## 1. DEFINITIONS

Throughout this Agreement the following phrases shall have the following meanings, words implying the singular shall include the plural, and vice versa, and references to one gender shall include references to each other gender.

**"Application"** the provision of a web based treasury platform, through which stored information can be visualised and analysed by a browser or similar software device.

**"Commencement Date"** being the date on which the Customer is given access rights to the Application.

**"Confidential Information"** any information disclosed by either party which is designated as confidential or could reasonably be regarded as such.

**"Data"** the financial, economic, market and news information which is/are kept available within the Application.

**"Data Controller"** means a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be processed as defined by the General Data Protection Regulations

**"Data Processor"**, in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller.

**"Data Supplier"** any third party supplying Data to the Vendor for use within the Application.

**"End User"** any natural person chosen by the Customer as having access to the Data and/or the Application in his/her capacity as elected member, officer, employee, of the Customer only.

**"Initial Term"** the period of time in which the Application will be made available to the Customer, starting from the Commencement Date.

**"License Fee"** the Fee, payable by the Customer for use of the Application

**"Personal Data"** means any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier.

**"Schedule of Services"** the supporting documentation, stipulating the specific services, and associated costs, to be made available to the Customer via the Application. (Schedule Two)s

**"Subject Access Request"** means a request from an individual to the Data Controller regarding Personal Data being processed for which they are the subject.

**"Subsequent Periods"** means rolling periods following the Initial Term.

## 2. PROVISION OF THE APPLICATION

Supply of the Application is subject to the agreement of the Schedule of Services by the Customer and the Vendor. In accepting the provision of the Application and associated Data thereunder from the Vendor in accordance with this Agreement, the Customer acknowledges and agrees that:

2.1 The Vendor may be obligated to disclose the existence of this Agreement to certain Data Suppliers and that access to some Data may be subject to the approval of the respective Data Supplier and that Vendor may not be able to supply such Data until such approval is granted.

2.2 The Customer acknowledges that as access to the Application is via third party networks, the functioning of such networks are not within the Vendor's control, and as such the Vendor cannot be held liable for any performance issues relating such networks.

2.3 The Customer acknowledges that as between itself and the Vendor, the Vendor's Data Suppliers and/or other third party licensors are, throughout the world, the owner(s) of all intellectual property rights (including the copyright and, where applicable, database rights) in the Application and in the compilation of information products and the Data contained in the Application. Nothing herein shall be construed so as to transfer any intellectual property rights whatsoever to the Customer.

2.4 In accessing Data in accordance with this Agreement, the Customer acknowledges that it is not in receipt of nor is it relying upon the provision of any form of financial advice from the Vendor or its employees (for the purposes of the Financial Services & Markets Act 2000 or otherwise).

## 3. RIGHTS OF USE

3.1 The Vendor hereby grants a limited non-exclusive and non-transferable licence to the Customer to use the the Application.

3.2 The Customer acknowledges and agrees that the Vendor's ability to grant Customer rights relating to the Application are contingent upon all rights, titles, licenses, permissions and approvals obtained by the Vendor pertaining to the collection, compilation, processing and distribution of the Data remaining in full force and effect during the term of the this Agreement.

3.3 Except where expressly provided elsewhere in this Agreement or within other written communication from the Vendor the Customer shall not:

   3.3.1 use the Application in any way that may infringe any proprietary interest of the Vendor or Data Supplier therein; or

   3.3.2 modify, decompile, reverse engineer, disassemble or decrypt the Application or any other part thereof; or

   3.3.3 publish, copy, modify, merge, transfer or distribute the data to unlicensed End Users or third parties; or

   3.3.4 sublicense, rent, sell, lease or otherwise repackage or redistribute the Application outputs, including those of the Data Supplier; or

   3.3.5 create any service or product, derived in whole or in part from the inputs and/or outputs of the Application, without receiving the prior written consent of the Vendor or

   3.3.6 knowingly use, or knowingly permit anyone to use, the Application for any unlawful or unauthorised purpose.

3.4 The Customer acknowledges the Vendor's right to use the information provided to the Application in any way that the Vendor deems reasonable. With any such usage, the Vendor is responsible for ensuring the Customer's identity is not disclosed to any parties outside of this Agreement. It is the Customer's responsibility to ensure that the provision of any such information is not in breach of any separate third party agreements and the Vendor shall not be liable for any failure in this regard. This clause does not relate to Personal Data.

