

AGREEMENT

PLEASE READ THIS AGREEMENT BEFORE USING OVER-C'S SOFTWARE AND SERVICES. BY ACCESSING OR USING OVER-C'S SOFTWARE OR SERVICES OFFERING, YOU ("the Customer") SIGNIFY ACCEPTANCE OF AND AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT ACCESS OR USE THE SOFTWARE OR SERVICES. IF THE PARTIES HAVE A FULLY EXECUTED AGREEMENT THAT EXPRESSLY GOVERNS ORDERS FOR OVER-C'S SOFTWARE AS A SERVICE AGREEMENT, SUCH AGREEMENT SHALL SUPERSEDE THIS AGREEMENT.

This Software and Services Agreement ("Agreement") made on _____ 2020 is entered into between _____ (Company Number _____) ("Customer") a company incorporated and registered in _____ whose registered office is at _____ and **Over-C Technology Limited** (Company Number 554110) ("Over-C"), a company incorporated and registered in the Republic of Ireland whose registered office is at Library House, 18 Dyke Parade, Mardyke, Cork, Ireland T12 A8D7. Over-C and Customer agree that the following terms and conditions will apply to the services provided under this Agreement and any Statement of Work placed thereunder.

1 DEFINITIONS AND INTERPRETATION

In this Agreement:

"Affiliate" means, in relation to either Party, any company which is a subsidiary or holding company (including the ultimate holding company) of that Party and any company which is a subsidiary of such holding company. The term **"Affiliates"** shall be construed accordingly;

"Charges" means the charges set out in a Statement of Work or as otherwise agreed in writing between the Parties;

"Commencement Date" means the date of this Agreement;

"Customer Content" means all data and materials provided by Customer to Over-C for use in connection with implementing the SaaS Services, including, without limitation, maps, processes, forms and user lists;

"Customer Premises" means the premises belonging to or in the control of Customer which the Parties agree is a Customer Premises;

"Documentation" means the user guides, online help, training materials and other documentation provided or made available by Over-C to Customer regarding the use or operation of the SaaS Services.

"End User" means anyone who is permitted by Customer to use the SaaS Services. The term **"End Users"** shall be construed accordingly;

"Goods" means any goods (including hardware) to be supplied by Over-C as specified in a Statement of Work and where relevant includes any documentation supplied to aid use of such hardware;

"Managed Services" means the managed services provided by Over-C to Customer pursuant to this Agreement and Schedule 3;

"Other Services" means all technical and non-technical services performed or delivered by Over-C under this Agreement, including, without limitation, implementation services and other professional services, training and education services but excluding the SaaS Services, the Support and Maintenance Services and the Managed Services. Other Services will be provided on a time and material basis at such times or during such periods, as may be specified in a Statement of Work and mutually agreed to by the parties.

"Party" means either Over-C or Customer and "Parties" shall mean both of them;

"SaaS Services" refer to the specific Over-C internet-accessible service identified in a Statement of Work that provides use of Over-C's front-line operations management Software that is hosted by Over-C or its services provider and made available to Customer over a network on a term-use basis;

"Services" means any one of the SaaS Services, Support and Maintenance Services, Managed Services or Other Services;

"Service Levels" means those standards of performance to be achieved by Over-C in performing the SaaS Services as set out in Schedule 2 to this Agreement;

“Software” means the object code version of any software to which Customer is provided access by Over-C as part of the SaaS Services, including any updates or new versions;

“Statement of Work” is a written document attached to this Agreement under Schedule 1 or executed separately by Over-C and Customer for the purpose of purchasing Goods, SaaS Services, Support and Maintenance Services and/or Other Services under the terms and conditions of this Agreement. The Statement of Work will be deemed to have been agreed by Over-C only once it has been signed by an Over-C representative;

“Subscription Term” means the period specified in a Statement of Work during which Customer will have on-line access and use of the Software through Over-C’s SaaS Services; and

“Support and Maintenance Services” means the support and maintenance services provided by Over-C to Customer pursuant to this Agreement and Schedule 2.

- 1.1 The clause and Schedule headings are for convenience only and shall not affect the interpretation of this Agreement.
- 1.2 References to clauses are to clauses in the main body of this Agreement.
- 1.3 References to the singular include the plural and vice versa, and references to one gender include the other gender.
- 1.4 Any reference to persons includes natural persons, firms, partnerships, limited liability partnerships, companies, corporations, unincorporated associations, local authorities, governments, states, foundations and trusts (in each case whether or not having separate legal personality) and any agency of any of the above.
- 1.5 Any phrase introduced by the expressions "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 SAAS SERVICES

- 2.1 During the Subscription Term, Customer will receive a limited, revocable (in accordance with this Agreement), non-exclusive, (and unless the benefit and burden of this Agreement is assigned under clause 13.4 of this Agreement) non-assignable, non-transferable right to access and use the SaaS Services solely for your internal business operations at the specified Customer Premises subject to the terms of this Agreement and a Statement of Work.
- 2.2 In order to access the SaaS Services, Customer will need to download and install the mobile application Software to a mobile device. Over-C shall provide the Software to the Customer under licence, the terms for which are set out in the End User Licence Agreement (EULA) available at <https://www.over-c.com/legal>. Before purchasing, downloading, using or accessing the Software the Customer, and the End Users must agree to the terms and conditions of use of the EULA.
- 2.3 Customer acknowledges that this Agreement is a services agreement and Over-C will not be delivering copies of the Software to Customer as part of the SaaS Services.

