripts, utilities, connectors, application programming interfaces (APIs), documentation and related materials supplied as part of the Bundle Services.

6.3.2 Software Components may consist of:

- (a) Assimil8 Software;
- (b) IBM Software;
- (c) Third-Party Software; and
- (d) Open-Source Software.

6.3.3 Software Components may be installed, configured or operated within Customer Hosted Deployments, Assimil8 Hosted Deployments or Hybrid Deployments, as applicable.

6.3.4 Access to Software Components shall be limited to the scope authorised under the applicable Order Form and BMU entitlement.

6.4 Hosted Service Components

6.4.1 Where the applicable Order Form specifies an Assimil8 Hosted Deployment, Assimil8 shall provide the Hosted Service Components identified in the applicable Schedule.

6.4.2 Hosted Service Components may include:

- (a) cloud infrastructure management;
- (b) software hosting;
- (c) application management;
- (d) monitoring services;
- (e) backup services;
- (f) disaster recovery services;
- (g) security management services;
- (h) availability management; and
- (i) operational administration.

6.4.3 Hosted Service Components may be delivered directly by Assimil8 or through approved hosting providers, subcontractors or infrastructure partners.

6.4.4 Assimil8 shall remain responsible for the performance of Hosted Service Components delivered by its subcontractors.

6.5 Customer Hosted Components

6.5.1 Where the applicable Order Form specifies a Customer Hosted Deployment, the Customer shall provide and maintain the infrastructure, systems, facilities and operational environment required for the deployment and operation of the applicable Software Components.

6.5.2 Customer Hosted Components may include:

- (a) servers;
- (b) virtual machines;
- (c) storage systems;
- (d) network infrastructure;
- (e) operating systems;
- (f) security controls;
- (g) cloud environments; and
- (h) related technology platforms operated by or on behalf of the Customer.

6.5.3 The Customer shall remain responsible for all Customer Hosted Components except to the extent expressly assumed by Assimil8 under an applicable Managed Service Component.

6.6 Hybrid Service Components

6.6.1 Hybrid Service Components may combine Customer Hosted Components and Hosted Service Components within a single operational architecture.

6.6.2 Hybrid Service Components may include functionality distributed across multiple environments, including:

- (a) Customer infrastructure;
- (b) Assimil8 infrastructure;
- (c) public cloud infrastructure;
- (d) private cloud infrastructure; and
- (e) third-party managed environments.

6.6.3 Each Party shall remain responsible for the service components allocated to it under the applicable Order Form and deployment documentation.

6.7 Managed Service Components

6.7.1 Managed Service Components may be provided where expressly identified in the applicable Order Form.

6.7.2 Managed Service Components may include:

- (a) operational management;
- (b) system administration;
- (c) platform administration;
- (d) environment monitoring;
- (e) security administration;
- (f) performance optimisation;
- (g) release management;
- (h) patch management;
- (i) configuration management;
- (j) incident management;
- (k) problem management; and

(l) service reporting.

6.7.3 Managed Service Components shall be provided in accordance with the applicable Schedule, Service Description or Order Form.

6.7.4 Managed Service Components do not transfer ownership, control or responsibility for Customer Data to Assimil8 except to the extent required for the performance of the relevant services.

6.8 Support Service Components

6.8.1 Support Service Components shall comprise the technical support, maintenance and service management activities identified in this Agreement, the applicable Order Form and the Support and Maintenance Guide.

6.8.2 Support Service Components may include:

- (a) incident handling;
- (b) service request fulfilment;
- (c) technical assistance;
- (d) software maintenance;
- (e) updates;
- (f) upgrades;
- (g) defect correction;
- (h) knowledge transfer; and
- (i) service management reporting.

6.8.3 Support Service Components shall be governed by the applicable service levels and support commitments set out in this Agreement and the applicable schedules.

6.9 Professional Service Components

6.9.1 Professional Service Components shall comprise consulting, advisory, implementation, integration, migration, configuration, training, project management and other professional services identified in an Order Form or Statement of Work.

6.9.2 Professional Service Components may be delivered on a fixed-price, milestone-based, BMU-based, time-and-materials or other commercial basis specified in the applicable Order Form.

6.9.3 Deliverables produced as part of Professional Service Components shall be governed by the Intellectual Property provisions of this Agreement.

6.9.4 Professional Service Components are separate from ongoing operational services unless expressly stated otherwise in an Order Form.

6.10 Integration Components

6.10.1 The Bundle Services may include Integration Components enabling interoperability with:

- (a) Customer systems;
- (b) IBM Software;
- (c) Third-Party Software;
- (d) cloud platforms;
- (e) databases;
- (f) enterprise applications; and
- (g) external services.

6.10.2 Assimil8 does not warrant the continued availability of interfaces, APIs or services controlled by third parties.

6.10.3 The Customer acknowledges that modifications made by third-party providers may affect interoperability and functionality.

6.11 Data Processing Components

6.11.1 The Bundle Services may include functionality for the collection, storage, transmission, processing, analysis, transformation or presentation of Customer Data.

6.11.2 Data Processing Components shall be operated in accordance with this Agreement, applicable data protection laws and the Data Processing Addendum.

6.11.3 Customer Data shall remain the property of the Customer or its licensors at all times.

6.12 Reporting and Analytics Components

6.12.1 The Bundle Services may include reporting, analytics, dashboarding, monitoring and performance measurement capabilities.

6.12.2 Reporting and Analytics Components may generate operational, usage, security, service management and business intelligence information.

6.12.3 Assimil8 may use aggregated and anonymised service usage information for service improvement, operational analysis and product development purposes, provided such information does not identify the Customer or any individual.

6.13 IBM Software Components

6.13.1 Certain Bundle Services may incorporate, depend upon, interoperate with or provide access to IBM Software.

6.13.2 IBM Software Components are proprietary products of IBM or its licensors and are not owned by Assimil8.

6.13.3 The Customer acknowledges that the use of IBM Software Components may be subject to IBM licence terms, IBM entitlement requirements, IBM support requirements and IBM Enterprise Software Agreement flow-down obligations.

6.13.4 Assimil8 shall not be deemed to grant ownership rights in IBM Software, IBM Intellectual Property or IBM proprietary technology.

6.13.5 IBM Software Components shall be governed by Section 8 (IBM Software and ESA Flow-Down Terms) and Schedule D.

6.14 Third-Party Software Components

6.14.1 The Bundle Services may include Third-Party Software Components supplied by independent licensors.

6.14.2 Ownership of Third-Party Software Components shall remain with the applicable third-party licensors.

6.14.3 The Customer shall comply with any applicable third-party licence restrictions notified by Assimil8.

6.14.4 Assimil8 shall not be responsible for the development, maintenance or support obligations of third-party licensors except to the extent expressly assumed under an applicable Order Form.

6.15 Open-Source Software Components

6.15.1 The Bundle Services may contain Open-Source Software Components.

6.15.2 Open-Source Software Components shall remain subject to their applicable open-source licence terms.

6.15.3 To the extent required by an applicable open-source licence, the relevant licence terms shall take precedence over conflicting provisions of this Agreement solely in relation to the applicable Open-Source Software Component.

6.15.4 Nothing in this Agreement shall be interpreted as restricting rights granted under an applicable open-source licence.

6.16 Service Component Changes

6.16.1 Assimil8 may modify, replace, enhance or update Service Components where such changes:

- (a) improve functionality;
- (b) improve security;
- (c) address legal or regulatory requirements;
- (d) maintain operational efficiency;
- (e) support technology evolution; or
- (f) replace obsolete technologies.

6.16.2 Assimil8 shall use reasonable endeavours to ensure that changes do not materially reduce the overall functionality of the Bundle Services purchased under the applicable Order Form.

6.16.3 Material changes affecting Service Components shall be communicated to the Customer in accordance with Assimil8's change management procedures.

6.17 Relationship to BMU Entitlements

6.17.1 Access to Service Components shall be subject to the Customer maintaining sufficient BMU entitlement for the applicable Bundle Services.

6.17.2 The inclusion of additional Service Components within the Bundle Services shall not alter the BMU entitlement model unless expressly stated in the applicable Order Form.

6.17.3 No Service Component shall be interpreted as creating a separate licensing metric based on processors, servers, devices, cores, virtual machines, installations, named users or other technology-based measurements unless expressly required by applicable third-party licensing obligations and identified in the applicable Order Form.

6.17.4 The Parties acknowledge and agree that BMUs remain the primary commercial measurement mechanism governing Customer entitlement to the Bundle Services under this Agreement.

7. Customer Responsibilities

7.1 General Responsibilities

The Customer shall:

- (a) use the Bundle Services in accordance with this Agreement, the applicable Order Form, the Documentation, and all applicable laws and regulations;
- (b) ensure that all access to and use of the Bundle Services by its employees, contractors, consultants, agents, affiliates and Authorised Users complies with the terms of this Agreement;
- (c) remain responsible for all acts, omissions, activities and use of the Bundle Services undertaken through its accounts, credentials, systems, networks or environments;
- (d) co-operate with Assimil8 in all matters reasonably necessary for the provision of the Bundle Services;
- (e) provide timely decisions, approvals, information, resources and assistance reasonably required by Assimil8 to perform its obligations under this Agreement;
- (f) maintain appropriate internal governance, policies and procedures relating to the use of the Bundle Services;
- (g) ensure that its use of the Bundle Services does not infringe the rights of any third party or cause Assimil8 to breach any applicable law, regulation or contractual obligation; and
- (h) comply with any reasonable operational, technical, security or administrative requirements notified by Assimil8 from time to time where such requirements are necessary to protect the security, integrity, performance or lawful operation of the Bundle Services.

7.2 Customer Personnel and Authorised Users

The Customer shall:

- (a) ensure that only Authorised Users access or use the Bundle Services;
- (b) ensure that all Authorised Users are appropriately trained and authorised to use the Bundle Services;
- (c) maintain accurate records of Authorised Users and access permissions;
- (d) promptly revoke access for any individual who ceases to require access to the Bundle Services;
- (e) ensure that Authorised Users maintain the confidentiality of all authentication credentials, passwords, tokens, certificates and access mechanisms;
- (f) immediately notify Assimil8 of any actual or suspected unauthorised access, credential compromise or security incident affecting the Bundle Services; and

(g) remain fully liable for all use of the Bundle Services by Authorised Users.

The Customer shall not permit any person to access the Bundle Services in a manner intended to circumvent the Customer's purchased BMU entitlement.

7.3 BMU Management Responsibilities

The Customer acknowledges that the commercial entitlement model under this Agreement is based upon Bundle Monthly Units (BMUs).

The Customer shall:

- (a) monitor and manage its consumption of BMUs throughout the applicable Subscription Term;
- (b) maintain accurate records of Active Users and their use of the Bundle Services;
- (c) provide such information regarding BMU consumption as Assimil8 may reasonably require for entitlement verification, service administration, invoicing or compliance purposes;
- (d) promptly notify Assimil8 where the Customer reasonably anticipates that cumulative BMU consumption may exceed its purchased entitlement;
- (e) purchase additional BMUs where required under the applicable Order Form; and
- (f) refrain from any activity designed to avoid, conceal, manipulate or misrepresent actual BMU consumption.

The Customer acknowledges that BMUs constitute a contractual entitlement metric and not a perpetual licence right.

7.4 Customer Systems and Infrastructure

To the extent applicable to the Deployment Model, the Customer shall provide and maintain all Customer Systems necessary for the receipt and use of the Bundle Services.

The Customer shall ensure that Customer Systems:

- (a) meet the minimum technical specifications, prerequisites and compatibility requirements specified in the Documentation;
- (b) are properly configured, maintained, monitored and secured;
- (c) are supported by appropriate business continuity, disaster recovery and operational management processes;
- (d) are protected by current and effective security controls, including anti-malware protections, vulnerability management procedures and access controls;

(e) maintain adequate network connectivity and bandwidth to support the operation of the Bundle Services; and

(f) do not adversely affect the operation, performance, availability or security of the Bundle Services.

Assimil8 shall not be responsible for delays, service interruptions, defects or performance issues arising from Customer Systems or Customer-controlled infrastructure.

7.5 Customer Responsibilities for Customer-Hosted Deployments

Where Bundle Services are deployed under a Customer-Hosted Deployment Model, the Customer shall:

(a) provide and maintain all infrastructure, hardware, operating systems, databases, middleware, networking components and supporting technologies required to operate the Customer-Hosted Environment;

(b) implement and maintain all required backups, recovery procedures and disaster recovery capabilities unless expressly agreed otherwise in an Order Form;

(c) ensure that all Customer-controlled environments remain compliant with the technical requirements specified by Assimil8;

(d) maintain appropriate administrative and operational personnel with the necessary skills and authority to support the Customer-Hosted Environment;

(e) implement security controls consistent with industry good practice and applicable legal requirements;

(f) provide Assimil8 with such access as may reasonably be required to perform agreed services, support activities, maintenance activities or incident investigations; and

(g) promptly apply updates, patches, fixes and configuration changes where responsibility for such activities rests with the Customer.

7.6 Customer Responsibilities for Assimil8-Hosted Deployments

Where Bundle Services are provided through an Assimil8-Hosted Deployment Model, the Customer shall:

(a) maintain compatible client devices, browsers, networks and connectivity required to access the hosted services;

(b) ensure that Authorised Users access the hosted environment only through approved authentication and access mechanisms;

(c) use the hosted services solely for legitimate business purposes;

(d) comply with all published operational requirements relating to the hosted environment; and

(e) promptly notify Assimil8 of any suspected service disruption, security issue or unauthorised activity.

7.7 Customer Responsibilities for Hybrid Deployments

Where Bundle Services are provided through a Hybrid Deployment Model, the Customer shall perform those responsibilities allocated to it under both the Customer-Hosted and Assimil8-Hosted components of the solution.

The parties acknowledge that responsibilities for infrastructure, operations, support, security and maintenance may be allocated between the parties in accordance with the applicable Order Form, Statement of Work or relevant Schedule.

7.8 Customer Data

The Customer shall:

- (a) be solely responsible for the accuracy, quality, completeness, legality and integrity of Customer Data;
- (b) obtain and maintain all rights, permissions, notices and consents necessary for Assimil8 and its subcontractors to process Customer Data in accordance with this Agreement;
- (c) ensure that Customer Data does not infringe any intellectual property rights, privacy rights, confidentiality obligations or other rights of any third party;
- (d) ensure that Customer Data complies with all applicable laws and regulations;
- (e) refrain from introducing malicious code, malware, ransomware, harmful content or unlawful material into the Bundle Services; and
- (f) maintain copies and backups of Customer Data where responsibility for such backups rests with the Customer under the applicable Deployment Model.

The Customer warrants that it possesses all rights necessary to provide Customer Data for processing under this Agreement.

7.9 Regulatory and Legal Compliance

The Customer shall be responsible for determining whether the Bundle Services are suitable for its intended purposes and regulatory obligations.

The Customer shall:

- (a) comply with all laws, regulations, industry standards and regulatory requirements applicable to its business, operations and use of the Bundle Services;
- (b) obtain all licences, approvals, permissions and authorisations required for its activities;

(c) ensure that its use of the Bundle Services does not cause Assimil8, IBM, or any third-party supplier to breach applicable laws or contractual obligations; and

(d) promptly notify Assimil8 of any legal, regulatory or compliance requirements that may materially affect the provision of the Bundle Services.

Except as expressly stated in this Agreement, Assimil8 does not provide legal, regulatory, tax or compliance advice.

7.10 Security Responsibilities

The Customer shall:

(a) implement appropriate organisational and technical security measures within its own environment;

(b) maintain secure user administration and access management processes;

(c) promptly investigate suspected security incidents affecting Customer Systems;

(d) cooperate fully with Assimil8 in connection with security investigations and remediation activities;

(e) notify Assimil8 without undue delay of any incident that may affect the Bundle Services or Customer Data; and

(f) comply with the Information Security Schedule and any applicable security requirements communicated by Assimil8.

The Customer shall not undertake any activity that may compromise the confidentiality, integrity, availability or security of the Bundle Services.

7.11 Third-Party Software and Integrations

The Customer shall be responsible for:

(a) obtaining and maintaining all necessary rights and licences relating to Customer-selected third-party software, applications, services and integrations;

(b) ensuring compatibility between third-party software and the Bundle Services where such software is not supplied by Assimil8;

(c) complying with applicable third-party licence terms;

(d) maintaining appropriate support arrangements for third-party products under its control; and

(e) assessing the operational, security and regulatory suitability of third-party products selected by the Customer.

Assimil8 shall not be responsible for the performance, availability, security or functionality of third-party software that is not supplied by Assimil8.

7.12 IBM Software Responsibilities

Where Bundle Services include IBM Software, the Customer shall:

- (a) comply with all IBM-related obligations incorporated into this Agreement, including the IBM ESA Flow-Down Terms;
- (b) use IBM Software solely as authorised under this Agreement and the applicable Order Form;
- (c) refrain from any activity that would place Assimil8 or IBM in breach of applicable IBM licensing requirements;
- (d) cooperate with reasonable compliance verification activities relating to IBM Software; and
- (e) comply with any restrictions, limitations or conditions applicable to IBM Software.

The Customer acknowledges that IBM Software remains subject to IBM intellectual property rights and that no ownership of IBM Software or IBM Intellectual Property is transferred under this Agreement.

7.13 Customer Dependencies

Where the performance of the Bundle Services depends upon actions, information, decisions, approvals, resources, systems or cooperation from the Customer, the Customer shall provide such dependencies in a timely manner.

Assimil8 shall not be responsible for delays, increased costs, service degradation or failure to meet service commitments to the extent caused by:

- (a) Customer delay;
- (b) Customer inaction;
- (c) inaccurate or incomplete information provided by the Customer;
- (d) Customer Systems;
- (e) third-party products selected by the Customer; or
- (f) failures of infrastructure or services outside Assimil8's reasonable control.

7.14 Suspension Rights

Without limiting any other rights or remedies available to Assimil8, Assimil8 may suspend access to all or part of the Bundle Services where the Customer:

- (a) materially breaches this Section 7;
- (b) uses the Bundle Services in a manner that threatens security, integrity, performance or availability;
- (c) engages in unlawful or prohibited activities;
- (d) materially exceeds authorised BMU entitlements without agreement from Assimil8; or
- (e) creates a material risk to Assimil8, IBM, other customers or third parties.

Where reasonably practicable, Assimil8 shall provide prior notice of suspension and an opportunity to remedy the relevant issue.

7.15 Responsibility for Affiliates and Contractors

Where the Customer permits affiliates, contractors, consultants, outsourcing providers or other third parties to access or use the Bundle Services, the Customer shall remain fully responsible for ensuring compliance with this Agreement.

Any act or omission of such persons shall be deemed to be an act or omission of the Customer for the purposes of this Agreement.

8. IBM Software and ESA Flow-Down Terms

8.1 Applicability

8.1.1 Certain Bundle Services may incorporate, utilise, depend upon, provide access to, or otherwise include IBM Software.

8.1.2 This Section governs the Customer's rights and obligations relating to IBM Software provided as part of the Bundle Services and is intended to satisfy Assimil8's obligations to flow down applicable requirements arising under the IBM ESA and any related agreements between Assimil8 and IBM.

8.1.3 The Customer acknowledges that the Bundle Services comprise a combination of Assimil8-developed components, IBM Software, Third-Party Software and other service elements and that different rights, restrictions and obligations may apply to each component.

8.1.4 Nothing in this Agreement shall be interpreted as limiting any restrictions, obligations or conditions applicable to IBM Software under the IBM ESA, IBM Documentation or Schedule D.

8.2 Ownership and Reservation of Rights

8.2.1 IBM Software and IBM IP are and shall remain the exclusive property of IBM and its licensors.

8.2.2 Except for the limited rights expressly granted under this Agreement, no licence, ownership interest, Intellectual Property Right or other right in IBM Software or IBM IP is granted, assigned or transferred to the Customer.

8.2.3 The Customer acknowledges that Assimil8 acts solely as an authorised provider of Bundle Services incorporating IBM Software and does not own the IBM Software or IBM IP.

8.2.4 All rights not expressly granted under this Agreement are reserved by IBM, its licensors and Assimil8 respectively.

8.3 Relationship Between BMUs and IBM Software

8.3.1 The parties acknowledge that BMUs constitute the primary commercial entitlement model governing access to and use of the Bundle Services.

8.3.2 The use of BMUs as the commercial entitlement metric shall not alter, replace, waive or diminish any restrictions, conditions or obligations applicable to IBM Software under this Agreement, Schedule D or applicable IBM requirements.

8.3.3 Nothing in the BMU entitlement model shall be construed as granting the Customer unrestricted rights to IBM Software independent of the Bundle Services.

8.4 Permitted Use

8.4.1 Subject to compliance with this Agreement, the Customer may access and use IBM Software solely:

- (a) as incorporated within the Bundle Services;
- (b) for its internal business operations;
- (c) during the applicable Subscription Term;
- (d) in accordance with the applicable Order Form; and
- (e) in accordance with the relevant Deployment Model.

8.4.2 The Customer shall not use IBM Software separately from the Bundle Services except where expressly authorised in writing by Assimil8 and IBM.

8.5 Restrictions

8.5.1 The Customer shall not, and shall ensure that its Authorised Users, Affiliates, contractors and representatives do not:

- (a) sell, assign, transfer, distribute, lease, rent, sublicense, lend, disclose or otherwise make IBM Software available to any third party;
- (b) separate IBM Software from the Bundle Services;
- (c) use IBM Software on a standalone basis;
- (d) create derivative works of IBM Software except where expressly permitted by applicable law and incapable of contractual exclusion;
- (e) reverse engineer, decompile, disassemble or otherwise attempt to derive source code from IBM Software except to the extent such restriction is prohibited by law;
- (f) remove, obscure or alter proprietary notices contained within IBM Software;
- (g) circumvent or interfere with technical protection measures incorporated within IBM Software;
- (h) use IBM Software in any manner that exceeds the rights granted under this Agreement; or
- (i) use IBM Software in a manner that causes or is reasonably likely to cause Assimil8 to breach the IBM ESA.

8.5.2 The Customer shall promptly comply with any reasonable directions issued by Assimil8 where necessary to ensure continued compliance with IBM requirements.

8.6 Deployment Models

8.6.1 Where IBM Software is deployed within a Customer Hosted Environment, the Customer shall:

- (a) deploy and operate IBM Software only within the authorised environment;
- (b) maintain appropriate technical and organisational security measures;
- (c) restrict access to authorised personnel;
- (d) implement updates, fixes and security patches where reasonably required by Assimil8; and
- (e) prevent unauthorised copying, distribution or access.

8.6.2 Where IBM Software is utilised within an Assimil8 Hosted Environment, the Customer's rights shall be limited to access to the resulting Bundle Services and no separate licence rights to IBM Software shall arise.

8.6.3 Where a Hybrid Deployment is utilised, the Customer shall comply with the obligations applicable to both customer-hosted and Assimil8-hosted components.

8.7 Compliance with IBM Requirements

8.7.1 The Customer shall comply with all reasonable requirements communicated by Assimil8 relating to IBM Software.

8.7.2 The Customer acknowledges that IBM may impose technical, security, operational, compliance or usage requirements that are necessary to protect IBM Software, IBM IP or IBM's contractual rights.

8.7.3 Assimil8 may amend operational requirements relating to IBM Software where reasonably necessary to maintain compliance with IBM obligations.

8.7.4 Where IBM introduces mandatory requirements affecting the use of IBM Software, the Customer shall implement such requirements within a reasonable period specified by Assimil8.

8.8 Support and Maintenance

8.8.1 Unless expressly stated otherwise in an Order Form, all support relating to IBM Software shall be provided through Assimil8. The Customer shall not seek support, maintenance, defect resolution, service requests or technical assistance directly from IBM unless expressly authorised in writing by Assimil8.

8.8.2 Assimil8 may engage IBM in connection with incident resolution, maintenance activities, technical investigations, support escalations or defect remediation.

8.8.3 The Customer shall provide reasonable cooperation and information required to facilitate support activities involving IBM.

8.8.4 Any fixes, updates, upgrades, patches or enhancements relating to IBM Software shall remain IBM IP.

8.9 Export Controls and Trade Compliance

8.9.1 The Customer shall comply with all applicable export control laws, sanctions laws, import regulations and trade compliance requirements relating to IBM Software and the Bundle Services.

8.9.2 The Customer shall not export, re-export, transfer, access or make available IBM Software in violation of any applicable law or regulation.

8.9.3 The Customer shall provide information reasonably requested by Assimil8 to support export control, sanctions screening or regulatory compliance obligations.

8.9.4 The Customer represents and warrants that neither it nor any person acting on its behalf will use IBM Software in violation of applicable sanctions, embargoes or export restrictions.

8.10 Audit and Compliance Verification

8.10.1 The Customer shall maintain complete and accurate records sufficient to demonstrate compliance with this Section.

8.10.2 The Customer shall reasonably cooperate with any compliance verification activities conducted by Assimil8 pursuant to Section 20.

8.10.3 Where IBM reasonably requires information to verify compliance with IBM-related obligations, Assimil8 may provide relevant compliance information to IBM, subject to applicable confidentiality obligations.

8.10.4 The Customer shall promptly remedy any non-compliance identified through compliance verification activities.

8.11 Disclaimer Relating to IBM Software

8.11.1 IBM is not a party to this Agreement.

8.11.2 IBM Software is provided as part of the Bundle Services subject to the rights, restrictions, limitations and conditions imposed by IBM.

8.11.3 To the maximum extent permitted by applicable law, IBM and its licensors shall have no direct contractual liability to the Customer under this Agreement.

8.11.4 Any warranties relating to IBM Software are limited to those expressly passed through by Assimil8 under this Agreement.

8.11.5 Except as expressly provided in this Agreement, all conditions, warranties and representations relating to IBM Software are excluded to the fullest extent permitted by law.

8.12 Third-Party Beneficiary Rights

8.12.1 IBM and its licensors shall be entitled to rely upon and enforce those provisions of this Section which protect IBM Software, IBM IP, proprietary rights, licence restrictions, compliance obligations, audit rights, confidentiality obligations and limitations relating to IBM Software.

8.12.2 The parties intend that IBM may enforce such provisions pursuant to the Contracts (Rights of Third Parties) Act 1999.

8.12.3 Except as expressly provided in this Section, no third party shall have any rights under the Contracts (Rights of Third Parties) Act 1999.

8.13 Changes to IBM Requirements

8.13.1 IBM may modify requirements relating to IBM Software from time to time.

8.13.2 Where such modifications materially affect the Bundle Services or the Customer's use of IBM Software, Assimil8 may update the applicable requirements under this Agreement, Schedule D or the relevant Service Documentation.

8.13.3 Assimil8 shall provide reasonable notice of material changes where reasonably practicable.

8.13.4 The Customer shall comply with such revised requirements from the effective date specified by Assimil8.

8.14 Survival

8.14.1 Upon expiry or termination of this Agreement, all rights to access or use IBM Software shall immediately terminate except to the extent expressly permitted under this Agreement or required by applicable law.

8.14.2 The provisions of this Section relating to ownership, Intellectual Property Rights, licence restrictions, confidentiality, audit rights, export controls, compliance obligations, disclaimers, third-party beneficiary rights and any other provisions intended by their nature to survive shall continue in full force and effect following expiry or termination of this Agreement.

8.14.3 The Customer shall not, following expiry or termination, retain, access, use, copy, distribute or otherwise exploit IBM Software except as expressly authorised by Assimil8 or required by applicable law.

9. Ordering Process

9.1 Ordering Framework

9.1.1 The Customer may procure Bundle Services, BMUs, Professional Services, Support Services, Managed Services, deployment services, hosting services and any other authorised service components by entering into one or more Order Forms under this Agreement.

9.1.2 Each Order Form shall specify, as applicable:

- (a) the Bundle Services to be provided;
- (b) the applicable Deployment Model;
- (c) the quantity of BMUs purchased;
- (d) the Subscription Term or service period;
- (e) any implementation, migration, onboarding, configuration or Professional Services to be performed;
- (f) any Support Services, Managed Services or service tiers to be provided;
- (g) any applicable service commencement dates;
- (h) applicable Fees and payment terms; and
- (i) any other commercial, operational or technical requirements agreed by the Parties.

9.1.3 No Order Form shall be binding unless executed or otherwise accepted by both Parties.

9.1.4 Each accepted Order Form shall form part of and be governed by this Agreement.

9.1.5 In the event of any conflict between this Agreement and an Order Form, the order of precedence set out in Section 1 shall apply.

9.2 Scope of Orders

9.2.1 The Customer may submit requests for:

- (a) new Bundle Services;
- (b) additional BMUs;
- (c) renewals of existing services;
- (d) extensions of Subscription Terms;

- (e) additional service components;
- (f) Professional Services;
- (g) deployment modifications;
- (h) Managed Services; or
- (i) other services offered by Assimil8 from time to time.

9.2.2 Assimil8 shall have no obligation to accept any proposed order, expansion, renewal or amendment unless expressly agreed in writing.

9.2.3 Acceptance of an Order Form may be subject to technical feasibility, resource availability, compliance requirements, credit approval or other reasonable business considerations.

9.3 BMU Orders

9.3.1 Each Order Form shall identify the quantity of BMUs purchased for the applicable Subscription Term.

9.3.2 Unless expressly stated otherwise in the applicable Order Form:

- (a) BMUs shall constitute the Customer's primary entitlement to access and use the Bundle Services;
- (b) BMU consumption shall be measured in accordance with Section 4;
- (c) monthly fluctuations in Active User numbers shall not constitute a breach of this Agreement provided cumulative BMU consumption remains within the Customer's purchased entitlement; and
- (d) the purchase of BMUs shall not constitute the purchase of any perpetual licence, ownership right or proprietary interest in any software, technology or intellectual property.

9.3.3 Where the Customer requires additional BMUs beyond its purchased entitlement, the Parties may enter into an additional Order Form or amendment providing for such increased entitlement.

9.4 Finality of Order Forms

9.4.1 Upon execution by both Parties, an Order Form shall constitute a final, binding and non-cancellable commitment for the purchase of the Bundle Services, BMUs and other services specified therein, subject only to the express termination rights set out in this Agreement.

9.4.2 Except where expressly required by applicable law or expressly permitted under this Agreement, an executed Order Form may not be amended, varied, withdrawn, cancelled or terminated by the Customer during the applicable Subscription Term.

9.4.3 Any request by the Customer for additional BMUs, additional Bundle Services, Professional Services, Support Services, Managed Services, revised service scope, changes to a Deployment Model,

extensions of service duration or other changes to the commercial arrangements shall be documented through a separate Order Form executed by both Parties.

9.4.4 A subsequent Order Form shall supplement, and not replace, any existing Order Form unless the subsequent Order Form expressly states that it supersedes the earlier Order Form in whole or in part.

9.4.5 The execution of a subsequent Order Form shall not affect any accrued rights, obligations, Fees or payment commitments arising under any previously executed Order Form.

9.4.6 The Customer acknowledges that Assimil8 enters into commercial, operational, hosting, staffing, support and third-party software commitments in reliance upon executed Order Forms and that such Order Forms are intended to create binding contractual commitments for the duration specified therein.

9.5 Renewals

9.5.1 Unless expressly stated otherwise in the applicable Order Form, each Order Form shall automatically renew at the end of the then-current Subscription Term for a further renewal term equal in duration to the immediately preceding Subscription Term.

9.5.2 The Customer may prevent automatic renewal only by giving Assimil8 written notice of non-renewal not less than six (6) months before the expiry of the then-current Subscription Term.

9.5.3 Any notice of non-renewal must be sent by email to Assimil8 and must clearly reference the relevant Order Form number. A notice of non-renewal shall not be effective unless it identifies the specific Order Form to which it relates.

9.5.4 If the Customer fails to give valid notice of non-renewal in accordance with Clause 9.5.2 and Clause 9.5.3, the applicable Order Form shall automatically renew for the renewal term described in Clause 9.5.1.

9.5.5 Unless otherwise agreed in writing by Assimil8, the Fees payable during each renewal term shall be increased by ten per cent (10%) above the Fees payable for the immediately preceding Subscription Term.

9.5.6 Unless otherwise agreed in writing, the BMU entitlement, Bundle Services, Support Services, Managed Services, Deployment Model and other service components applicable during the renewal term shall remain the same as those in effect immediately before renewal.

9.5.7 Automatic renewal shall not affect any accrued rights, obligations, Fees, payment commitments, usage restrictions, IBM Software restrictions, audit rights, confidentiality obligations or other provisions intended to survive expiry or termination.

9.5.8 Assimil8 may issue a renewal invoice following automatic renewal, and the Customer shall pay such invoice in accordance with the payment terms set out in this Agreement or the applicable Order Form.

9.6 Affiliates

9.6.1 An Affiliate of the Customer may procure Bundle Services under this Agreement through:

- (a) a separate Order Form executed by such Affiliate and Assimil8; or
- (b) another ordering mechanism expressly approved by Assimil8.

9.6.2 Where an Affiliate enters into an Order Form under this Agreement:

- (a) such Affiliate shall be bound by the terms of this Agreement as if it were the Customer;
- (b) references to the Customer shall be deemed to include that Affiliate for purposes of the applicable Order Form; and
- (c) the Customer shall remain responsible for ensuring compliance by its Affiliates unless otherwise expressly agreed by Assimil8.

9.6.3 Assimil8 may require an Affiliate to execute additional documentation where necessary to satisfy legal, regulatory, tax, export control or operational requirements.