3.5 The Vendor acknowledges that certain information provided to the Customer via the Application may be subject to disclosure under the Freedom of Information Act 2000. The Customer agrees that in the event of any such request they will seek confirmation from the Vendor that this information is able to be disclosed and not conflict with any proprietary property of the Vendor.

## 4 GENERAL DATA PROTECTION REGULATIONS

4.1 Under the requirements of the General Data Protection Regulations (GDPR), the Vendor is Data Processor, and the Customer is Data Controller. The Software requires some Personal Data in order to carry out the services, but not sensitive Personal Data. This data includes:

- Name
- Email Address
- Employing Entity
- IP Address
- Actions within the Application
- Actions on the site (e.g. failed login attempts)
- Personal data entered onto the Software (Contact Details, including for Counterparties)

4.2 The lawful basis under which this information is processed by the Data Processor is deemed contractual under the terms of this agreement. The type of processing to be carried out includes:
- Creating End User ID
- Storing communications, on site or email regarding support queries
- Communicating matters regarding the Software including updates and developments

- Storing End User Activity in system logs
- Storing Personal Data on Data Subjects as determined by the Data Controller.

4.3 The Data Processor will only process the Personal Data following written instructions from the Data Controller, and to the extent as is deemed necessary to carry out the services.

4.4 The responsibilities of the Data Controller are:

4.4.1 To provide a named individual to represent the Customer as Data Controller, through which Subject Access Requests will be made

4.4.2 To ensure Personal Data has been obtained fairly and lawfully and that it will obtain all necessary approvals from persons whose data is being processed.

4.4.3 To ensure Personal Data is kept up to date and to provide instructions to the Data Processor accordingly

4.4.4 To inform the Data Processor if any Data Subjects, whose Personal Data is processed by the Data Processors in accordance with this EULA, make a Subject Access Request.

4.5 The responsibilities of the Data Processor are:

4.5.1 To ensure all people processing the data are subject to a duty of confidence

4.5.2 To take appropriate measures to ensure the security of the processing

4.5.3 To inform the Data Controller of any Personal Data breaches

4.5.4 To respond within [21] days following a Subject Access Request from the Data Controller's named representative

4.5.5 To maintain a register of Subject Access Requests from the Data Controller

4.5.6 To delete all Personal Data at the end of the Contract on request from the Data Controller

4.6 A Subject Access Request for Erasure or a Request for Suppression in respect of an End User will result in the Application not being available to that Individual.

4.7 Other than where identified in our Privacy Policy and Clause 3.4, we will not share your content with others, for any purpose unless you direct us to, unless bound by a court order or pursuant to any applicable law. How we collect and use your information generally is also explained in our Privacy Policy.

4.8 The Data Processor has the right to use sub-processors for the processing of data in order to provide the Application. The Data Processor is responsible for ensuring its sub-processors meet the requirements of the GDPR. The Vendor has taken, as well as its subcontractors, licensors and hosts, sufficient technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to Personal Data, having regard to the state of technological development and cost of implementing any measures, to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the Personal Data to be protected.

5. SERVICE LEVELS

5.1 Subject to the Customer's payment of Fees, the Vendor will provide service levels as described in the Agreement of Terms (Schedule One) with respect to the Application.

6. CHARGES

6.1 Charges are payable in consideration of being granted full access rights to the Vendor's services and for the number of concurrent users, as defined in the Agreement of Terms (Schedule One). In accordance with the provisions contained in this Agreement, the Customer shall pay the Vendor the associated License Fees (excluding Value Added and other taxes) as stated in the Agreement of Terms (Schedule One).

6.2 The Vendor has the right to review the pricing following the period of the Initial Term and at each subsequent period by giving the Customer thirty days notice in writing.

6.2 The Customer agrees to pay all invoices within 10 days of the invoice date. Fees not received within 10 days of the date of an invoice shall be subject to interest charges for all overdue amounts at the lower of: (i) the rate of 1% per month, and (ii) the maximum rate permitted by law.

6.3 All charges under this Agreement are exclusive of Value Added and other taxes unless specifically stated otherwise and the Customer shall be liable for any such taxes as may be levied from time to time with the exception of any taxes on the Vendor's income.

6.4 In the event of default in payment, the Vendor shall:

6.4.1 have the right to discontinue the Application until the outstanding monies owed under paragraph 5 (Charges) are paid if the Vendor has previously announced the discontinuation.