3 RESTRICTIONS

- 3.1 Customer shall not, and shall not permit anyone to: (i) copy or republish the SaaS Services or Software, (ii) sublicense, resell or make available the SaaS Services or Software to any Third Party, or otherwise commercially exploit the SaaS Services or Software; (iii) make the SaaS Services or Software available to any person other than authorized End Users, (iv) modify or create derivative works based upon the SaaS Services, Software or Documentation, (v) remove, modify or obscure any copyright, trademark or other proprietary notices contained in the Software used to provide the SaaS Services or in the Documentation, (vi) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the Software used to provide the SaaS Services, except and only to the extent such activity is expressly permitted by Over-C or by applicable law, or (vii) access the SaaS Services or use the Documentation in order to build a similar product or competitive product. Subject to the access rights and limited licenses granted herein, title to, and all intellectual property rights in the SaaS Services and Software, associated documents and all parts thereof, that exist prior to the date of this Agreement or are created after the date of this Agreement from developments connected or unconnected with this Agreement including all modifications, improvements, upgrades, derivative works and feedback related thereto and intellectual

property rights therein, will be and remain vested in and be the absolute property of Over-C who are the owner of the copyright in the Software or associated documents as appropriate. Customer agrees to assign all right, title and interest it may have in the foregoing to Over-C.

4 CUSTOMER OBLIGATIONS

- 4.1 Assistance.** Customer shall provide commercially reasonable information and assistance to Over-C to enable Over-C to deliver the SaaS Services. Upon request from Over-C, Customer shall promptly deliver Customer Content to Over-C in an electronic file format specified and accessible by Over-C. Customer acknowledges that Over-C's ability to deliver the SaaS Services in the manner provided in this Agreement may depend upon the accuracy and timeliness of such information and assistance.
- 4.2 Compliance with Laws.** Customer shall comply with all applicable laws and regulatory provisions including those laws related to data privacy and the transmission of technical or personal data. Customer acknowledges that Over-C exercises no control over the content of the information transmitted by Customer or the End Users through the SaaS Services. Customer shall not upload, post, reproduce or distribute any information, software or other material protected by copyright, privacy rights, or any other intellectual property right without first obtaining the permission of the owner of such rights.
- 4.3 Administrator Access.** Customer shall be solely responsible for the acts and omissions of the Customer's users responsible for the administration of the Customer's configuration of the SaaS Services (the "**Administrator Users**"). Over-C shall not be liable for any loss of data or functionality caused directly or indirectly by the Administrator Users.
- 4.4 Licence from Customer.** Subject to the terms and conditions of this Agreement, Customer shall grant to Over-C a limited, non-exclusive and non-transferable license, to copy, store, configure, perform, display and transmit Customer Content solely as necessary to provide the SaaS Services to Customer.
- 4.5 Ownership and Restrictions.** Customer retains ownership and intellectual property rights in and to its Customer Content. Customer's right to use third party technology, that may be incorporated or integrated into the SaaS Services or Software, is governed by the terms of the third-party technology license agreement specified by Over-C, and not under this Agreement.
- 4.6 Suggestions.** Over-C shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the SaaS Services and Software any suggestions, enhancement requests, recommendation or other feedback provided by Customer, including End Users, relating to the operation of the SaaS Services and the Software.
- 4.7 Correct Use.** Customer shall: (a) only access or allow access to the SaaS Services through a valid user account assigned to an individual person; (b) not use the SaaS Services in a way that contravenes any applicable licence, instructions or guidelines provided by Over-C and this Agreement; (c) comply with Over-C's reasonable instructions relating to the security and use of the SaaS Services; (d) notify Over-C immediately of any unauthorised use of the SaaS Services including unauthorised use of any password or user account or any other known or suspected breach of security; (e) not use the SaaS Services fraudulently or in connection with a criminal offence; (f) not use the SaaS Services to send, receive, store or communicate any material which is unlawful, offensive, abusive, indecent, defamatory, obscene or menacing, a nuisance or a hoax; (g) not use the SaaS Services in any situation requiring fail-safe controls or fail-proof delivery of information; and (h) comply with any relevant third party terms when using the SaaS Services.

5 ORDERS AND PAYMENT

- 5.1 Orders.** Customer shall order Goods and Services pursuant to a Statement of Work. All Goods and Services acquired by Customer shall be governed exclusively by this Agreement and the applicable Statement of Work. In the event of a conflict between the terms of this Agreement and a Statement of Work, the terms of the Agreement shall take precedence.
- 5.2 Charges.** The Charges shall be as set out in a Statement of Work. Except as expressly provided otherwise, all Charges are non-refundable, are payable in advance and are exclusive of VAT (if any).
- 5.3 Invoicing and Payment.** All invoices and payments under this Agreement and a Statement of Work shall be made in the currency contained in a Statement of Work. Customer shall pay each invoice submitted by Over-C in accordance with the amounts, currency and invoice dates specified in a Statement of Work or as otherwise agreed between the Parties in writing: (a) within 30 calendar days of the invoice date; and (b) in full and cleared funds to a bank account nominated in writing by Over-C.