9.7 Professional Services Orders

9.7.1 Professional Services may be ordered under an Order Form, Statement of Work or other written engagement document approved by the Parties.

9.7.2 Any Statement of Work shall be deemed incorporated into the applicable Order Form and governed by this Agreement and Schedule H (Professional Services Terms).

9.7.3 Unless otherwise stated, estimated project schedules, resource allocations and delivery dates contained within a Statement of Work shall constitute planning estimates and not guaranteed delivery commitments.

9.8 Third-Party Components

9.8.1 An Order Form may include third-party software, IBM Software, cloud services, hosting services or other third-party components that support the Bundle Services.

9.8.2 The inclusion of any such component within an Order Form shall not:

- (a) transfer ownership of such component to the Customer;
- (b) create any direct contractual relationship between the Customer and the relevant third-party provider unless separately agreed; or
- (c) modify any restrictions applicable under this Agreement, Schedule D or applicable third-party licence terms.

9.8.3 The Customer acknowledges that certain services, functionality or capabilities described in an Order Form may be dependent upon third-party technology, infrastructure or software components.

9.9 Electronic Ordering

9.9.1 Order Forms, amendments, renewals, Statements of Work and other ordering documents may be executed electronically.

9.9.2 Electronic signatures, digital acceptance mechanisms and electronic ordering systems shall have the same legal effect as physical signatures to the fullest extent permitted by applicable law.

9.9.3 Neither Party shall challenge the validity or enforceability of an Order Form solely because it was executed or accepted electronically.

9.10 No Implied Commitments

9.10.1 Quotations, proposals, demonstrations, presentations, forecasts, estimates, statements of work in draft form, proof-of-concept activities and similar pre-contractual materials shall not create any binding obligation unless expressly incorporated into an executed Order Form.

9.10.2 Assimil8 shall have no obligation to provide any Bundle Services, Professional Services, Support Services or other services unless such services are included within an executed Order Form or otherwise expressly agreed in writing by Assimil8.

9.10.3 No purchase order, procurement document or other Customer-generated document shall amend this Agreement or an Order Form unless expressly accepted in writing by Assimil8.

9.11 Purchase Orders

9.11.1 The Customer may issue a purchase order for administrative or internal procurement purposes.

9.11.2 Any purchase order issued by the Customer shall not modify, supersede or supplement this Agreement or any Order Form.

9.11.3 Any additional or inconsistent terms contained in a purchase order, vendor portal, procurement system or similar document are expressly rejected and shall have no force or effect unless expressly accepted in writing by Assimil8.

10. FEES AND PAYMENT

10.1 Fees

10.1.1 In consideration of the rights granted and services provided under this Agreement, the Customer shall pay the Fees specified in the applicable Order Form.

10.1.2 Fees may comprise one or more of the following components, as specified in the applicable Order Form:

- (a) BMU subscription fees;
- (b) implementation fees;
- (c) onboarding fees;
- (d) migration fees;
- (e) professional services fees;
- (f) managed services fees;
- (g) support and maintenance fees;
- (h) hosting fees;
- (i) training fees;
- (j) transition or exit assistance fees; and
- (k) any other charges expressly identified in the applicable Order Form.

10.1.3 All Fees are payable irrespective of whether the Bundle Services are deployed in a Customer Hosted Deployment, Assimil8 Hosted Deployment or Hybrid Deployment unless expressly stated otherwise in the applicable Order Form.

10.1.4 The Customer acknowledges that BMUs constitute the primary commercial entitlement model for the Bundle Services and that Fees are determined by reference to the BMU entitlement purchased under the applicable Order Form.

10.1.5 Except where expressly stated otherwise in an Order Form, all Fees are non-cancellable, non-refundable and irrevocably committed for the duration of the applicable Subscription Term.

10.1.6 The Customer's obligation to pay Fees is not contingent upon actual utilisation of the Bundle Services, actual BMU consumption, deployment completion, business outcomes, anticipated usage levels or the achievement of any operational, technical or commercial objective.

10.2 BMU Subscription Charges

10.2.1 BMU subscription Fees shall be calculated in accordance with the BMU entitlement purchased under the applicable Order Form.

10.2.2 Unless otherwise specified in the applicable Order Form, BMU Fees shall be invoiced annually in advance.

10.2.3 BMU entitlement represents a contractual commitment to purchase the agreed quantity of BMUs during the applicable Subscription Term and shall not be subject to reduction during that Subscription Term.

10.2.4 The Customer shall remain responsible for payment of all contracted BMUs regardless of actual usage.

10.2.5 Where an Order Form permits BMU consumption in excess of the purchased entitlement, such excess consumption shall be charged at Assimil8's then-current excess usage rates unless otherwise stated in the applicable Order Form.

10.2.6 Nothing in this Agreement shall require Assimil8 to provide Bundle Services beyond the Customer's purchased BMU entitlement unless expressly agreed in writing.

10.3 Additional Services

10.3.1 Professional Services shall be charged in accordance with Schedule H or the applicable Order Form.

10.3.2 Where Professional Services are provided on a time and materials basis:

- (a) work shall be charged at the applicable rates specified in the Order Form or applicable rate card;
- (b) time may be recorded in increments determined by Assimil8's standard operating procedures;
- (c) reasonable travel, accommodation and related expenses incurred in performing the Professional Services may be invoiced to the Customer at cost unless otherwise agreed.

10.3.3 Managed Services, support services, hosting services and other recurring service components shall be charged in accordance with the applicable Order Form.

10.3.4 Any services requested by the Customer which fall outside the scope of an Order Form may be subject to additional Fees.

10.4 Invoicing

10.4.1 Assimil8 shall issue invoices in accordance with the applicable Order Form.

10.4.2 Unless otherwise specified in the applicable Order Form:

- (a) recurring subscription Fees shall be invoiced annually in advance;
- (b) one-time Fees shall be invoiced upon execution of the applicable Order Form;
- (c) Professional Services Fees shall be invoiced monthly in arrears;
- (d) excess usage Fees shall be invoiced following identification of such usage.

10.4.3 Electronic invoices shall be deemed valid invoices for all purposes.

10.4.4 The Customer shall provide and maintain accurate billing and purchase order information as reasonably required by Assimil8.

10.4.5 Failure by the Customer to provide a purchase order number, internal approval reference or other administrative information shall not relieve the Customer of its payment obligations.

10.5 Payment Terms

10.5.1 The payment schedule, invoice dates, milestone payment dates, instalment dates and all other payment obligations specified in an applicable Order Form shall be binding upon the Customer and shall constitute material terms of the Parties' agreement.

10.5.2 Where an Order Form specifies a payment schedule, milestone payment date, instalment date or other payment due date, such date shall prevail over any standard payment terms, purchase order conditions, procurement policies, supplier onboarding requirements or internal payment procedures of the Customer.

10.5.3 Unless otherwise specified in the applicable Order Form, all invoices shall be payable within thirty (30) days of the invoice date.

10.5.4 The Customer acknowledges and agrees that all payment dates specified in an Order Form have been reviewed, accepted and agreed by the Customer as reasonable commercial obligations and shall not be amended, delayed, deferred, withheld or suspended except with Assimil8's prior written agreement.

10.5.5 The individual executing an Order Form on behalf of the Customer represents and warrants that they possess full authority to bind the Customer to the payment obligations contained therein and that all necessary internal approvals have been obtained prior to execution.

10.5.6 The Customer shall be solely responsible for ensuring that its procurement, purchasing, finance, accounts payable, budgeting, governance, purchase order, invoice processing and payment authorisation procedures are capable of supporting compliance with the payment obligations set out in the applicable Order Form.

10.5.7 The Customer shall not be entitled to delay, withhold, defer or dispute payment on the basis that:

- (a) an internal approval has not been obtained;
- (b) a purchase order has not been issued or approved;

- (c) budget has not been allocated, approved or released;
- (d) an invoice remains under internal review;
- (e) an invoice has been submitted to an incorrect department, business unit or individual;
- (f) internal procurement, supplier onboarding or payment processes have not been completed;
- (g) internal governance procedures have not been satisfied; or
- (h) any other internal administrative, financial, operational or approval process has not been completed.

10.5.8 Failure by the Customer to maintain or operate its internal processes in a manner sufficient to comply with the payment obligations contained in an Order Form shall not relieve the Customer of any payment obligation under this Agreement.

10.5.9 All payments shall be made in cleared funds without deduction, withholding, set-off, counterclaim or abatement except where required by applicable law.

10.5.10 Payment shall be made using the payment method specified by Assimil8.

10.5.11 Time for payment shall be of the essence.

10.5.12 Any failure by the Customer to make payment in accordance with the dates specified in an Order Form shall constitute a payment default and may result in Assimil8 exercising any rights or remedies available under this Agreement, including charging interest, suspending the Bundle Services, withholding further performance, terminating the applicable Order Form or terminating this Agreement.

10.5.13 The Customer acknowledges that Assimil8 enters into commercial and contractual commitments with licensors, suppliers, subcontractors, hosting providers and personnel in reliance upon the payment commitments contained within each Order Form and that compliance with the agreed payment schedule is a fundamental condition of this Agreement.

10.5.14 Receipt of payment by Assimil8 shall not constitute acceptance of any disputed position, claim, interpretation or reservation of rights asserted by the Customer.

10.6 Taxes

10.6.1 All Fees are exclusive of VAT, sales taxes, goods and services taxes, withholding taxes, duties and other applicable governmental charges.

10.6.2 The Customer shall be responsible for payment of all applicable taxes arising from or relating to this Agreement, excluding taxes based solely on Assimil8's net income.

10.6.3 Where the Customer is required by law to withhold any tax from payments due to Assimil8:

- (a) the Customer shall promptly notify Assimil8;

(b) the Customer shall provide official evidence of the withholding;

(c) the amount payable shall be increased to ensure that Assimil8 receives the full amount that would have been received absent the withholding, unless prohibited by law.

10.7 Disputed Invoices

10.7.1 The Customer must notify Assimil8 in writing of any disputed invoice within fifteen (15) days of the invoice date.

10.7.2 Such notice shall include reasonable details of the nature and basis of the dispute.

10.7.3 Failure to notify Assimil8 within the period specified in Clause 10.7.1 shall constitute acceptance of the invoice.

10.7.4 The Customer shall pay all undisputed portions of an invoice when due.

10.7.5 The Parties shall cooperate in good faith to resolve any disputed amounts promptly.

10.7.6 The existence of a dispute shall not entitle the Customer to withhold payment of undisputed amounts.

10.8 Late Payment

10.8.1 If any undisputed amount is not paid when due, Assimil8 may charge interest on the overdue amount from the due date until payment is received in full.

10.8.2 Interest shall accrue daily at the rate of four percent (4%) per annum above the base rate of the Bank of England from time to time in force or the maximum amount permitted by law, whichever is lower.

10.8.3 The Customer shall reimburse Assimil8 for all reasonable costs incurred in recovering overdue amounts, including legal fees, collection costs and administrative expenses.

10.8.4 Repeated late payment shall constitute a material breach of this Agreement.

10.9 Suspension for Non-Payment

10.9.1 Assimil8 may suspend access to all or part of the Bundle Services upon written notice where:

(a) any undisputed invoice remains unpaid for more than thirty (30) days after its due date; or

(b) the Customer repeatedly fails to comply with its payment obligations.

10.9.2 Prior to suspension, Assimil8 shall use reasonable efforts to provide notice of the overdue payment.

10.9.3 Suspension shall not relieve the Customer of its obligation to pay Fees.

10.9.4 Assimil8 shall not be liable for any loss, damage, delay, interruption or business impact arising from a suspension exercised in accordance with this Clause.

10.9.5 Assimil8 may require payment of all outstanding amounts before restoring access to suspended services.

10.10 Fee Increases

10.10.1 Fees may be adjusted upon renewal of an Order Form.

10.10.2 Unless otherwise agreed in writing, any automatic renewal of an Order Form shall be subject to a fee increase of ten percent (10%) above the Fees applicable during the immediately preceding Subscription Term.

10.10.3 Nothing in this Clause limits any additional pricing adjustments arising from:

- (a) increased BMU entitlements;
- (b) additional services;
- (c) changes requested by the Customer;
- (d) increased third-party costs;
- (e) changes in applicable law or regulatory requirements; or
- (f) changes in deployment architecture or service scope.

10.11 Currency

10.11.1 Fees shall be invoiced and paid in the currency specified in the applicable Order Form.

10.11.2 Where no currency is specified, all Fees shall be payable in Pounds Sterling (GBP).

10.11.3 Any currency conversion required in connection with this Agreement shall be determined using a commercially reasonable exchange rate selected by Assimil8.

10.12 No Refunds

10.12.1 Except as expressly stated in this Agreement, the Customer shall not be entitled to any refund, credit, offset or reimbursement of Fees.

10.12.2 Early termination by the Customer, reduced usage, non-deployment, partial deployment, migration to an alternative platform, internal restructuring, acquisition, divestiture, insolvency event or change in business circumstances shall not give rise to any right to a refund.

10.12.3 Fees paid or payable for IBM Software, third-party software, hosting services, support services or Professional Services remain payable notwithstanding termination except to the extent expressly required by applicable law.

10.13 Financial Records

10.13.1 Assimil8 shall maintain records sufficient to support invoices issued under this Agreement.

10.13.2 Upon reasonable written request relating to a bona fide payment dispute, Assimil8 shall provide reasonable supporting information regarding the disputed charges.

10.13.3 Nothing in this Clause shall require Assimil8 to disclose confidential pricing methodologies, proprietary business information, third-party confidential information or trade secrets.

11. SERVICE LEVELS (SLA)

11.1 Scope of Service Levels

11.1.1 This Section establishes the service level framework applicable to certain Bundle Services provided by Assimil8 under the Agreement.

11.1.2 The specific Service Levels applicable to a particular Bundle Service shall be identified in the applicable Order Form, Schedule C (Service Level Agreement), Service Description, Support Guide or other contractual document expressly incorporated into the Agreement.

11.1.3 Service Levels shall apply only to those Bundle Services expressly designated as subject to Service Levels.

11.1.4 Unless expressly stated otherwise in the applicable Order Form or Schedule C, Service Levels shall apply only to Assimil8 Hosted Services and Managed Services operated or controlled by Assimil8.

11.1.5 Service Levels shall not apply to:

- (a) Customer Hosted Deployments;
- (b) Customer-managed infrastructure;
- (c) Customer-controlled cloud environments;
- (d) third-party hosting environments not managed by Assimil8;
- (e) Professional Services;
- (f) implementation services;
- (g) training services;
- (h) consultancy services;
- (i) project deliverables;
- (j) Third-Party Software;
- (k) Open Source Software; or
- (l) IBM Software except to the extent Assimil8 is contractually permitted to provide corresponding service commitments.

11.1.6 For Hybrid Deployments, Service Levels shall apply only to those service components operated or managed directly by Assimil8.

11.2 Service Level Framework

11.2.1 Assimil8 shall use commercially reasonable efforts to provide the applicable Bundle Services in accordance with the Service Levels specified in Schedule C.

11.2.2 Service Levels are intended to measure the operational performance of applicable Bundle Services and shall not be interpreted as warranties, guarantees of uninterrupted operation or guarantees that all faults, defects or incidents will be prevented.

11.2.3 The Parties acknowledge that the availability and performance of the Bundle Services may be affected by factors outside Assimil8's reasonable control, including:

- (a) Customer systems;
- (b) Customer networks;
- (c) telecommunications services;
- (d) internet service providers;
- (e) public cloud providers;
- (f) Third-Party Software;
- (g) Open Source Software;
- (h) force majeure events;
- (i) cyber-security incidents not attributable to Assimil8; and
- (j) actions or omissions of the Customer, Authorised Users or third parties.

11.2.4 Service Levels shall be measured and reported in accordance with the methodology described in Schedule C.

11.3 Service Availability

11.3.1 Where a Service Availability commitment is specified in Schedule C, Assimil8 shall measure availability during the applicable Measurement Period.

11.3.2 Service Availability shall be calculated by reference to the ability of Authorised Users to access and use the applicable Bundle Services for their intended purpose.

11.3.3 Any period classified as Excluded Downtime shall not be included when calculating Service Availability.

11.3.4 Service Availability measurements maintained by Assimil8 shall constitute the primary record for determining compliance with Service Levels unless the Customer demonstrates a manifest error in such records.

11.4 Excluded Downtime

11.4.1 The following events shall constitute Excluded Downtime and shall not be included when calculating Service Availability or any other Service Level:

- (a) Scheduled Maintenance;
- (b) Emergency Maintenance;
- (c) Customer-caused outages;
- (d) Customer configuration errors;
- (e) Customer security incidents;
- (f) Customer infrastructure failures;
- (g) Customer Hosted Deployment failures;
- (h) failures of Customer cloud services;
- (i) failures of Customer networks;
- (j) internet connectivity failures outside Assimil8's control;
- (k) failures of telecommunications providers;
- (l) failures of public cloud infrastructure not under Assimil8's direct control;
- (m) failures of Third-Party Software;
- (n) failures of Open Source Software;
- (o) failures caused by IBM Software where Assimil8 is not responsible for correction of the underlying defect;
- (p) denial of service attacks;
- (q) malicious activity by third parties;
- (r) force majeure events;
- (s) suspension of services permitted under the Agreement;
- (t) Customer-requested maintenance activities;

- (u) Customer-approved changes;
- (v) operation of the Bundle Services outside documented specifications; and
- (w) any circumstance for which the Customer is responsible under the Agreement.

11.4.2 Scheduled Maintenance windows shall be identified in Schedule C or otherwise notified by Assimil8.

11.4.3 Assimil8 shall use reasonable efforts to minimise disruption caused by Scheduled Maintenance.

11.4.4 Emergency Maintenance may be performed without prior notice where reasonably necessary to:

- (a) maintain security;
- (b) preserve service integrity;
- (c) prevent material service disruption; or
- (d) comply with legal, regulatory or contractual obligations.

11.5 Incident Classification

11.5.1 Incidents shall be categorised according to the severity classifications specified in Schedule C.

11.5.2 Severity classifications may take into account:

- (a) service unavailability;
- (b) business impact;
- (c) operational impact;
- (d) security impact;
- (e) number of affected users; and
- (f) availability of workarounds.

11.5.3 Assimil8 shall determine the initial severity classification acting reasonably.

11.5.4 Assimil8 may revise the severity classification where additional information becomes available.

11.6 Response and Resolution Targets

11.6.1 Response targets and resolution targets shall be those specified in Schedule C.

11.6.2 Response targets represent objectives for the commencement of investigation and support activities.

11.6.3 Resolution targets represent objectives for restoration of service, implementation of a workaround or delivery of a corrective action.

11.6.4 Response targets and resolution targets shall not constitute guaranteed resolution times.

11.6.5 Compliance with a response target shall not require final resolution of the incident.

11.6.6 Resolution may be achieved through:

- (a) restoration of service;
- (b) implementation of a workaround;
- (c) deployment of a corrective fix;
- (d) replacement functionality; or
- (e) another commercially reasonable remediation method.

11.7 Customer Cooperation Requirements

11.7.1 Assimil8's obligations under this Section are conditional upon the Customer:

- (a) reporting incidents through designated support channels;
- (b) providing sufficient information to enable diagnosis;
- (c) providing timely responses to information requests;
- (d) providing reasonable access to relevant personnel;
- (e) providing access to systems where required;
- (f) implementing recommended corrective actions within its control; and
- (g) otherwise complying with its obligations under the Agreement.

11.7.2 Delays attributable to the Customer shall be excluded when measuring compliance with applicable response or resolution targets.

11.8 Service Credits

11.8.1 Where expressly specified in Schedule C, the Customer may become eligible for Service Credits in the event of a qualifying Service Level failure.

11.8.2 Service Credits shall constitute the Customer's sole and exclusive financial remedy for failure to achieve applicable Service Levels.

11.8.3 Service Credits:

- (a) shall be calculated in accordance with Schedule C;
- (b) shall not be refundable in cash;
- (c) shall not constitute a penalty;
- (d) shall not be applied against overdue invoices;
- (e) shall not relieve the Customer of any payment obligations; and
- (f) may only be applied as a credit against future fees payable under the Agreement.

11.8.4 The aggregate Service Credits available during any calendar month shall not exceed the maximum amount specified in Schedule C.

11.8.5 To receive a Service Credit, the Customer must submit a written claim within thirty (30) days following the end of the applicable Measurement Period.

11.8.6 Failure to submit a claim within the required period shall constitute a waiver of entitlement to the applicable Service Credit.

11.8.7 Service Credits shall not be available where the Service Level failure arises from Excluded Downtime.

11.9 Service Reporting

11.9.1 Assimil8 may provide service performance reports in accordance with Schedule C.

11.9.2 Such reports may include:

- (a) availability measurements;
- (b) incident statistics;
- (c) support metrics;
- (d) maintenance activities;
- (e) security events; and
- (f) other operational information reasonably related to the Bundle Services.

11.9.3 Operational reports shall be provided for informational purposes and shall not modify the Parties' contractual rights or obligations.

11.10 Continuous Improvement

11.10.1 Assimil8 may implement operational improvements, infrastructure enhancements, security measures and service optimisation initiatives designed to improve the performance, resilience, security or efficiency of the Bundle Services.

11.10.2 Such improvements shall not constitute a reduction in service levels where the overall functionality and performance of the applicable Bundle Services are not materially adversely affected.

11.11 Suspension of Service Levels

11.11.1 Assimil8 may suspend the application of Service Levels during periods where:

- (a) the Customer is in material breach of the Agreement;
- (b) the Customer has failed to pay undisputed fees when due;
- (c) emergency security measures are required;
- (d) service suspension is permitted under the Agreement; or
- (e) continued operation would expose Assimil8, IBM or a third party to material security, legal or operational risk.

11.11.2 Any suspension under this Clause shall continue only for so long as reasonably necessary to address the relevant circumstance.

11.12 Relationship with IBM Software and Third-Party Components

11.12.1 The Customer acknowledges that certain Bundle Services may incorporate IBM Software, Third-Party Software or Open Source Software.

11.12.2 Service Levels apply only to the extent Assimil8 has operational responsibility for the affected service component.

11.12.3 Nothing in this Agreement shall require Assimil8 to provide service commitments exceeding those permitted under applicable agreements governing IBM Software or other third-party technology.

11.12.4 Any defect, outage, restriction or limitation attributable to IBM Software, Third-Party Software or Open Source Software shall be addressed in accordance with the applicable vendor's maintenance, support and lifecycle policies.

11.13 Exclusive SLA Remedies

11.13.1 Except for remedies expressly provided elsewhere in the Agreement, the remedies set out in this Section and Schedule C constitute the Customer's sole and exclusive remedies for any failure by Assimil8 to achieve applicable Service Levels.

11.13.2 No Service Level failure shall, of itself, constitute:

- (a) a material breach of the Agreement;
- (b) a repudiatory breach of the Agreement;
- (c) a basis for termination; or
- (d) a basis for withholding payment,

unless expressly provided otherwise in the Agreement.

11.13.3 Nothing in this Section shall limit any rights that cannot lawfully be excluded or restricted under applicable law.

12. SUPPORT SERVICES

12.1 Scope of Support Services

12.1.1 Assimil8 shall provide Support Services for the Bundle Services during the applicable Subscription Term in accordance with this Agreement, the applicable Order Form, the Service Level Agreement and the Support and Maintenance Guide.

12.1.2 Support Services are intended to assist the Customer in maintaining the operational availability, functionality and performance of the Bundle Services and shall include the investigation, diagnosis and resolution of Incidents, the provision of technical assistance, the delivery of maintenance releases and such other support activities as may be expressly identified in the applicable Order Form.

12.1.3 Support Services shall apply only to the Bundle Services and shall not include Professional Services, consultancy services, project management services, implementation services, training services, custom development services or any other services not expressly identified as Support Services.

12.1.4 The scope of Support Services applicable to a particular deployment shall be determined by the applicable Deployment Model, Service Components and Order Form.

12.1.5 Support Services shall be provided remotely unless otherwise agreed in writing.

12.1.6 Support Services shall be provided solely for the Customer's internal use in connection with the authorised use of the Bundle Services.

12.1.7 Assimil8 may utilise appropriately qualified employees, contractors, subcontractors, suppliers or affiliated entities in the provision of Support Services provided that Assimil8 remains responsible for their performance in accordance with this Agreement.

12.2 Support Coverage

12.2.1 The support coverage, service levels, support hours, response targets, escalation procedures and maintenance arrangements applicable to the Bundle Services shall be specified in:

- (a) the applicable Order Form;
- (b) Schedule C (Service Level Agreement);
- (c) Schedule F (Support and Maintenance Guide); and
- (d) any applicable managed services documentation expressly incorporated into an Order Form.

12.2.2 Where there is any inconsistency relating to Support Services, the order of precedence set out in this Agreement shall apply.

12.2.3 Support Services may vary depending upon:

- (a) whether the Bundle Services are Customer Hosted, Assimil8 Hosted or Hybrid Deployments;
- (b) the Service Components purchased by the Customer;
- (c) whether Managed Services have been purchased; and
- (d) the support tier specified in the applicable Order Form.

12.3 Support Contacts

12.3.1 The Customer shall nominate appropriately qualified personnel to act as authorised support contacts.

12.3.2 Only authorised support contacts may submit support requests unless otherwise agreed by Assimil8.

12.3.3 The Customer shall ensure that authorised support contacts:

- (a) possess sufficient technical knowledge of the Customer Environment;
- (b) cooperate reasonably with Assimil8 during Incident investigation and resolution activities;
- (c) provide complete and accurate information concerning reported Incidents; and
- (d) remain available during the support process where reasonably required.

12.3.4 Assimil8 may refuse or defer processing of support requests submitted by unauthorised individuals.

12.4 Incident Reporting and Classification

12.4.1 The Customer may report Incidents through the support channels designated by Assimil8.

12.4.2 Each Incident shall be assigned a severity level in accordance with the Service Level Agreement.

12.4.3 Assimil8 shall determine the final severity classification acting reasonably and in good faith after considering information provided by the Customer.

12.4.4 Severity classifications may be adjusted during the Incident lifecycle as additional information becomes available.

12.4.5 The Customer shall provide all information reasonably requested by Assimil8 to facilitate Incident diagnosis and resolution.

12.5 Response and Resolution Targets

12.5.1 Assimil8 shall use commercially reasonable efforts to achieve the response and restoration targets specified in the Service Level Agreement.

12.5.2 Response targets and restoration targets are objectives and shall not constitute guarantees unless expressly stated otherwise in the Service Level Agreement.

12.5.3 Failure to meet a response target shall not, of itself, constitute a material breach of this Agreement.

12.5.4 The sole remedies for any failure to achieve applicable service levels shall be those expressly set out in the Service Level Agreement.

12.5.5 Any support credits, service credits or similar remedies shall be subject to the limitations, exclusions and procedures specified in the Service Level Agreement.

12.6 Customer Cooperation Obligations

12.6.1 The Customer shall provide all cooperation reasonably required by Assimil8 to enable the effective delivery of Support Services.

12.6.2 Such cooperation shall include:

- (a) providing timely access to relevant systems, records, logs and technical information;
- (b) reproducing reported errors where reasonably requested;
- (c) implementing reasonable troubleshooting procedures;
- (d) maintaining supported versions of software and infrastructure;
- (e) applying updates, patches and fixes provided by Assimil8 where reasonably required; and
- (f) ensuring availability of appropriately skilled personnel.

12.6.3 Delays caused by the Customer's failure to comply with this Section shall suspend applicable response and restoration commitments for the duration of the delay.

12.7 Supported Versions

12.7.1 Support Services shall be provided only for supported versions of the Bundle Services.

12.7.2 Assimil8 may establish support lifecycle policies identifying:

- (a) generally available releases;
- (b) supported releases;
- (c) maintenance releases;

(d) end-of-support dates; and

(e) end-of-life dates.

12.7.3 The Customer shall be responsible for maintaining supported software versions unless Managed Services expressly include version management activities.

12.7.4 Assimil8 shall not be obligated to provide Support Services for obsolete, unsupported or materially modified software versions.

12.8 Maintenance and Updates

12.8.1 Assimil8 may provide maintenance releases, patches, updates, enhancements, fixes and modifications as part of the Support Services.

12.8.2 Assimil8 may implement planned maintenance activities necessary for the operation, security, performance or supportability of the Bundle Services.

12.8.3 Planned maintenance shall be conducted in accordance with the Service Level Agreement.

12.8.4 The Customer shall cooperate with reasonable maintenance activities and shall implement updates provided by Assimil8 where necessary to maintain support eligibility.

12.8.5 Nothing in this Agreement shall obligate Assimil8 to develop new functionality, features or capabilities unless expressly agreed in an Order Form.

12.9 Exclusions from Support Services

12.9.1 Support Services shall not include support for issues arising from:

(a) Customer misuse of the Bundle Services;

(b) use of the Bundle Services contrary to this Agreement or the Documentation;

(c) unauthorised modifications made by or on behalf of the Customer;

(d) Customer-developed software, customisations or integrations not provided by Assimil8;

(e) Third-Party Software not supplied by Assimil8;

(f) Open-Source Software independently obtained by the Customer;

(g) failures of Customer infrastructure, Customer networks or Customer systems;

(h) unsupported software releases;

(i) force majeure events; or

(j) any matter expressly excluded under the applicable Order Form.

12.9.2 Assimil8 may provide assistance relating to excluded matters on a time and materials basis or under a separate Professional Services engagement.

12.9.3 Assimil8 shall have no obligation to provide Support Services for technologies, products or services supplied by third parties except to the extent expressly stated in an Order Form.

12.10 Customer Hosted Environments

12.10.1 For Customer Hosted Deployments, the Customer shall remain responsible for:

- (a) operation of the Customer Environment;
- (b) infrastructure management;
- (c) operating systems;
- (d) databases not expressly managed by Assimil8;
- (e) backup and recovery processes unless otherwise agreed; and
- (f) network connectivity under the Customer's control.

12.10.2 Assimil8's ability to provide Support Services in Customer Hosted Deployments may depend upon the Customer granting reasonable access to relevant systems and environments.

12.10.3 Where the Customer fails to provide such access, Assimil8's support obligations shall be suspended to the extent affected by such failure.

12.11 IBM Software Support

12.11.1 Support Services relating to IBM Software shall be limited to the extent permitted by Assimil8's rights and obligations under its agreements with IBM.

12.11.2 Assimil8 shall not be obligated to provide support services beyond those permitted under applicable IBM agreements.

12.11.3 Where a reported Incident relates primarily to IBM Software, Assimil8 may:

- (a) provide first-line support;
- (b) coordinate with IBM where permitted;
- (c) relay information between the Customer and IBM where appropriate; or
- (d) implement IBM-provided fixes, updates or workarounds where available.

12.11.4 Assimil8 shall not be responsible for delays arising from IBM support processes, IBM maintenance schedules or IBM defect resolution activities beyond Assimil8's reasonable control.

12.11.5 Nothing in this Agreement shall be interpreted as granting the Customer any direct entitlement to IBM support services unless expressly stated in an Order Form.

12.12 Escalation Procedures

12.12.1 Assimil8 shall maintain reasonable escalation procedures for the management of support requests.

12.12.2 Escalation procedures may include technical, operational and management escalation paths.

12.12.3 The Customer shall utilise the escalation procedures specified in the Service Level Agreement before asserting a support-related claim.

12.13 Support Records and Reporting

12.13.1 Assimil8 may maintain records relating to support requests, Incident investigations, resolutions, maintenance activities and service performance.

12.13.2 Such records may be used for:

- (a) operational management;
- (b) service improvement;
- (c) audit and compliance activities;
- (d) security investigations; and
- (e) contractual reporting obligations.

12.13.3 Upon reasonable request, Assimil8 may provide support reporting information in accordance with the support reporting arrangements specified in the applicable Order Form.

12.14 Suspension of Support Services

12.14.1 Assimil8 may suspend Support Services where:

- (a) the Customer is in material breach of this Agreement;
- (b) the Customer has failed to pay undisputed Fees when due;
- (c) continued support would expose Assimil8, IBM or any supplier to legal, regulatory or security risks;
- (d) the Customer refuses to implement mandatory security updates; or

(e) continued support would cause Assimil8 to breach applicable law or contractual obligations.

12.14.2 Assimil8 shall use reasonable efforts to provide advance notice of any suspension unless prohibited by law or circumstances reasonably require immediate action.

12.14.3 Suspension of Support Services shall not relieve the Customer of its obligation to pay Fees due under this Agreement.

12.15 Support Service Changes

12.15.1 Assimil8 may modify support procedures, support tools, support delivery methods and support administration processes from time to time provided such modifications do not materially reduce the overall level of Support Services purchased by the Customer.

12.15.2 Material changes affecting support entitlements shall be communicated to the Customer in accordance with this Agreement.

12.16 Relationship to BMU Entitlements

12.16.1 Unless expressly stated otherwise in an Order Form, Support Services provided under this Agreement are included within the Bundle Services associated with the Customer's purchased BMU entitlement.

12.16.2 The availability of Support Services shall not increase, decrease or otherwise alter the Customer's BMU entitlement.

12.16.3 Nothing in this Section shall be interpreted as creating any entitlement based upon named users, processor values, servers, devices, cores, virtual machines or any other licensing metric inconsistent with the BMU entitlement model established under this Agreement.

