



Services Supply Agreement

Between

Wingnut Labs Ltd. T/A Webio

and

Customer Name

THIS AGREEMENT is made on _____ between:

1. **WINGNUT LABS LIMITED** a company registered in Ireland (registered number 575788) and having its registered office at 25 Temple Lane South, Temple Bar, Dublin 2 and trading as Webio ("**Webio**"); and
2. [INSERT CUSTOMER NAME] whose registered office/main place of business is at [].

Webio has agreed to licence and supply certain digital content and services to the Customer on the terms and conditions of this services supply agreement (the "**Agreement**").

Agreement Details

This Agreement includes and incorporates by reference the attached General Terms and Conditions, as well as the documentation contained in the schedules, including the service level agreement and acceptable use policy and contains, among other things, disclaimers and liability limitations.

Accepted and agreed to as of the Commencement Date by the authorised representative of each party:

By: Customer

By: Webio

Signature:

Signature:

Printed Name:

Printed Name:

Printed Title:

Printed Title:

General Terms and Conditions

1. Definitions

1.1 The definitions and rules of interpretation in this Clause apply in this Agreement.

“Acceptable Usage Policy”, the current Webio acceptable usage policy as set out in Schedule 2

“Agreement” the Order Form, these General Terms and Conditions and attached schedules as well as any document referred to in these General Terms and Conditions;

“Authorised Users”, those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services;

“Business Day”, any day which is not a Saturday, Sunday or public/bank holiday in the Republic of Ireland;

“Commencement Date”, the date set out in the Order Form;

“Confidential Information”, means all information obtained by one party from the other pursuant to the Agreement including the terms of this Agreement, the Services and the Software;

“Customer Data”, the data inputted by the Customer, Authorised Users, or Webio on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Service;

“Documentation” the documents provided to the Customer (in hard copy and soft copy) as part of the Services;

“Intellectual Property Rights”, patents, rights to inventions, copyright and related rights, trademarks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

“Initial Supply Term”, the period described in Clause 13.1;

“Normal Business Hours”, 08:00 to 17:30 local Irish/UK time, each business day;

“Order Form”, the Webio standard Supply order form signed by Webio and the Customer;

“Privacy Statement”, the then current Webio privacy statement as available on www.Webio.com or any other website notified to the Customer by Webio from time to time;

“Renewal Period”, the period described in Clause 13.1;

“Services”, the services provided by Webio to the Customer under this Agreement via www.Webio.com or any other website notified to the Customer by Webio from time to time and as detailed in the Service Level Agreement;

“Service Level Agreement or SLA”, the Webio service level agreement as set out in Schedule 1;

“Software”, the online software applications provided by Webio as part of the Services;

“Supply Fees”, the Supply fees payable by the Customer to Webio for the Services, as set out in the Order Form;

“Supply Term”, has the meaning given in Clause 13.1 (being the Initial Supply Term together with any subsequent Renewal Periods);

2. Service Supply

- 2.1 Subject to the terms and conditions of this Agreement, the Customer engages Webio to provide the Services and Webio hereby grants to the Customer a non-exclusive, non-transferable licence to permit the Authorised Users to use the Services during the Supply Term solely for the Customer's business operations.
- 2.2 The Customer shall comply, and warrants that it shall procure that its Authorised Users shall comply with the terms of this Agreement, including the Acceptable Usage Policy and Webio reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this Clause 2.
- 2.3 The Customer shall not:
- 2.3.1
- (a) except to the extent expressly permitted under this Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - (b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
- 2.3.2 access all or any part of the Services in order to build a product or service which competes with the Services;
- 2.3.3 subject to Clause 14.3, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services, Software or Documentation available to any third party except the Authorised Users,
- 2.3.4 attempt to obtain, or assist third parties in obtaining, access to the Services, Software or Documentation other than as provided under this Clause 2.
- 2.4 The Customer shall ensure that there is no unauthorised access to, or use of the Services, Software or Documentation and, in the event of any such unauthorised access or use, shall promptly notify Webio.
- 2.5 The rights provided under this Clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary, holding company or affiliate of the Customer unless expressly authorised by Webio in writing.

3. Services

- 3.1 Webio shall, during the Supply Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this Agreement.
- 3.2 Webio shall use commercially reasonable endeavours to make the Services available for the Service Hours and Service Availability set out in the SLA, except for:
 - 3.2.1 planned maintenance carried out during the maintenance window of 21:00 to 07:00 UK local time; and
 - 3.2.2 un-scheduled maintenance performed both outside and within Normal Business Hours, provided that Webio has used reasonable endeavours to give the Customer at least 1 Normal Business Hours' notice in advance.
- 3.3 Webio will, as part of the Services, provide the Customer with Webio's customer support in accordance with Webio's SLA in effect at the time that the Services are provided.
- 3.4 The Services provided and the SLA may be updated from time to time on agreement in writing between the parties and the Customer acknowledges that additional fees may be payable on any change of use approved by Webio.
- 3.5 Only the Designated Callers set out in the SLA shall be permitted to open an incident.