6.4.2 have the right to terminate in accordance with clause 9 below.

## 7. INSURANCE

7.1 The Vendor shall effect and maintain Professional indemnity insurance arrangements which, in the Vendor's reasonable opinion, are adequate to cover the risk of professional negligence on the part of the Vendor to Customers.

## 8. LIABILITY

8.1 The Vendor cannot be held liable for the accuracy or completeness of the Data supplied to the Application by third party Data Suppliers or other third party licensors; however the Vendor undertakes to inform the Customer immediately of any such incidents to which it becomes aware.

8.2 For the avoidance of doubt, to the extent that the Customer suffers any loss or damage as a consequence of any delay, interruption or omission in Data provided under the Application by Data Suppliers or other third party licensors, the Customer shall hold the Vendor harmless in respect of any such loss or damage.

## 9. LIMITATION OF LIABILITY

9.1 Subject to Clause 7, the total liability of the Vendor and the Customer to each other for any and all Losses arising from or in any way in connection with this Contract and the Services provided shall not exceed the value of the total fees payable under this Agreement.

9.2 Neither party will be liable to the other party or any Losses unless and only to the extent that the Losses are finally determined to have resulted from the breach of contract or negligence of that party.

9.3 Nothing in this Contract shall exclude, restrict (or prevent a claim being brought in respect of) any liability of a party for (i) death or personal injury caused by the negligence of that party; (ii) any fraudulent pre-contractual misrepresentations on which the other party can be shown to have relied; or (iii) any other liability which by the governing law of this Contract cannot be limited or excluded.

9.4 Any claim or action made by either party under or in connection with this Contract must be brought within 12 months of the date that such party first became aware, or ought reasonably to have become aware, of the facts that give rise to the claim or action.

9.5 Clause 7 survives termination, in whole or in part, of this Contract for any reason.

## 10. TERM AND TERMINATION

10.1 This Agreement shall come into effect on the Commencement Date and will continue for the period of the Initial Term specified in the Terms of Agreement (Schedule One).

10.2 The Customer has the right to terminate this Agreement, for whatever reason, at any time in the thirty day period, following the signing of this Agreement

10.3 Following the Initial Term, the Customer has the right to terminate the agreement by giving thirty days notice in writing, otherwise the contract will continue for Subsequent Periods.

10.4 Either party may terminate this Agreement immediately in writing to the other party if the other party is in material breach of any of its obligations under this Agreement, and in the event of a breach capable of being remedied,

has failed to remedy such breach within thirty days of receipt of notice in Writing specifying the nature of the breach.

10.5 Either party may terminate this Agreement immediately in writing to the other party if the other party shall make an arrangement with or assignment in favour of its creditors or shall go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or have a receiver or administrator appointed over its property or assets or any part thereof.

10.6 Except where this Agreement is terminated by either party pursuant to Clause 9.1 above or by the Customer pursuant to any other clause of this Agreement, the Vendor shall be under no liability to refund any pre-paid amounts.

10.7 Termination of this Agreement for whatever reason shall not affect any rights of either party which may have accrued up to the date of termination.

## 11. CONFIDENTIAL INFORMATION

11.1 Each party agrees to keep confidential, and not disclose to any third party, all Confidential Information received from the other party pursuant to this Agreement.

11.2 Notwithstanding anything to the contrary herein, the receiving party shall have no obligation to preserve the confidentiality of any Confidential Information which:

11.2.1 Is currently or hereafter becomes publicly available (other than through unauthorised disclosure by the receiving party);

11.2.2 at the time of disclosure to the receiving party is already in possession of, or known to, the receiving party;

11.2.3 is made available to the receiving party as a matter of right by any person or entity other than the disclosing party;

11.2.4 is independently developed by the receiving party;

11.2.5 is disclosed by a party in response to a court order or as otherwise may be required by law, provided that the receiving party shall provide the disclosing party a reasonable opportunity to review the disclosure

before it is made and interpose its own objections to such disclosure.

11.3 Clause 11 shall apply throughout the term of this Agreement and indefinitely thereafter.

## 12. PUBLIC RELATIONS

Subject to the Customer's consent in writing, the Vendor may name the Customer as a referee and/or refer to the existence of general co-operation between the Customer and the Vendor on its Group's websites, advertising materials, press releases and other reference lists and use the Customer's trademarks for these purposes.