- 5.4 Late payment.** If Customer fails to pay any amount due to Over-C on time, then Over-C shall be entitled to charge and receive interest at a rate of the lesser of (a) 2.5% per annum above the base rate of the Bank of Ireland varied from time to time, or (b) the maximum rate permitted by applicable law. Such interest shall accrue from the due date until the date of payment and shall be calculated on a daily basis using a 365-day year. Any partial amounts paid by Customer will first be applied to cover accrued interest, if any, and thereafter credited to cover the principal amount outstanding.
- 5.5 Expenses.** Customer will reimburse Over-C for its reasonable, out-of-pocket travel and related expenses incurred in performing the Other Services. Over-C shall notify Customer prior to incurring any such expense. Over-C shall comply with Customer's travel and expense policy if made available to Over-C prior to the required travel.

6 TERM AND TERMINATION

- 6.1 Term of Agreement.** Over-C shall provide the Goods and Services for an initial fixed period of three (3) years commencing on the Commencement Date and thereafter until terminated by either Party on giving the other Party ninety (90) days prior written notice and on the expiration of such notice this Agreement (but not any Statements of Work) shall terminate. In the event of termination of this Agreement in accordance with this clause 6.1, any Statement of Work entered into prior to the date of termination shall continue for the term specified in a Statement of Work and such Statement of Work shall remain subject to the terms of this Agreement.
- 6.2 Termination for cause.** This Agreement and/or a Statement of Work may be terminated immediately in writing by either Party if: (a) the other Party is in material breach or continuing breach of this Agreement and, if capable of remedy, such breach is not remedied within thirty (30) days after receipt of notice in writing of such breach; or (b) a notice is issued for the purposes of convening a meeting to approve the placing of a Party in administration or liquidation, or a petition is presented or an order made for the administration or liquidation of a Party or a Party otherwise becomes subject to dissolution proceedings (or an event analogous to any of the events mentioned in this clause in respect of the other Party in any jurisdiction to which it is subject).
- 6.3 Suspension for Non-Payment.** Over-C reserves the right to suspend delivery of the SaaS Services if Customer fails to pay in a timely manner any undisputed amounts due to Over-C under this Agreement, but only after Over-C notifies Customer of such failure and such failure continues for fifteen (15) days. Suspension of the SaaS Services shall not release Customer of its payment obligations under this Agreement. Customer agrees that Over-C shall not be liable to Customer or to any Third Party for any liabilities, claims or expenses arising from or relating to suspension of the SaaS Services resulting from Customer's non-payment.
- 6.4 Suspension for Ongoing Harm.** Over-C reserves the right to suspend delivery of the SaaS Services if Over-C reasonably concludes that Customer and/or End Users' use of the SaaS Services is causing immediate and ongoing harm to Over-C, its other customers or its suppliers. In the extraordinary case that Over-C must suspend delivery of the SaaS Services, Over-C shall immediately notify Customer of the suspension and the parties shall diligently attempt to resolve the issue. Over-C shall not be liable to Customer or to any Third Party for any liabilities, claims or expenses arising from or relating to any suspension of the SaaS Services in accordance with this clause 6.4. Nothing in this clause 6.4 will limit Over-C's rights under clause 6.5.
- 6.5 Effect of Termination or Expiry.** Upon termination or expiry of this Agreement for any reason: (a) Over-C shall immediately cease providing the SaaS Services and all usage rights granted under this Agreement shall terminate; (b) Customer shall immediately pay to Over-C without set-off or deduction all of Over-C's outstanding unpaid invoices and interest in connection with this Agreement and, in respect of Goods and/or Services supplied but for which no invoice has yet been submitted, Over-C shall submit an invoice, which shall be payable by Customer immediately on receipt without set-off or deduction; (c) each Party shall return to the other Party all Confidential Information belonging to the other Party in its possession, custody or control; (d) each Party shall cease use of the other Party's Confidential Information and intellectual property; and (e) each Party shall, at its sole option, either return or destroy all records, documentation, data, and any other information and all copies thereof which are owned by or licensed to the other Party. Over-C shall have no obligation to safeguard or transmit to Customer any data that Customer may have stored through the use of the SaaS Services. Customer is responsible for the back-up and retrieval of such data. Clauses of this Agreement which expressly or by implication have effect after termination or expiry shall continue in full force and effect including without limitation the obligations of confidentiality.

7 NOT USED

8 RISK AND TITLE

- 8.1 Risk of loss or damage to the Goods supplied by Over-C pursuant to this Agreement shall pass from Over-C to Customer on delivery. Title to the Goods supplied by Over-C pursuant to this Agreement shall pass from Over-C to Customer when Customer shall have paid Over-C the agreed price provided that no title shall pass in respect of Software which is licensed only and any implied or actual licence under this Agreement is revoked upon non-payment.

9 WARRANTIES

- 9.1 Warranty. Over-C represents and warrants that it will provide the SaaS Services in a professional manner consistent with general industry standards and that the SaaS Services will perform substantially in accordance with the Documentation. Over-C warrants that Over-C title to and property in and to the Software is free and unencumbered, and Over-C has the right, power and authority to licence the same to Customer. For any breach of a warranty, Customer's exclusive remedy shall be as provided in clause 6, Term and Termination.
- 9.2 OVER-C WARRANTS THAT THE SAAS SERVICES AND SOFTWARE WILL, WHEN PROPERLY USED AND ON AN OPERATING SYSTEM FOR WHICH IT WAS DESIGNED, PERFORM IN ALL MATERIAL RESPECTS IN ACCORDANCE WITH THE DOCUMENTATION. OVER-C DOES NOT GUARANTEE THAT THE SAAS SERVICES AND SOFTWARE WILL PERFORM ERROR-FREE OR UNINTERRUPTED, OR THAT OVER-C WILL CORRECT ALL SAAS SERVICES OR SOFTWARE ERRORS. CUSTOMER ACKNOWLEDGES THAT OVER-C DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SAAS SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. THIS CLAUSE 9 SETS FORTH THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY OVER-C (EXPRESS OR IMPLIED) WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT. NEITHER OVER-C NOR ANY OF ITS LICENSORS OR OTHER SUPPLIERS WARRANT OR GUARANTEE THAT THE OPERATION OF THE SAAS SERVICES AND SOFTWARE WILL BE UNINTERRUPTED, VIRUS-FREE OR ERROR-FREE.