13. DATA PROTECTION

13.1 Scope

13.1.1 This Section 13 sets out the Parties' respective rights and obligations in relation to the Processing of Personal Data in connection with the Bundle Services.

13.1.2 The Parties acknowledge that the nature, scope and purpose of Processing may vary depending upon the applicable Deployment Model, Service Components, Support Services, Professional Services and the Customer's use of the Bundle Services.

13.1.3 This Section 13 shall apply to all Processing of Personal Data undertaken by either Party in connection with this Agreement, whether such Processing occurs within a Customer-Hosted Deployment, Assimil8-Hosted Deployment, Hybrid Deployment or any combination thereof.

13.1.4 The Parties agree that the Data Processing Addendum set out in Schedule E forms part of this Agreement and supplements the provisions of this Section 13. In the event of any inconsistency between this Section 13 and Schedule E, Schedule E shall prevail solely in respect of matters relating to the Processing of Personal Data.

13.1.5 Nothing in this Agreement shall be interpreted as transferring ownership of Customer Data, Personal Data, IBM Software, IBM IP, Third-Party Software or Open-Source Software between the Parties.

13.2 Compliance with Data Protection Laws

13.2.1 Each Party shall comply with its respective obligations under Applicable Data Protection Laws.

13.2.2 Each Party shall maintain and implement appropriate policies, procedures, technical measures and organisational measures designed to ensure compliance with Applicable Data Protection Laws.

13.2.3 Neither Party shall knowingly perform any act or omission which causes the other Party to breach Applicable Data Protection Laws.

13.2.4 Each Party shall provide such reasonable assistance, information and cooperation as may be required to enable the other Party to comply with Applicable Data Protection Laws.

13.2.5 The Parties acknowledge that responsibility for compliance with Applicable Data Protection Laws may differ depending upon the relevant Processing activity and the applicable Deployment Model.

13.3 Controller and Processor Status

13.3.1 The Parties acknowledge that, in relation to Personal Data comprised within Customer Data, the Customer shall ordinarily act as Controller and Assimil8 shall ordinarily act as Processor where Assimil8 Processes such Personal Data on behalf of the Customer for the purpose of providing the Bundle Services.

13.3.2 The Parties further acknowledge that certain Processing activities may result in Assimil8 acting as an independent Controller, including where Assimil8 Processes Personal Data for:

- (a) account management;
- (b) billing and payment administration;
- (c) legal and regulatory compliance;
- (d) security monitoring and fraud prevention;
- (e) service improvement and operational management; or
- (f) the establishment, exercise or defence of legal claims.

13.3.3 Where the Parties jointly determine the purposes and means of Processing, the Parties shall cooperate in good faith to determine their respective obligations under Applicable Data Protection Laws.

13.3.4 Nothing in this Agreement shall prevent either Party from complying with any legal obligation imposed upon it under Applicable Data Protection Laws.

13.4 Customer Responsibilities for Personal Data

13.4.1 The Customer warrants that it has obtained and shall maintain all rights, permissions, consents and lawful bases necessary to permit the lawful collection, use, disclosure, transfer and Processing of Personal Data in connection with the Bundle Services.

13.4.2 The Customer shall be solely responsible for:

- (a) determining the purposes and lawful basis for Processing Personal Data;
- (b) providing notices to Data Subjects;
- (c) obtaining any necessary consents;
- (d) responding to Data Subject requests where required by Applicable Data Protection Laws; and
- (e) ensuring that Customer Data submitted to the Bundle Services is lawfully collected and Processed.

13.4.3 The Customer shall not instruct Assimil8 to Process Personal Data in a manner that would violate Applicable Data Protection Laws.

13.4.4 The Customer shall not upload, disclose or otherwise provide Personal Data to Assimil8 unless such disclosure is necessary for the provision of the applicable Bundle Services.

13.4.5 The Customer remains responsible for the content, quality, accuracy, legality and integrity of all Customer Data.

13.5 Processor Obligations

13.5.1 Where Assimil8 acts as Processor on behalf of the Customer, Assimil8 shall:

- (a) Process Personal Data only on documented instructions from the Customer unless otherwise required by law;
- (b) ensure that personnel authorised to Process Personal Data are subject to confidentiality obligations;
- (c) implement appropriate technical and organisational measures to protect Personal Data;
- (d) assist the Customer in meeting its obligations under Applicable Data Protection Laws;
- (e) notify the Customer without undue delay upon becoming aware of a Personal Data Breach affecting Personal Data Processed on behalf of the Customer;
- (f) make available information reasonably required to demonstrate compliance with Applicable Data Protection Laws; and
- (g) delete or return Personal Data in accordance with this Agreement and Schedule E.

13.5.2 Assimil8 shall not be required to follow any Customer instruction which it reasonably believes would violate Applicable Data Protection Laws.

13.5.3 Where Assimil8 is legally required to Process Personal Data other than on the Customer's instructions, Assimil8 shall notify the Customer unless prohibited from doing so by law.

13.6 Sub-Processors

13.6.1 The Customer authorises Assimil8 to engage Sub-Processors for the purposes of providing the Bundle Services.

13.6.2 Assimil8 shall ensure that any Sub-Processor engaged to Process Personal Data on behalf of the Customer is subject to contractual obligations that provide a level of protection substantially equivalent to those imposed upon Assimil8 under this Agreement and Applicable Data Protection Laws.

13.6.3 Assimil8 shall remain responsible for the performance of its obligations under this Agreement notwithstanding the appointment of any Sub-Processor.

13.6.4 A current list of authorised Sub-Processors shall be maintained by Assimil8 and made available to the Customer upon reasonable request or through an appropriate customer information portal.

13.6.5 The Customer acknowledges that cloud providers, infrastructure providers, managed service providers, support providers and specialist technical service providers may be utilised by Assimil8 in connection with the Bundle Services.

13.7 International Transfers

13.7.1 Neither Party shall transfer Personal Data to a country or territory outside the United Kingdom or other relevant jurisdiction unless such transfer is undertaken in accordance with Applicable Data Protection Laws.

13.7.2 Where Personal Data is transferred internationally, the transferring Party shall ensure that an appropriate transfer mechanism is implemented, including where applicable:

- (a) adequacy regulations;
- (b) approved standard contractual clauses;
- (c) the UK International Data Transfer Agreement;
- (d) approved international transfer addenda; or
- (e) any other lawful transfer mechanism recognised under Applicable Data Protection Laws.

13.7.3 The Customer acknowledges that the provision of certain Bundle Services, cloud infrastructure services, support services or managed services may require international transfers of Personal Data.

13.8 Security of Personal Data

13.8.1 Each Party shall implement and maintain appropriate technical and organisational measures designed to protect Personal Data against:

- (a) accidental or unlawful destruction;
- (b) loss;
- (c) alteration;
- (d) unauthorised disclosure;
- (e) unauthorised access; and
- (f) other unlawful forms of Processing.

13.8.2 Such measures shall take into account:

- (a) the state of technological development;
- (b) implementation costs;
- (c) the nature, scope, context and purposes of Processing;
- (d) the sensitivity of the Personal Data concerned; and
- (e) the risks presented to Data Subjects.

13.8.3 Further information regarding security controls applicable to the Bundle Services is set out in Schedule G.

13.9 Personal Data Breaches

13.9.1 Each Party shall maintain procedures designed to identify, investigate, manage and remediate Personal Data Breaches.

13.9.2 Where Assimil8 becomes aware of a Personal Data Breach affecting Personal Data Processed on behalf of the Customer, Assimil8 shall notify the Customer without undue delay and shall provide available information concerning:

- (a) the nature of the incident;
- (b) the categories of affected Personal Data;
- (c) the likely consequences of the incident; and
- (d) measures taken or proposed to address the incident.

13.9.3 Assimil8 shall cooperate with the Customer in investigating and responding to any such Personal Data Breach.

13.9.4 Neither Party shall make any public statement regarding a Personal Data Breach affecting the other Party without prior consultation except where disclosure is required by law or regulatory authority.

13.10 Data Subject Rights

13.10.1 Taking into account the nature of the Processing, Assimil8 shall provide reasonable assistance to the Customer in responding to requests from Data Subjects exercising rights under Applicable Data Protection Laws.

13.10.2 Where Assimil8 receives a request directly from a Data Subject relating to Personal Data Processed on behalf of the Customer, Assimil8 shall:

- (a) promptly notify the Customer; and
- (b) not respond directly to the request except where required by law.

13.10.3 The Customer shall remain responsible for determining the appropriate response to any Data Subject request.

13.11 Regulatory Cooperation

13.11.1 Each Party shall cooperate with the other Party where reasonably required in connection with:

- (a) regulatory investigations;

- (b) regulatory inspections;
- (c) enforcement proceedings;
- (d) compliance assessments; or
- (e) requests from supervisory authorities.

13.11.2 Where legally permitted, a Party receiving a regulatory request concerning the other Party's Personal Data shall notify the other Party without undue delay.

13.11.3 Each Party shall bear its own costs associated with regulatory compliance unless otherwise agreed in writing.

13.12 Data Retention and Deletion

13.12.1 Personal Data shall not be retained for longer than is necessary for the purposes for which it is Processed unless a longer retention period is required by law.

13.12.2 Upon termination or expiry of the applicable Bundle Services, Assimil8 shall, subject to Applicable Data Protection Laws and legitimate business retention requirements:

- (a) return Personal Data to the Customer; or
- (b) securely delete Personal Data,

in accordance with the provisions of this Agreement, Schedule E and any applicable Order Form.

13.12.3 Assimil8 may retain Personal Data where required:

- (a) by law;
- (b) for regulatory compliance purposes;
- (c) for dispute resolution purposes;
- (d) for the establishment, exercise or defence of legal claims; or
- (e) in accordance with documented retention obligations.

13.12.4 Where deletion is requested, Assimil8 shall not be required to remove Personal Data from routine backup systems until such backups are overwritten in accordance with standard retention cycles.

13.13 Data Protection Impact Assessments and Consultations

13.13.1 Where required by Applicable Data Protection Laws, the Parties shall cooperate in relation to Data Protection Impact Assessments associated with the Bundle Services.

13.13.2 Assimil8 shall provide reasonable assistance to the Customer where such assistance is required to support:

- (a) Data Protection Impact Assessments;
- (b) prior consultations with supervisory authorities; or
- (c) compliance assessments under Applicable Data Protection Laws.

13.13.3 The Customer shall reimburse Assimil8 for reasonable costs incurred in providing assistance beyond the standard obligations included within the Bundle Services unless otherwise specified in an Order Form.

13.14 IBM Software and Third-Party Technologies

13.14.1 The Customer acknowledges that the Bundle Services may incorporate or interact with IBM Software, Third-Party Software and Open-Source Software.

13.14.2 Where Personal Data is Processed through IBM Software or Third-Party Software, such Processing shall remain subject to the applicable technical architecture, deployment model and contractual framework governing the relevant software component.

13.14.3 Nothing in this Section 13 shall be interpreted as:

- (a) transferring responsibility for IBM's independent Processing activities to Assimil8;
- (b) granting the Customer any rights in IBM Software or IBM IP; or
- (c) altering any applicable IBM data protection obligations, restrictions or compliance requirements incorporated into this Agreement pursuant to Section 8.

13.14.4 The Parties acknowledge that certain Processing activities may be undertaken directly by third-party technology providers acting independently of Assimil8, and the responsibilities of the Parties shall be interpreted accordingly.

13.15 Survival

13.15.1 The provisions of this Section 13 shall survive expiry or termination of this Agreement for so long as either Party continues to Process Personal Data obtained in connection with this Agreement.

13.15.2 Expiry or termination of this Agreement shall not relieve either Party of obligations arising under Applicable Data Protection Laws in relation to Personal Data Processed prior to such expiry or termination.

14. INFORMATION SECURITY

14.1 Scope

14.1.1 This Section establishes the information security obligations applicable to the provision, use, operation, support and management of the Bundle Services.

14.1.2 The Parties acknowledge that information security is a shared responsibility and that the effectiveness of security controls depends upon the respective compliance by each Party with its obligations under this Agreement.

14.1.3 The information security obligations set out in this Section shall apply to all Bundle Services, including customer-hosted deployments, Assimil8-hosted deployments, hybrid deployments, Support Services, Professional Services and Managed Services, except to the extent expressly varied by an applicable Schedule or Order Form.

14.1.4 This Section shall be read in conjunction with:

- (a) Section 13 (Data Protection);
- (b) Schedule G (Information Security Schedule);
- (c) Schedule A (Customer Hosted Bundle Services);
- (d) Schedule B (Assimil8 Hosted Bundle Services); and
- (e) any security requirements expressly set out in an applicable Order Form.

14.1.5 Nothing in this Section shall require Assimil8 to disclose information that would reasonably compromise the security of its systems, infrastructure, facilities, personnel, customers or suppliers.

14.2 Information Security Management

14.2.1 Assimil8 shall establish, implement, maintain and periodically review a documented information security programme designed to protect the confidentiality, integrity, availability and resilience of the Bundle Services and related operational environments.

14.2.2 Assimil8 shall maintain administrative, physical, technical and organisational safeguards appropriate to:

- (a) the nature of the Bundle Services;
- (b) the sensitivity of information processed;
- (c) the risks presented by unauthorised access, disclosure, loss, destruction, corruption or misuse of information; and
- (d) applicable legal, regulatory and contractual requirements.

14.2.3 Assimil8 may modify, replace, enhance or update its information security controls from time to time, provided that such changes do not materially reduce the overall level of security applicable to the relevant Bundle Services.

14.2.4 The Customer acknowledges that information security controls evolve over time and that reasonable changes to security measures shall not constitute a reduction in service quality solely because specific technologies, tools or methodologies are replaced.

14.3 Security Policies and Governance

14.3.1 Assimil8 shall maintain internal security policies and procedures addressing, where appropriate:

- (a) information security governance;
- (b) risk management;
- (c) asset management;
- (d) access management;
- (e) network security;
- (f) vulnerability management;
- (g) incident management;
- (h) business continuity;
- (i) disaster recovery;
- (j) personnel security;
- (k) supplier management; and
- (l) secure system development and change management.

14.3.2 Such policies may be amended by Assimil8 from time to time in accordance with good industry practice.

14.3.3 Upon reasonable written request, Assimil8 may provide the Customer with a summary of relevant security policies or security controls, subject to confidentiality restrictions and security considerations.

14.4 Access Control

14.4.1 Each Party shall implement appropriate access control measures designed to ensure that access to systems, environments, software, data and administrative functions is limited to authorised personnel with a legitimate business need.

14.4.2 Assimil8 shall maintain procedures for:

- (a) user account provisioning;
- (b) privilege management;
- (c) password and authentication management;
- (d) periodic access reviews; and
- (e) removal of access following termination or change of responsibilities.

14.4.3 The Customer shall:

- (a) maintain appropriate controls over its user accounts;
- (b) manage user access rights;
- (c) promptly disable accounts no longer required;
- (d) maintain appropriate password and authentication standards; and
- (e) prevent unauthorised access to the Bundle Services.

14.4.4 The Customer shall remain responsible for all activities undertaken through accounts under its control unless caused by Assimil8's breach of this Agreement.

14.5 Personnel Security

14.5.1 Assimil8 shall implement reasonable personnel security measures for personnel who may access systems, environments or information relating to the Bundle Services.

14.5.2 Such measures may include:

- (a) confidentiality obligations;
- (b) security awareness training;
- (c) role-based access controls;
- (d) disciplinary procedures; and
- (e) background screening where appropriate and legally permissible.

14.5.3 Assimil8 shall ensure that personnel with access to Customer Data are subject to confidentiality obligations no less protective than those contained in this Agreement.

14.6 Infrastructure and Network Security

14.6.1 Assimil8 shall maintain reasonable measures designed to protect the security of systems and networks used in the delivery of the Bundle Services.

14.6.2 Such measures may include:

- (a) network segmentation;
- (b) perimeter security controls;
- (c) intrusion detection or prevention technologies;
- (d) security monitoring;
- (e) anti-malware protections;
- (f) logging and audit capabilities; and
- (g) vulnerability management processes.

14.6.3 Assimil8 shall have the right to implement, modify or remove security controls where reasonably necessary to maintain the security, integrity or availability of the Bundle Services.

14.7 Vulnerability and Patch Management

14.7.1 Assimil8 shall maintain procedures for identifying, assessing and addressing security vulnerabilities affecting systems under its control.

14.7.2 Security patches and updates shall be applied within timeframes determined by Assimil8 based upon:

- (a) risk severity;
- (b) operational impact;
- (c) vendor guidance;

- (d) exploitability; and
- (e) business continuity considerations.

14.7.3 Where the Bundle Services are deployed within a Customer-controlled environment, the Customer shall remain responsible for patching, updating and maintaining systems, infrastructure, operating systems, databases, middleware and security controls under its control unless otherwise expressly agreed in writing.

14.7.4 Assimil8 shall not be responsible for vulnerabilities arising from:

- (a) Customer-managed systems;
- (b) Customer modifications;
- (c) unsupported software;
- (d) unsupported infrastructure; or
- (e) failures by the Customer to implement recommended security updates.

14.8 Security Monitoring and Logging

14.8.1 Assimil8 may collect, generate, retain and analyse security logs, operational telemetry, diagnostic information and system events for the purposes of:

- (a) service delivery;
- (b) security monitoring;
- (c) threat detection;
- (d) incident investigation;
- (e) performance optimisation;
- (f) regulatory compliance; and
- (g) protection of the Bundle Services.

14.8.2 Security logs may be retained for periods determined by Assimil8's operational, legal, contractual or security requirements.

14.8.3 The Customer acknowledges that certain logging and monitoring activities are essential for the secure operation of the Bundle Services and may not be disabled.

14.9 Security Incident Management

14.9.1 Assimil8 shall maintain documented procedures for the identification, investigation, management, escalation and remediation of Security Incidents.

14.9.2 Upon becoming aware of a Security Incident affecting Customer Data or materially affecting the security of the Bundle Services, Assimil8 shall:

- (a) investigate the Security Incident;
- (b) take reasonable measures to contain, mitigate and remediate the Security Incident;
- (c) provide notifications where required by applicable law or this Agreement; and
- (d) cooperate reasonably with the Customer in relation to the Security Incident.

14.9.3 Notifications under this Clause shall be made within a reasonable period after Assimil8 confirms the existence of a Security Incident requiring notification.

14.9.4 A Security Incident notification shall not constitute an admission of fault, liability or breach of contract.

14.9.5 The Customer shall promptly notify Assimil8 of any actual or suspected Security Incident affecting:

- (a) Customer-controlled systems connected to the Bundle Services;
- (b) Customer credentials;
- (c) Customer environments supporting the Bundle Services; or
- (d) Customer Data.

14.10 Encryption and Protection of Information

14.10.1 Assimil8 shall implement reasonable encryption measures for information transmitted across public networks where appropriate to the nature of the relevant processing activities.

14.10.2 Assimil8 may use industry-standard cryptographic technologies and key management processes determined by Assimil8 from time to time.

14.10.3 The Customer acknowledges that no encryption technology can guarantee absolute security.

14.10.4 Where the Customer controls encryption keys, credentials or cryptographic materials, the Customer shall remain solely responsible for their protection, management and recovery.

14.11 Customer Environment Security

14.11.1 Where the Bundle Services are deployed within a Customer-controlled environment, the Customer shall maintain security measures appropriate to:

- (a) the nature of the deployment;
- (b) applicable legal obligations;
- (c) industry standards; and
- (d) the risks associated with the relevant systems and data.

14.11.2 The Customer shall ensure that:

- (a) infrastructure is properly configured and secured;
- (b) operating systems are maintained and supported;
- (c) security updates are applied;
- (d) administrative access is restricted;
- (e) backup procedures are maintained;
- (f) malware protection is implemented; and
- (g) appropriate monitoring controls are in place.

14.11.3 Assimil8 shall not be responsible for any security incident, compromise, service interruption, data loss or unauthorised access arising from deficiencies within Customer-controlled environments.

14.12 Security Assessments and Testing

14.12.1 Assimil8 may conduct vulnerability assessments, security reviews and testing activities relating to the Bundle Services.

14.12.2 The Customer shall not perform or permit any penetration testing, vulnerability scanning, security assessment or similar activity against:

- (a) Assimil8-hosted environments;
- (b) managed environments;
- (c) shared infrastructure; or
- (d) systems operated by Assimil8,

without Assimil8's prior written approval.

14.12.3 Any approved testing shall be conducted in accordance with procedures, restrictions and timing requirements specified by Assimil8.

14.12.4 Unauthorised testing may constitute a material breach of this Agreement.

14.13 Third-Party Suppliers and Subcontractors

14.13.1 Assimil8 may engage suppliers, subcontractors, hosting providers, cloud providers and other service providers in connection with the delivery of the Bundle Services.

14.13.2 Assimil8 shall require such providers to maintain security measures appropriate to the services they perform.

14.13.3 Assimil8 shall remain responsible for the management of its subcontractors to the extent required by applicable law and this Agreement.

14.14 Business Continuity and Disaster Recovery

14.14.1 Assimil8 shall maintain business continuity and disaster recovery arrangements appropriate to the Bundle Services provided by Assimil8.

14.14.2 Recovery objectives, service restoration commitments and continuity arrangements shall be governed by the applicable Schedule, Order Form or Service Level Agreement where relevant.

14.14.3 The Customer acknowledges that business continuity and disaster recovery obligations differ depending upon the applicable deployment model.

14.14.4 For Customer Hosted Bundle Services, responsibility for business continuity and disaster recovery shall remain with the Customer except to the extent expressly assumed by Assimil8 under an Order Form.

14.15 Security Compliance and Cooperation

14.15.1 Each Party shall cooperate reasonably with the other Party in relation to information security matters relevant to the performance of this Agreement.

14.15.2 The Customer shall provide information reasonably requested by Assimil8 where necessary to:

- (a) investigate Security Incidents;
- (b) assess security risks;
- (c) comply with legal obligations;
- (d) satisfy contractual obligations; or
- (e) protect the Bundle Services.

14.15.3 Neither Party shall knowingly take any action that could materially compromise the security, integrity or availability of the Bundle Services.

14.15.4 The Customer shall not use the Bundle Services in a manner that:

- (a) introduces malicious code;
- (b) circumvents security controls;
- (c) attempts unauthorised access;
- (d) interferes with security monitoring;
- (e) undermines system integrity; or
- (f) creates material security risks for Assimil8, IBM, other customers or third parties.

14.16 Security Documentation

14.16.1 The Parties acknowledge that detailed technical security information may constitute Confidential Information.

14.16.2 Assimil8 may provide security documentation, security questionnaires, audit summaries, certifications, reports or other security-related information at its discretion and subject to reasonable confidentiality restrictions.

14.16.3 The Customer shall not disclose security documentation provided by Assimil8 to any third party except:

- (a) as required by law;
- (b) to professional advisers bound by confidentiality obligations; or
- (c) with Assimil8's prior written consent.

14.17 Reservation of Security Rights

14.17.1 Assimil8 may take any action reasonably necessary to:

- (a) protect the security of the Bundle Services;
- (b) protect Customer Data;
- (c) protect other customers;
- (d) comply with legal or regulatory obligations;
- (e) comply with obligations relating to IBM Software or third-party software; or
- (f) prevent actual or suspected security threats.

14.17.2 Such actions may include:

- (a) restricting access;
- (b) suspending affected services;
- (c) blocking connections;
- (d) disabling credentials;
- (e) applying emergency security updates; or
- (f) isolating affected environments.

14.17.3 Where reasonably practicable, Assimil8 shall provide notice of such actions. Failure to provide prior notice shall not prevent Assimil8 from taking immediate action where required to address a security risk.

14.18 Survival

14.18.1 The provisions of this Section shall survive termination or expiry of this Agreement to the extent necessary to:

- (a) investigate Security Incidents;
- (b) protect Confidential Information;
- (c) comply with legal obligations;
- (d) support audit activities;
- (e) enforce rights arising before termination; or
- (f) complete any post-termination data handling obligations.

15. INTELLECTUAL PROPERTY

The Bundle Services constitute an integrated solution comprising Assimil8 Intellectual Property together with authorised third-party software, technologies, services and components, including IBM Software where applicable.

Nothing in this Agreement transfers ownership of any Assimil8 Intellectual Property, IBM Intellectual Property, third-party Intellectual Property Rights, software components, methodologies, workflows, service configurations, analytics models, artificial intelligence capabilities or associated documentation to the Customer.

Ownership of each component remains vested in its respective owner.

15.1 Ownership of Intellectual Property Rights

15.1.1 Except as expressly stated in this Agreement, no Intellectual Property Rights are transferred, assigned or licensed by one Party to the other.

15.1.2 Each Party shall retain all right, title and interest in and to its respective Intellectual Property Rights existing prior to the Effective Date or developed independently of this Agreement.

15.1.3 The Customer acknowledges and agrees that the Bundle Services constitute a proprietary commercial solution developed, maintained and supplied by Assimil8 and that the Intellectual Property Rights embodied within the Bundle Services represent valuable proprietary assets of Assimil8 and its licensors.

15.1.4 Nothing in this Agreement shall operate to transfer ownership of any Intellectual Property Rights from Assimil8, IBM, any third-party licensor or the Customer to any other Party.

15.1.5 The purchase, allocation, consumption or use of BMUs grants entitlement to access and use the Bundle Services in accordance with this Agreement and the applicable Order Form and does not convey ownership of any software, platform, technology, Intellectual Property Rights or other proprietary rights.

15.2 Assimil8 Intellectual Property

15.2.1 As between the Parties, Assimil8 shall exclusively own and retain all right, title and interest in and to:

(a) the Bundle Services;

(b) the Bundle Platform;

(c) Assimil8 Software;

(d) Assimil8 methodologies, processes, workflows, templates, tools, frameworks and know-how;

- (e) documentation, manuals, specifications and technical materials supplied by Assimil8;
- (f) service management systems, monitoring systems, support systems and operational processes used in connection with the Bundle Services;
- (g) any modifications, enhancements, updates, upgrades, corrections, derivative works or adaptations of any of the foregoing; and
- (h) all Intellectual Property Rights subsisting in any of the foregoing.

15.2.2 Except to the extent expressly permitted under this Agreement, the Customer shall not acquire any ownership rights in any Assimil8 Intellectual Property.

15.2.3 Any goodwill arising through the Customer's use of the Bundle Services shall accrue solely for the benefit of Assimil8 and its licensors.

15.3 IBM Intellectual Property

15.3.1 The Customer acknowledges that certain elements of the Bundle Services may include, incorporate, interface with, depend upon or otherwise utilise IBM Software, IBM technologies, IBM documentation, IBM trademarks and other IBM Intellectual Property.

15.3.2 All IBM Intellectual Property shall remain the exclusive property of IBM Corporation, its affiliates or its licensors.

15.3.3 Nothing in this Agreement shall be interpreted as:

- (a) granting the Customer ownership of any IBM Intellectual Property;
- (b) assigning any IBM Intellectual Property to the Customer;
- (c) permitting the Customer to separate IBM Software from the Bundle Services;
- (d) permitting the Customer to distribute, sublicense, commercialise or exploit IBM Software independently of the Bundle Services; or
- (e) granting any rights beyond those expressly authorised under this Agreement and the applicable IBM flow-down requirements.

15.3.4 The Customer shall not remove, obscure, alter or interfere with any IBM proprietary notices, copyright notices, trademark notices or other ownership markings.

15.3.5 The rights granted under this Agreement are limited to the use of IBM Software solely as incorporated within or required for delivery of the Bundle Services and subject to Section 8 and Schedule D.

15.4 Third-Party Software and Open Source Software

15.4.1 The Bundle Services may include Third-Party Software and Open Source Software.

15.4.2 Ownership of all Third-Party Software and Open Source Software shall remain vested in the applicable owners and licensors.

15.4.3 The Customer acknowledges that certain Third-Party Software or Open Source Software components may be subject to separate licence terms.

15.4.4 To the extent required by applicable licence terms, such third-party licence terms shall apply to the relevant software component.

15.4.5 Nothing in this Agreement shall grant the Customer ownership of any Third-Party Software or Open Source Software.

15.4.6 Assimil8 makes no representation that Open Source Software is free from conditions, restrictions or obligations imposed by the applicable open-source licence.

15.5 Customer Intellectual Property and Customer Data

15.5.1 As between the Parties, the Customer shall retain all right, title and interest in and to:

- (a) Customer Data;
- (b) Customer systems;
- (c) Customer trademarks, branding and logos;
- (d) Customer documentation;
- (e) Customer business processes; and
- (f) Intellectual Property Rights owned or controlled by the Customer prior to the Effective Date.

15.5.2 Except as expressly provided in this Agreement, Assimil8 acquires no ownership interest in Customer Data.

15.5.3 The Customer grants to Assimil8 a non-exclusive, worldwide, royalty-free licence during the Term to access, host, process, transmit, copy, store, use and otherwise handle Customer Data solely to the extent necessary to:

- (a) provide the Bundle Services;
- (b) perform Support Services;
- (c) perform Professional Services;
- (d) maintain, secure and administer the Bundle Services;
- (e) comply with legal and regulatory obligations; and
- (f) exercise its rights and perform its obligations under this Agreement.

15.5.4 The licence granted under Clause 15.5.3 shall automatically terminate upon termination or expiry of this Agreement except to the extent retention is required by law or expressly permitted elsewhere in this Agreement.

15.6 Feedback and Suggestions

15.6.1 The Customer may provide feedback, recommendations, enhancement requests, ideas, comments or suggestions relating to the Bundle Services.

15.6.2 The Customer grants Assimil8 a perpetual, irrevocable, worldwide, transferable, sublicensable, royalty-free licence to use, incorporate, modify, commercialise and otherwise exploit such feedback without restriction and without obligation to the Customer.

15.6.3 Nothing in this Clause shall require Assimil8 to implement any feedback or suggestions.

15.7 Service Improvements and Usage Analytics

15.7.1 Assimil8 may generate, collect and use Service Analytics for the purposes of:

- (a) operating and supporting the Bundle Services;
- (b) monitoring service performance;
- (c) improving functionality and service delivery;
- (d) developing new features and services;
- (e) capacity planning;
- (f) security monitoring; and
- (g) business intelligence and reporting.

15.7.2 Service Analytics shall not include Customer Data in identifiable form except where necessary for the provision of the Bundle Services.

15.7.3 Subject to applicable Data Protection Laws, Assimil8 may aggregate, anonymise or de-identify information derived from use of the Bundle Services and may use such information for lawful business purposes.

15.7.4 All Intellectual Property Rights in Service Analytics, aggregated data and anonymised datasets created by Assimil8 shall vest in Assimil8.

15.8 Deliverables and Professional Services

15.8.1 Unless expressly stated otherwise in an applicable Order Form, all methodologies, templates, frameworks, tools, scripts, utilities, code libraries, documentation standards and know-how used or developed by Assimil8 in connection with Professional Services shall remain the property of Assimil8.

15.8.2 Upon payment in full of all applicable fees, the Customer shall receive a non-exclusive, non-transferable licence to use Deliverables specifically created for the Customer solely for its internal business purposes in connection with the Bundle Services.

15.8.3 Ownership of any Deliverable shall remain vested in Assimil8 unless expressly assigned in a written agreement signed by authorised representatives of both Parties.

15.8.4 Nothing in this Agreement shall require Assimil8 to assign ownership of any pre-existing Intellectual Property Rights, underlying technology, software components, frameworks, methodologies or know-how incorporated into any Deliverable.

15.8.5 To the extent Deliverables incorporate Customer materials, ownership of such Customer materials shall remain with the Customer.

15.9 Licence Restrictions

15.9.1 Except as expressly permitted under this Agreement, the Customer shall not, and shall not permit any third party to:

- (a) copy, reproduce or replicate any part of the Bundle Services;
- (b) modify, adapt, translate or create derivative works of the Bundle Services;
- (c) reverse engineer, decompile, disassemble or otherwise attempt to derive source code, underlying structures, algorithms or trade secrets;
- (d) circumvent technical controls, security measures or licence enforcement mechanisms;
- (e) remove proprietary notices;
- (f) use the Bundle Services to develop competing products or services;
- (g) access the Bundle Services for benchmarking, competitive analysis or comparative testing purposes without Assimil8's prior written consent;
- (h) exploit the Bundle Services for the benefit of any unauthorised third party; or
- (i) use the Bundle Services in a manner inconsistent with this Agreement, the applicable Order Form or applicable law.

15.9.2 The restrictions contained in this Clause shall apply regardless of the applicable Deployment Model.

15.10 Reservation of Rights

15.10.1 All rights not expressly granted under this Agreement are reserved by the relevant owner.

15.10.2 No implied licences shall arise by implication, estoppel, course of dealing, operation of law or otherwise.

15.10.3 The Customer acknowledges that access to the Bundle Services is provided solely on the basis of the rights expressly granted under this Agreement and the applicable Order Form.

15.11 Protection of Intellectual Property Rights

15.11.1 The Customer shall promptly notify Assimil8 upon becoming aware of:

- (a) any actual or suspected infringement of Assimil8 Intellectual Property;
- (b) any unauthorised use of the Bundle Services;
- (c) any breach of Intellectual Property Rights relating to the Bundle Services; or
- (d) any claim that the Bundle Services infringe third-party Intellectual Property Rights.

15.11.2 Assimil8 shall have sole discretion regarding the conduct, defence, settlement or enforcement of any matter relating to Assimil8 Intellectual Property.

15.11.3 The Customer shall provide reasonable cooperation requested by Assimil8 in connection with the protection or enforcement of Intellectual Property Rights.