## 13. FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform its obligations caused by any circumstances beyond its reasonable control including but not limited to third party industrial disputes or interruption to any telecommunication satellite or broadcast services used to carry the Solution to the Customer.

## 14. ASSIGNMENT

This Agreement is personal to the Customer and the Customer shall not assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of the Vendor. Vendor reserves the right to assign or transfer its rights or obligations under this Agreement to another organisation within its Group. All amendments of and additions to this Agreement must be agreed in writing.

## 15. WAIVER

No failure or delay by either party in enforcing any rights or obligations hereunder shall constitute a waiver of such rights or obligations unless given in writing and signed by the duly authorised representatives of each party. Furthermore, the waiver of any breach of any provision of this Agreement shall not constitute a waiver of any other breach of the same or any other provision of this Agreement and no waiver shall be effective unless made in writing.

## 16. INTERPRETATION

16.1 Clause headings have been inserted for each of reference only and shall have no effect in the construction of this Agreement.

16.2 In this Agreement, where the context so admits the masculine shall include the feminine and vice versa and the singular shall include the plural and vice versa.

## 17. APPLICABLE LAWS AND DISPUTES

17.1 Should any dispute arise in relation to this Agreement, both parties agree initially to submit the dispute to The London Court of International Arbitration, and both parties shall bear their own costs in that regard.

16.2 This Agreement is governed by English law and the parties hereby submit to the exclusive jurisdiction of the English courts.

## 17. ENTIRE AGREEMENT

17.1 Both parties acknowledge that they are not relying on any statements or representations made by the other party in relation to the subject matter of this Agreement and that they shall have no rights or remedies against the other party with respect to such subject matter otherwise than under this Agreement.

## 18. THIRD PARTY SITES

Reference may be made and hypertext links provided within the Application to external websites maintained by third parties ("each a Third Party Site").

The Vendor has no control over Third Party Sites and do not endorse or approve the content of any Third Party Site. We make no warranties, representations or undertakings about (including, without limitation, any as to the quality, accuracy, completeness, timeliness or fitness for any particular purpose of such content) of any Third Party Site

## 19. COMPUTER VIRUSES

The Vendor will use reasonable endeavours to ensure that the Application does not contain any malicious software such as computer viruses, Trojans or spyware, however, we recommend that you use up to date anti-virus software to check all downloaded material and regularly scan your computer for the presence of malicious software.

## 20. LINKS

If you wish to provide a link to the Application then the link must be to our home page which is currently at https://www.pslive.co.uk.

The Customer is not permitted to link, page-jack or frame any other page of this Application nor is the Customer permitted to use any robot, spider or any other manual process or automatic device to monitor or copy the Application or its content.

# Schedule One

## Agreement of Terms

| The Customer | |
|---|---|
| The Vendor | |
| Commencement Date | |
| Initial Term | |
| Subsequent Periods | |
| Entities | |
| Charges | |
| Charges Payable | |

Both parties hereby acknowledge that they have the legal capacity to execute this Agreement in accordance with the above terms and conditions.

| Signed for and on behalf of Vendor | Signed for and on behalf of Customer: |
|---|---|
| Signed:  ..................................... | Signed:  ....................................... |
| Print Name:  .............................. | Print Name:  ................................ |
| Title:  ......................................... | Title:  ........................................... |

# Schedule Two

## Schedule of Services

# Schedule Three

## Service Level Agreement

### Definitions

(a) "*System Uptime*" will mean the total amount of time during a calendar month, measured in minutes, during which Customer has the ability to access the features and functions of the TreasuryLive System.

(b) "*Scheduled Downtime*" will mean the total amount of time during a calendar month, measured in minutes, during which Customer is not able to access the features and functions of the TreasuryLive, due to planned system maintenance performed by the Vendor, as set forth in the table below. The Vendor will exercise commercially reasonable efforts to perform scheduled system maintenance outside of the Customer's normal working hours (7.30am to 6.30 pm). The Vendor reserves the right to change the aggregated times set forth in the table below, provided that the Vendor provides reasonable prior notice to modifying such Scheduled Downtime.

| When Scheduled Downtime will occur | Purpose of Scheduled Downtime: | Maximum Duration of Scheduled Downtime: |
|---|---|---|
| Each day | Minor System, database, application or hardware maintenance | 2 hours |
| Each Weekend | Minor System, database, application or hardware maintenance | 6 hours |
| Once per calendar month | Major maintenance or upgrades | 12 hours |

(c) "*Unscheduled Downtime*" will mean the total amount of time during a calendar month, measured in minutes, during which Customer is not able to access the features and functions of the TreasuryLive System, other than downtime shorter or equal to 15 minutes and Scheduled Downtime, as defined above.