10 LIMITATION OF LIABILITY

- 10.1 NEITHER PARTY (NOR ANY LICENSOR OR OTHER SUPPLIER OF OVER-C) SHALL BE LIABLE TO THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR LOSS OF USE OF ANY SERVICE OR DATA, OR CORRUPTED DATA, OR LOSS OF PRODUCTION OR BUSINESS OR MARKET SHARE, OR LOSS OF TRAFFIC, OR BUSINESS INTERRUPTION, OR LOSS OF GOODWILL, OR LOST PROFITS, OR WASTED EXPENITURE, ANTICIPATED SAVINGS OR REVENUES OF ANY KIND OR ANY OTHER ECONOMIC LOSS (WHETHER DIRECT, INDIRECT OR CONSEQUENTIAL) REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING, EVEN IF FORESEEABLE OR THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES UNDER THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM, SHALL EXCEED THE CHARGES PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE DATE THE CLAIM AROSE. The foregoing limitations shall not apply to the parties' obligations (or any breach thereof) related to the Restrictions clause 3, Indemnification clause 11, Confidentiality clause 12 and Data Protection clause 13.2;
- 10.2 Limitations of Liability for Third Parties. Over-C shall not be liable for the acts or omissions of other third party providers of software, data or services (such as Third Party maps) that may be required to use to access any features or functions of the Software unless such other providers have been specifically engaged by Over-C as subcontractors or assignees in respect of the performance of Over-C's obligations under this Agreement.
- 10.3 Duty of Care. As with any automated service, the SaaS Services or the Software may malfunction due to factors beyond the reasonable control of Over-C or its third party providers (including without limitation due to a fault, delay or disruption in the telecommunications equipment, internet, cloud hosting and environment, network availability, mis-use or malfunction of equipment or services) and Over-C shall have no liability to Customer in these circumstances. Over-C does not warrant or represent that the SaaS Services meets Customer's legal obligations of a duty of care to its employees and contractors or any other person under the applicable and relevant health and safety, employment or duty of care laws, rules and regulations. The SaaS Services shall not be used as a substitute for other reasonable personal safety measures.

11 INDEMNIFICATION

- 11.1 Indemnification by Over-C.** If a third party makes a claim against Customer alleging that the Software, including the Documentation, infringes any patent, copyright or trademark, or misappropriates any trade secret, or that Over-C's negligence or wilful misconduct has caused bodily injury or death, Over-C shall defend Customer and its directors, officers and employees against the claim at Over-C's expense and Over-C shall pay all losses, damages and expenses (including reasonable legal fees) finally awarded against such parties or agreed to in a written settlement agreement signed by Over-C, to the extent arising from the claim. Over-C shall have no liability for any claim caused by Customer's own breach of the terms of this Agreement, or the modification of the Software by Customer, including the Documentation, not authorised by Over-C, or use of the Software other than in accordance with the Documentation and this Agreement in which event Customer shall indemnify Over-C in respect of any claims, proceedings and expenses arising from any such infringement by Customer. Over-C, at its sole option, its own expense and its sole obligation, may: (1) procure for Customer the right to continue use of the Software and Documentation; (2) modify the Software and/or Documentation in a manner that does not materially impair the functionality; (3) replace the Software and/or Documentation with a non-infringing similar substitute; or (4) if neither (1), (2), nor (3) can be achieved after exercise of commercially reasonable efforts, terminate this Agreement notwithstanding the indemnity obligation under this clause 11.1.
- 11.2 Conditions for Indemnification.** In all cases where Customer is seeking indemnification, Over-C's responsibilities will be subject to: (a) Customer notifying Over-C in writing as soon as possible but in no event more than twenty (20) days of becoming aware of the claim for which indemnity is being sought; (b) Over-C having sole control of the defence and all related settlement negotiations; (c) Customer providing Over-C with reasonable information and assistance (at Over-C's expense for out-of-pocket costs, to be approved in advance in writing by Over-C) to enable Over-C to perform Over-C's indemnity obligations; and (d) Customer making no admission of liability without Over-C's prior written consent (such consent not to be unreasonably withheld).