15.12 Survival

15.12.1 The provisions of this Section 15 shall survive termination or expiry of this Agreement for so long as necessary to protect the respective Intellectual Property Rights of Assimil8, IBM, the Customer and any applicable licensors.

15.12.2 Termination or expiry of this Agreement shall not affect ownership of Intellectual Property Rights existing prior to such termination or expiry or created during the Term.

16. CONFIDENTIALITY

16.1 Purpose and Scope

16.1.1 The Parties acknowledge that, in connection with this Agreement, the Order Forms, the Bundle Services and the performance of their respective obligations, each Party may disclose or make available Confidential Information to the other Party.

16.1.2 This Section establishes the obligations governing the receipt, protection, use and disclosure of Confidential Information and applies throughout the Term and after termination or expiry of this Agreement in accordance with its terms.

16.1.3 The Parties acknowledge that the successful provision of the Bundle Services may require the exchange of technical, operational, commercial, security, financial and business information and that such information constitutes valuable proprietary assets of the disclosing Party.

16.2 Confidential Information

16.2.1 For the purposes of this Agreement, Confidential Information means all information disclosed by or on behalf of a Party (the "Disclosing Party") to the other Party (the "Receiving Party"), whether before, on or after the Effective Date, in oral, visual, written, electronic, digital or any other form, that:

(a) is designated as confidential;

(b) a reasonable person would understand to be confidential by its nature or circumstances of disclosure; or

(c) derives independent economic, commercial, technical or strategic value from not being generally known.

16.2.2 Confidential Information includes, without limitation:

(a) business plans, strategies, forecasts, pricing information, commercial terms and financial information;

(b) customer, supplier, partner and market information;

(c) software, source code, object code, algorithms, models, architectures, methodologies, designs, workflows and technical documentation;

(d) security information, vulnerability information, penetration testing results, incident records, access credentials and security procedures;

(e) product roadmaps, product development plans and technical specifications;

(f) information relating to the Bundle Services, support services, managed services and professional services;

(g) information concerning the configuration, implementation, operation, performance or deployment of the Bundle Services;

(h) Customer Data;

(i) Assimil8 IP and information relating thereto;

(j) IBM Software, IBM IP and information relating thereto;

(k) information relating to third-party software and third-party licensors;

(l) information exchanged during audits, compliance reviews, security assessments or due diligence activities;

(m) information disclosed during contract negotiations; and

(n) the existence, content and terms of this Agreement and any Order Form.

16.2.3 Confidential Information of Assimil8 shall include all information concerning the Bundle Services, the underlying technology, service methodologies, pricing models, service delivery processes, support methodologies, implementation approaches, product roadmaps and security architecture, irrespective of whether such information is specifically marked as confidential.

16.2.4 Confidential Information of the Customer shall include Customer Data and all non-public information relating to the Customer's business operations, systems, infrastructure, personnel, finances and commercial activities.

16.2.5 Confidential Information of IBM shall include IBM Software, IBM IP and all non-public information provided by IBM directly or indirectly through Assimil8.

16.3 Exclusions

16.3.1 Confidential Information shall not include information which the Receiving Party can demonstrate through contemporaneous written records:

(a) was lawfully in its possession without restriction before disclosure by the Disclosing Party;

(b) becomes publicly available through no breach of this Agreement by the Receiving Party or any person acting on its behalf;

(c) is lawfully obtained from a third party entitled to disclose such information without restriction; or

(d) is independently developed by the Receiving Party without use of or reference to the Confidential Information of the Disclosing Party.

16.3.2 The exclusions set out in Clause 16.3.1 shall not apply merely because individual elements of Confidential Information fall within one or more exclusions if the combination, compilation or arrangement of such information remains confidential.

16.4 Obligations of Confidentiality

16.4.1 The Receiving Party shall:

- (a) keep the Confidential Information strictly confidential;
- (b) protect the Confidential Information using no less than a reasonable standard of care and, in any event, no less than the standard of care used to protect its own confidential information of a similar nature;
- (c) use the Confidential Information solely for the purposes of exercising rights or performing obligations under this Agreement;
- (d) not disclose Confidential Information except as expressly permitted under this Agreement;
- (e) implement appropriate administrative, organisational, physical and technical safeguards to prevent unauthorised access, use or disclosure; and
- (f) promptly notify the Disclosing Party upon becoming aware of any actual or suspected unauthorised disclosure, access or misuse of Confidential Information.

16.4.2 The Receiving Party shall be responsible for any breach of this Section by its employees, officers, contractors, consultants, professional advisers, Affiliates, subcontractors or agents.

16.5 Permitted Disclosures

16.5.1 The Receiving Party may disclose Confidential Information only to those of its employees, officers, directors, contractors, professional advisers, Affiliates and subcontractors who:

- (a) have a legitimate need to know such information for purposes connected with this Agreement;
- (b) are bound by confidentiality obligations no less protective than those contained in this Agreement; and
- (c) are informed of the confidential nature of the information.

16.5.2 Assimil8 may disclose Confidential Information to IBM, its distributors, suppliers, licensors, subcontractors and service providers to the extent reasonably necessary:

- (a) to provide the Bundle Services;
- (b) to comply with IBM requirements;
- (c) to administer IBM Software entitlements;
- (d) to investigate security incidents;
- (e) to perform compliance, audit or support activities; or

(f) to satisfy obligations arising under IBM agreements.

16.5.3 The Customer acknowledges that certain information relating to the Bundle Services may be disclosed to IBM where reasonably necessary to enable Assimil8 to perform its obligations under this Agreement or comply with IBM requirements.

16.6 Compelled Disclosure

16.6.1 A Receiving Party may disclose Confidential Information where disclosure is required by:

- (a) applicable law;
- (b) a court of competent jurisdiction;
- (c) a governmental, regulatory or supervisory authority;
- (d) a recognised stock exchange; or
- (e) any other legal or regulatory obligation.

16.6.2 Where legally permitted, the Receiving Party shall:

- (a) provide prompt written notice to the Disclosing Party;
- (b) cooperate with the Disclosing Party in seeking protective measures or confidential treatment; and
- (c) disclose only that portion of the Confidential Information which is legally required to be disclosed.

16.7 IBM Confidential Information

16.7.1 The Customer acknowledges that IBM Software, IBM IP and related information may contain confidential and proprietary information belonging to IBM and its licensors.

16.7.2 The Customer shall protect IBM confidential information using standards no less protective than those required under this Section.

16.7.3 The Customer shall not disclose IBM confidential information except as expressly permitted under this Agreement or required by applicable law.

16.7.4 Nothing in this Agreement shall be interpreted as granting the Customer any right to use, disclose or exploit IBM confidential information beyond the rights expressly granted under this Agreement.

16.8 Security and Handling Requirements

16.8.1 Each Party shall maintain reasonable information security controls appropriate to the nature, sensitivity and value of the Confidential Information received.

16.8.2 Confidential Information stored electronically shall be protected against unauthorised access, disclosure, alteration, destruction or loss through appropriate security measures.

16.8.3 The Receiving Party shall not remove, alter or obscure any confidentiality, proprietary rights or ownership notices contained within Confidential Information.

16.9 Return and Destruction

16.9.1 Upon:

- (a) termination or expiry of this Agreement;
- (b) completion of the relevant services; or
- (c) written request by the Disclosing Party,

the Receiving Party shall promptly cease using the relevant Confidential Information.

16.9.2 Subject to Clause 16.9.3, the Receiving Party shall, at the Disclosing Party's option:

- (a) return the Confidential Information; or
- (b) securely destroy the Confidential Information and certify such destruction upon request.

16.9.3 The Receiving Party may retain copies of Confidential Information solely to the extent required:

- (a) by applicable law;
- (b) by regulatory requirements;
- (c) for legitimate archival, disaster recovery, backup or compliance purposes; or
- (d) for the establishment, exercise or defence of legal claims.

16.9.4 Any retained Confidential Information shall remain subject to this Section for so long as it is retained.

16.10 Equitable Relief

16.10.1 Each Party acknowledges that unauthorised disclosure or misuse of Confidential Information may cause irreparable harm for which damages alone may be an inadequate remedy.

16.10.2 The Disclosing Party shall be entitled, without prejudice to any other rights or remedies available to it, to seek injunctive relief, specific performance or other equitable remedies in respect of any actual or threatened breach of this Section.

16.11 Publicity and Announcements

16.11.1 Neither Party shall issue any public announcement, press release, marketing communication or public statement relating to this Agreement without the prior written consent of the other Party.

16.11.2 Notwithstanding Clause 16.11.1:

(a) Assimil8 may identify the Customer as a customer in customer lists and sales materials unless the Customer notifies Assimil8 in writing that it objects to such use;

(b) either Party may make disclosures required by law or regulation; and

(c) either Party may disclose the existence of the relationship to auditors, investors, lenders, insurers and professional advisers subject to appropriate confidentiality obligations.

16.12 Duration of Confidentiality Obligations

16.12.1 The obligations set out in this Section shall commence upon disclosure of Confidential Information and continue throughout the Term.

16.12.2 Following termination or expiry of this Agreement, the obligations contained in this Section shall continue:

(a) for a period of seven (7) years in respect of general Confidential Information; and

(b) indefinitely in respect of:

(i) trade secrets;

(ii) source code;

(iii) security credentials and security-sensitive information;

(iv) Customer Data;

(v) IBM confidential information;

(vi) personal data; and

(vii) information which remains confidential by its nature.

16.12.3 The expiry of any confidentiality period shall not affect rights or remedies arising from breaches occurring prior to such expiry.

16.13 Survival

16.13.1 This Section shall survive termination or expiry of this Agreement for the periods specified in Clause 16.12 and for so long as any Confidential Information remains protected under applicable law.

17. WARRANTIES

17.1 Mutual Warranties

17.1.1 Each Party warrants and represents that:

(a) it is duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation;

(b) it has full power, authority and legal right to enter into and perform its obligations under this Agreement and each Order Form;

(c) the execution and performance of this Agreement and each Order Form have been duly authorised by all necessary corporate, governmental and other approvals;

(d) this Agreement constitutes valid, binding and enforceable obligations of that Party in accordance with its terms; and

(e) it shall comply with all Applicable Laws in connection with the exercise of its rights and performance of its obligations under this Agreement.

17.1.2 Each Party acknowledges that the other Party has entered into this Agreement in reliance upon the warranties set out in this Clause 17.1.

17.2 Assimil8 Service Warranties

17.2.1 Assimil8 warrants that, during the applicable Subscription Term:

(a) the Bundle Services shall perform substantially in accordance with the Documentation;

(b) the Bundle Services shall be provided with reasonable skill, care and diligence consistent with generally accepted industry standards;

(c) Support Services shall be provided in accordance with the Service Levels and support commitments specified in this Agreement and the applicable schedules;

(d) Professional Services shall be performed using personnel possessing appropriate skills, qualifications and experience for the services being provided;

(e) Assimil8 shall maintain the rights, authorisations and permissions necessary to provide the Bundle Services in accordance with this Agreement; and

(f) Assimil8 shall not knowingly introduce Malicious Code into the Bundle Services.

17.2.2 Clause 17.2.1 shall not apply to the extent any non-conformity, failure, interruption or degradation results from:

- (a) Customer Data;
- (b) Customer systems, infrastructure, networks, hardware or software;
- (c) Third-Party Software;
- (d) Open-Source Software;
- (e) IBM Software;
- (f) misuse, unauthorised use or operation of the Bundle Services contrary to the Documentation or this Agreement;
- (g) modifications, customisations or alterations not performed or authorised by Assimil8;
- (h) Customer failure to implement updates, corrections, recommendations or instructions supplied by Assimil8;
- (i) acts or omissions of the Customer, its Users, contractors or agents; or
- (j) events outside Assimil8's reasonable control.

17.2.3 The Customer's sole and exclusive remedy for a breach of the warranties in Clause 17.2.1 shall be, at Assimil8's option:

- (a) correction of the non-conforming Bundle Services;
- (b) re-performance of the affected services;
- (c) provision of a reasonable workaround; or
- (d) where Assimil8 determines that the foregoing remedies are not commercially reasonable, termination of the affected Bundle Services and a refund of any prepaid fees attributable to the period following termination of the affected services.

17.2.4 The remedies set out in Clause 17.2.3 shall apply only if the Customer:

- (a) notifies Assimil8 in writing of the alleged breach without undue delay and in any event within thirty (30) days after becoming aware of the relevant issue; and
- (b) provides reasonable information and assistance to enable Assimil8 to investigate and verify the claim.

17.3 Professional Services Warranties

17.3.1 Assimil8 warrants that Professional Services shall:

- (a) be performed in a professional and workmanlike manner;

(b) substantially conform to any agreed written specification expressly identified in the applicable Statement of Work or Order Form; and

(c) be delivered using appropriately qualified personnel.

17.3.2 If Professional Services fail to comply with Clause 17.3.1, Assimil8 shall, as the Customer's sole remedy and Assimil8's sole liability, re-perform the affected Professional Services provided that the Customer notifies Assimil8 of the non-conformity within thirty (30) days following completion of the relevant Professional Services.

17.4 Customer Warranties

17.4.1 The Customer warrants, represents and undertakes that:

(a) it has obtained and shall maintain all rights, licences, permissions, notices and consents necessary for the collection, use, processing, disclosure and transfer of Customer Data;

(b) Customer Data and its use by Assimil8 as contemplated by this Agreement shall not infringe the rights of any third party or violate Applicable Laws;

(c) it shall use the Bundle Services only in accordance with this Agreement, the Documentation and Applicable Laws;

(d) it shall not upload, transmit, store or process any material through the Bundle Services that is unlawful, defamatory, infringing, fraudulent, harmful or otherwise prohibited by Applicable Law;

(e) it shall maintain appropriate security measures for systems and environments under its control;

(f) it shall not knowingly introduce Malicious Code into the Bundle Services or any systems used in connection with the Bundle Services;

(g) it has the authority to bind all Users acting under its account or administrative control; and

(h) all information supplied to Assimil8 in connection with this Agreement is materially accurate and complete.

17.4.2 The Customer acknowledges that Assimil8's performance may depend upon the accuracy, completeness and availability of information, resources, systems and cooperation provided by the Customer.

17.5 IBM Software and Third-Party Components

17.5.1 The Customer acknowledges that IBM Software, Third-Party Software and Open-Source Software may be incorporated within, connected to or utilised by the Bundle Services.

17.5.2 To the maximum extent permitted by Applicable Law and subject to any mandatory rights provided directly by the applicable licensor:

(a) IBM Software is provided subject to the applicable IBM terms, conditions, limitations and disclaimers incorporated through this Agreement and Schedule D;

(b) Third-Party Software is provided subject to the applicable third-party licence terms;

(c) Open-Source Software is provided under the applicable open-source licence terms; and

(d) Assimil8 does not provide any warranty on behalf of IBM or any third-party licensor.

17.5.3 The Customer acknowledges that Assimil8 may be required to pass through warranty limitations, exclusions and disclaimers imposed by IBM or other licensors and that such provisions shall apply to the fullest extent permitted by Applicable Law.

17.6 Availability and Performance Disclaimer

17.6.1 Except as expressly stated in this Agreement, Assimil8 does not warrant that:

(a) the Bundle Services shall operate uninterrupted or error-free at all times;

(b) all defects shall be corrected;

(c) the Bundle Services shall be compatible with all systems, environments, software or infrastructure;

(d) the Bundle Services shall achieve any particular business outcome, commercial objective, operational result or return on investment;

(e) use of the Bundle Services shall be entirely free from delays, interruptions, degradation or security incidents; or

(f) the Bundle Services shall be free from vulnerabilities arising from Customer systems, third-party systems or external networks.

17.6.2 The Customer acknowledges that software, cloud services, managed services, support services and technology platforms are inherently subject to operational limitations and that reasonable downtime, maintenance events and service interruptions may occur.

17.7 Beta Features and Evaluation Services

17.7.1 Any beta functionality, preview feature, proof of concept, evaluation service, trial service or pre-release capability provided by Assimil8 shall be provided on an "as available" and "as is" basis unless otherwise expressly agreed in writing.

17.7.2 To the fullest extent permitted by Applicable Law, no warranties of any kind shall apply to any beta functionality, preview feature, proof of concept, evaluation service, trial service or pre-release capability.

17.8 Exclusion of Implied Warranties

17.8.1 Except as expressly stated in this Agreement, all warranties, representations, conditions, guarantees and other terms of any kind, whether express, implied, statutory or otherwise, are excluded to the fullest extent permitted by Applicable Law.

17.8.2 Without limitation to Clause 17.8.1, Assimil8 specifically disclaims all implied warranties, conditions and terms relating to:

- (a) merchantability;
- (b) satisfactory quality;
- (c) fitness for a particular purpose;
- (d) non-infringement;
- (e) accuracy of information;
- (f) uninterrupted operation; and
- (g) results obtained from use of the Bundle Services.

17.8.3 Nothing in this Agreement excludes any warranty or condition that cannot lawfully be excluded under Applicable Law.

17.9 Exclusive Warranty Regime

17.9.1 The warranties expressly set out in this Agreement constitute the complete and exclusive warranties provided by Assimil8 in relation to the Bundle Services, Professional Services, Support Services and all related deliverables.

17.9.2 The Customer confirms that it has not relied upon any representation, statement, promise, forecast, estimate, marketing material or other information not expressly incorporated into this Agreement.

17.9.3 No employee, partner, reseller, distributor, subcontractor or representative of Assimil8 is authorised to modify or extend the warranties set out in this Agreement unless expressly agreed in writing and executed by authorised representatives of both Parties.

18. INDEMNITIES

18.1 Scope of Indemnities

18.1.1 This Section 18 sets out the Parties' respective obligations to defend, indemnify and hold harmless the other Party against specified third-party claims arising from the performance, use or provision of the Bundle Services.

18.1.2 The indemnities contained in this Section 18 are subject to the procedures, exclusions and limitations set out in this Agreement, including Section 19 (Limitation of Liability).

18.1.3 Except as expressly stated in this Agreement, neither Party shall have any obligation to indemnify the other Party.

18.2 Assimil8 Intellectual Property Infringement Indemnity

18.2.1 Subject to Sections 18.2.2, 18.2.3, 18.6 and 18.7, Assimil8 shall defend the Customer against any third-party claim alleging that the Customer's authorised use of the Bundle Services, Assimil8 Software, Deliverables or other Assimil8 IP, when used in accordance with this Agreement, infringes any United Kingdom patent, copyright, registered design, trade mark or other intellectual property right enforceable within the United Kingdom.

18.2.2 Assimil8 shall indemnify the Customer against any damages, settlements, costs and expenses finally awarded by a court of competent jurisdiction or agreed in settlement by Assimil8 arising from such claim.

18.2.3 If any claim described in Section 18.2.1 is made or, in Assimil8's reasonable opinion, is likely to be made, Assimil8 may, at its own expense and discretion:

(a) procure for the Customer the right to continue using the affected Bundle Services, Deliverables or Assimil8 IP;

(b) modify or replace the affected Bundle Services, Deliverables or Assimil8 IP so that they become non-infringing while maintaining materially equivalent functionality; or

(c) terminate the affected portion of the Bundle Services upon written notice and provide a pro-rata refund of any prepaid fees attributable to the terminated portion of the remaining Subscription Term.

18.2.4 The remedies set out in this Section 18.2 shall constitute the Customer's sole and exclusive remedies, and Assimil8's entire liability, for any claim that the Bundle Services, Deliverables or Assimil8 IP infringe any intellectual property rights.

18.3 Exclusions from Assimil8 Intellectual Property Indemnity

18.3.1 Assimil8 shall have no liability under Section 18.2 to the extent that any claim arises from:

- (a) use of the Bundle Services, Deliverables or Assimil8 IP other than in accordance with this Agreement or the applicable Documentation;
- (b) modification, alteration or enhancement of the Bundle Services, Deliverables or Deliverables by any person other than Assimil8 or its authorised subcontractors;
- (c) use of the Bundle Services in combination with software, hardware, systems, data, services or materials not supplied, approved or authorised by Assimil8, where the claim would not have arisen but for such combination;
- (d) Customer Data, Customer Materials or Customer-developed content;
- (e) compliance by Assimil8 with specifications, instructions, designs, requirements or directions supplied by or on behalf of the Customer;
- (f) continued use of the affected Bundle Services after notification of an infringement claim and provision of a non-infringing replacement, modification or workaround by Assimil8;
- (g) Third-Party Software, Open-Source Software or IBM Software, except to the extent Assimil8 has expressly assumed responsibility for such claim in writing; or
- (h) any deployment, configuration, integration or operational activity performed by the Customer or a third party not acting under Assimil8's direction.

18.4 IBM Software and Third-Party Intellectual Property Claims

18.4.1 The Customer acknowledges that IBM Software is owned by IBM or its licensors and is provided subject to IBM ESA Flow-Down Terms and applicable third-party rights.

18.4.2 Assimil8 shall not provide any indemnity in respect of infringement claims relating solely to IBM Software, IBM IP, Third-Party Software or Open-Source Software except to the extent Assimil8 is expressly entitled to pass through the benefit of an equivalent indemnity received from the applicable rights holder.

18.4.3 Where Assimil8 is entitled to pass through any intellectual property protection, defence rights or indemnity received from IBM or another third-party supplier, Assimil8 shall use reasonable efforts to make such rights available to the Customer subject to the applicable supplier terms.

18.4.4 Nothing in this Agreement shall be interpreted as granting the Customer any rights greater than those granted to Assimil8 by IBM or the applicable third-party supplier.

18.5 Customer Indemnity

18.5.1 The Customer shall defend, indemnify and hold harmless Assimil8, its Affiliates, licensors, subcontractors, personnel and representatives against any claims, demands, actions, proceedings, liabilities, damages, costs and expenses (including reasonable legal fees) arising from or relating to:

- (a) Customer Data;
- (b) Customer Materials;
- (c) the Customer's breach of this Agreement;
- (d) the Customer's breach of applicable laws, regulations, sanctions, export control requirements or industry obligations;
- (e) misuse of the Bundle Services by the Customer, its Users, contractors or representatives;
- (f) any allegation that Customer Data, Customer Materials or Customer-provided content infringes, misappropriates or otherwise violates any intellectual property, privacy, confidentiality or other rights of a third party;
- (g) unauthorised access to, use of or interference with the Bundle Services resulting from the Customer's acts or omissions;
- (h) the Customer's deployment, configuration, integration, operation or administration of any Customer Hosted Environment or Hybrid Deployment component not under Assimil8's operational control;
- (i) the Customer's failure to obtain all necessary permissions, consents, notices or lawful bases required for the collection, use, transfer or processing of Customer Data; or
- (j) any act or omission causing Assimil8 to breach its obligations to IBM, licensors, suppliers or regulatory authorities.

18.5.2 The Customer's obligations under this Section 18.5 shall apply regardless of whether the relevant claim is brought directly against Assimil8 or jointly against Assimil8 and the Customer.

18.6 Indemnification Procedure

18.6.1 A Party seeking indemnification under this Section 18 (the "Indemnified Party") shall:

- (a) promptly notify the other Party (the "Indemnifying Party") in writing of the relevant claim, provided that failure to provide prompt notice shall not relieve the Indemnifying Party of its obligations except to the extent materially prejudiced by such failure;
- (b) provide reasonable cooperation, information and assistance requested by the Indemnifying Party in connection with the defence of the claim; and
- (c) permit the Indemnifying Party to control the defence and settlement of the claim.

18.6.2 The Indemnifying Party shall:

- (a) conduct the defence of the claim using legal counsel of its choosing;
- (b) bear all reasonable costs associated with the defence of the claim; and

(c) keep the Indemnified Party reasonably informed regarding the status of the claim.

18.6.3 The Indemnified Party may participate in the defence of the claim using its own legal advisers at its own expense.

18.6.4 The Indemnifying Party shall not settle any claim in a manner that:

(a) imposes any admission of fault, liability or wrongdoing upon the Indemnified Party;

(b) imposes any ongoing obligation upon the Indemnified Party; or

(c) adversely affects the rights, business or reputation of the Indemnified Party,

without the Indemnified Party's prior written consent, such consent not to be unreasonably withheld or delayed.

18.6.5 If the Indemnifying Party fails to assume the defence of a claim within a reasonable period after receiving notice, the Indemnified Party may defend the claim and recover its reasonable costs from the Indemnifying Party to the extent the claim is covered by the applicable indemnity.

18.7 Mitigation

18.7.1 Each Party shall take reasonable steps to mitigate any losses, damages, costs or liabilities that may be recoverable under this Section 18.

18.7.2 No Party shall be entitled to recover losses to the extent such losses could reasonably have been avoided through appropriate mitigation measures.

18.8 Relationship with Insurance

18.8.1 The indemnities contained in this Section 18 shall apply regardless of whether the relevant loss is covered by insurance.

18.8.2 No insurer shall acquire greater rights under this Agreement than the rights available to the insured Party.

18.9 Survival

18.9.1 The provisions of this Section 18 shall survive expiration or termination of this Agreement for any reason.

18.9.2 Any indemnity claim arising from events occurring before expiration or termination of this Agreement may be pursued after such expiration or termination notwithstanding that the claim itself is commenced thereafter.

19. LIMITATION OF LIABILITY

19.1 Scope and Interpretation

19.1.1 This Section 19 sets out the entire financial liability of each Party arising out of or in connection with this Agreement, any Order Form, the Bundle Services, Support Services, Professional Services, IBM Software, any Deployment Model, or the performance, non-performance, suspension or termination of the Agreement.

19.1.2 The limitations, exclusions and allocations of risk contained in this Section 19 have been negotiated by the Parties and form an essential basis of the commercial arrangements reflected in the Fees, BMU entitlements and other charges payable under this Agreement.

19.1.3 Each Party acknowledges that the Fees payable under this Agreement reflect the allocation of risk established by this Section 19 and that, in the absence of such limitations and exclusions, the Fees and commercial terms would be substantially different.

19.1.4 The provisions of this Section 19 shall apply whether liability arises in contract, tort (including negligence), misrepresentation, restitution, breach of statutory duty or otherwise.

19.2 Unlimited Liability

19.2.1 Nothing in this Agreement shall exclude or limit either Party's liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any other liability which cannot lawfully be excluded or limited under applicable law;
- (d) wilful misconduct;
- (e) deliberate concealment of a material breach of this Agreement;
- (f) the Customer's failure to pay Fees, charges, expenses or other sums properly due and payable under this Agreement; or
- (g) any liability expressly stated elsewhere in this Agreement to be uncapped.

19.3 Liability Subject to a Super Cap

19.3.1 Subject to Clauses 19.2 and 19.4, each Party's aggregate liability arising from:

- (a) breach of Section 16 (Confidentiality);
- (b) breach of Section 13 (Data Protection);

- (c) breach of Section 14 (Information Security);
- (d) infringement or misappropriation of the other Party's Intellectual Property Rights;
- (e) indemnification obligations under Section 18 (Indemnities); or
- (f) unauthorised disclosure, destruction, corruption or loss of Confidential Information caused by a Party's negligence, recklessness or wilful misconduct,

shall not exceed an amount equal to three hundred percent (300%) of the total Fees paid or payable under the applicable Order Form during the twelve (12) months immediately preceding the event giving rise to the claim.

19.3.2 Where a claim relates to multiple Order Forms, the liability cap in Clause 19.3.1 shall be calculated by reference to the Fees attributable to the affected Order Forms.

19.4 Customer Liability for Certain Matters

19.4.1 Subject only to Clause 19.2, the limitations and exclusions set out in Clauses 19.5, 19.6 and 19.7 shall not apply to liability arising from:

- (a) the Customer's unauthorised use, reproduction, disclosure, distribution or exploitation of Assimil8 IP, IBM IP, IBM Software or Third-Party Software;
- (b) any use of the Bundle Services exceeding purchased BMU entitlements;
- (c) any deliberate circumvention of usage controls, entitlement controls, licence controls or technical restrictions;
- (d) any breach of Section 8 (IBM Software and ESA Flow-Down Terms);
- (e) any violation of export control, trade sanctions or applicable anti-corruption laws;
- (f) infringement of Intellectual Property Rights resulting from Customer Materials, Customer Data, Customer configurations, Customer instructions or Customer-developed modifications; or
- (g) any claim arising from unlawful, fraudulent or criminal acts of the Customer or Authorised Users.

19.4.2 Liability arising under Clause 19.4.1 shall be recoverable in full to the extent necessary to compensate Assimil8 for all losses, damages, liabilities, penalties, settlements, costs and expenses incurred.

19.5 General Liability Cap

19.5.1 Subject to Clauses 19.2, 19.3 and 19.4, the aggregate liability of either Party arising out of or in connection with this Agreement shall not exceed an amount equal to one hundred percent (100%) of the total Fees paid or payable under the applicable Order Form during the twelve (12) months immediately preceding the event giving rise to the claim.

19.5.2 Where liability arises during the first twelve (12) months of an Order Form, the liability cap shall be calculated using the Fees paid and payable during such period.

19.5.3 The liability cap stated in this Clause 19.5 shall apply collectively to all claims, regardless of the legal theory upon which such claims are based.

19.6 Excluded Losses

19.6.1 Subject to Clauses 19.2 and 19.4, neither Party shall be liable to the other for any:

- (a) loss of profit;
- (b) loss of revenue;
- (c) loss of anticipated savings;
- (d) loss of business opportunity;
- (e) loss of contracts;
- (f) loss of goodwill;
- (g) loss of reputation;
- (h) loss of use;
- (i) loss of production;
- (j) loss of anticipated business;
- (k) loss of market share;
- (l) loss of data value;
- (m) loss of investment value;
- (n) loss arising from inaccurate business decisions;
- (o) loss arising from procurement of substitute technologies or services; or
- (p) indirect, consequential, incidental, punitive, exemplary or special damages,

whether foreseeable or unforeseeable and whether arising in contract, tort (including negligence), breach of statutory duty or otherwise.

19.6.2 The exclusions contained in this Clause 19.6 shall apply even if a Party has been advised of the possibility of such losses.

19.7 Technology and Operational Risk Allocation

19.7.1 The Customer acknowledges that:

- (a) software systems are not inherently error-free;
- (b) data analytics, automation, artificial intelligence, machine learning, predictive modelling and reporting technologies may generate outputs that require human review and validation;
- (c) the Bundle Services are intended to support business operations and decision-making rather than replace professional judgement;
- (d) system availability may be affected by third-party infrastructure, telecommunications networks, internet connectivity, cloud providers, Customer environments and other dependencies outside Assimil8's reasonable control; and
- (e) the Bundle Services may incorporate IBM Software, Third-Party Software and Open-Source Software that are supplied subject to separate rights, restrictions, warranties and limitations.

19.7.2 Except to the extent expressly stated in this Agreement, Assimil8 shall not be liable for:

- (a) Customer business decisions made using outputs, reports, recommendations, forecasts or analyses generated by the Bundle Services;
- (b) Customer reliance on incomplete, inaccurate, corrupted, delayed or improperly configured Customer Data;
- (c) failures caused by Customer systems, infrastructure, hardware, software, networks or security controls;
- (d) failures resulting from modifications made by persons other than Assimil8;
- (e) interoperability issues arising from third-party products not supplied by Assimil8;
- (f) interruptions caused by maintenance activities authorised under this Agreement;
- (g) events of Force Majeure; or
- (h) matters expressly allocated to the Customer under Section 7 (Customer Responsibilities).

19.8 IBM Software and Third-Party Software

19.8.1 IBM Software, Third-Party Software and Open-Source Software are supplied subject to the rights, restrictions and limitations applicable to such components.

19.8.2 To the maximum extent permitted by applicable law, Assimil8 shall not be liable for defects, interruptions, failures or vulnerabilities arising solely from:

- (a) IBM Software;
- (b) Third-Party Software;
- (c) Open-Source Software;
- (d) third-party hosting environments not controlled by Assimil8; or
- (e) modifications made by third parties.

19.8.3 Nothing in this Agreement shall be interpreted as extending to the Customer any warranty, indemnity or liability commitment from IBM or any third-party supplier beyond that which Assimil8 is entitled to pass through under its contractual arrangements.

19.8.4 The Customer acknowledges that IBM is not a party to this Agreement except where expressly stated in Schedule D and shall have no liability to the Customer under this Agreement.

19.9 Data Recovery and Backup Responsibilities

19.9.1 Except where expressly stated in an applicable Order Form or Schedule, the Customer shall remain responsible for maintaining appropriate backups of Customer Data.

19.9.2 Assimil8 shall not be liable for loss, corruption, destruction or recovery costs relating to Customer Data where such loss could reasonably have been mitigated through appropriate backup, disaster recovery or business continuity measures maintained by the Customer.

19.9.3 Where Assimil8 provides hosted services, liability relating to Customer Data shall remain subject to the limitations and caps set out in this Section 19.

19.10 Multiple Claims

19.10.1 Multiple claims arising from the same event, series of connected events or substantially similar circumstances shall be treated as a single claim for purposes of calculating liability.

19.10.2 Liability caps shall not be increased by characterising the same claim under multiple causes of action.

19.11 Mitigation

19.11.1 Each Party shall take all reasonable steps to mitigate any losses, damages, costs or expenses for which it seeks recovery from the other Party.

19.11.2 No Party shall recover damages to the extent that such losses could reasonably have been avoided through appropriate mitigation measures.