(d) "*Total Monthly Time*" will mean the total amount of time during a calendar month measured in minutes.

(e) "*System Availability*" will mean, with respect to a calendar month, the ratio obtained by subtracting Unscheduled Downtime during that month from the total amount of time during that month, and thereafter dividing the difference so obtained by the total amount of time during that month.

## 2. SYSTEM PERFORMANCE

(a) **System Availability.** The Vendor will undertake commercially reasonable measures to ensure that System Availability equals or exceeds **98%** during each calendar month (the "*Service Standard*"), provided that any Unscheduled Downtime occurring as a result of (i) Customer's breach of any provision of this Agreement; (ii) incompatibility of Customer's equipment or software with the Application; (iii) performance of Customer's systems; or (iv) force majeure, as defined in the Agreement, shall not be considered toward any reduction in System Availability measurements.

(b) **Access to Support; Response Times.** Customer may report Unscheduled Downtime at any time by emailing support@pslive.co.uk. The Vendor will exercise commercially reasonable efforts to respond to reports of Unscheduled Downtime within **30 minutes** of each such report.

## 3. MEASUREMENT AND REPORTS

**System Performance Reports.** Upon explicit written request of the Customer, the Vendor will provide reports to Customer on a quarterly basis setting forth a calculation of System Availability for the relevant preceding quarter. If Customer disagrees with any measurement or other information set forth in any such report, it must so inform the Vendor in writing within five (5) calendar days after receipt thereof, provided that the accuracy of any such report shall be deemed conclusive unless such notice is provided by Customer. Any such notice must indicate specific measurements in dispute and must include a detailed description of the nature

of the dispute. The Vendor and Customer agree to attempt to settle any such disputes regarding System Availability and/or related measurements in a timely manner by mutual good faith discussions.

## 4. CUSTOMER REQUIREMENTS

**(a) Minimum System.** The service standards set forth in this Schedule assume that Customer and/or its Users, as applicable, meet the following minimum system standards:

- Operating system: Any Microsoft Workstation OS, up-to-date and publicly supported by Microsoft.
- Software: Browser Internet Explorer (version 8.0 or above).

**(b) Additional Customer Obligations.** Customer is responsible for maintenance and management of its computer network(s), servers, software, and any equipment or services related to maintenance and management of the foregoing. Customer is responsible for correctly configuring its systems in accordance with any instructions provided by the Vendor, as may be necessary for provision of access to the features and functions of the TreasuryLive System.

**(c) Non-Performance by Customer:** The obligations of the Vendor set forth in this Schedule will be excused to the extent any failures to meet such obligations result in whole or in part from Customer's or its Users' failure(s) to meet the foregoing obligations.

## 5. REMEDIES

**(a) Credits Against Fees.** In the event System Availability is less than 98% in a particular calendar month, Customer will be entitled to credits against its subsequent payment obligations, equal to a percentage of the user fees paid by Customer during such calendar month, according to the following table:

System Availability Credit Amount

96.00 – 97.99% 5% of user fees in month

95.00 – 95.99% 10% of user fees in month

< 95.00% 15% of user fees in month

**(b) Exclusive Remedy.** The Customer's rights under this Section 5(a) are Customer's sole and exclusive remedy with respect to any Unscheduled Downtime or any failure by the Vendor to meet the Service Standard described herein.

## 6. DATA BACK-UP AND RECOVERY

**(a) Back-Up of Customer Data.** The Vendor will perform back-up and archiving of Customer Data by daily incremental files.

**(b) Back-Up Retention:** The Vendor will retain back-up copies of the Customer Data at a secure location according to the retention periods set forth in the following table:

| Type of Back-Up | Retention Period |
|---|---|
| Daily Incremental Files | 15 days |
| Full Back-Up | 3 months |

**(c) Recovery of Archived Data:** The Vendor will exercise commercially reasonable efforts to restore data files from archived copies as quickly as reasonably practicable, as necessary as a result of system failure or data corruption or losses. Customer acknowledges that the amount of time required to restore archived data files is dependent upon numerous factors, including, but not limited, severity or the relevant data corruption or loss.