12 CONFIDENTIALITY

- 12.1 Definition.** "**Confidential Information**" means all information in any medium or format (written, oral, visual or electronic, and whether or not marked or described as "confidential"), together with all reproductions (hard copy or electronic), extracts, summaries or analysis of Confidential Information in any medium or format made by or on behalf of any Party, which relates to a Party (the "Disclosing Party") or to its Affiliates' employees, officers, customers or suppliers, and which is directly or indirectly disclosed by the Disclosing Party to the other Party (the "Recipient Party") in the course of their dealings relating to this Agreement, before or after the date of this Agreement.
- 12.2 Confidentiality.** During the term of this Agreement and for 5 years thereafter (perpetually in the case of the Software), the Recipient Party shall treat as confidential all Confidential Information received from the Disclosing Party, shall not use such Confidential Information except to exercise its rights and perform its obligations under this Agreement, and shall not disclose such Confidential Information to any third party except to its Affiliates. Without limiting the foregoing, the Recipient Party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the Disclosing Party. The Recipient Party shall promptly notify the Disclosing Party of any actual or suspected misuse or unauthorised disclosure of the Disclosing Party's Confidential Information. The Recipient Party shall not reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the Disclosing Party's Confidential Information, and which are provided to the Disclosing Party hereunder. The Recipient Party may disclose Confidential Information of the Disclosing Party on a need-to-know basis to its contractors who are subject to confidentiality agreements requiring them to maintain such information in confidence and use it only to facilitate the performance of their services on behalf of the Recipient Party.
- 12.3 Exceptions.** The following information is not "Confidential Information" for the purposes of this Agreement: (i) information which at the time of receipt by the Recipient Party is in the public domain, or subsequently comes into the public domain through no fault of the Recipient Party or its personnel, other than as a result of breach of this Agreement or any separate confidentiality undertaking between the Parties, (ii) information which the Recipient Party received lawfully, free of any obligation of confidence, from a third party which itself was not under any obligation of confidence in relation to that information, (iii) information which was already known to the Recipient Party before receipt under this Agreement, (iv) information which was developed or created independently by or on behalf of the Recipient Party or an Affiliate of the Recipient Party; or (v) information which is disclosed by the Recipient Party with the prior written approval of the Disclosing Party in accordance with the terms of such written approval. The Recipient Party may disclose Confidential Information of the Disclosing Party to the extent such disclosure is required by law or order of a court or other governmental authority, provided that the Recipient Party shall use reasonable efforts to promptly notify the other Party prior to such disclosure. Each Party may disclose the existence of this Agreement and the relationship of the parties, but agrees that the specific terms of this Agreement will be treated as Confidential Information; provided, however, that each Party may disclose the terms of this

Agreement to those with a need to know and under a duty of confidentiality such as accountants, lawyers, bankers and investors. Nothing in this Agreement or the disclosures envisaged by this clause 12 shall (except as expressly agreed otherwise) operate to transfer, or operate as a grant of any licenses, to any intellectual property rights in the Confidential Information.

13 GENERAL PROVISIONS

- 13.1 Non-Exclusive Service.** Customer acknowledges that the SaaS Services is provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict Over-C's ability to provide the SaaS Services or other technology, including any features or functionality first developed for Customer, to other parties.
- 13.2 Personal Data.** Customer hereby acknowledges and agrees that Over-C's performance of this Agreement may require Over-C to process, transmit and/or store personal data of Customer's employees, Affiliates and/or End Users. By submitting personal data to Over-C, Customer agrees that Over-C and its Affiliates may process, transmit and/or store personal data only to the extent necessary for, and for the sole purpose of, enabling Over-C to perform its obligations under this Agreement. In relation to all Personal Data provided by or through Customer to Over-C, Customer will be responsible as sole Data Controller for complying with all applicable data protection laws or regulations, such as the General Data Protection Regulation (Regulation (EU) 2016/679) (the "GDPR"), including any implementation act(s) related hereto (together the "Data Protection Legislation") that regulate the processing of Personal Data and special categories of data as such terms are defined in that regulation. Customer agrees to obtain all necessary consents and make all necessary disclosures before including Personal Data in the Customer Content and using the enabling Software and SaaS Services. Customer confirms that Customer is solely responsible for any Personal Data that may be contained in the Customer Content and used for the SaaS Services, including any information which any End User shares with third parties on Customer's behalf. Customer is solely responsible for determining the purposes and means of processing Customer Personal Data by Over-C under this Agreement, including that such processing according to Customer's instructions will not place Over-C in breach of applicable Data Protection Legislation. Prior to processing, Customer will inform Over-C about any special categories of data contained within Customer Personal Data and any restrictions or special requirements in the processing of such special categories of data, including any cross-border transfer restrictions. Customer is responsible for ensuring that the Over-C SaaS Services meet such restrictions or special requirements. Over-C shall operate appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, such data. In this clause 13.2 the terms "Personal Data", "Data Controller", "Data Processor" and "process" (in the context of usage of Personal Data shall have the meanings given to them in the Data Protection Legislation;
- 13.3 Over-C's Personal Data Obligations.** In order to operate and provide the SaaS Services, we collect certain information about End Users. We use and protect information as described in our Privacy Policy available at <https://www.over-c.com/legal/privacy-policy>. Customer acknowledges that use of the SaaS Services by End Users is subject to our Privacy Policy and understand that it identifies how Over-C collects, stores, and uses certain information.
- 13.4 Assignment and Subcontracting.** Neither Party may assign this Agreement or any right under this Agreement, without the consent of the other Party, such consent not to be unreasonably withheld or delayed; provided however, that either Party may assign this Agreement to an acquirer of all or substantially all of the business of such Party to which this Agreement relates, whether by merger, asset sale or otherwise. This Agreement shall be binding upon and insure to the benefit of the Parties' successors and permitted assigns. Either Party may employ subcontractors in performing its duties under this Agreement, provided, however, that such Party shall not be relieved of any obligations under this Agreement.
- 13.5 Notices.** Any notice or other communication required or permitted under this Agreement to be given in writing shall be given to the address and for the attention of the relevant Party whose details are set out in this clause 13.5 or as otherwise notified from time to time and will be deemed to have been given or made: when delivered personally by hand; or, if properly addressed and posted recorded delivery within two business days following date of posting if sent by registered mail; or, if sent by e-mail or other electronic means upon such communication being acknowledged as having been received.