19.12 Survival

19.12.1 This Section 19 shall survive termination or expiry of this Agreement and shall continue to apply notwithstanding any termination, rescission, repudiation or fundamental breach of the Agreement.

19.12.2 The Parties agree that the exclusions, limitations and liability allocations contained in this Section 19 are reasonable in light of the nature of the Bundle Services, the BMU entitlement model, the inclusion of IBM Software and Third-Party Software, and the commercial terms agreed between the Parties.

20. AUDIT AND COMPLIANCE

20.1 Purpose and Scope

20.1.1 This Section establishes the rights and obligations of the Parties relating to compliance verification, audit activities, regulatory cooperation, usage validation, security assessments and compliance with the terms of this Agreement, each applicable Order Form and all applicable laws and regulations.

20.1.2 The Parties acknowledge that the Bundle Services may include Assimil8 Software, IBM Software, Third-Party Software, Professional Services, Support Services, Managed Services and Hosting Services, each of which may be subject to contractual, legal, regulatory or operational compliance requirements.

20.1.3 The Customer shall maintain sufficient records, systems, processes and controls to demonstrate compliance with this Agreement and to enable verification of its use of the Bundle Services and consumption of BMUs.

20.1.4 The audit rights contained in this Section are intended to verify contractual compliance and shall not be interpreted as granting either Party access to the other Party's trade secrets, source code, proprietary algorithms, confidential commercial information or information unrelated to the subject matter of the audit.

20.1.5 For the avoidance of doubt, compliance verification activities relating to IBM Software shall be conducted in accordance with Section 8 and Schedule D.

20.2 Customer Compliance Obligations

20.2.1 The Customer shall comply with:

- (a) this Agreement;
- (b) all applicable Order Forms;
- (c) all applicable laws and regulations;
- (d) all security requirements applicable to the relevant Deployment Model;
- (e) all restrictions applicable to IBM Software and Third-Party Software;
- (f) all acceptable use requirements communicated by Assimil8; and
- (g) all applicable export control, sanctions and trade compliance requirements.

20.2.2 The Customer shall ensure that all Authorised Users, employees, contractors, consultants and agents accessing or using the Bundle Services comply with the requirements of this Agreement.

20.2.3 The Customer shall remain responsible for any breach of this Agreement caused by any person accessing the Bundle Services through the Customer's systems, credentials, infrastructure or authority.

20.2.4 The Customer shall promptly notify Assimil8 upon becoming aware of any actual or suspected:

- (a) unauthorised access to the Bundle Services;

- (b) breach of licence restrictions;
- (c) BMU overconsumption;
- (d) misuse of IBM Software;
- (e) security incident affecting the Bundle Services; or
- (f) material non-compliance with this Agreement.

20.3 BMU Verification and Usage Audits

20.3.1 The Customer shall maintain complete and accurate records sufficient to demonstrate:

- (a) Active User activity;
- (b) BMU consumption;
- (c) periods of user access;
- (d) deployment utilisation;
- (e) service usage volumes; and
- (f) compliance with purchased entitlements.

20.3.2 Assimil8 may audit the Customer's use of the Bundle Services to verify compliance with purchased BMU entitlements and the terms of this Agreement.

20.3.3 Such audits may include review of:

- (a) Active User records;
- (b) authentication logs;
- (c) access management systems;
- (d) user directories;
- (e) deployment records;
- (f) utilisation reports;
- (g) subscription records; and
- (h) other information reasonably necessary to verify compliance.

20.3.4 Assimil8 shall provide not less than fifteen (15) Business Days' prior written notice before conducting an audit unless:

- (a) a shorter period is required by law;
- (b) an audit is required following a security incident;
- (c) there is a reasonable belief of fraud, deliberate misuse or material non-compliance; or
- (d) immediate action is required to comply with IBM requirements or regulatory obligations.

20.3.5 Audits shall be conducted during normal business hours and in a manner designed to minimise disruption to the Customer's operations.

20.3.6 Unless a material breach is identified, Assimil8 shall not conduct more than one routine compliance audit in any twelve (12) month period.

20.4 Audit Findings and Remediation

20.4.1 If an audit reveals that the Customer has exceeded its purchased BMU entitlement, the Customer shall promptly purchase sufficient additional BMUs to cover the identified excess consumption.

20.4.2 Additional BMUs required under clause 20.4.1 may be invoiced by Assimil8 at the then-current applicable rates or such rates as may be specified in the relevant Order Form.

20.4.3 If an audit identifies material non-compliance with this Agreement, the Customer shall promptly implement corrective measures reasonably required by Assimil8.

20.4.4 The Customer shall provide written confirmation of remediation upon request.

20.4.5 Where an audit reveals:

- (a) deliberate under-reporting of usage;
- (b) intentional circumvention of entitlement controls;
- (c) unauthorised deployment of Bundle Services;
- (d) unauthorised use of IBM Software; or
- (e) a material breach of this Agreement,

Assimil8 may recover the reasonable costs of conducting the audit in addition to any other remedies available under this Agreement.

20.5 IBM Compliance Requirements

20.5.1 The Customer acknowledges that Assimil8 may be required to demonstrate compliance with obligations arising under IBM agreements relating to IBM Software incorporated within the Bundle Services.

20.5.2 The Customer shall provide such reasonable assistance, records and cooperation as may be required to enable Assimil8 to comply with its obligations relating to IBM Software.

20.5.3 The Customer shall not:

- (a) obstruct compliance verification activities reasonably required by IBM;
- (b) take any action causing Assimil8 to breach its obligations to IBM; or
- (c) use IBM Software in a manner inconsistent with this Agreement.

20.5.4 Where IBM requires information reasonably necessary to verify compliance with IBM Software restrictions, the Customer shall cooperate with Assimil8 in providing such information, subject to appropriate confidentiality protections.

20.5.5 Nothing in this Agreement grants IBM any direct audit rights against the Customer except to the extent expressly required by applicable IBM pass-through terms set out in Schedule D.

20.6 Regulatory and Legal Compliance

20.6.1 Each Party shall comply with all laws and regulations applicable to its performance of this Agreement.

20.6.2 Without limitation, the Parties shall comply with all applicable requirements relating to:

- (a) anti-bribery and anti-corruption;
- (b) anti-money laundering;
- (c) data protection and privacy;
- (d) information security;
- (e) employment and labour laws;
- (f) export controls;
- (g) economic sanctions;
- (h) competition laws; and
- (i) modern slavery legislation.

20.6.3 Upon reasonable request, either Party may require the other Party to provide information reasonably necessary to demonstrate compliance with applicable legal obligations relevant to the performance of this Agreement.

20.6.4 Neither Party shall be required to disclose information where disclosure would:

- (a) breach applicable law;
- (b) violate a regulatory obligation;
- (c) compromise legal privilege;
- (d) create a security risk; or
- (e) disclose unrelated confidential information.

20.7 Security Audits and Assessments

20.7.1 Assimil8 may perform security assessments relating to the Bundle Services, including vulnerability assessments, penetration testing, access reviews and security control verification.

20.7.2 The Customer shall cooperate with security investigations and assessments reasonably necessary to protect the security, integrity and availability of the Bundle Services.

20.7.3 The Customer shall not perform penetration testing, vulnerability scanning or security testing against any Assimil8-hosted environment without Assimil8's prior written consent.

20.7.4 Where the Customer Hosts any part of the Bundle Services, Assimil8 may request reasonable evidence demonstrating compliance with the security requirements specified in this Agreement and the applicable Schedules.

20.7.5 Such evidence may include:

- (a) security certifications;
- (b) audit reports;
- (c) compliance attestations;
- (d) vulnerability remediation records;
- (e) security policies; and
- (f) independent assessment reports.

20.8 Independent Audit Reports

20.8.1 Assimil8 may satisfy all or part of an audit request by providing independent third-party audit reports, certifications or compliance attestations where such reports reasonably address the subject matter of the request.

20.8.2 Examples may include reports relating to:

- (a) information security;

- (b) hosting operations;
- (c) service management;
- (d) data protection; and
- (e) operational controls.

20.8.3 The Customer shall treat all such reports as Confidential Information.

20.8.4 Assimil8 may require the Customer to execute reasonable non-disclosure obligations before providing such reports.

20.9 Record Retention

20.9.1 Each Party shall retain records reasonably necessary to demonstrate compliance with this Agreement.

20.9.2 Unless a longer period is required by law, regulatory obligation or active dispute, such records shall be retained for not less than seven (7) years following creation.

20.9.3 The Parties shall maintain such records in a manner reasonably capable of supporting compliance verification activities.

20.10 Compliance Certifications

20.10.1 Upon reasonable request and not more than once in any twelve (12) month period, the Customer shall provide a written certification signed by an authorised representative confirming compliance with:

- (a) this Agreement;
- (b) purchased BMU entitlements;
- (c) applicable IBM Software restrictions;
- (d) applicable security obligations; and
- (e) applicable legal requirements relevant to the Bundle Services.

20.10.2 Assimil8 may provide equivalent compliance certifications where reasonably requested by the Customer.

20.11 Confidentiality of Audit Activities

20.11.1 All audit findings, audit reports, compliance assessments and remediation information shall constitute Confidential Information.

20.11.2 Neither Party shall disclose audit findings to any third party except:

- (a) as required by law;
- (b) to professional advisers;
- (c) to regulators having lawful authority;
- (d) to insurers; or
- (e) as otherwise permitted under this Agreement.

20.11.3 Any information obtained through an audit shall be used solely for purposes relating to compliance verification, enforcement of contractual rights, regulatory compliance or risk management.

20.12 Survival

20.12.1 The provisions of this Section shall survive expiration or termination of this Agreement to the extent necessary to:

- (a) complete any ongoing audit;
- (b) investigate suspected non-compliance occurring during the Term;
- (c) verify final BMU consumption;
- (d) satisfy legal or regulatory obligations;
- (e) enforce payment obligations; or
- (f) comply with surviving IBM Software restrictions and related contractual requirements.

21. TERM AND TERMINATION

21.1 Term of the Agreement

21.1.1 This Agreement shall commence on the Effective Date and shall continue in force unless terminated in accordance with its terms.

21.1.2 This Agreement establishes the master contractual framework governing all Bundle Services, Order Forms, Support Services, Professional Services and related service components purchased by the Customer.

21.1.3 The execution, expiry, termination or non-renewal of any individual Order Form shall not, by itself, terminate this Agreement unless:

- (a) the Parties expressly agree otherwise in writing; or
- (b) all Order Forms have expired or terminated and this Agreement is subsequently terminated in accordance with this Section 21.

21.1.4 Each Order Form shall commence on the commencement date specified in the applicable Order Form and shall continue for the Subscription Term stated therein unless terminated earlier in accordance with this Agreement.

21.1.5 Unless otherwise expressly stated in the applicable Order Form, Bundle Services are purchased for the full Subscription Term and are not cancellable by the Customer during such Subscription Term.

21.2 Automatic Renewal

21.2.1 Unless otherwise expressly stated in an applicable Order Form, each Subscription Term shall automatically renew for successive renewal periods equal to the immediately preceding Subscription Term.

21.2.2 The Customer may prevent automatic renewal only by providing Assimil8 with written notice of non-renewal:

- (a) not less than six (6) months before the expiry of the then-current Subscription Term;
- (b) by email to the contract administration contact specified by Assimil8; and
- (c) expressly referencing the applicable Order Form number and stating the Customer's intention not to renew.

21.2.3 A notice of non-renewal that fails to comply with Clause 21.2.2 shall be ineffective.

21.2.4 Where no valid notice of non-renewal is received in accordance with Clause 21.2.2, the applicable Order Form shall automatically renew upon expiry.

21.2.5 Unless otherwise agreed in writing, BMU pricing applicable to an automatically renewed Subscription Term shall increase by ten percent (10%) above the pricing applicable during the immediately preceding Subscription Term.

21.2.6 Automatic renewal shall apply to all associated Bundle Services, Support Services and recurring service components identified within the applicable Order Form unless otherwise expressly stated.

21.3 Effect of Expiry of an Order Form

21.3.1 Upon expiry of an Order Form:

- (a) the Customer's entitlement to consume BMUs under that Order Form shall cease;
- (b) access to the Bundle Services provided under that Order Form may be suspended or terminated;
- (c) the Customer shall cease using all Bundle Services delivered pursuant to that Order Form unless otherwise authorised by Assimil8; and
- (d) any continuing obligations expressly stated to survive shall remain in force.

21.3.2 Expiry of one Order Form shall not affect any other Order Form then in force.

21.4 Termination for Cause

21.4.1 Either Party may terminate this Agreement or any affected Order Form immediately upon written notice if the other Party commits a material breach of this Agreement and:

- (a) such breach is incapable of remedy; or
- (b) where capable of remedy, remains unremedied for thirty (30) days after receipt of written notice specifying the breach and requiring its remedy.

21.4.2 Without limitation, the following shall constitute material breaches by the Customer:

- (a) exceeding purchased BMU entitlements and failing to remedy such excess usage following written notice;
- (b) unauthorised use, copying, disclosure, distribution or access to Bundle Services;
- (c) breach of Section 8 (IBM Software and ESA Flow-Down Terms);
- (d) infringement or misappropriation of Assimil8 IP, IBM IP or third-party intellectual property rights;
- (e) failure to comply with applicable export control, sanctions or trade compliance requirements;
- (f) failure to comply with information security obligations under this Agreement;
- (g) unauthorised disclosure of Confidential Information;
- (h) non-payment of undisputed amounts when due and failure to cure such non-payment within fifteen (15) days following written notice; or
- (i) conduct which causes or is reasonably likely to cause Assimil8 to breach any obligation owed to IBM, a subcontractor, service provider or third-party licensor.

21.4.3 Assimil8 may terminate the affected Bundle Services immediately upon written notice where continued provision of such services would:

- (a) violate applicable law;
- (b) violate sanctions or export control requirements;
- (c) violate IBM licensing requirements;
- (d) expose Assimil8 to regulatory enforcement action; or
- (e) materially compromise the security, integrity or operation of the Bundle Services.

21.5 Insolvency Termination

21.5.1 Either Party may terminate this Agreement immediately upon written notice if the other Party:

- (a) enters liquidation, administration, receivership, examinership or any analogous insolvency process;
- (b) ceases or threatens to cease carrying on business;
- (c) becomes unable to pay its debts as they fall due;
- (d) enters into any arrangement, composition or compromise with creditors generally;
- (e) has a receiver, administrator, liquidator or similar officer appointed over any substantial part of its assets; or
- (f) becomes subject to any event having substantially similar effect under applicable law.

21.5.2 Nothing in this Clause shall restrict any other rights or remedies available under applicable law.

21.6 Termination for IBM or Third-Party Licensing Events

21.6.1 Assimil8 may terminate or modify the affected Bundle Services upon written notice if:

- (a) IBM withdraws, discontinues or materially changes rights required to provide the relevant IBM Software;
- (b) IBM requires termination, suspension or modification of the relevant rights;
- (c) a third-party software provider withdraws rights necessary for service delivery;
- (d) continued provision would cause Assimil8 to breach applicable IBM agreements; or
- (e) legal, regulatory or contractual changes materially affect Assimil8's ability to provide the affected service components.

21.6.2 Where reasonably practicable, Assimil8 shall use commercially reasonable efforts to:

- (a) provide advance notice;
- (b) identify replacement functionality; or
- (c) propose alternative commercial arrangements.

21.6.3 Termination under this Clause shall be limited to the affected service components where reasonably practicable.

21.7 Customer Termination Rights

21.7.1 Except where expressly provided in this Agreement, the Customer shall have no right to terminate an Order Form for convenience during the applicable Subscription Term.

21.7.2 Termination by the Customer shall not relieve the Customer of any obligation to pay:

- (a) fees accrued before termination;
- (b) committed fees already invoiced;
- (c) fees payable under any minimum contractual commitment;
- (d) fees relating to Professional Services already performed; or
- (e) any other amounts properly due under this Agreement.

21.8 Suspension Rights

21.8.1 Assimil8 may suspend access to all or part of the Bundle Services immediately where:

- (a) payment is overdue;

- (b) the Customer exceeds authorised BMU entitlements;
- (c) the Customer breaches Section 8;
- (d) a security incident requires protective action;
- (e) unauthorised access is detected or suspected;
- (f) the Customer's use threatens service integrity or availability;
- (g) continued provision would violate applicable law; or
- (h) suspension is required by IBM or another applicable licensor.

21.8.2 Assimil8 shall restore access promptly following resolution of the circumstances giving rise to suspension.

21.8.3 Suspension shall not relieve the Customer from payment obligations.

21.9 Consequences of Termination or Expiry

21.9.1 Upon termination or expiry of this Agreement or any applicable Order Form:

- (a) all rights granted to the Customer under the terminated services shall immediately cease;
- (b) the Customer shall cease all use of the affected Bundle Services;
- (c) the Customer shall cease use of all IBM Software, third-party software and associated components provided through the Bundle Services unless separately authorised by the applicable rights holder;
- (d) all outstanding amounts shall become immediately due and payable;
- (e) each Party shall return or destroy the other Party's Confidential Information in accordance with this Agreement; and
- (f) the Parties shall comply with any applicable exit obligations under Section 22.

21.9.2 The Customer shall promptly uninstall, remove or disable any software components that it is no longer authorised to use following termination.

21.9.3 Upon request, the Customer shall provide written certification confirming compliance with its post-termination obligations.

21.10 Data Following Termination

21.10.1 Following termination or expiry, Customer Data shall be handled in accordance with:

- (a) Section 13 (Data Protection);
- (b) Section 22 (Exit and Transition Assistance);
- (c) the applicable Order Form; and
- (d) any applicable Data Processing Addendum.

21.10.2 Unless otherwise required by law, Assimil8 may delete Customer Data after expiry of any applicable retention or transition period.

21.10.3 The Customer acknowledges that retention periods may differ depending upon:

- (a) the Deployment Model;
- (b) applicable legal requirements;
- (c) backup and disaster recovery processes; and
- (d) third-party hosting or infrastructure arrangements.

21.11 Accrued Rights

21.11.1 Termination or expiry shall not affect:

- (a) rights accrued before termination or expiry;
- (b) obligations intended to survive termination;
- (c) liabilities arising before termination;
- (d) rights to recover damages; or
- (e) any remedies available at law or in equity.

21.12 Survival

21.12.1 The following provisions shall survive termination or expiry of this Agreement to the extent necessary to give them effect:

- (a) Section 8 (IBM Software and ESA Flow-Down Terms);
- (b) Section 10 (Fees and Payment);
- (c) Section 13 (Data Protection);
- (d) Section 14 (Information Security);
- (e) Section 15 (Intellectual Property);
- (f) Section 16 (Confidentiality);
- (g) Section 18 (Indemnities);
- (h) Section 19 (Limitation of Liability);
- (i) Section 20 (Audit and Compliance);
- (j) Section 22 (Exit and Transition Assistance);
- (k) Section 23 (General Provisions); and
- (l) any other provision which by its nature is intended to survive termination or expiry.

21.12.2 All restrictions relating to IBM Software, IBM IP, third-party software and intellectual property rights shall survive indefinitely to the extent required by applicable law, contractual obligations or licence terms.

22. EXIT AND TRANSITION ASSISTANCE

22.1 Scope

22.1.1 This Section 22 shall apply upon:

- (a) expiry of this Agreement;
- (b) expiry or termination of any Order Form;
- (c) termination of any Bundle Services, Support Services, Managed Services, Professional Services or other Service Components; or
- (d) any transition of the Customer from the Bundle Services to an alternative service provider, internal solution or replacement platform.

22.1.2 The Parties acknowledge that an orderly transition process is intended to minimise disruption to business operations, protect Customer Data, preserve service continuity where reasonably practicable and facilitate the secure cessation of the applicable Services.

22.1.3 Nothing in this Section 22 shall:

- (a) require Assimil8 to continue providing Services beyond the applicable termination or expiry date except as expressly stated in this Section 22 or agreed in writing;
- (b) grant the Customer any continuing right to use Bundle Services, IBM Software, Third-Party Software or other Service Components after termination or expiry except to the extent expressly authorised under a Transition Assistance Agreement; or
- (c) affect any restrictions relating to Assimil8 IP, IBM IP, Third-Party Software or Open Source Software.

22.2 Exit Planning

22.2.1 Upon written request by the Customer during the Subscription Term or within thirty (30) days following notice of termination or non-renewal, Assimil8 shall cooperate with the Customer in developing a reasonable transition plan.

22.2.2 An exit plan may include:

- (a) identification of Services subject to transition;
- (b) transition milestones and responsibilities;
- (c) data extraction requirements;
- (d) security and access management activities;

- (e) knowledge transfer requirements;
- (f) migration dependencies;
- (g) transition governance arrangements;
- (h) service continuity requirements; and
- (i) estimated Transition Assistance Services.

22.2.3 Any exit plan shall be for planning purposes only and shall not create any obligation upon Assimil8 to perform Transition Assistance Services unless separately agreed in writing.

22.3 Transition Assistance Services

22.3.1 Subject to execution of an applicable Order Form, Statement of Work or other written agreement, Assimil8 may provide Transition Assistance Services following expiry or termination of the applicable Services.

22.3.2 Transition Assistance Services may include:

- (a) provision of technical information relating to the Bundle Services;
- (b) extraction and transfer of Customer Data;
- (c) migration assistance;
- (d) knowledge transfer sessions;
- (e) operational handover activities;
- (f) assistance with deployment transition activities;
- (g) support for replacement solution implementation;
- (h) configuration documentation export;
- (i) security and access transition activities;
- (j) managed service disengagement activities; and
- (k) other reasonable transition activities agreed by the Parties.

22.3.3 Assimil8 shall have no obligation to provide Transition Assistance Services where:

- (a) the Customer has failed to pay amounts due under this Agreement;
- (b) provision would cause Assimil8 to breach applicable law, regulatory requirements or contractual obligations;

(c) provision would require disclosure of Assimil8 IP, IBM IP, Third-Party Software confidential information or proprietary methodologies beyond the rights granted under this Agreement; or

(d) the Parties have not agreed applicable fees, scope and timing.

22.3.4 Unless otherwise agreed, Transition Assistance Services shall be provided on a time and materials basis at Assimil8's then-current professional services rates.

22.3.5 Assimil8 shall use reasonable skill and care in performing Transition Assistance Services.

22.4 Customer Data Return

22.4.1 Subject to Section 22.4.5, the Customer may request return of Customer Data held by Assimil8 or its authorised subcontractors during:

(a) the Subscription Term;

(b) any agreed transition period; or

(c) within ninety (90) days following termination or expiry of the applicable Services.

22.4.2 Customer Data shall be made available in a standard electronic format reasonably determined by Assimil8 unless another format is expressly agreed.

22.4.3 Where data extraction, transformation, migration support or other specialised services are requested, such activities shall constitute Transition Assistance Services.

22.4.4 The Customer shall remain responsible for validating the completeness, accuracy and suitability of any exported Customer Data.

22.4.5 Assimil8 may withhold release of Customer Data where:

(a) required by law;

(b) necessary to comply with a regulatory obligation;

(c) required to preserve evidence relating to a dispute; or

(d) the Customer has failed to pay undisputed fees due and payable under this Agreement, provided such withholding is permitted by applicable law.

22.5 Customer-Hosted Deployments

22.5.1 Upon expiry or termination of Customer-hosted Bundle Services:

(a) the Customer shall cease all use of terminated Service Components;

(b) the Customer shall uninstall, disable or remove software components where required by this Agreement or applicable licensing terms;

(c) the Customer shall discontinue use of any IBM Software, Third-Party Software or other components for which entitlement has expired; and

(d) the Customer shall comply with any decommissioning requirements communicated by Assimil8.

22.5.2 Upon reasonable request, Assimil8 may provide assistance relating to decommissioning, migration or transfer of Customer-hosted environments as Transition Assistance Services.

22.5.3 The Customer shall remain solely responsible for operation, security, backup and management of Customer-controlled infrastructure.

22.6 Assimil8-Hosted and Hybrid Deployments

22.6.1 Upon expiry or termination of Assimil8-hosted or Hybrid Deployment Services:

(a) Customer access rights shall terminate on the applicable termination date unless otherwise agreed;

(b) Assimil8 may disable user access credentials;

(c) network connectivity and integrations may be disconnected; and

(d) hosting resources may be decommissioned following completion of applicable retention periods.

22.6.2 During any agreed transition period, Assimil8 may continue providing limited access solely for transition purposes.

22.6.3 Any continued access shall:

(a) be subject to this Agreement;

(b) be limited to authorised personnel;

(c) not create a new Subscription Term; and

(d) not constitute a renewal of Bundle Services.

22.7 Intellectual Property Protection During Transition

22.7.1 Nothing in this Section 22 shall transfer ownership of:

(a) Assimil8 IP;

(b) IBM IP;

(c) Third-Party Software;

(d) Open Source Software; or

(e) any derivative works, methodologies, tools, frameworks, templates or proprietary materials.

22.7.2 Transition Assistance Services shall not require Assimil8 to:

(a) disclose source code;

(b) disclose trade secrets;

(c) disclose proprietary algorithms;

(d) disclose security-sensitive information;

(e) provide unrestricted access to internal systems; or

(f) transfer ownership of any intellectual property rights.

22.7.3 Any documentation, reports, migration materials or transition deliverables provided by Assimil8 shall remain subject to the intellectual property provisions of this Agreement.

22.8 IBM Software and Third-Party Components

22.8.1 The Customer acknowledges that IBM Software and Third-Party Software may be subject to separate licensing restrictions, technical limitations, support obligations or termination requirements.

22.8.2 Assimil8 shall not be required to:

(a) transfer IBM Software licences;

(b) assign IBM contractual rights;

(c) provide rights greater than those granted under applicable IBM agreements;

(d) provide continued IBM Software access following entitlement expiry; or

(e) facilitate any activity that would cause Assimil8 to breach IBM ESA obligations or other third-party contractual commitments.

22.8.3 Any transition involving IBM Software shall remain subject to all applicable IBM licence restrictions and flow-down obligations.

22.9 Data Retention and Deletion

22.9.1 Following expiry of applicable retention periods and completion of any agreed transition activities, Assimil8 may delete Customer Data in accordance with:

(a) this Agreement;

- (b) the applicable DPA;
- (c) applicable law; and
- (d) its documented retention and deletion procedures.

22.9.2 Unless otherwise required by law, Assimil8 shall have no obligation to retain Customer Data beyond the applicable retention period.

22.9.3 Backup copies retained through standard disaster recovery, business continuity, legal hold or regulatory compliance processes may remain in archived systems until overwritten or deleted in accordance with normal retention cycles.

22.10 Fees and Charges

22.10.1 Except where expressly stated otherwise in an Order Form, Transition Assistance Services are not included within BMU entitlements.

22.10.2 BMUs provide entitlement to use the applicable Bundle Services during the Subscription Term and shall not create any entitlement to post-termination transition services.

22.10.3 The Customer shall pay all fees relating to Transition Assistance Services, migration services, data extraction services, professional services and related expenses in accordance with Section 10.

22.10.4 Assimil8 may require advance payment, milestone payments or other commercially reasonable payment arrangements before commencing Transition Assistance Services.

22.11 Cooperation Obligations

22.11.1 The Customer shall:

- (a) cooperate fully with transition activities;
- (b) provide timely decisions, approvals and information;
- (c) allocate appropriately qualified personnel;
- (d) maintain required access to relevant systems and infrastructure; and
- (e) perform activities allocated to the Customer within agreed timelines.

22.11.2 Assimil8 shall not be responsible for delays, failures or increased costs arising from:

- (a) Customer delay;
- (b) Customer acts or omissions;
- (c) third-party service provider actions;

- (d) inaccurate information supplied by the Customer; or
- (e) dependencies outside Assimil8's reasonable control.

22.12 Survival

22.12.1 The rights and obligations contained in this Section 22 shall survive termination or expiry of this Agreement for so long as necessary to:

- (a) complete agreed Transition Assistance Services;
- (b) facilitate Customer Data return or deletion;
- (c) enforce intellectual property protections;
- (d) comply with legal, regulatory or contractual obligations; and
- (e) protect Confidential Information and proprietary rights.

22.12.2 Completion of Transition Assistance Services shall not affect any accrued rights, remedies, liabilities or obligations of either Party.

23. GENERAL PROVISIONS

23.1 Relationship of the Parties

23.1.1 The Parties are independent contracting entities.

23.1.2 Nothing in this Agreement shall create or be deemed to create any partnership, joint venture, agency, fiduciary relationship, employment relationship or other form of legal association between the Parties.

23.1.3 Neither Party shall have authority to bind, represent or incur obligations on behalf of the other Party except as expressly authorised in writing.

23.1.4 The Customer acknowledges that Assimil8 enters into this Agreement solely on its own behalf and not as agent, representative or partner of IBM or any third-party supplier.

23.1.5 Nothing in this Agreement shall create any contractual relationship between the Customer and IBM except to the extent expressly provided in Section 8 or Schedule D.

23.2 Assignment and Transfer

23.2.1 The Customer shall not assign, transfer, novate, subcontract, delegate, charge, declare a trust over or otherwise dispose of any of its rights or obligations under this Agreement without the prior written consent of Assimil8.

23.2.2 Assimil8 may assign, transfer, novate, subcontract or otherwise dispose of any of its rights or obligations under this Agreement to:

- (a) an Affiliate;
- (b) a successor in connection with a merger, acquisition, corporate reorganisation or sale of substantially all of its assets;
- (c) a financing provider; or
- (d) a subcontractor engaged in the provision of the Bundle Services,

provided that Assimil8 remains responsible for the performance of its obligations under this Agreement except where the Agreement has been validly assigned or novated.

23.2.3 Any attempted assignment or transfer in breach of this Clause shall be void.

23.3 Subcontracting

23.3.1 Assimil8 may use Affiliates, subcontractors, suppliers, hosting providers, managed service providers and other third parties to perform all or part of the Bundle Services.

23.3.2 Assimil8 shall remain responsible for the performance of subcontracted obligations to the extent required under this Agreement.

23.3.3 The Customer acknowledges that certain components of the Bundle Services may be delivered using Third-Party Software, Open Source Software, cloud infrastructure providers, telecommunications providers and other service providers.

23.4 Force Majeure

23.4.1 Neither Party shall be liable for any failure or delay in performing its obligations under this Agreement to the extent caused by a Force Majeure Event.

23.4.2 A Force Majeure Event includes any event beyond the reasonable control of the affected Party, including:

- (a) acts of God;
- (b) flood, storm, earthquake or natural disaster;
- (c) epidemic, pandemic or public health emergency;
- (d) war, armed conflict, terrorism, civil unrest or sabotage;
- (e) labour disputes not involving the affected Party's own employees;
- (f) interruption of utilities, telecommunications networks or internet services;
- (g) cyberattack, denial-of-service attack or malicious activity by third parties;
- (h) governmental action, embargo, sanctions or regulatory restrictions;
- (i) failure of suppliers, hosting providers or infrastructure providers; and
- (j) any other event beyond the reasonable control of the affected Party.

23.4.3 The affected Party shall:

- (a) notify the other Party as soon as reasonably practicable;
- (b) take reasonable steps to mitigate the effects of the Force Majeure Event; and
- (c) resume performance as soon as reasonably practicable.

23.4.4 If a Force Majeure Event continues for more than ninety (90) consecutive days, either Party may terminate the affected Order Form or the Agreement by written notice.

23.5 Notices

23.5.1 Any notice given under this Agreement shall be:

- (a) in writing;
- (b) in English; and
- (c) delivered by hand, recognised courier service or electronic mail.

23.5.2 Notices shall be sent to the contact details specified in the applicable Order Form or such other address notified in writing.

23.5.3 A notice shall be deemed received:

- (a) if delivered by hand, upon delivery;
- (b) if sent by courier, on recorded delivery;
- (c) if sent by email, at the time of transmission unless an automated non-delivery notification is received.

23.5.4 Notices relating to termination, material breach, indemnity claims, legal proceedings, assignment or dispute escalation may be delivered by email.

23.5.5 Service of legal proceedings shall not be governed by this Clause.

23.6 Entire Agreement

23.6.1 This Agreement constitutes the entire agreement between the Parties relating to its subject matter.

23.6.2 This Agreement supersedes all prior agreements, understandings, negotiations, proposals, statements, representations and communications relating to its subject matter.

23.6.3 Each Party acknowledges that it has not relied upon any representation, warranty, assurance or undertaking not expressly set out in this Agreement.

23.6.4 Nothing in this Clause shall exclude liability for fraud or fraudulent misrepresentation.

23.7 Variation

23.7.1 Except as expressly provided in this Agreement, no amendment, modification or variation shall be effective unless:

- (a) made in writing; and
- (b) signed by authorised representatives of both Parties.

23.7.2 No course of dealing, correspondence, purchase order, procurement process, portal entry, ticket, acceptance form or operational communication shall amend this Agreement unless expressly stated.

23.7.3 Any Customer terms and conditions, purchase order terms, procurement terms, supplier onboarding terms or similar documents are expressly excluded and shall have no effect regardless of any contrary wording contained therein.

23.8 Waiver

23.8.1 A failure or delay by either Party to exercise any right or remedy shall not constitute a waiver of that right or remedy.

23.8.2 A waiver shall be effective only if made in writing and signed by the waiving Party.

23.8.3 A single or partial exercise of any right shall not prevent any further exercise of that right.

23.9 Severability

23.9.1 If any provision of this Agreement is found to be invalid, unlawful or unenforceable, that provision shall be deemed modified to the minimum extent necessary to make it valid and enforceable.