In respect of Over-C, to:

Name
4th Floor, 12 South Mall
Cork
Ireland T12 RD43

Email: email address

In respect of Customer, to:

Name
Address
Address
Address

Email: email address

- 13.6 Force Majeure.** Each Party shall be excused from performance for any period during which, and to the extent that, such party or any subcontractor is prevented from performing any obligation or Service, in whole or in part, as a result of causes beyond its reasonable control, and without fault or negligence, including without limitation, riot; civil unrest, military action, acts of terrorism or war, earthquake, storm, flood, epidemics, inability to obtain supplies of power, fuel, or transport, exercise of emergency powers by any governmental authority, acts of government or other competent regulatory authority.
- 13.7 Waiver.** No waiver shall be effective unless it is in writing and signed by the waiving Party. The waiver by either Party of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach. The failure or delay by either Party to this Agreement to exercise or enforce any right, power or remedy under this Agreement shall not be deemed to operate as a waiver of any such right, power or remedy; nor shall any single or partial exercise by any Party operate so as to bar the exercise or enforcement thereof or of any right, power or remedy on any later occasion.
- 13.8 Severability.** If any clause, or part of a clause, of this Agreement is held to be illegal, invalid or unenforceable, that clause shall be reformed to achieve as nearly as possible the same effect as the original clause, and the remainder of this Agreement shall remain in full force.
- 13.9 Entire Agreement.** This Agreement (including all Schedules) constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations, proposals, understandings and agreements whether written or oral relating to the subject matter of this Agreement. Each of the Parties acknowledges and agrees that in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether Party to this Agreement or not) other than as expressly set out in this Agreement. Nothing in this Clause 13.9 shall, however, operate to limit or exclude any liability for fraudulent misrepresentation. Standard or printed terms contained in any purchase order or sales confirmation are deemed rejected and shall be void unless specifically accepted in writing by the Party against whom their enforcement is sought; mere commencement of work or payment against such forms shall not be deemed acceptance of the terms.
- 13.10 Variation.** No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives), except for the EULA where Over-C reserves the right to amend the EULA provided that any material amendments to the EULA that would affect Customer adversely should be previously notified to Customer.
- 13.11 Survival of Provisions.** Clauses 3 (Restrictions), 5.3 (Invoicing and Payment), 6 (Term and Termination), 10 (Limitation of Liability), 12 (Confidentiality) and 13 (General Provisions) of this Agreement shall survive the expiration or termination of this Agreement, for whatever reason.
- 13.12 Publicity.** Over-C may include Customer's name and logo in its customer lists, on its website and in its marketing literature. Over-C may produce a written and/or video case study of Customer for marketing purposes. Customer permits Over-C at Over-C's cost to produce a case study for this purpose and shall provide access and reasonable information and assistance to enable Over-C to produce a case study. Upon signing, Over-C may issue a high-level press release announcing the relationship and the manner in which Customer will use the Over-C solution. Over-C shall coordinate its efforts with appropriate communications personnel in Customer's organisation to secure approval of the press release, if requested by Customer.
- 13.13 No Third Party Rights.** Nothing in this Agreement, whether express or implied, confers or is intended to confer, any rights of any third party.
- 13.14 Independent Contractors.** The Parties are independent contractors, and nothing in this Agreement nor the conduct of the parties shall create, or be deemed to create, any other relationship. Except as provided in this Agreement, neither Party shall be responsible for the acts or omissions of the other Party or the other Party's personnel.
- 13.15 Statistical Information.** Over-C may collect, process, store and utilise anonymous aggregated data about the performance and behaviour of Customer including the classification of such customers to pre-defined groups, provided that (i) such data cannot be used to identify any specific Customer or End User and (ii) such data does not contain any direct or indirect reference to Customer.
- 13.16 Governing Law.** This Agreement, and any issues, disputes, controversy, proceedings or claim of whatever nature arising out of or in any way relating to it or its formation (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with the laws of the Republic of Ireland. The Parties submit to the exclusive jurisdiction of the courts of the Republic of Ireland.

13.17 Compliance with Laws. In performing its obligations under this Agreement and providing the Goods and Services, Over-C shall comply and shall use its best endeavours to procure that its permitted subcontractors comply with all applicable laws, regulations, codes of conducts, industry practices or Customer requirements described in this Agreement, any and all of which may be in place from time to time. If attending a Customer Premises, Over-C and its permitted subcontractors, shall comply with Customer's reasonable requirements regarding health, safety and security.

13.18 Dispute Resolution. Customer's satisfaction is an important objective to Over-C in performing its obligations under this Agreement. Except with respect to intellectual property rights, if a dispute arises between the parties relating to the interpretation or performance of this Agreement or the grounds for the termination hereof, the Parties agree to hold a meeting within fifteen (15) days of written request by either Party, attended by individuals with decision-making authority, regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute prior to pursuing other available remedies. If, within 15 days after such meeting, the Parties have not succeeded in resolving the dispute, either Party may protect its interests by any lawful means available to it.

13.19 Execution in Counterparts. This Agreement may be executed in two counterparts, both of which when so executed shall be deemed to be an original and both of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission (including in pdf format) will be effective as delivery of a manually executed counterpart.

Signed For And On Behalf Of:

Signed For And On Behalf Of:

Over-C Technology Limited

Customer

Signed: _____

Signed: _____

Name (Print): _____

Name (Print): _____

Title: _____

Title: _____

Date: _____

Date: _____

(Example Template)

Schedule 1

STATEMENT OF WORK S-_____

This Statement of Work No. S-_____ (“Schedule”) documents the Goods and Services (defined below) being purchased by Customer under the terms and conditions of the Agreement dated __, ____, 20____, between Over-C Technology Limited (“Over-C”) and _____ (“Customer”).

The term of this Statement of Work shall commence on ____, ____, 20____, and, unless terminated earlier under the terms of the Agreement, shall continue until ____, ____, 20____. In the event of termination of the Agreement in accordance with clause 6.1 of the Agreement, then this Statement of Work and associated purchase orders shall continue and shall remain subject to the terms of the Agreement.

In the event of any conflict, the terms and conditions contained in the Agreement will prevail. For the avoidance of doubt, unless expressly stated nothing contained in this Statement of Work shall be construed as amending or modifying the Agreement which shall continue in full force and effect.

This Statement of Work comprises an order when and only when accompanied by a due and valid purchase order.

All Charges are in Euros and are exclusive of VAT.

1 SAAS SERVICES

The Charges for the SaaS Services to be supplied by Over-C for the Subscription Term defined in Section 4 of this Statement of Work are as set out below.

Item	Customer Premises	Quantity	Price (EUR)
Subscription Fee			

2 SUPPORT AND MAINTENANCE SERVICES

Standard Support and Maintenance Services are included in the Subscription Fee.

3 MANAGED SERVICES

The Charges for the Managed Services to be supplied by Over-C are as set out below.

Item	Quantity	Price (EUR)
Managed Services		

4 SUBSCRIPTION TERM

Term start	_____, _____, 20__
Term end	_____, _____, 20__

5 GOODS

The Charges for the Goods to be supplied by Over-C are:

Item	Quantity	Price (EUR)

6 OTHER SERVICES

The Charges for the Other Services to be performed by Over-C are as set out below.

Item	Quantity	Price (EUR)

Customer to reimburse Over-C for reasonable travel and accommodation expenses incurred by Over-C (or its appointed sub-contractors) which are ordinary and necessary to provide the Services defined in this Section 6. Over-C shall seek prior approval in writing from Customer for such expenses.

7 PAYMENT SCHEDULE

The payment values and invoice dates for the Goods and Services in this Statement of Work are as set out below. Payment terms are set out in Clause 5.3 of the Agreement.

Ref	Payment Milestone	Invoice Date	Value (EUR)
1		dd-mmm-yyyy	
2		dd-mmm-yyyy	
3		dd-mmm-yyyy	
4		dd-mmm-yyyy	
		Total	

8 CUSTOMER BILLING INFORMATION

The information required by Over-C for the issuing of invoices for the Goods and Services to Customer are as set out below.

Registered Office Address:	
Company Number:	
Billing Address:	
Billing Contact:	
Billing Email:	

This Statement of Work has been duly executed by the Parties on the dates set out below.

**Signed For And On Behalf Of:
Over-C Technology Limited**

**Signed For And On Behalf Of:
Customer**

Signed:

Signed:

Name (Print): _____

Name (Print): _____

Title: _____

Title: _____

Date: _____

Date: _____

Schedule 2

Support and Maintenance Services

1 SUPPORT AND MAINTENANCE SERVICES

Support and Maintenance Services are included in the SaaS Service subscription and entitles the Customer to the following:

- 8.1 Telephone or electronic support in order to help Customer locate and resolve problems with the Software, or the configuration of the Software;
- 8.2 Bug fixes, code corrections and security updates to correct Software malfunctions in order to bring such Software into substantial conformity with the operating specifications;
- 8.3 All extensions, enhancements and other changes that Over-C, at its sole discretion, makes or adds to the SaaS Services and Software and which Over-C provides, without charge, to all other customers of the SaaS Service. New functionality may be subject to additional Charges.

2 CUSTOMER OBLIGATIONS

Support and Maintenance Services are provided helpdesk to helpdesk. Customer shall operate a helpdesk and provide a single interface to the helpdesk of Over-C. Customer helpdesk shall coordinate support enquiries and incidents and provide a single point of contact to Over-C for all support enquiries and incidents from Customer and End Users.

As examples of activities to be performed by Customer's helpdesk, Customer shall:

- Interface to End Users.
- Manage End User username/password changes.
- Manage connectivity, device and hardware related enquiries and problems.
- Escalate queries and incidents to Over-C helpdesk related to the SaaS Services and Software.
- Manage change requests in accordance with the Managed Service agreement (where purchased).
- Manage order related enquiries and problems.

Customer shall perform basic and initial diagnostic checks to quantify the symptoms of an incident before reporting to Over-C. Customer shall, at the time a problem is reported to Over-C, provide complete and accurate information, and provide prompt responses to requests from Over-C for further detailed information.