23.9.2 If modification is not possible, the affected provision shall be deemed deleted.

23.9.3 Any deletion or modification shall not affect the validity or enforceability of the remaining provisions.

23.10 Third Party Rights

23.10.1 Except as expressly stated in this Agreement, a person who is not a Party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of this Agreement.

23.10.2 IBM, IBM Affiliates and relevant licensors may enforce those provisions expressly intended for their benefit, including provisions relating to:

- (a) IBM Software;
- (b) IBM Intellectual Property;
- (c) IBM licence restrictions;
- (d) IBM compliance obligations;
- (e) IBM audit rights;
- (f) IBM disclaimers; and
- (g) IBM ESA flow-down requirements.

23.10.3 The rights of the Parties to vary, terminate or amend this Agreement shall not require the consent of any third party.

23.11 Publicity and References

23.11.1 Neither Party shall issue any public announcement, press release or public statement relating to this Agreement without the prior written consent of the other Party.

23.11.2 Assimil8 may identify the Customer as a customer of Bundle in customer lists, sales materials and marketing materials unless the Customer has expressly objected in writing.

23.11.3 Any use of a Party's name, trademarks or logos shall be subject to that Party's prior written approval.

23.12 Export Control and Trade Compliance

23.12.1 Each Party shall comply with all applicable export control, sanctions, anti-boycott and international trade laws and regulations.

23.12.2 The Customer shall not:

- (a) export, re-export, transfer or make available any Bundle Services, IBM Software or related technology in violation of applicable law;
- (b) permit access from prohibited jurisdictions where such access would violate applicable law;
- (c) use the Bundle Services in support of prohibited activities; or
- (d) cause Assimil8, IBM or any supplier to breach applicable export control requirements.

23.12.3 Assimil8 may suspend or restrict access to the Bundle Services where required to comply with export control or sanctions laws.

23.13 Anti-Bribery and Ethical Conduct

23.13.1 Each Party shall comply with all applicable anti-bribery, anti-corruption and anti-money laundering laws.

23.13.2 Neither Party shall offer, promise, give, request or accept any improper payment, benefit or advantage in connection with this Agreement.

23.13.3 A material breach of this Clause shall constitute a material breach of the Agreement.

23.14 Costs

23.14.1 Except as expressly stated otherwise, each Party shall bear its own costs associated with the negotiation, preparation, execution and performance of this Agreement.

23.15 Counterparts and Electronic Execution

23.15.1 This Agreement may be executed in any number of counterparts, each of which shall constitute an original.

23.15.2 All executed counterparts together shall constitute a single agreement.

23.15.3 Signatures delivered electronically, including through recognised electronic signature platforms, shall have the same legal effect as original handwritten signatures.

23.16 Cumulative Remedies

23.16.1 Except where expressly stated otherwise, the rights and remedies provided under this Agreement are cumulative and not exclusive of any rights or remedies available at law or in equity.

23.17 Survival

23.17.1 Any provision which expressly or by implication is intended to survive termination or expiry of this Agreement shall remain in full force and effect.

23.17.2 Without limitation, the following shall survive termination or expiry:

- (a) accrued payment obligations;
- (b) intellectual property provisions;
- (c) confidentiality obligations;
- (d) data protection obligations;
- (e) audit and compliance provisions;
- (f) indemnities;
- (g) limitations of liability;
- (h) IBM Software restrictions;
- (i) IBM ESA flow-down obligations;
- (j) dispute resolution provisions; and
- (k) any other provision intended to survive.

23.18 Dispute Resolution

23.18.1 The Parties shall attempt in good faith to resolve any dispute arising out of or in connection with this Agreement through escalation to senior management representatives.

23.18.2 If the dispute is not resolved within thirty (30) days of escalation, either Party may commence legal proceedings.

23.18.3 Nothing in this Clause shall prevent either Party from seeking:

- (a) interim relief;
- (b) injunctive relief;
- (c) specific performance; or
- (d) any urgent remedy available from a court of competent jurisdiction.

23.19 Governing Law

23.19.1 This Agreement and any dispute or claim arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales.

23.20 Jurisdiction

23.20.1 The courts of England and Wales shall have exclusive jurisdiction to hear and determine any dispute, claim or proceeding arising out of or in connection with this Agreement, including any non-contractual dispute or claim.

23.20.2 Each Party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales.

SCHEDULE A - CUSTOMER HOSTED BUNDLE SERVICES

A.1 Purpose and Scope

A.1.1 This Schedule A applies where the Order Form specifies that the Bundle Services, or any component thereof, are to be deployed within a Customer Hosted Environment.

A.1.2 This Schedule supplements the Agreement and sets out the additional rights, obligations, responsibilities and operational requirements applicable to Customer Hosted Deployments.

A.1.3 In the event of any inconsistency between this Schedule and the main body of the Agreement, the order of precedence set out in Section 1 (Order of Precedence) shall apply.

A.1.4 This Schedule applies to all Customer Hosted Deployments, whether delivered as a standalone deployment model or as part of a Hybrid Deployment.

A.1.5 Except as expressly stated in this Schedule, all rights, obligations and restrictions contained within the Agreement shall continue to apply in full.

A.2 Customer Hosted Deployment Model

A.2.1 Under a Customer Hosted Deployment, the Customer is responsible for providing, operating, administering and maintaining the Customer Hosted Environment in which the applicable Bundle Services are installed and operated.

A.2.2 Subject to the Agreement, Assimil8 shall make available the software components, deployment artefacts, documentation, installation materials and configuration information necessary to enable the Customer to deploy and operate the applicable Bundle Services within the Customer Hosted Environment.

A.2.3 The Customer acknowledges that the Bundle Services may comprise or depend upon:

- a. Assimil8 Software;
- b. IBM Software;
- c. Third-Party Software;
- d. Open-Source Software;
- e. interfaces to external systems;
- f. deployment scripts and automation tooling; and

g. supporting documentation and technical materials.

A.2.4 The Customer Hosted Deployment shall be configured and operated solely for the Customer's internal business purposes and in accordance with the Agreement, applicable Documentation and any applicable Order Form.

A.2.5 Nothing in this Schedule transfers ownership of any software, intellectual property rights or technology to the Customer.

A.3 Customer Hosted Environment

A.3.1 The Customer shall provide and maintain a suitable Customer Hosted Environment capable of supporting the Bundle Services.

A.3.2 The Customer shall ensure that the Customer Hosted Environment:

- a. complies with all minimum technical specifications provided by Assimil8;
- b. remains appropriately configured throughout the applicable Subscription Term;
- c. provides adequate performance, capacity, resilience and availability;
- d. maintains appropriate security controls;
- e. permits deployment, operation, maintenance and support activities required under the Agreement;
and
- f. complies with applicable laws and regulations.

A.3.3 The Customer shall be solely responsible for:

- a. servers;
- b. virtual machines;
- c. operating systems;
- d. storage infrastructure;
- e. networking infrastructure;
- f. databases not expressly provided by Assimil8;
- g. cloud infrastructure subscriptions;
- h. security tooling;
- i. backup infrastructure; and

j. disaster recovery infrastructure,

unless expressly stated otherwise in an Order Form.

A.3.4 The Customer shall ensure that all required infrastructure remains operational throughout the Subscription Term.

A.3.5 Assimil8 shall have no responsibility for failures arising from deficiencies within the Customer Hosted Environment.

A.4 Deployment and Installation

A.4.1 Deployment activities may be performed by:

- a. Assimil8;
- b. the Customer;
- c. an authorised Customer contractor; or
- d. a combination of the foregoing,

as specified in the applicable Order Form.

A.4.2 The Customer shall provide all reasonable cooperation required to enable deployment and implementation activities.

A.4.3 The Customer shall provide timely access to:

- a. personnel;
- b. systems;
- c. environments;
- d. technical information; and
- e. connectivity,

reasonably required by Assimil8.

A.4.4 Delays caused by Customer acts or omissions may result in revised implementation schedules and additional charges.

A.4.5 Acceptance of deployment services shall occur in accordance with any acceptance procedures specified within the applicable Order Form or Statement of Work.

A.5 Operational Responsibilities

A.5.1 Except where expressly agreed otherwise in writing, the Customer shall be responsible for day-to-day operation of the Customer Hosted Environment.

A.5.2 Customer responsibilities include:

- a. user administration;
- b. access management;
- c. infrastructure administration;
- d. operating system maintenance;
- e. infrastructure monitoring;
- f. backup execution;
- g. disaster recovery execution;
- h. business continuity planning;
- i. cybersecurity operations; and
- j. management of third-party infrastructure providers.

A.5.3 The Customer shall maintain appropriately skilled personnel capable of supporting the Customer Hosted Environment.

A.5.4 The Customer shall implement and maintain policies and procedures designed to protect the confidentiality, integrity and availability of Customer Data.

A.6 Access Rights

A.6.1 The Customer shall provide Assimil8 with such access as may reasonably be required to:

- a. deploy the Bundle Services;
- b. provide Support Services;
- c. perform maintenance activities;
- d. investigate incidents;
- e. implement updates; and
- f. verify compliance with the Agreement.

A.6.2 Such access may include:

- a. remote access;
- b. virtual private network access;
- c. secure administration access;
- d. diagnostic access; or
- e. other reasonable technical access mechanisms.

A.6.3 The Customer shall ensure that all access provided to Assimil8 complies with applicable security requirements.

A.6.4 Assimil8 shall use such access solely for purposes connected with performance of the Agreement.

A.7 Updates, Enhancements and Maintenance

A.7.1 Assimil8 may provide Updates, upgrades, enhancements, fixes, patches or maintenance releases during the Subscription Term.

A.7.2 Unless otherwise specified in the applicable Order Form, the Customer shall be responsible for implementing Updates within the Customer Hosted Environment.

A.7.3 Assimil8 may require installation of specific Updates where reasonably necessary to:

- a. address security vulnerabilities;
- b. maintain supportability;
- c. ensure interoperability;
- d. comply with legal or regulatory requirements; or
- e. resolve material defects.

A.7.4 Assimil8 shall not be responsible for issues arising from the Customer's failure to implement required Updates.

A.7.5 Support Services may be limited or unavailable for unsupported software versions.

A.8 BMU Measurement and Usage

A.8.1 Customer Hosted Deployments remain subject to the BMU entitlement model described in Section 4 of the Agreement.

A.8.2 The Customer shall maintain accurate records sufficient to demonstrate BMU consumption.

A.8.3 The Customer shall ensure that usage of the Bundle Services does not exceed the purchased BMU entitlement.

A.8.4 The Customer shall provide reasonable usage information and supporting records upon request for compliance verification purposes.

A.8.5 BMU consumption shall remain the primary commercial entitlement mechanism irrespective of deployment architecture, infrastructure configuration or hosting location.

A.8.6 No infrastructure component, server, processor, core, virtual machine, device, container, database instance or similar technical resource shall constitute an independent entitlement metric unless expressly stated in the applicable Order Form.

A.9 Security Requirements

A.9.1 The Customer shall implement and maintain security measures appropriate to the nature of the Customer Hosted Environment.

A.9.2 Such measures shall include:

- a. access controls;
- b. authentication controls;
- c. network security controls;
- d. malware protection;
- e. vulnerability management;
- f. logging and monitoring;
- g. backup controls; and
- h. incident response procedures.

A.9.3 The Customer shall promptly notify Assimil8 of any Security Incident affecting the Bundle Services.

A.9.4 The Parties shall cooperate in good faith in investigating and addressing Security Incidents affecting the Bundle Services.

A.10 Backup and Disaster Recovery

A.10.1 Unless expressly stated otherwise in an Order Form, the Customer shall be solely responsible for:

- a. backup management;
- b. backup verification;

- c. disaster recovery planning;
- d. disaster recovery testing; and
- e. business continuity procedures.

A.10.2 The Customer shall maintain backup and recovery processes appropriate to the criticality of the Customer Data and business operations.

A.10.3 Assimil8 shall not be liable for any loss of Customer Data resulting from the Customer's failure to maintain adequate backup or disaster recovery arrangements.

A.11 IBM Software Components

A.11.1 Certain Bundle Services may incorporate, interact with or depend upon IBM Software.

A.11.2 IBM Software remains owned by IBM or its licensors.

A.11.3 Nothing in this Schedule shall be interpreted as granting ownership rights in IBM Software to the Customer.

A.11.4 Customer use of IBM Software shall remain subject to:

- a. the Agreement;
- b. the applicable Order Form;
- c. Schedule D (IBM ESA Flow-Down Terms); and
- d. any applicable IBM licensing restrictions incorporated into the Agreement.

A.11.5 Where IBM imposes additional compliance obligations, the Customer shall comply with such obligations as incorporated through Schedule D.

A.11.6 The Customer shall only deploy, install, operate, migrate, replicate or transfer IBM Software within environments approved by Assimil8 and, where required by applicable IBM requirements, approved by IBM.

A.11.7 The Customer shall not transfer IBM Software to alternative infrastructure, hosting providers, cloud environments, virtual environments or managed service environments without Assimil8's prior written approval.

A.11.8 Assimil8 may require the Customer to modify, reconfigure, relocate or remove IBM Software where reasonably necessary to maintain compliance with IBM contractual requirements.

A.12 Third-Party Software and Open-Source Software

A.12.1 Certain Bundle Services may include, interact with or depend upon Third-Party Software or Open-Source Software.

A.12.2 The Customer shall comply with any applicable licence conditions associated with such software.

A.12.3 Open-Source Software shall be provided subject to the applicable open-source licence terms.

A.12.4 Nothing in this Schedule shall transfer ownership of Third-Party Software or Open-Source Software to the Customer.

A.13 Support Boundaries

A.13.1 Support Services shall be provided in accordance with Section 12 of the Agreement and Schedule F.

A.13.2 Assimil8 shall not be responsible for issues caused by:

- a. Customer infrastructure;
- b. Customer networks;
- c. Customer security controls;
- d. third-party hosting providers;
- e. unauthorised modifications;
- f. unsupported configurations;
- g. unsupported software versions; or
- h. Customer failure to follow Documentation.

A.13.3 Where support activities identify issues outside Assimil8's responsibility, Assimil8 may provide reasonable assistance on a time and materials basis.

A.14 Audit and Compliance

A.14.1 The Customer shall maintain records sufficient to demonstrate compliance with:

- a. BMU entitlements;
- b. applicable licensing obligations;
- c. security obligations; and
- d. operational requirements under the Agreement.

A.14.2 Such records shall be retained for not less than seven (7) years following creation unless a longer period is required by applicable law.

A.14.3 Compliance verification shall be conducted in accordance with Section 20 of the Agreement.

A.15 Transition and Decommissioning

A.15.1 Upon expiration or termination of the applicable Subscription Term, the Customer shall cease use of the Bundle Services except to the extent expressly permitted under the Agreement.

A.15.2 The Customer shall uninstall, remove or disable all software components for which continued use is no longer authorised.

A.15.3 Upon request, the Customer shall provide written confirmation of decommissioning and cessation of unauthorised use.

A.15.4 Exit assistance shall be governed by Section 22 of the Agreement.

A.15.5 Nothing in this Schedule shall grant the Customer any perpetual right to continue use of the Bundle Services following termination or expiry except where expressly agreed in writing.

SCHEDULE B – ASSIMIL8 HOSTED BUNDLE SERVICES

B.1 Scope

B.1.1 This Schedule B applies where Assimil8 provides the Bundle Services as an Assimil8 Hosted Deployment Model pursuant to the applicable Order Form.

B.1.2 Under an Assimil8 Hosted Deployment Model, Assimil8 shall make the applicable Bundle Services available to the Customer from hosting environments operated by or on behalf of Assimil8 and shall provide access to such services through agreed network connectivity methods.

B.1.3 This Schedule supplements the provisions of the Agreement and shall apply in addition to the obligations set out in the Agreement, the applicable Order Form, the Service Level Agreement, the Information Security Schedule, the Data Processing Addendum and any other applicable Schedule.

B.1.4 Except as expressly stated in the Agreement, Assimil8 shall determine the architecture, configuration, infrastructure, facilities, technologies and operational methods used to deliver the Bundle Services.

B.1.5 The Customer acknowledges that the Bundle Services may include Assimil8 Software, IBM Software, Third-Party Software, Open-Source Software, managed services, support services, operational services, integration services, monitoring services and other service components identified in the applicable Order Form.

B.2 Service Provision

B.2.1 During the applicable Subscription Term and subject to the Agreement, Assimil8 shall provide the Customer with access to the Bundle Services in accordance with the purchased BMU entitlement.

B.2.2 Assimil8 shall:

- (a) host and operate the Bundle Services;
- (b) manage the underlying infrastructure used to deliver the Bundle Services;
- (c) perform routine operational administration activities;
- (d) apply software updates, patches, fixes and maintenance activities as determined by Assimil8;
- (e) monitor service availability and operational performance; and
- (f) provide support services in accordance with the Agreement and Schedule F.

B.2.3 Assimil8 may utilise Affiliates, subcontractors, cloud infrastructure providers, managed service providers and other service providers in connection with delivery of the Bundle Services, provided that Assimil8 remains responsible for their performance to the extent required under the Agreement.

B.2.4 Assimil8 may modify, replace, update or improve technical components of the Bundle Services provided that such changes do not materially reduce the overall functionality of the Bundle Services purchased by the Customer.

B.3 Hosting Environment

B.3.1 The hosting environment used to provide the Bundle Services shall be selected and managed by Assimil8.

B.3.2 Hosting infrastructure may be located in one or more data centres operated by Assimil8 or by approved hosting providers acting on Assimil8's behalf.

B.3.3 Assimil8 may change hosting providers, infrastructure components, data centre locations or technical architectures during the Subscription Term where reasonably required for operational, security, commercial, regulatory or technical reasons.

B.3.4 Assimil8 shall implement and maintain security controls appropriate to the nature of the hosted services and consistent with the Information Security Schedule.

B.3.5 The Customer shall not obtain any ownership, leasehold, tenancy, licence or other proprietary interest in any hosting infrastructure, cloud environment, network infrastructure, software platform or operational environment used to provide the Bundle Services.

B.4 Customer Access

B.4.1 Assimil8 shall provide the Customer with access credentials, authentication mechanisms or other access methods necessary to use the Bundle Services.

B.4.2 The Customer shall be responsible for:

- (a) managing its Authorised Users;
- (b) maintaining the confidentiality of authentication credentials;
- (c) ensuring that only Authorised Users access the Bundle Services;
- (d) maintaining appropriate endpoint security controls; and
- (e) ensuring that Customer systems used to access the Bundle Services comply with any published technical requirements.

B.4.3 The Customer shall immediately notify Assimil8 upon becoming aware of any actual or suspected unauthorised access to the Bundle Services.

B.4.4 Assimil8 may suspend or restrict access credentials where reasonably necessary to protect the security, integrity or operation of the Bundle Services.

B.5 BMU Consumption

B.5.1 Access to the Bundle Services shall be governed by the BMU entitlement purchased under the applicable Order Form.

B.5.2 The Customer may permit fluctuations in Active User volumes during the Subscription Term provided that aggregate BMU consumption remains within the purchased entitlement unless otherwise agreed in the applicable Order Form.

B.5.3 Assimil8 may implement technical measures to monitor BMU consumption and utilisation.

B.5.4 The Customer shall provide reasonable cooperation to enable verification of BMU consumption where required under the Agreement.

B.5.5 Where BMU consumption exceeds the purchased entitlement, Assimil8 may:

- (a) invoice additional BMUs;
- (b) require the Customer to purchase additional BMUs;
- (c) adjust future entitlement levels; or
- (d) take other actions expressly permitted by the Agreement or applicable Order Form.

B.6 Service Availability

B.6.1 Service availability commitments shall be governed exclusively by Schedule C (Service Level Agreement).

B.6.2 Planned maintenance activities may result in temporary unavailability of all or part of the Bundle Services.

B.6.3 Assimil8 shall use reasonable endeavours to minimise disruption arising from maintenance activities.

B.6.4 Emergency maintenance may be performed without prior notice where necessary to protect service security, integrity, performance or availability.

B.7 Data Management

B.7.1 As between the Parties, all Customer Data shall remain the property of the Customer or its licensors.

B.7.2 Assimil8 shall process Customer Data only in accordance with the Agreement, Schedule E and applicable law.

B.7.3 The Customer is solely responsible for:

- (a) the accuracy, quality, completeness and legality of Customer Data;
- (b) obtaining all rights, permissions and consents required for processing Customer Data through the Bundle Services; and
- (c) ensuring that Customer Data does not infringe the rights of any third party.

B.7.4 Assimil8 may generate and use Service Data, Operational Data, telemetry, diagnostic information, system logs, usage information and performance metrics for service administration, security, support, operational improvement, reporting, analytics and business management purposes, provided that such use complies with applicable law.

B.7.5 Backup, retention, restoration and recovery services shall be provided in accordance with the applicable service specifications and the Information Security Schedule.

B.8 Security Responsibilities

B.8.1 Assimil8 shall implement and maintain the security measures described in Schedule G.

B.8.2 The Customer acknowledges that effective security requires cooperation between the Parties.

B.8.3 The Customer shall remain responsible for:

- (a) user administration;
- (b) password management;
- (c) endpoint security;
- (d) network security within Customer-controlled environments;
- (e) security of Customer systems connected to the Bundle Services; and
- (f) compliance with Customer internal security requirements.

B.8.4 Assimil8 may suspend access to the Bundle Services where reasonably necessary to address a Security Incident, cyber threat, vulnerability, unlawful activity or material risk to the Bundle Services.

B.9 IBM Software and Third-Party Components

B.9.1 The Bundle Services may include access to IBM Software, IBM Services, Third-Party Software or Open-Source Software.

B.9.2 Nothing in this Schedule shall be construed as transferring ownership of IBM Software, IBM Intellectual Property Rights, Third-Party Software or third-party intellectual property rights to the Customer.

B.9.3 The Customer shall comply with all applicable IBM ESA Flow-Down Terms and any other third-party licence obligations incorporated into the Agreement.

B.9.4 Assimil8 may modify, replace or update third-party technology components where reasonably necessary for service delivery, security, supportability or commercial continuity.

B.9.5 Where a third-party provider withdraws, modifies or ceases support for a component used within the Bundle Services, Assimil8 may implement replacement technologies or alternative service delivery methods.

B.10 Suspension Rights

B.10.1 Assimil8 may suspend all or part of the Bundle Services where reasonably necessary due to:

- (a) a material breach of the Agreement by the Customer;
- (b) non-payment of undisputed fees;
- (c) actual or suspected unlawful activity;
- (d) actual or suspected security threats;
- (e) protection of the rights of Assimil8, IBM, a hosting provider or another third party;
- (f) compliance with legal or regulatory obligations; or
- (g) emergency operational circumstances.

B.10.2 Where reasonably practicable, Assimil8 shall provide prior notice of any suspension.

B.10.3 Suspension shall not relieve the Customer from its payment obligations under the Agreement.

B.11 Service Changes

B.11.1 Assimil8 may introduce updates, enhancements, improvements, fixes, patches, upgrades and new releases as part of the Bundle Services.

B.11.2 Unless otherwise expressly agreed, the Customer shall not be entitled to defer, reject or prevent implementation of updates required for operational, security, regulatory or support purposes.

B.11.3 Assimil8 shall use reasonable endeavours to avoid material adverse impacts on Customer operations when implementing significant service changes.

B.12 Exit and Data Return

B.12.1 Upon termination or expiry of the applicable Subscription Term, Customer access to the hosted environment shall cease in accordance with the Agreement.

B.12.2 Customer Data shall be returned, made available for extraction or deleted in accordance with Section 22 (Exit and Transition Assistance), Schedule E and any applicable Order Form.

B.12.3 Following completion of applicable retention periods, Assimil8 may securely delete Customer Data from production, backup and disaster recovery environments, subject to legal, regulatory and operational requirements.

B.12.4 The Customer acknowledges that continued access to the hosted environment after termination is not included unless expressly agreed under an exit assistance arrangement.

B.13 Relationship to Other Schedules

B.13.1 This Schedule shall be interpreted in conjunction with the Agreement as a whole.

B.13.2 Where a conflict exists between this Schedule and another Schedule, the order of precedence provisions of the Agreement shall apply.

B.13.3 Nothing in this Schedule shall limit or reduce any obligation imposed upon the Customer under the Agreement, including obligations relating to BMU consumption, payment, compliance, confidentiality, intellectual property protection, information security or data protection.

SCHEDULE C - SERVICE LEVEL AGREEMENT (SLA)

C.1 Purpose and Scope

C.1.1 This Schedule establishes the Service Levels applicable to Assimil8 Hosted Bundle Services and any Managed Services expressly identified in an Order Form as being subject to Service Level commitments.

C.1.2 This Schedule forms part of the Agreement and applies only to those Bundle Services delivered by or on behalf of Assimil8 within an Assimil8-controlled hosting environment or other environment expressly designated in the applicable Order Form as subject to Service Levels.

C.1.3 This Schedule does not apply to:

(a) Customer Hosted Bundle Services;

(b) Customer infrastructure, networks, devices, operating systems, databases or software not operated by Assimil8;

(c) Third-Party Software, Open-Source Software or Third-Party Services except to the extent expressly stated in the applicable Order Form;

(d) Professional Services;

(e) training services;

(f) beta, preview, evaluation, pilot or pre-release services; or

(g) any suspension of services permitted under the Agreement.

C.1.4 Service Levels constitute the Customer's sole and exclusive contractual remedy for failure to achieve the applicable service performance targets set out in this Schedule, subject always to the Agreement.

C.2 Service Level Framework

C.2.1 Assimil8 shall use commercially reasonable efforts to provide the Bundle Services in accordance with the Service Levels set out in this Schedule.

C.2.2 Service performance shall be measured on a calendar-month basis unless otherwise specified.

C.2.3 Service Levels shall be calculated solely from records maintained by Assimil8.

C.2.4 Service measurements shall exclude any period falling within an Excluded Event.

C.2.5 Nothing in this Schedule shall be interpreted as guaranteeing uninterrupted operation of the Bundle Services.

C.3 Definitions Applicable to this Schedule

C.3.1 For the purposes of this Schedule:

"Availability" means the percentage of time during a calendar month that the production Bundle Services are capable of being accessed and used by Authorised Users through the designated service interfaces, excluding Excluded Events.

"Critical Incident" means an Incident causing complete loss of the production Bundle Services or a critical business function with no reasonable workaround available.

"Emergency Maintenance" means maintenance required to address an actual or suspected security vulnerability, operational instability, legal requirement or material risk to the integrity, availability or security of the Bundle Services.

"Excluded Event" means any event described in Clause C.11.

"Incident" means an unplanned interruption to, degradation of, or reduction in the quality or availability of the Bundle Services.

"Maintenance Window" means a scheduled period during which planned maintenance may be performed.

"Planned Maintenance" means maintenance activities scheduled in advance by Assimil8.

"Response Time" means the period between the logging of a valid support request and acknowledgement by appropriately qualified support personnel.

"Resolution Target" means the target period within which Assimil8 aims to restore service functionality or provide a reasonable workaround.

"Service Credit" means a credit calculated in accordance with Clause C.9.

"Service Month" means a calendar month.

C.4 Service Availability Commitment

C.4.1 Subject to this Schedule, Assimil8 shall target monthly Availability of not less than 99.9% during each Service Month.

C.4.2 Availability shall be calculated using the following formula:

Availability (%) =

$$\left(\frac{\text{Total Minutes in Service Month} - \text{Unavailable Minutes}}{\text{Total Minutes in Service Month}} \right) \times 100$$

C.4.3 For the purposes of Availability calculations:

(a) "Unavailable Minutes" means the number of minutes during which the Bundle Services are unavailable to all Authorised Users due solely to causes within the reasonable control of Assimil8; and

(b) partial degradation affecting only specific functionality shall not constitute unavailability unless such degradation materially prevents normal use of the Bundle Services.

C.4.4 Availability commitments apply solely to production environments and do not apply to development, testing, staging, disaster recovery or non-production environments unless expressly stated in an Order Form.

C.5 Planned Maintenance

C.5.1 Assimil8 may perform Planned Maintenance as reasonably required to support the security, stability, performance or functionality of the Bundle Services.

C.5.2 Assimil8 shall use reasonable efforts to provide not less than five (5) Business Days' prior notice of Planned Maintenance expected to affect service availability.

C.5.3 Planned Maintenance shall, where reasonably practicable, be scheduled outside normal UK business hours.

C.5.4 Planned Maintenance periods shall not be included when calculating Availability.

C.6 Emergency Maintenance

C.6.1 Assimil8 may undertake Emergency Maintenance without prior notice where reasonably necessary to:

- (a) address a security threat;
- (b) protect Customer Data;
- (c) maintain service integrity;
- (d) prevent service disruption; or
- (e) comply with legal or regulatory obligations.

C.6.2 Assimil8 shall provide notice of Emergency Maintenance as soon as reasonably practicable.

C.6.3 Emergency Maintenance shall be excluded from Availability calculations where the circumstances reasonably required immediate action.

C.7 Incident Severity Classification

C.7.1 Incidents shall be classified by Assimil8 using the following severity levels.

Severity 1 - Critical

C.7.1.1 Complete loss of production service or critical business functionality.

C.7.1.2 No reasonable workaround available.

Severity 2 - High

C.7.1.3 Significant degradation of production services.

C.7.1.4 Major functionality materially affected.

C.7.1.5 Workaround unavailable or materially limited.

Severity 3 - Medium

C.7.1.6 Non-critical functionality impaired.

C.7.1.7 Reasonable workaround available.

Severity 4 - Low

C.7.1.8 Minor defect, cosmetic issue, information request or enhancement-related enquiry.

C.7.2 Assimil8 may reasonably reclassify an Incident where additional information indicates that a different severity level is appropriate.

C.8 Support Response and Resolution Targets

C.8.1 Assimil8 shall use commercially reasonable efforts to achieve the following targets:

Severity	Initial Response Target	Service Restoration / Workaround Target
Severity 1	1 hour	8 hours
Severity 2	4 hours	2 Business Days
Severity 3	1 Business Day	10 Business Days
Severity 4	2 Business Days	Next scheduled release or reasonable commercial timeframe

C.8.2 Response and Resolution Targets are service objectives and not warranties.

C.8.3 Resolution may consist of:

- (a) permanent correction;
- (b) temporary workaround;
- (c) configuration adjustment;
- (d) replacement functionality; or
- (e) other reasonable remedial action.

C.8.4 Failure to achieve a Response Time or Resolution Target shall not itself constitute a material breach of the Agreement.

C.9 Service Credits

C.9.1 Where Availability falls below the monthly Availability commitment, the Customer may claim Service Credits in accordance with this Clause.

C.9.2 Service Credits shall be calculated as follows:

Monthly Availability	Service Credit
99.9% or above	No credit
Less than 99.9% but at least 99.0%	5%
Less than 99.0% but at least 98.0%	10%
Less than 98.0% but at least 95.0%	15%
Less than 95.0%	20%

C.9.3 Service Credits shall be calculated as a percentage of the monthly fees attributable to the affected Bundle Services.

C.9.4 Service Credits:

- (a) shall be applied against future invoices;
- (b) shall not be redeemable for cash;
- (c) shall not exceed twenty per cent (20%) of the monthly fees for the affected services in any Service Month; and
- (d) shall constitute the Customer's sole financial remedy for the relevant service failure.

C.9.5 To receive a Service Credit, the Customer must submit a written claim within thirty (30) days following the end of the relevant Service Month.

C.10 Service Monitoring and Reporting

C.10.1 Assimil8 may monitor the Bundle Services for operational, security, performance and compliance purposes.

C.10.2 Upon reasonable request, Assimil8 may provide service performance information relevant to the Customer's use of the Bundle Services.

C.10.3 Service reporting may include:

- (a) Availability performance;
- (b) Incident statistics;
- (c) service trends;
- (d) maintenance activities; and
- (e) security-related operational information.

C.11 Excluded Events

C.11.1 The following shall be excluded from Availability calculations and all Service Level commitments:

- (a) Planned Maintenance;
- (b) Emergency Maintenance;
- (c) Customer-caused outages;
- (d) Customer configuration errors;
- (e) Customer infrastructure failures;
- (f) failures of Customer internet connectivity;
- (g) failures of telecommunications providers not under Assimil8 control;
- (h) failures arising from Third-Party Software, Third-Party Services or Open-Source Software not managed by Assimil8;
- (i) denial-of-service attacks, malicious attacks or security incidents not caused by Assimil8;
- (j) misuse of the Bundle Services;

- (k) operation contrary to Documentation;
- (l) suspension of services permitted under the Agreement;
- (m) Force Majeure Events;
- (n) Customer delays in providing information, approvals or access;
- (o) operation within test, development or staging environments; and
- (p) any other circumstance beyond the reasonable control of Assimil8.

C.12 Disaster Recovery and Business Continuity

C.12.1 Assimil8 shall maintain reasonable business continuity and disaster recovery arrangements appropriate to the nature of the Assimil8 Hosted Bundle Services.

C.12.2 The design, recovery objectives and operational characteristics of such arrangements may be modified by Assimil8 from time to time provided that such modifications do not materially reduce the overall level of protection provided.

C.12.3 Disaster recovery arrangements shall not constitute a guarantee that data loss, service interruption or operational disruption will never occur.

C.13 Service Level Review

C.13.1 The Parties may review Service Levels periodically during the Term.

C.13.2 Any modification to Service Levels shall require written agreement between the Parties.

C.13.3 No amendment to this Schedule shall be effective unless executed in accordance with the Agreement.

C.14 Order of Application

C.14.1 If a conflict arises between this Schedule and the main body of the Agreement, the Order of Precedence provisions of the Agreement shall apply.

C.14.2 Where an Order Form expressly specifies alternative Service Levels, the Service Levels stated in the applicable Order Form shall apply solely to the services identified therein.

C.14.3 Nothing in this Schedule shall reduce or override any mandatory obligations arising under Schedule D (IBM ESA Flow-Down Terms), Schedule E (Data Processing Addendum), Schedule F (Support and Maintenance Guide) or Schedule G (Information Security Schedule).

SCHEDULE D - IBM ESA FLOW-DOWN TERMS

D.1 Purpose and Scope

D.1.1 This Schedule D sets out the IBM Enterprise Software Agreement ("IBM ESA") flow-down obligations applicable to the Customer's use of IBM Software, IBM Services and IBM Intellectual Property supplied, made available, integrated with, embedded within, or otherwise utilised as part of the Bundle Services.

D.1.2 The parties acknowledge that Assimil8 is not the owner of IBM Software or IBM Intellectual Property and does not grant ownership rights in, or represent itself as the proprietor of, any IBM Software or IBM Intellectual Property.

D.1.3 The Customer acknowledges that certain Bundle Services may incorporate, depend upon, interface with, or otherwise utilise IBM Software and that IBM imposes contractual, legal, technical and compliance requirements relating to such use.

D.1.4 The purpose of this Schedule is to ensure that all applicable IBM obligations are passed through to the Customer to the extent required for Assimil8 to fulfil its obligations to IBM and maintain the lawful provision of the Bundle Services.

D.1.5 This Schedule shall apply only to the extent that IBM Software, IBM Services or IBM Intellectual Property are included within, connected to, or required for the relevant Bundle Services purchased under an applicable Order Form.

D.1.6 Nothing in this Schedule shall be construed as creating a direct contractual relationship between the Customer and IBM except where expressly required by applicable law or where separate agreements exist between the Customer and IBM.

D.1A No Direct Relationship with IBM

D.1A.1 The Customer acknowledges and agrees that its contractual relationship for the Bundle Services is solely with Assimil8.

D.1A.2 Nothing in this Agreement, any Order Form, or any provision of the Bundle Services shall be construed as creating a contractual relationship, agency relationship, partnership, joint venture, fiduciary relationship or other direct legal relationship between the Customer and IBM.

D.1A.3 IBM is not a party to this Agreement and assumes no obligations or responsibilities to the Customer arising from or relating to:

- a. the provision of the Bundle Services;
- b. implementation services;
- c. configuration services;

- d. integration services;
- e. migration services;
- f. managed services;
- g. support services;
- h. professional services;
- i. hosting services;
- j. training services; or
- k. any other services performed by or on behalf of Assimil8.

D.1A.4 The Customer acknowledges that all support, maintenance, service management, operational management, customer communications, commercial administration and contractual performance relating to the Bundle Services are provided by Assimil8 and not by IBM unless expressly stated otherwise in an applicable Order Form.

D.1A.5 Any rights granted to the Customer in relation to IBM Software are provided through Assimil8's authorised rights to distribute, make available, embed, integrate or otherwise utilise IBM Software as part of the Bundle Services and do not create a direct licence relationship between the Customer and IBM unless expressly required by IBM documentation applicable to a specific IBM product.

D.1A.6 The Customer shall direct all requests for support, maintenance, service management, invoicing, contractual matters, disputes and operational issues relating to the Bundle Services exclusively to Assimil8.

D.1A.7 IBM shall have no liability to the Customer for any act, omission, delay, failure, defect, interruption, security incident, performance issue or service deficiency arising from the Bundle Services except to the extent liability cannot lawfully be excluded under applicable law.

D.1A.8 The Customer shall not bring, maintain or pursue any claim, action, proceeding or demand directly against IBM arising from or relating to the Bundle Services except where such right cannot legally be excluded or restricted under applicable law.

D.1A.9 To the fullest extent permitted by law, any claim relating to the Bundle Services shall be brought solely against Assimil8 in accordance with the terms of this Agreement.

D.1A.10 The parties acknowledge that IBM's role is limited to that of a software provider, technology provider, licensor or subcontracted technology supplier, as applicable, and that IBM is not responsible for Assimil8's performance of its obligations under this Agreement.

D.1A.11 Nothing in this Schedule shall be interpreted as:

- a. making IBM a service provider to the Customer;
- b. making IBM responsible for the operation of the Bundle Services;

- c. granting the Customer rights to receive services directly from IBM;
- d. creating third-party beneficiary rights in favour of the Customer against IBM; or
- e. expanding IBM's obligations beyond those expressly imposed upon IBM under applicable law.

D.1A.12 The Customer acknowledges that IBM Software may form only one component of the overall Bundle Services and that Assimil8 remains solely responsible to the Customer for the delivery of the Bundle Services in accordance with this Agreement.

D.2 Incorporation of IBM Terms

D.2.1 The Customer acknowledges that certain IBM Software and IBM Services are subject to IBM contractual requirements, policies, licence terms, notices, product terms, technical restrictions and usage conditions.

D.2.2 To the extent required by IBM, such requirements shall be incorporated into and form part of this Agreement.

D.2.3 Where an IBM requirement conflicts with another provision of this Agreement solely in relation to IBM Software, IBM Services or IBM Intellectual Property, the IBM requirement shall prevail to the minimum extent necessary to ensure compliance with IBM's contractual requirements.

D.2.4 The Customer shall comply with all reasonable instructions provided by Assimil8 relating to IBM compliance obligations.

D.2.5 Assimil8 may update this Schedule where reasonably necessary to reflect amendments imposed by IBM, provided that such amendments do not materially reduce the Customer's rights under this Agreement except where required by IBM.

D.3 IBM Software Rights

D.3.1 IBM Software is licensed and not sold.

D.3.2 All rights not expressly granted by IBM are reserved by IBM and its licensors.

D.3.3 The Customer acquires no ownership interest in any IBM Software, IBM Services, IBM Intellectual Property, documentation, methodologies, tools, interfaces, databases, software components, source code, object code or derivative works.

D.3.4 The Customer shall use IBM Software solely as incorporated within or made available through the Bundle Services and solely for its internal business operations.

D.3.5 Except to the extent expressly permitted by applicable law and incapable of exclusion, the Customer shall not:

- a. copy, reproduce or distribute IBM Software except as authorised by this Agreement;
- b. reverse engineer, decompile, disassemble or otherwise attempt to derive source code;
- c. modify, adapt or create derivative works of IBM Software;
- d. remove proprietary notices, copyright notices, trademarks or legends;
- e. use IBM Software to provide services to third parties other than Authorised Users operating on behalf of the Customer;
- f. circumvent technical restrictions, access controls, security measures or licence controls;
- g. use IBM Software in any manner prohibited by applicable law or export control regulations.

D.3.6 The Customer shall ensure that all Authorised Users comply with the requirements of this Schedule.

D.4 Restrictions on Use

D.4.1 The Customer shall not use IBM Software:

- a. for unlawful purposes;
- b. to infringe intellectual property rights;
- c. in support of malicious code, unauthorised access activities or cyber-attacks;
- d. in violation of sanctions, export controls or trade restrictions;
- e. in any manner that could expose Assimil8 or IBM to legal, regulatory or contractual liability.

D.4.2 The Customer shall immediately cease any prohibited activity upon notice from Assimil8.

D.4.3 Assimil8 may suspend access to affected Bundle Services where reasonably necessary to prevent or address a breach of this Schedule.

D.4A Mandatory IBM Compliance Obligations

D.4A.1 The Customer shall comply at all times with all restrictions, limitations, conditions of use, technical requirements and compliance obligations applicable to IBM Software as communicated by Assimil8 or otherwise incorporated into this Agreement.

D.4A.2 The Customer shall ensure that all Authorised Users, contractors, agents and representatives accessing IBM Software comply with the requirements of this Schedule.

D.4A.3 The Customer shall not permit any use of IBM Software that would cause Assimil8 to be in breach of its agreements with IBM.

D.4A.4 Upon becoming aware of any actual or suspected non-compliance relating to IBM Software, the Customer shall promptly notify Assimil8 and shall take all necessary corrective actions without undue delay.

D.4A.5 Any material breach of this Schedule relating to IBM Software shall constitute a material breach of the Agreement and may result in the suspension or termination of the Customer's rights to access or use the affected IBM Software and associated Bundle Services.

D.4A.6 Upon expiry or termination of the Agreement, an applicable Order Form, or any rights relating to IBM Software, the Customer shall immediately cease all use of the affected IBM Software.

D.4A.7 Where IBM Software has been installed, deployed, copied or otherwise made available within Customer Systems, the Customer shall promptly:

- a. uninstall and remove the IBM Software;
- b. delete all installed copies of the IBM Software;
- c. remove all backup copies where removal is technically and legally permissible;
- d. disable all access rights relating to the IBM Software; and
- e. cease all operational use of the IBM Software.

D.4A.8 Where required by IBM or reasonably requested by Assimil8, the Customer shall provide written certification, signed by an authorised representative, confirming completion of the obligations set out in Clause D.4A.7.

D.4A.9 If IBM requires the return rather than destruction of specific software, documentation, media, keys, credentials or other IBM materials, the Customer shall promptly return such items in accordance with Assimil8's instructions.

D.4A.10 The obligations contained in this Clause shall apply regardless of whether the relevant IBM Software is deployed in a customer-hosted, Assimil8-hosted or hybrid deployment model.

D.4A.11 The Customer acknowledges that failure to comply with the requirements of this Clause may expose Assimil8 to contractual liability with IBM and that Assimil8 shall be entitled to exercise any rights available under the Agreement to enforce compliance.

D.5 Compliance with Export Control Laws

D.5.1 The Customer shall comply with all applicable export control, sanctions, import and trade compliance laws relating to the Bundle Services and IBM Software.

D.5.2 The Customer shall not export, re-export, transfer, disclose or provide access to IBM Software or related technology in violation of applicable laws.

D.5.3 The Customer shall obtain any licences, permits, approvals or authorisations required by applicable law.

D.5.4 The Customer represents that neither it nor any person receiving access through the Customer is subject to sanctions or restrictions that would prohibit access to the relevant IBM Software.

D.6 Audit and Verification Rights

D.6.1 The Customer shall maintain accurate records sufficient to demonstrate compliance with this Schedule.

D.6.2 Assimil8 may request information reasonably necessary to verify compliance with IBM contractual obligations.

D.6.3 Where IBM requires verification of compliance, the Customer shall provide reasonable assistance and cooperation.

D.6.3A The Customer shall provide usage, deployment, access and configuration information reasonably requested by Assimil8 where required for Assimil8 to comply with reporting, verification, audit or compliance obligations owed to IBM or other third-party licensors.

D.6.3B The Customer shall maintain records sufficient to verify compliance with BMU entitlements and any applicable IBM-related restrictions incorporated into this Agreement.

D.6.4 Any audit shall be conducted during normal business hours upon reasonable notice and in a manner designed to minimise disruption to the Customer's operations.

D.6.5 If an audit reveals material non-compliance, the Customer shall promptly remedy the non-compliance and reimburse reasonable audit costs incurred by Assimil8 where permitted by law.

D.7 IBM Intellectual Property Protection

D.7.1 The Customer acknowledges that IBM Intellectual Property constitutes valuable proprietary information.

D.7.2 The Customer shall not challenge, contest or assist others in challenging IBM ownership of IBM Intellectual Property.

D.7.3 The Customer shall promptly notify Assimil8 of any known infringement, misappropriation or unauthorised use of IBM Intellectual Property.

D.7.4 Nothing in this Agreement transfers ownership of IBM Intellectual Property to the Customer.

D.8 Restrictions on IBM Software, Documentation and Third-Party Claims

D.8.1 The Customer shall comply with all restrictions applicable to IBM Software, IBM Documentation and IBM Intellectual Property as communicated by Assimil8 from time to time.

D.8.2 Except to the extent expressly permitted by applicable law and only where such rights cannot lawfully be excluded or restricted, the Customer shall not, and shall not permit any third party to:

(a) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code, underlying ideas, algorithms, structure or organisation of any IBM Software;

(b) access, inspect, analyse, extract, copy, disclose, display, transmit or use any source code, object code, software components, libraries, APIs, interfaces, modules or other internal elements of IBM Software except as expressly authorised under this Agreement;

(c) circumvent, disable, defeat or interfere with any technical limitations, security controls, licence controls or usage restrictions incorporated within IBM Software;

(d) create derivative works of IBM Software except where expressly authorised in writing by IBM or Assimil8;

(e) copy, reproduce, distribute, publish, display, transmit or otherwise use IBM Documentation except as reasonably necessary for the Customer's authorised internal use of the Bundle Services; or

(f) permit any third party to perform any of the activities prohibited by this Clause D.8.

D.8.3 The Customer acknowledges that IBM Software, IBM Documentation and IBM Intellectual Property contain proprietary and confidential information belonging to IBM and its licensors and shall protect such information in accordance with the confidentiality obligations contained in the Agreement.

D.8.4 The Customer shall promptly notify Assimil8 of any claim, allegation, demand, investigation, audit, regulatory enquiry or legal proceeding relating to IBM Software, IBM Documentation or IBM Intellectual Property.

D.8.5 The Customer shall provide reasonable cooperation requested by Assimil8 or IBM in connection with the investigation, defence, settlement or resolution of any matter relating to IBM Software, IBM Documentation or IBM Intellectual Property.

D.8.6 The Customer shall not make any representation, warranty, undertaking or commitment on behalf of IBM and shall not hold itself out as having authority to bind IBM in any respect.

D.8.7 Any breach of this Clause D.8 shall constitute a material breach of the Agreement and may result in suspension or termination of the Customer's rights to use the applicable IBM Software or affected Bundle Services.

D.9 Open Source and Third-Party Components

D.9.1 IBM Software may include or interact with Open Source Software or Third-Party Software.

D.9.2 The Customer acknowledges that such components may be subject to separate licence terms.

D.9.3 To the extent required by applicable licence obligations, the Customer shall comply with such licence terms.

D.9.4 Nothing in this Agreement grants rights beyond those provided under the applicable third-party licence.

D.10 Data Processing and Security Requirements

D.10.1 The Customer shall comply with all security requirements reasonably communicated by Assimil8 relating to IBM Software.

D.10.2 The Customer shall maintain administrative, technical and organisational safeguards appropriate to the risks associated with its use of the Bundle Services.

D.10.3 The Customer shall promptly notify Assimil8 of any actual or suspected security incident affecting IBM Software, IBM Services or IBM Intellectual Property where such incident may materially impact the Bundle Services.

D.10.4 The Customer shall cooperate with reasonable remediation activities required by Assimil8 or IBM.

D.11 Suspension Rights

D.11.1 Assimil8 may suspend access to IBM-dependent Bundle Services where reasonably necessary to:

- a. comply with IBM requirements;
- b. address legal or regulatory obligations;
- c. prevent unauthorised use;
- d. protect the security, integrity or availability of the Bundle Services;
- e. respond to actual or suspected breaches of this Schedule.

D.11.2 Assimil8 shall use reasonable efforts to provide prior notice where practicable.

D.11.3 Suspension under this Schedule shall not relieve the Customer of payment obligations arising prior to suspension.

D.12 IBM Warranty Flow-Down

D.12.1 The Customer acknowledges that IBM Software may be provided subject only to warranties made available by IBM.

D.12.2 Assimil8 shall pass through to the Customer the benefit of any assignable IBM warranties to the extent permitted by IBM.

D.12.3 Except as expressly stated in this Agreement, Assimil8 makes no additional warranties on behalf of IBM.

D.12.4 No representation or warranty given by Assimil8 shall be interpreted as expanding IBM's obligations beyond those provided by IBM.

D.13 IBM Limitation of Liability Flow-Down

D.13.1 To the extent required by IBM, any limitations, exclusions or restrictions imposed by IBM concerning IBM Software or IBM Services shall apply to the Customer.

D.13.2 The Customer shall not assert against Assimil8 any claim seeking to impose liability upon IBM beyond the scope permitted by applicable IBM terms.

D.13.3 Nothing in this Schedule excludes liability that cannot lawfully be excluded under applicable law.

D.14 Termination of IBM Rights

D.14.1 Rights relating to IBM Software shall automatically terminate upon:

- a. termination or expiry of the applicable Bundle Services;
- b. termination of Assimil8's rights to provide the relevant IBM Software;
- c. material breach of this Schedule by the Customer;
- d. circumstances requiring termination under applicable law.

D.14.2 Upon termination, the Customer shall cease all use of affected IBM Software and shall comply with any reasonable deactivation, removal, deletion or certification requirements communicated by Assimil8.

D.15 Survival

D.15.1 The provisions of this Schedule relating to intellectual property protection, confidentiality, audit rights, export controls, compliance obligations, limitations of liability, restrictions on use and accrued rights shall survive termination or expiry of this Agreement to the extent necessary to give effect to their purpose.

D.16 Relationship with BMU Entitlement Model

D.16.1 The parties acknowledge that BMUs remain the sole primary commercial entitlement metric governing the acquisition and consumption of Bundle Services under this Agreement.

D.16.2 Nothing in this Schedule shall be interpreted as replacing the BMU entitlement model with any named-user, processor, core, server, device, PVU, capacity-based or similar licensing metric for purposes of the commercial relationship between Assimil8 and the Customer.

D.16.3 Any IBM compliance obligations applicable to underlying IBM Software shall operate solely as compliance requirements and shall not alter the commercial BMU framework established under the Agreement except where expressly required by law or by mandatory IBM contractual obligations.

D.16.4 The Customer acknowledges that compliance with IBM requirements under this Schedule is separate from, and in addition to, compliance with BMU consumption and entitlement obligations under the Agreement.

D.17 Geographic Use and Deployment Restrictions

D.17.1 The Customer shall only access, use, deploy, install, operate or permit access to IBM Software within territories authorised by IBM and communicated by Assimil8.

D.17.2 Unless otherwise approved by IBM in writing through Assimil8, the Customer's authorised territory for use of IBM Software is limited to:

- (a) the European Economic Area (EEA);
- (b) the United Kingdom; and
- (c) Switzerland.

D.17.3 The Customer shall not access, deploy, host, replicate, transfer, make available or permit use of IBM Software outside the authorised territories identified in Clause D.17.2 without prior written approval obtained through Assimil8.

D.17.4 The Customer shall ensure that its Affiliates, Authorised Users, contractors and service providers comply with the territorial restrictions set out in this Clause D.17.

D.17.5 The Customer shall promptly notify Assimil8 if it becomes aware of any actual or proposed access to, deployment of, or use of IBM Software outside the authorised territories.

D.17.6 Assimil8 may suspend access to affected IBM Software or Bundle Services where reasonably necessary to ensure compliance with IBM territorial restrictions or other IBM licensing requirements.

D.17.7 Any use of IBM Software outside the authorised territories without the required approval shall constitute a material breach of the Agreement.

SCHEDULE E – DATA PROCESSING ADDENDUM

E.1 Purpose and Scope

E.1.1 This Data Processing Addendum ("DPA") forms part of and is incorporated into the Agreement.

E.1.2 This DPA applies to the extent that Assimil8 Processes Personal Data on behalf of the Customer in connection with the provision of the Bundle Services.

E.1.3 The Parties acknowledge that the nature and extent of Processing activities may vary depending upon:

- (a) the Deployment Model;
- (b) the Bundle Services ordered by the Customer;
- (c) the Professional Services performed;
- (d) the Support Services provided;
- (e) the configuration selected by the Customer; and
- (f) the categories of Customer Data made available to Assimil8.

E.1.4 This DPA shall apply irrespective of whether the applicable Bundle Services are delivered through a Customer Hosted Deployment, an Assimil8 Hosted Deployment or a Hybrid Deployment.

E.1.5 To the extent of any conflict between this DPA and any other provision of the Agreement relating specifically to the Processing of Personal Data, this DPA shall prevail.

E.2 Roles of the Parties

E.2.1 The Parties acknowledge and agree that, in respect of Personal Data Processed under the Agreement:

- (a) the Customer shall ordinarily act as Controller;
- (b) Assimil8 shall ordinarily act as Processor;
- (c) where Assimil8 determines the purposes and means of Processing in its own right, Assimil8 shall act as an independent Controller solely in relation to such Processing activities; and
- (d) each Party shall comply with its respective obligations under Applicable Data Protection Law.

E.2.2 The Parties acknowledge that certain Third-Party Providers, cloud infrastructure providers, telecommunications providers, security providers and IBM entities may act as independent Controllers or Processors depending upon the relevant service provided.

E.2.3 Nothing in this DPA shall be interpreted as transferring ownership or control of Customer Data to Assimil8.

E.3 Details of Processing

E.3.1 The subject matter of the Processing consists of the provision, operation, maintenance, support, enhancement, monitoring and security of the Bundle Services.

E.3.2 The duration of the Processing shall be the period during which Assimil8 provides Bundle Services under the Agreement together with any applicable retention period required by law or reasonably necessary to fulfil contractual obligations.

E.3.3 The nature and purpose of the Processing may include:

- (a) hosting;
- (b) storage;
- (c) retrieval;
- (d) transmission;
- (e) organisation;
- (f) indexing;
- (g) reporting;
- (h) integration;
- (i) analytics;
- (j) monitoring;
- (k) troubleshooting;
- (l) backup and recovery;
- (m) security management;
- (n) user administration;
- (o) technical support;
- (p) service optimisation; and
- (q) other Processing activities reasonably required to provide the Bundle Services.

E.3.4 Categories of Data Subjects may include:

- (a) employees;
- (b) contractors;
- (c) agency workers;
- (d) consultants;
- (e) authorised users;
- (f) customers;
- (g) suppliers;
- (h) business contacts; and
- (i) any other individuals whose Personal Data forms part of Customer Data.

E.3.5 Categories of Personal Data may include:

- (a) identification data;
- (b) contact details;
- (c) business information;
- (d) employment information;
- (e) account information;
- (f) authentication data;
- (g) usage data;
- (h) audit information;

- (i) communication records; and
- (j) such other Personal Data as the Customer elects to Process through the Bundle Services.

E.3.6 The Customer shall not provide Special Category Data unless such Processing is expressly authorised by the Agreement or otherwise agreed in writing between the Parties.

E.4 Customer Obligations

E.4.1 The Customer warrants that:

- (a) it has all necessary rights, permissions, notices and lawful bases required for the Processing of Personal Data under the Agreement;
- (b) all instructions provided to Assimil8 comply with Applicable Data Protection Law;
- (c) it shall provide all necessary privacy notices to Data Subjects; and
- (d) its use of the Bundle Services shall not cause Assimil8 to breach Applicable Data Protection Law.

E.4.2 The Customer shall remain solely responsible for:

- (a) the accuracy, quality and legality of Customer Data;
- (b) determining the purposes and lawful basis for Processing;
- (c) responding to requests from Data Subjects except where assistance is required under this DPA; and
- (d) compliance with its obligations as Controller.

E.5 Processor Obligations

E.5.1 Assimil8 shall:

- (a) Process Personal Data only on documented instructions from the Customer unless otherwise required by law;
- (b) ensure that persons authorised to Process Personal Data are subject to appropriate confidentiality obligations;
- (c) implement and maintain appropriate technical and organisational measures as required by Applicable Data Protection Law;
- (d) assist the Customer in complying with its obligations under Applicable Data Protection Law as set out in this DPA;
- (e) maintain records of Processing activities where required by Applicable Data Protection Law; and
- (f) notify the Customer if, in Assimil8's opinion, an instruction infringes Applicable Data Protection Law.

E.5.2 Assimil8 shall not be required to comply with any instruction that:

- (a) is unlawful;
- (b) materially alters the scope of the Bundle Services;
- (c) creates a security risk;

- (d) requires development work not included within the Agreement; or
- (e) imposes obligations inconsistent with Applicable Data Protection Law.

E.6 Confidentiality

E.6.1 Assimil8 shall ensure that all personnel authorised to Process Personal Data:

- (a) are subject to enforceable confidentiality obligations; or
- (b) are under an appropriate statutory obligation of confidentiality.

E.6.2 Assimil8 shall ensure that access to Personal Data is restricted to personnel who require such access for the performance of their duties.

E.7 Security Measures

E.7.1 Assimil8 shall implement and maintain appropriate technical and organisational measures designed to protect Personal Data against:

- (a) accidental or unlawful destruction;
- (b) accidental loss;
- (c) unauthorised disclosure;
- (d) unauthorised access;
- (e) alteration; and
- (f) other unlawful forms of Processing.

E.7.2 Such measures shall take account of:

- (a) the state of the art;
- (b) implementation costs;
- (c) the nature, scope, context and purposes of Processing; and
- (d) the risks posed to Data Subjects.

E.7.3 Without limitation, such measures may include:

- (a) encryption;
- (b) pseudonymisation where appropriate;
- (c) access controls;
- (d) authentication controls;
- (e) logging and monitoring;
- (f) backup procedures;
- (g) vulnerability management;
- (h) business continuity measures; and
- (i) incident response procedures.

E.7.4 Further information regarding security measures is set out in Schedule G.

E.8 Sub-Processors

E.8.1 The Customer authorises Assimil8 to engage Sub-Processors for the provision of the Bundle Services.

E.8.2 Assimil8 shall ensure that each Sub-Processor is bound by contractual obligations providing a level of protection for Personal Data substantially equivalent to those set out in this DPA.

E.8.3 Assimil8 shall remain responsible for the performance of its Sub-Processors to the extent required by Applicable Data Protection Law.

E.8.4 Assimil8 may replace, appoint or remove Sub-Processors during the Term provided that appropriate contractual safeguards are maintained.

E.8.5 The Customer may object to the appointment of a new Sub-Processor where such objection is based upon reasonable and demonstrable data protection concerns.

E.9 International Transfers

E.9.1 The Customer authorises Assimil8 and its Sub-Processors to transfer Personal Data internationally where necessary for the provision of the Bundle Services.

E.9.2 Where Personal Data is transferred to a jurisdiction that is not recognised as providing an adequate level of protection under Applicable Data Protection Law, Assimil8 shall implement appropriate safeguards including, where applicable:

- (a) the UK International Data Transfer Agreement;
- (b) the UK Addendum to the EU Standard Contractual Clauses;
- (c) the European Commission Standard Contractual Clauses;
- (d) approved certification mechanisms; or
- (e) other lawful transfer mechanisms recognised under Applicable Data Protection Law.

E.9.3 The Parties agree to execute any supplementary documentation reasonably required to facilitate lawful international transfers.

E.10 Assistance with Data Subject Rights

E.10.1 Taking into account the nature of the Processing, Assimil8 shall provide reasonable assistance to the Customer in responding to requests from Data Subjects exercising rights under Applicable Data Protection Law.

E.10.2 Where Assimil8 receives a request directly from a Data Subject relating to Customer Data, Assimil8 shall:

- (a) promptly notify the Customer unless prohibited by law; and
- (b) refrain from responding directly except as instructed by the Customer or required by law.

E.11 Assistance with Compliance Obligations

E.11.1 Taking into account the nature of the Processing and information available to Assimil8, Assimil8 shall provide reasonable assistance to the Customer in relation to:

- (a) security obligations;
- (b) Personal Data Breach notifications;
- (c) data protection impact assessments;
- (d) prior consultations with supervisory authorities; and
- (e) other obligations arising under Applicable Data Protection Law.

E.11.2 Assistance requiring substantial effort, specialist resources or material expenditure may be provided as Professional Services subject to additional charges.

E.12 Personal Data Breaches

E.12.1 Assimil8 shall maintain procedures for identifying, managing, investigating and responding to Personal Data Breaches.

E.12.2 Upon becoming aware of a Personal Data Breach affecting Customer Data, Assimil8 shall:

- (a) notify the Customer without undue delay;
- (b) provide information reasonably available to Assimil8 regarding the nature of the incident;
- (c) take reasonable steps to mitigate adverse effects; and
- (d) cooperate with the Customer in relation to investigation and remediation activities.

E.12.3 Assimil8's notification of a Personal Data Breach shall not constitute an admission of liability or fault.

E.13 Audits and Information Rights

E.13.1 Assimil8 shall make available information reasonably necessary to demonstrate compliance with this DPA.

E.13.2 Where reasonably required by Applicable Data Protection Law, the Customer may conduct an audit of Assimil8's compliance with this DPA subject to:

- (a) reasonable advance notice;
- (b) no more than one audit in any twelve-month period unless required by law or following a Personal Data Breach;
- (c) confidentiality obligations;
- (d) protection of other customers' information;
- (e) compliance with Assimil8 security policies; and
- (f) reimbursement of Assimil8's reasonable costs where permitted by law.

E.13.3 Assimil8 may satisfy audit obligations through the provision of independent third-party audit reports, certifications or security assessments where appropriate.

E.14 Government and Regulatory Requests

E.14.1 Unless prohibited by law, Assimil8 shall promptly notify the Customer of any legally binding request for disclosure of Customer Data received from:

- (a) governmental authorities;
- (b) law enforcement agencies;
- (c) regulators; or
- (d) courts or tribunals.

E.14.2 Assimil8 may disclose Customer Data where required by law.

E.15 Deletion and Return of Personal Data

E.15.1 Upon termination or expiry of the Agreement and subject to applicable law, Assimil8 shall:

- (a) return Customer Data to the Customer; or
- (b) securely delete Customer Data,

as determined by the Customer's written instructions.

E.15.2 Assimil8 may retain Customer Data to the extent required:

- (a) by applicable law;
- (b) for regulatory compliance;
- (c) for dispute resolution;
- (d) for enforcement of legal rights; or
- (e) within secure backup systems maintained in accordance with standard retention practices.

E.15.3 Any retained Personal Data shall remain subject to the confidentiality and security obligations of the Agreement.

E.16 IBM Software and Third-Party Services

E.16.1 The Parties acknowledge that Bundle Services may incorporate or interact with IBM Software, IBM services, Third-Party Software, cloud infrastructure services and Open Source Software.

E.16.2 Where Personal Data is Processed through such technologies, applicable data processing obligations may be governed by separate contractual terms imposed by the relevant provider.

E.16.3 Nothing in this DPA shall:

- (a) grant the Customer any rights in IBM IP;
- (b) transfer ownership of IBM Software;
- (c) impose obligations on IBM beyond those contained within applicable IBM agreements; or
- (d) cause Assimil8 to be deemed the owner, licensor or provider of IBM Software.

E.17 Liability

E.17.1 The liability of each Party arising under or in connection with this DPA shall be subject to the liability provisions contained in the Agreement.

E.17.2 Nothing in this DPA shall exclude or restrict liability where such exclusion or restriction is prohibited by Applicable Data Protection Law.

E.18 Survival

E.18.1 This DPA shall remain in force for so long as Assimil8 Processes Personal Data on behalf of the Customer.

E.18.2 Any provisions which by their nature are intended to survive termination or expiry shall continue in full force and effect following termination or expiry of the Agreement.

SCHEDULE F – SUPPORT AND MAINTENANCE GUIDE

F.1 Purpose and Scope

F.1.1 This Schedule establishes the support, maintenance, update, upgrade, operational assistance and incident management services provided by Assimil8 in connection with the Bundle Services.

F.1.2 This Schedule forms part of the Agreement and applies to all Support Services provided by Assimil8 unless otherwise expressly stated in an applicable Order Form.

F.1.3 This Schedule shall apply to:

- (a) Customer Hosted Bundle Services;
- (b) Assimil8 Hosted Bundle Services;
- (c) Hybrid Deployments;
- (d) Managed Services;
- (e) Professional Services where support obligations are expressly included within an Order Form;
- and
- (f) any other Service Components identified in an Order Form.

F.1.4 This Schedule supplements, and shall be interpreted together with:

- (a) Section 11 (Service Levels (SLA));
- (b) Section 12 (Support Services);
- (c) Schedule A (Customer Hosted Bundle Services);
- (d) Schedule B (Assimil8 Hosted Bundle Services);
- (e) Schedule C (Service Level Agreement);
- (f) Schedule D (IBM ESA Flow-Down Terms);
- (g) Schedule G (Information Security Schedule); and
- (h) the applicable Order Form.

F.1.5 In the event of any inconsistency between this Schedule and Schedule C, Schedule C shall prevail solely in relation to Service Levels and Service Credits.

F.2 Support Service Objectives

F.2.1 Assimil8 shall provide Support Services designed to:

- (a) maintain operational availability of the Bundle Services;
- (b) investigate and resolve Incidents;
- (c) provide technical assistance to Authorised Users;
- (d) maintain supported software releases;
- (e) deliver corrective fixes, patches and updates;
- (f) facilitate operational continuity;

- (g) support Customer adoption and utilisation of the Bundle Services; and
- (h) assist with the ongoing operation of the Bundle Services throughout the applicable Subscription Term.

F.2.2 Support Services are intended to support the operation of the Bundle Services and do not include consulting, development, implementation, data migration, training, business analysis, customisation, integration development or Professional Services unless expressly stated in an Order Form.

F.3 Support Entitlement

F.3.1 Support Services are included within the Customer's BMU entitlement unless otherwise specified in an Order Form.

F.3.2 The level of Support Services available to the Customer shall be determined by:

- (a) the Bundle Services purchased;
- (b) the Deployment Model;
- (c) the quantity of BMUs purchased;
- (d) any Managed Services selected;
- (e) any enhanced support options identified in the Order Form; and
- (f) any applicable IBM Software support limitations.