Over-C shall be under no obligation to provide Support and Maintenance services in respect of:

- problems resulting from any modifications or customisation of the Software not made by or authorised in writing by Over-C;
- any software other than the Over-C Software;
- incorrect or unauthorised use of the SaaS Services or Software or operator error where these are defined as use or operation not in accordance with the Documentation;
- any fault in any mobile devices;
- use of the elements of the SaaS Services or Software in any combination other than those specified in the Documentation;
- use of the SaaS Services or Software with any other software or products that Over-C has not expressly authorised in writing to be used with the SaaS Services;
- use of the SaaS Services or Software with web browsers and mobile device operating systems or other supporting software other than those specified in the Documentation;
- any use of the SaaS Services or Software by Customer and End Users in any of the ways set out under clause 4.7 of this Agreement.

3 ACCESSING SUPPORT AND MAINTENANCE SERVICES

Over-C shall provide the Support and Maintenance Services twenty-four (24) hours a day every day for the Subscription Term. Unless otherwise requested by Customer, and agreed by Over-C, all Support shall be provided remotely away from the Customer Premises.

Over-C provide several ways to discover information and to resolve any technical difficulties as follows:

- Online help through the Over-C online support centre (www.over-c.com/support) is available 24x7 for self-service technical assistance.
- Training documentation.
- The Over-C Helpdesk.

The Over-C Helpdesk can be reached by emailing support@over-c.com.

4 SERVICE LEVELS

An “**Incident**” is defined as an event which is not part of the standard operation of the Software, provided in accordance with this Agreement, and which causes, or may cause, an interruption or a reduction of the quality of the service for Customer. Incident priorities are classified by Over-C and agreed with Customer in accordance with the table below.

Over-C may elect to resolve an Incident with a bypass or work-around solution as long as the interruption or reduction of the quality of the services for Customer has been resolved and the relevant services are stable. A permanent fix solution shall be applied as soon as possible following the Incident, and once fully tested, to fully resolve the identified issue.

Over-C aim to achieve the following Service Levels for Support and Maintenance Services:

Incident Priority	Description	Business impact	Target Response Time	Target Resolution Time
P1	Complete loss of SaaS Services for all End Users of Customer.	Critical	30 mins	4 hours
P2	Complete loss of SaaS Services for a proportion of End Users of Customer; or Partial loss of SaaS Services for all End Users of Customer; or Performance degradation for all End Users of Customer.	Major	60 mins	8 hours
P3	Complete loss of SaaS Services for a single End User of Customer; or Partial loss of SaaS Services for a proportion of End Users of Customer; or Performance degradation for a proportion of End Users of Customer.	Moderate	4 hours	24 hours
P4	Partial loss of SaaS Services for a single End User of Customer; or Performance degradation for a single End User of Customer.	Minor	24 hours	72 hours
P5	A technical question raised in relation to the operation of the SaaS Services	Normal	-	72 hours

Target Response Time is measured from the time that Customer first notifies the Over-C helpdesk of an Incident to when Customer receives an acknowledgement that the Incident has been received, and severity assigned. Target Resolution Time is measured from the time that Customer first notifies the Over-C helpdesk of an Incident until the time determined by Over-C and agreed by Customer that an Incident has ended. The Target Resolution Time does not apply where the restoration time is affected by: (a) device fault or configuration error that is caused by Customer, (b) a SIM or device connectivity fault or configuration error that is not caused by Over-C, (c) planned maintenance work carried out by Customer that intentionally, or unintentionally, impacts the normal operation of the Over-C SaaS Service, (d) the use of the SaaS Service and/or Software for a fraudulent or unlawful act by Customer, (e) Customer not complying with Over-C’s reasonable instructions relating to the security and use of the Over-C SaaS Service, (f) the use of the Over-C Product in a manner which is inconsistent with a reasonable customer’s good faith use of the Over-C Product, and (g) any other cause beyond Over-C’s reasonable control.

Schedule 3

Managed Services

1 MANAGED SERVICES

Managed Services are an optional service provided by Over-C where Customer does not have the capability, or desire, to administer the Over-C SaaS Services, including configuration changes and sensor replacement.

The managed service to be provided shall be bespoke and tailored to the requirements of the Customer and shall include, but not be limited to, the following:

- Configuration of additional or replacement sensors.
- Configuration of additional or replacement devices.
- Configuration of new or modified tasks, audits and monitors.
- Configuration of users, roles and permissions.
- Configuration of new or modified notifications.
- Configuration of new or modified report schedules.

Managed Services include the administration of the Over-C SaaS Services only and shall take place off-site from the Customer Premises. Managed services do not include physical on-site services.

2 CUSTOMER OBLIGATIONS

Managed Services are provided helpdesk to helpdesk. Customer shall operate a helpdesk and provide a single interface to the helpdesk of Over-C. Customer helpdesk shall coordinate configuration change and sensor replacement requests and provide a single point of contact to Over-C for all managed service requests and enquiries from Customer and End Users.

For sensor replacement, the physical replacement shall be performed by Customer and the logical replacement (configuration changes) coordinated with, and performed by, Over-C.

Customer shall provide complete and accurate information and provide prompt responses to requests from Over-C for further detailed information.

3 ACCESSING MANAGED SERVICES

Over-C shall provide Managed Services during business hours only.

The Over-C Helpdesk can be reached by emailing support@over-c.com.

4 SERVICE LEVELS

Service Levels for Managed Services shall be agreed with Customer.