F.3.3 Support entitlement shall continue only while the applicable Bundle Services remain under active subscription and all fees are paid when due.

F.3.4 Support Services shall be available solely for Supported Releases.

F.4 Supported Releases

F.4.1 Assimil8 shall designate software releases as:

- (a) Current Release;
- (b) Supported Release;
- (c) Limited Support Release; or
- (d) End-of-Support Release.

F.4.2 Assimil8 shall provide full Support Services only for Current Releases and Supported Releases.

F.4.3 Assimil8 may discontinue support for a release following reasonable prior notice.

F.4.4 Customers shall implement updates, patches and maintenance releases within reasonable timeframes where such implementation is necessary for:

- (a) security;
- (b) operational stability;
- (c) regulatory compliance; or
- (d) continued support eligibility.

F.4.5 Failure to maintain a Supported Release may result in:

- (a) reduced support obligations;
- (b) additional support charges;
- (c) delayed resolution times; or
- (d) suspension of support eligibility until the environment is upgraded.

F.5 Support Channels

F.5.1 Support requests may be submitted through:

- (a) the designated support portal;
- (b) electronic mail;
- (c) telephone support services;
- (d) service management platforms approved by Assimil8; or
- (e) such other channels as Assimil8 may make available.

F.5.2 The Customer shall appoint designated Authorised Contacts.

F.5.3 Only Authorised Contacts may submit support requests unless otherwise agreed.

F.5.4 Assimil8 may refuse requests submitted by unauthorised individuals.

F.6 Incident Classification

F.6.1 Incidents shall be categorised according to severity.

F.6.2 Severity 1 (Critical Incident) means:

- (a) complete loss of production service;
- (b) complete inability to access the Bundle Services;
- (c) severe security incident;
- (d) material business interruption affecting a substantial proportion of users; or
- (e) other circumstances reasonably determined by Assimil8 to require emergency response.

F.6.3 Severity 2 (High Incident) means:

- (a) significant degradation of service;
- (b) loss of important functionality;
- (c) substantial impact upon business operations; or
- (d) material operational disruption without complete service failure.

F.6.4 Severity 3 (Medium Incident) means:

- (a) partial loss of functionality;
- (b) operational inconvenience;
- (c) non-critical service degradation; or

(d) functionality impairment where a workaround exists.

F.6.5 Severity 4 (Low Incident) means:

- (a) informational requests;
- (b) cosmetic defects;
- (c) documentation issues;
- (d) enhancement requests; or
- (e) issues with minimal business impact.

F.6.6 Assimil8 shall retain final authority to determine Incident severity acting reasonably and in good faith.

F.7 Incident Management Process

F.7.1 Upon receipt of an Incident report, Assimil8 shall:

- (a) log the Incident;
- (b) assign a severity level;
- (c) allocate support personnel;
- (d) investigate root causes where appropriate;
- (e) provide status updates; and
- (f) implement corrective action where available.

F.7.2 Resolution may include:

- (a) restoration of service;
- (b) implementation of a workaround;
- (c) deployment of a patch;
- (d) configuration changes;
- (e) software updates; or
- (f) operational guidance.

F.7.3 An Incident shall be considered resolved when:

- (a) service functionality has been restored;
- (b) a workaround has been provided;
- (c) a permanent correction has been implemented;
- (d) the issue is attributable to a Third-Party Component outside Assimil8's control; or
- (e) the Customer confirms closure.

F.8 Maintenance Services

F.8.1 Maintenance Services may include:

- (a) corrective maintenance;
- (b) preventative maintenance;

- (c) adaptive maintenance;
- (d) security maintenance;
- (e) performance optimisation;
- (f) software updates;
- (g) software upgrades;
- (h) vulnerability remediation; and
- (i) infrastructure maintenance.

F.8.2 Assimil8 may perform Planned Maintenance where reasonably necessary to maintain the Bundle Services.

F.8.3 Planned Maintenance may include:

- (a) operating system maintenance;
- (b) database maintenance;
- (c) infrastructure maintenance;
- (d) security updates;
- (e) software deployment activities;
- (f) platform upgrades; and
- (g) disaster recovery testing.

F.8.4 Planned Maintenance windows shall not constitute service failures where undertaken in accordance with the Agreement.

F.9 Emergency Maintenance

F.9.1 Assimil8 may perform Emergency Maintenance without prior notice where reasonably necessary to:

- (a) address a security threat;
- (b) mitigate an operational risk;
- (c) preserve service integrity;
- (d) prevent data loss;
- (e) respond to legal or regulatory requirements; or
- (f) address urgent vulnerabilities.

F.9.2 Emergency Maintenance shall not constitute a breach of the Agreement.

F.10 Software Updates and Upgrades

F.10.1 Assimil8 may provide:

- (a) bug fixes;
- (b) maintenance releases;
- (c) patches;
- (d) feature updates;
- (e) security releases; and

(f) software upgrades.

F.10.2 Assimil8 shall determine the content, timing and availability of updates and upgrades.

F.10.3 The Customer acknowledges that software evolution is necessary to maintain service quality, security and functionality.

F.10.4 The Customer shall cooperate with reasonable upgrade activities.

F.10.5 Where upgrades require Customer participation, the Customer shall provide appropriate personnel, access and testing assistance.

F.11 Customer Hosted Support Obligations

F.11.1 For Customer Hosted Bundle Services, the Customer shall:

- (a) maintain supported infrastructure;
- (b) maintain required operating systems;
- (c) maintain supported databases;
- (d) maintain network connectivity;
- (e) maintain security controls;
- (f) provide system access reasonably required for support;
- (g) maintain backup procedures; and
- (h) comply with documented technical requirements.

F.11.2 Assimil8 shall not be responsible for issues arising from:

- (a) unsupported infrastructure;
- (b) unauthorised modifications;
- (c) Customer-developed code;
- (d) third-party systems not supplied by Assimil8;
- (e) unsupported integrations;
- (f) Customer security failures;
- (g) Customer network failures; or
- (h) failures attributable to Customer personnel.

F.12 Assimil8 Hosted Support Obligations

F.12.1 For Assimil8 Hosted Bundle Services, Assimil8 shall manage and maintain the hosting environment identified in the applicable Order Form.

F.12.2 Hosting-related support may include:

- (a) platform monitoring;
- (b) infrastructure management;
- (c) platform maintenance;
- (d) backup management;

- (e) disaster recovery capabilities;
- (f) vulnerability management; and
- (g) service restoration activities.

F.12.3 Customer responsibilities remain as set out in the Agreement and applicable schedules.

F.13 Hybrid Deployment Support

F.13.1 For Hybrid Deployments, support responsibilities shall be allocated according to the operational responsibility matrix established by the applicable Order Form.

F.13.2 Each Party shall cooperate in investigating issues affecting integrated environments.

F.13.3 Assimil8 shall not be responsible for delays caused by third parties, Customer infrastructure providers or external service providers.

F.14 Managed Services

F.14.1 Where Managed Services are purchased, Assimil8 may provide:

- (a) operational administration;
- (b) monitoring services;
- (c) environment management;
- (d) release management;
- (e) configuration management;
- (f) platform administration;
- (g) scheduled operational reviews; and
- (h) related managed operational activities.

F.14.2 Managed Services shall be limited to the scope expressly identified within the applicable Order Form.

F.15 IBM Software Support

F.15.1 Support Services provided by Assimil8 do not alter or expand any rights granted by IBM with respect to IBM Software.

F.15.2 Support relating to IBM Software may be dependent upon:

- (a) IBM support availability;
- (b) IBM release status;
- (c) IBM product lifecycle decisions;
- (d) IBM maintenance policies; and
- (e) IBM ESA requirements.

F.15.3 Assimil8 shall have no obligation to provide fixes, modifications or enhancements to IBM Software beyond rights granted to Assimil8 by IBM.

F.15.4 The Customer acknowledges that certain IBM Software issues may require escalation to IBM or an authorised IBM support provider.

F.16 Third-Party Software and Open Source Components

F.16.1 Support Services shall not create any obligation for Assimil8 to provide maintenance, warranty or support for Third-Party Software except to the extent expressly stated in an Order Form.

F.16.2 Open Source Software components may be subject to separate licence terms and community support models.

F.16.3 Assimil8 may provide reasonable assistance regarding Third-Party Software and Open Source Software but provides no guarantee regarding correction, enhancement or continued availability.

F.17 Exclusions

F.17.1 Support Services do not include:

- (a) custom software development;
- (b) bespoke integrations;
- (c) business process consultancy;
- (d) data cleansing;
- (e) data migration services;
- (f) project management;
- (g) user training;
- (h) change management activities;
- (i) architecture design services;
- (j) implementation services;
- (k) Professional Services; or
- (l) services expressly excluded by an Order Form.

F.17.2 Where the Customer requests services outside the scope of Support Services, Assimil8 may provide such services under a separate Order Form or Statement of Work at applicable rates.

F.18 Customer Cooperation

F.18.1 The Customer shall provide reasonable cooperation necessary for Support Services including:

- (a) timely responses;
- (b) access to relevant personnel;
- (c) access to systems and environments;
- (d) diagnostic information;
- (e) log files;

- (f) configuration information;
- (g) test data where appropriate; and
- (h) replication of reported issues where reasonably possible.

F.18.2 Delays caused by Customer non-cooperation shall suspend applicable support obligations to the extent affected.

F.19 Support Records and Reporting

F.19.1 Assimil8 may maintain records relating to:

- (a) support requests;
- (b) Incident histories;
- (c) maintenance activities;
- (d) service performance;
- (e) support metrics; and
- (f) operational reports.

F.19.2 Such records may be used for:

- (a) service delivery;
- (b) audit purposes;
- (c) compliance purposes;
- (d) service improvement; and
- (e) operational management.

F.20 Modification of Support Services

F.20.1 Assimil8 may update this Support and Maintenance Guide from time to time where such updates:

- (a) reflect operational improvements;
- (b) reflect technological developments;
- (c) improve security;
- (d) improve service quality;
- (e) accommodate changes in underlying technologies; or
- (f) align with changes in IBM, cloud provider or third-party support requirements.

F.20.2 No modification shall materially reduce the overall level of Support Services provided to the Customer during the applicable Subscription Term except where required by law, regulatory obligation, security necessity or third-party platform requirements.

F.21 Survival

F.21.1 The provisions of this Schedule which by their nature are intended to survive termination or expiry of the Agreement shall remain in full force and effect following such termination or expiry.

SCHEDULE G - INFORMATION SECURITY

SCHEDULE

G.1 Purpose and Scope

G.1.1 This Schedule establishes the information security obligations applicable to the provision, operation, support, maintenance, management and use of the Bundle Services under the Agreement.

G.1.2 This Schedule applies to all Deployment Models, including Customer Hosted Deployments, Assimil8 Hosted Deployments, Hybrid Deployments, Managed Services, Support Services, Professional Services and any other Service Components provided under the Agreement.

G.1.3 The Parties acknowledge that the nature and allocation of security responsibilities may vary depending upon the applicable Deployment Model. Security responsibilities specific to a particular Deployment Model shall apply in addition to the provisions of this Schedule.

G.1.4 This Schedule shall be interpreted consistently with the Agreement, the Data Processing Addendum, the applicable Order Form, the Service Level Agreement and any applicable IBM ESA Flow-Down Terms.

G.1.5 Nothing in this Schedule shall be construed as transferring ownership of any Intellectual Property Rights, Customer Data, Assimil8 IP, IBM IP, IBM Software or Third-Party Software.

G.2 Information Security Governance

G.2.1 Assimil8 shall establish, implement and maintain an information security programme designed to protect the confidentiality, integrity, availability and resilience of systems and information used in connection with the Bundle Services.

G.2.2 The information security programme shall include administrative, organisational, technical and physical safeguards appropriate to:

- (a) the nature of the Bundle Services;
- (b) the sensitivity of information processed;
- (c) applicable legal and regulatory requirements;
- (d) recognised industry practices; and
- (e) the risks associated with unauthorised access, disclosure, alteration, loss or destruction of information.

G.2.3 Assimil8 shall maintain documented information security policies and procedures governing the management of security risks associated with the Bundle Services.

G.2.4 Information security responsibilities shall be assigned to appropriately authorised personnel.

G.2.5 Security policies and procedures shall be reviewed periodically and updated as necessary to address changes in technology, threats, business operations and legal requirements.

G.3 Security Standards

G.3.1 Assimil8 shall maintain information security controls aligned with recognised industry standards and good practice, taking into account the nature, scale and complexity of the Bundle Services.

G.3.2 Assimil8 shall periodically assess the effectiveness of its security controls and implement improvements where reasonably necessary.

G.3.3 The Customer acknowledges that information security is a shared responsibility and that certain security controls may remain within the Customer's responsibility depending upon the applicable Deployment Model.

G.3.4 Nothing in this Schedule shall require Assimil8 to implement controls that are incompatible with the architecture, operation or commercial model of the Bundle Services.

G.4 Security Organisation and Personnel

G.4.1 Assimil8 shall ensure that personnel with authorised access to Customer Data or systems supporting the Bundle Services are subject to appropriate confidentiality obligations.

G.4.2 Access to Customer Data shall be limited to personnel who require such access for the performance of their duties.

G.4.3 Personnel shall receive information security awareness training appropriate to their roles and responsibilities.

G.4.4 Assimil8 shall maintain disciplinary procedures addressing violations of information security policies.

G.4.5 Access rights shall be reviewed periodically and revoked promptly when no longer required.

G.5 Asset Management

G.5.1 Assimil8 shall maintain reasonable procedures for identifying and managing information assets used in connection with the Bundle Services.

G.5.2 Information assets shall be classified according to sensitivity and business requirements where appropriate.

G.5.3 Information assets containing Customer Data shall be protected against unauthorised disclosure, alteration or destruction.

G.5.4 Media containing Customer Data shall be disposed of securely when no longer required.

G.6 Access Control

G.6.1 Assimil8 shall maintain logical access controls designed to restrict access to authorised users.

G.6.2 User access shall be granted on the basis of least privilege and business necessity.

G.6.3 Administrative access shall be restricted to authorised personnel with a legitimate operational requirement.

G.6.4 Authentication controls shall be implemented appropriate to the risk associated with the relevant systems.

G.6.5 Password management procedures shall require passwords to be protected against unauthorised disclosure.

G.6.6 Privileged access rights shall be controlled, monitored and periodically reviewed.

G.6.7 Access credentials shall be revoked promptly following termination of employment, engagement or authorised access.

G.7 Customer Access Management

G.7.1 The Customer shall be responsible for managing user access to the Bundle Services unless otherwise expressly agreed in writing.

G.7.2 The Customer shall ensure that user accounts are assigned only to authorised individuals.

G.7.3 The Customer shall promptly disable accounts no longer requiring access.

G.7.4 The Customer shall maintain appropriate authentication controls for its users.

G.7.5 The Customer shall be responsible for activities performed using its credentials except to the extent caused by Assimil8.

G.8 Network Security

G.8.1 Assimil8 shall implement reasonable network security controls designed to protect systems supporting the Bundle Services against unauthorised access.

G.8.2 Security controls may include network segmentation, firewall technologies, intrusion detection mechanisms, traffic monitoring or equivalent protective measures as appropriate.

G.8.3 External network connections shall be managed in accordance with documented security procedures.

G.8.4 Remote administrative access shall be protected through secure authentication and encrypted communications.

G.9 Endpoint and Infrastructure Security

G.9.1 Systems used by Assimil8 to provide the Bundle Services shall be maintained using security configurations appropriate to their intended purpose.

G.9.2 Security patches shall be assessed and applied within reasonable timeframes based upon risk and operational requirements.

G.9.3 Anti-malware or equivalent protective controls shall be implemented where appropriate.

G.9.4 Vulnerability remediation activities shall be prioritised according to risk.

G.10 Encryption

G.10.1 Customer Data transmitted across public networks shall be protected using industry-standard encryption protocols where technically practicable.

G.10.2 Customer Data stored within Assimil8 Hosted Deployments shall be protected through encryption mechanisms appropriate to the sensitivity of the information and the relevant technology environment.

G.10.3 Encryption keys shall be protected using appropriate key management procedures.

G.10.4 Where Customer Hosted Deployments are used, responsibility for storage encryption may rest with the Customer except to the extent expressly agreed otherwise.

G.11 Vulnerability Management

G.11.1 Assimil8 shall maintain processes for identifying, assessing and managing security vulnerabilities affecting systems used to provide the Bundle Services.

G.11.2 Vulnerabilities shall be assessed according to severity, exploitability and business impact.

G.11.3 Remediation activities shall be prioritised according to risk.

G.11.4 Assimil8 may use internal assessments, automated scanning, external testing or other methods to identify vulnerabilities.

G.12 Security Testing

G.12.1 Assimil8 may conduct security assessments, vulnerability scans and penetration testing of systems used to provide the Bundle Services.

G.12.2 Testing activities shall be performed in a manner designed to minimise operational disruption.

G.12.3 Security testing reports shall constitute Confidential Information.

G.12.4 The Customer shall not conduct penetration testing, vulnerability scanning or similar security testing against Assimil8 systems without Assimil8's prior written consent.

G.12.5 Approved testing shall be conducted in accordance with mutually agreed procedures.

G.13 Logging and Monitoring

G.13.1 Assimil8 shall maintain logging and monitoring capabilities appropriate to the operation of the Bundle Services.

G.13.2 Security-relevant events may be recorded for operational, security, compliance, diagnostic and audit purposes.

G.13.3 Log data may be retained for periods determined by operational requirements, legal obligations or security considerations.

G.13.4 Access to security logs shall be restricted to authorised personnel.

G.14 Incident Management

G.14.1 Assimil8 shall maintain documented procedures for the identification, investigation, escalation, management and resolution of Security Incidents.

G.14.2 Security Incidents shall be assessed and managed according to their severity and potential impact.

G.14.3 Where a Security Incident materially affects Customer Data, Assimil8 shall notify the Customer without undue delay after becoming aware of the incident.

G.14.4 Notifications may include:

- (a) a description of the incident;
- (b) known or suspected impacts;
- (c) mitigation measures undertaken; and
- (d) actions recommended for the Customer.

G.14.5 Assimil8 shall use reasonable efforts to investigate and remediate Security Incidents within its area of responsibility.

G.15 Business Continuity and Disaster Recovery

G.15.1 Assimil8 shall maintain business continuity and disaster recovery arrangements appropriate to the Bundle Services provided.

G.15.2 Recovery objectives may vary according to the applicable Deployment Model, Service Components and Service Levels purchased under the applicable Order Form.

G.15.3 Disaster recovery procedures shall be periodically reviewed and tested as determined by Assimil8.

G.15.4 The Customer acknowledges that disaster recovery outcomes may be affected by factors outside Assimil8's reasonable control.

G.16 Physical Security

G.16.1 Facilities used by Assimil8 to support the Bundle Services shall be protected through physical security controls appropriate to the nature of the facility.

G.16.2 Physical access to sensitive areas shall be restricted to authorised personnel.

G.16.3 Visitor access shall be controlled and monitored where appropriate.

G.16.4 Where third-party hosting providers are used, physical security controls may be provided by such providers.

G.17 Supplier and Third-Party Security

G.17.1 Assimil8 may utilise subcontractors, cloud providers, hosting providers, telecommunications providers, IBM, Third-Party Software providers and other service providers in connection with the Bundle Services.

G.17.2 Assimil8 shall take reasonable steps to assess the security capabilities of material service providers used in delivering the Bundle Services.

G.17.3 The Customer acknowledges that certain security controls may be implemented by such providers rather than directly by Assimil8.

G.17.4 Nothing in this Schedule shall impose security obligations on IBM beyond those applicable under the IBM ESA Flow-Down Terms or the relevant IBM terms governing IBM Software.

G.18 Customer Hosted Security Responsibilities

G.18.1 For Customer Hosted Deployments, the Customer shall remain responsible for:

- (a) hosting infrastructure;
- (b) operating systems;
- (c) network security;
- (d) physical security;
- (e) backup arrangements unless otherwise agreed;
- (f) disaster recovery arrangements unless otherwise agreed;
- (g) identity management systems under Customer control; and
- (h) security controls not expressly assigned to Assimil8.

G.18.2 Assimil8 shall not be responsible for security vulnerabilities arising from Customer systems, Customer infrastructure or Customer-controlled environments.

G.18.3 The Customer shall promptly implement security recommendations reasonably provided by Assimil8.

G.19 Hybrid Deployment Security Responsibilities

G.19.1 For Hybrid Deployments, security responsibilities shall be allocated between the Parties according to the applicable architecture, Service Components and Order Form.

G.19.2 Each Party shall remain responsible for securing the systems and environments under its control.

G.19.3 The Parties shall cooperate in good faith regarding the investigation and remediation of security issues affecting integrated environments.

G.20 Security Audits and Compliance

G.20.1 Information regarding Assimil8 security controls may be provided through security questionnaires, audit reports, certifications, compliance reports or other reasonable means determined by Assimil8.

G.20.2 The Customer may request information reasonably required to demonstrate compliance with applicable contractual security obligations.

G.20.3 Assimil8 may refuse requests that:

- (a) compromise security;
- (b) expose confidential security information;
- (c) create disproportionate operational burden; or
- (d) conflict with obligations owed to third parties.

G.20.4 Any audit rights shall be exercised in accordance with the Agreement.

G.21 Security Exceptions

G.21.1 Assimil8 may temporarily suspend access to affected systems, services or environments where reasonably necessary to:

- (a) respond to a Security Incident;
- (b) mitigate a security threat;
- (c) prevent unauthorised access;
- (d) preserve system integrity; or
- (e) comply with legal or regulatory obligations.

G.21.2 Assimil8 shall use reasonable efforts to minimise disruption resulting from such actions.

G.22 Continuous Improvement

G.22.1 Assimil8 may modify, enhance, replace or update security controls from time to time to address evolving threats, technology changes, legal requirements, operational needs or industry practices.

G.22.2 Such modifications shall not materially reduce the overall level of security protection applicable to the Bundle Services during the applicable Subscription Term.

G.22.3 The Customer acknowledges that information security requirements evolve continuously and that reasonable adaptation of security measures is necessary for the ongoing protection of the Bundle Services and Customer Data.

SCHEDULE H – PROFESSIONAL SERVICES TERMS

H.1 Purpose and Scope

H.1.1 This Schedule H sets out the terms and conditions governing the provision of Professional Services by Assimil8 to the Customer under the Agreement.

H.1.2 Professional Services may include consulting services, implementation services, deployment services, configuration services, integration services, migration services, training services, data services, project management services, technical advisory services, solution design services, optimisation services, managed onboarding services, transition services and other professional or technical services identified in an applicable Order Form, Statement of Work or Change Request.

H.1.3 Professional Services may be provided in support of Customer Hosted Bundle Services, Assimil8 Hosted Bundle Services, Hybrid Deployments, Managed Services, Support Services or any combination thereof.

H.1.4 Professional Services are separate from the Customer's BMU entitlement unless expressly stated otherwise in an Order Form.

H.1.5 Unless expressly agreed in writing, Professional Services do not include:

- (a) custom software development;
- (b) creation of bespoke product functionality;
- (c) support services governed by Schedule F;
- (d) service level commitments governed by Schedule C;
- (e) operation of Customer infrastructure;
- (f) third-party software support; or
- (g) services outside the scope expressly described in the applicable Statement of Work.

H.2 Statements of Work

H.2.1 Professional Services shall be performed pursuant to one or more Statements of Work.

H.2.2 Each Statement of Work shall form part of the Agreement upon execution by both Parties.

H.2.3 A Statement of Work may include:

- (a) a description of services;
- (b) project objectives;
- (c) assumptions and dependencies;
- (d) deliverables;
- (e) milestones;
- (f) project governance arrangements;
- (g) acceptance criteria;
- (h) project schedules;

- (i) resource requirements;
- (j) fees and expenses;
- (k) Customer responsibilities; and
- (l) any agreed deviations from this Schedule.

H.2.4 In the event of inconsistency between this Schedule and a Statement of Work, the order of precedence specified in the Agreement shall apply.

H.3 Change Control

H.3.1 Either Party may request a change to the scope, timing, deliverables, assumptions, resources or other requirements of a Statement of Work.

H.3.2 No requested change shall be binding unless documented in a written Change Request signed by authorised representatives of both Parties.

H.3.3 A Change Request may address:

- (a) revised scope;
- (b) revised fees;
- (c) revised timelines;
- (d) revised deliverables;
- (e) revised resource commitments;
- (f) revised acceptance criteria; and
- (g) revised project assumptions.

H.3.4 Assimil8 shall have no obligation to perform services outside the agreed scope of a Statement of Work unless a Change Request has been approved.

H.4 Professional Services Methodology

H.4.1 Assimil8 shall perform Professional Services using reasonable skill, care and diligence consistent with generally accepted industry practices.

H.4.2 Assimil8 may determine the methods, tools, techniques, personnel, processes and project approaches used to perform the Professional Services.

H.4.3 Assimil8 may utilise standardised implementation methodologies, deployment frameworks, templates, accelerators, automation tools, reusable components and best practices developed by Assimil8.

H.4.4 Nothing in the Agreement obliges Assimil8 to disclose its internal methodologies, source materials, proprietary processes or trade secrets.

H.5 Customer Responsibilities

H.5.1 The Customer shall:

- (a) cooperate with Assimil8 in the performance of the Professional Services;
- (b) provide accurate and complete information;
- (c) make appropriately qualified personnel available when reasonably required;
- (d) provide timely decisions, approvals and feedback;
- (e) ensure availability of Customer systems, facilities, environments and resources required for service delivery;
- (f) maintain all necessary rights, permissions and licences required for the Professional Services;
- (g) perform Customer tasks identified in the applicable Statement of Work; and
- (h) promptly notify Assimil8 of any issues affecting project delivery.

H.5.2 The Customer acknowledges that Professional Services may depend upon the timely performance of Customer obligations.

H.5.3 Assimil8 shall not be responsible for delays, increased costs or service impacts caused by Customer delay, Customer acts or omissions, inaccurate information, unavailable resources or third-party dependencies outside Assimil8's reasonable control.

H.6 Project Governance

H.6.1 Each Party shall appoint a project representative responsible for day-to-day coordination of Professional Services activities.

H.6.2 The Parties may establish project governance procedures including:

- (a) steering committees;
- (b) project boards;
- (c) status reporting;
- (d) risk management processes;
- (e) escalation procedures; and
- (f) change management processes.

H.6.3 Governance activities shall not modify contractual obligations unless documented through the agreed contractual change process.

H.7 Project Timelines

H.7.1 Any implementation schedules, milestone dates or delivery estimates are based upon the assumptions set out in the applicable Statement of Work.

H.7.2 Unless expressly stated otherwise, project schedules are estimates and not guarantees.

H.7.3 Assimil8 shall use reasonable efforts to achieve agreed milestone dates but shall not be liable for delays resulting from:

- (a) Customer actions or omissions;

- (b) Customer resource constraints;
- (c) third-party suppliers;
- (d) changes in scope;
- (e) Force Majeure Events; or
- (f) dependencies outside Assimil8's reasonable control.

H.7.4 Where delays occur, the Parties shall cooperate in good faith to revise project schedules and implementation plans.

H.8 Deliverables

H.8.1 Deliverables shall be those expressly identified in the applicable Statement of Work.

H.8.2 Deliverables may include:

- (a) implementation documentation;
- (b) configuration documentation;
- (c) project plans;
- (d) deployment artefacts;
- (e) technical designs;
- (f) training materials;
- (g) reports;
- (h) migration outputs; and
- (i) other agreed project outputs.

H.8.3 Deliverables do not include ownership of Assimil8 IP, IBM IP or Third-Party Software except to the extent expressly granted under the Agreement.

H.9 Acceptance

H.9.1 Where acceptance procedures are specified in a Statement of Work, those procedures shall apply.

H.9.2 Where no acceptance procedure is specified:

- (a) the Customer shall review the Deliverable within ten (10) Business Days following delivery;
- (b) the Customer shall either accept the Deliverable or provide written notice describing any material non-conformance with agreed requirements; and
- (c) Assimil8 shall use reasonable efforts to correct verified material non-conformities.

H.9.3 A Deliverable shall be deemed accepted if:

- (a) the Customer provides written acceptance;
- (b) the Customer uses the Deliverable in production or operational activities;
- (c) the Customer fails to reject the Deliverable within the applicable review period; or
- (d) the Customer otherwise indicates acceptance through conduct.

H.9.4 Acceptance shall not be unreasonably withheld, delayed or conditioned.

H.10 Customer Data and Access

H.10.1 To the extent necessary to perform Professional Services, the Customer may provide Customer Data, system access, documentation, interfaces, credentials or technical information.

H.10.2 The Customer represents that it possesses all rights necessary to permit such access and use.

H.10.3 Assimil8 shall use such information solely for purposes related to the delivery of Professional Services and in accordance with the Agreement.

H.10.4 Access credentials provided by the Customer shall remain under Customer control and ownership.

H.11 Third-Party Products and Dependencies

H.11.1 Professional Services may involve integration with IBM Software, Third-Party Software, Customer systems or third-party services.

H.11.2 Assimil8 shall not be responsible for:

- (a) functionality of third-party products;
- (b) defects in third-party products;
- (c) third-party product changes;
- (d) withdrawal of third-party services; or
- (e) third-party licensing compliance obligations of the Customer.

H.11.3 Any recommendations made by Assimil8 regarding third-party products are provided for informational purposes only and do not constitute warranties.

H.12 Training Services

H.12.1 Where training services are included within a Statement of Work, Assimil8 shall provide the agreed training sessions.

H.12.2 Training materials supplied as part of Professional Services remain Assimil8 IP unless expressly stated otherwise.

H.12.3 Training is intended to support use of the Bundle Services and does not constitute formal certification unless expressly agreed in writing.

H.13 Remote and Onsite Services

H.13.1 Professional Services may be delivered remotely, onsite or through a hybrid delivery model.

H.13.2 Where onsite services are required, the Customer shall provide a safe and suitable working environment.

H.13.3 The Customer shall comply with all applicable health, safety and security requirements relevant to onsite service delivery.

H.13.4 Assimil8 personnel shall comply with reasonable Customer site policies notified in advance, provided such policies do not materially interfere with service delivery.

H.14 Fees and Expenses

H.14.1 Professional Services fees shall be specified in the applicable Order Form or Statement of Work.

H.14.2 Fees may be structured as:

- (a) fixed-price fees;
- (b) milestone-based fees;
- (c) time and materials fees;
- (d) retainer fees; or
- (e) other agreed commercial arrangements.

H.14.3 Unless expressly stated otherwise, reasonable travel, accommodation and subsistence expenses incurred in connection with onsite service delivery shall be reimbursable by the Customer.

H.14.4 Fees for Professional Services are separate from BMU-based fees unless expressly stated otherwise.

H.14.5 Professional Services fees are non-refundable except where expressly required by the Agreement.

H.15 Personnel

H.15.1 Assimil8 may assign personnel of its choosing to perform Professional Services.

H.15.2 Assimil8 may replace assigned personnel where reasonably necessary.

H.15.3 Assimil8 shall use reasonable efforts to maintain continuity of key personnel identified in a Statement of Work.

H.15.4 Professional Services personnel remain under the direction, control and supervision of Assimil8.

H.16 Intellectual Property

H.16.1 Except as expressly provided in the Agreement, all rights in Assimil8 IP shall remain vested in Assimil8 or its licensors.

H.16.2 Except as expressly provided in the Agreement, all rights in IBM IP shall remain vested in IBM or its licensors.

H.16.3 Except as expressly provided in the Agreement, all rights in Customer Data and Customer-owned materials shall remain vested in the Customer.

H.16.4 To the extent Deliverables incorporate pre-existing Assimil8 IP, IBM IP, Third-Party Software, Open Source Software, methodologies, templates, tools, know-how or reusable materials, ownership of such items shall not transfer to the Customer.

H.16.5 Subject to payment of applicable fees, Assimil8 grants the Customer a non-exclusive, non-transferable licence during the Agreement Term to use Deliverables solely for the Customer's internal business purposes in connection with the Bundle Services.

H.17 Suspension and Rescheduling

H.17.1 Assimil8 may suspend Professional Services where:

- (a) the Customer materially breaches the Agreement;
- (b) required Customer resources are unavailable;
- (c) payment obligations are materially overdue; or
- (d) continuation would create legal, regulatory or security risks.

H.17.2 Where the Customer requests postponement or rescheduling of Professional Services, Assimil8 may reasonably adjust project schedules, resource allocations and associated fees.

H.18 Professional Services Warranty

H.18.1 Assimil8 warrants that Professional Services shall be performed with reasonable skill and care consistent with generally accepted professional standards.

H.18.2 The Customer's exclusive remedy for breach of this warranty shall be re-performance of the affected Professional Services.

H.18.3 The warranty in this clause shall not apply where any issue arises from:

- (a) Customer actions or omissions;
- (b) third-party products;
- (c) unauthorised modifications;
- (d) inaccurate Customer information; or
- (e) matters outside Assimil8's reasonable control.

H.19 Survival

H.19.1 The provisions of this Schedule which by their nature are intended to survive completion or termination of Professional Services shall continue in effect following such completion or termination.

H.19.2 Completion of a Statement of Work shall not affect the continuing operation of the Agreement or any other Statement of Work unless expressly agreed in writing.