4. Customer Data

- 4.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data. Webio shall make the Customer Data available 'as is' and shall not be liable for any reliance placed by the Customer or any third party on the Software, Services or Customer Data.
- 4.2 The Customer shall and does hereby:
 - 4.2.1 agree that Webio may access and disclose Customer Data as required by applicable law, as permitted by the Customer or where such access or disclosure is required in order for Webio to adequately provide the Services; and
 - 4.2.2 agree to comply with the terms of Webio's third party providers where such compliance is required in order to receive/use the Services.
- 4.3 Webio shall, in providing the Services, comply with its Privacy Statement relating to the privacy and security of the Customer Data. The Customer acknowledges that it has reviewed and accepts the terms of the Privacy Statement and will ensure it reviews any future amendments or modifications to the Privacy Statements as may be made by Webio from time to time and notified to the Customer.
- 4.4 Each party shall comply with its respective obligations pursuant to all applicable data protection

and privacy laws.

- 4.5 Where Webio, as part of the fulfilment of its obligations under the Agreement, processes personal data on behalf of the Customer, the parties agree that:
- 4.5.1 the Customer shall be the data controller and Webio shall be the data processor;
 - 4.5.2 Webio will act only on instructions from the Customer, which such instructions shall include to process personal data in accordance with this Agreement and shall also include, where agreed by both parties, that Webio will maintain records for a period of up to three years of all contacts with the Customer's contact database ("**Contact Data**") and that such Contact Data will be used, in conjunction with Customer-approved third party data, to enable Webio and the Customer determine optimum engagement or other agreed business outcomes;
 - 4.5.3 Webio will at all times take all appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; and
 - 4.5.4 Webio will promptly answer the Customer's reasonable enquiries from time to time to enable the Customer to monitor Webio's compliance with this Clause.
- 4.6 Authorisation, by the Customer, is given to Webio to use and process anonymized Contact Data for statistical analyses for the purpose of improving its services and contact efficiency.
- 4.7 The Customer shall ensure that all Customer Data provided to Webio is accurate and kept up-to-date.

5. Third Party Providers

Webio makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the provision of the Services with regards to the content exchanged on or use of the Services by the Customer or any third party or correspondence or interaction with any third-party website, or any transactions completed, and any contract entered into by the Customer with any third party while using the Services. For the avoidance of doubt, the Customer is responsible for the results obtained from its use of the Services. Webio does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

6. Supplier Obligations

- 6.1 Webio undertakes that the Services will be performed substantially in accordance with SLA and with reasonable skill and care.
- 6.2 The undertaking at Clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Webio's instructions or Acceptable Usage Policy, or modification or alteration of the Services by any party other than Webio or Webio's duly authorised contractors or agents.

6.3 Webio:

6.2.1 does not warrant that the Customer's use of the Services will be uninterrupted or error-free or that the Services or the information obtained by the Customer through the Services will meet the Customer's requirements; and

6.2.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.4 This Agreement shall not prevent Webio from entering into similar agreements with third parties or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

6.5 Webio warrants that it has and will use all reasonably commercial endeavours to maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

7. Customer's Obligations

7.1 The Customer shall:

7.1.1 provide Webio with:

- a) all necessary co-operation in relation to this Agreement; and
- b) all necessary access to such information as may be required by Webio,

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

7.1.2 comply with all applicable laws and regulations with respect to its activities under this Agreement;

7.1.3 carry out all other Customer responsibilities and obligations set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Webio may adjust any agreed timetable or delivery schedule as reasonably necessary;

7.1.4 ensure that the Authorised Users use the Services in accordance with the terms and conditions of this Agreement, Acceptable Usage Policy and any applicable third party terms and conditions and shall be responsible for any Authorised User's breach of this Agreement, the Acceptable Usage Policy or the relevant third party terms and conditions;

7.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for Webio, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;

7.1.6 ensure that its network and systems comply with the relevant specifications provided

by Webio from time to time;

7.1.7 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Webio's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet; and

7.1.8 pay the Supply Fees.

8. Charges and Payments

8.1 The Customer shall pay the Supply Fees to Webio for Services in accordance with the payment terms as set out in the Order Form.

8.2 If Webio has not received payment in accordance with the payment terms as set out in the Order form, and without prejudice to any other rights and remedies of Webio:

8.2.1 Webio may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and Webio shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

8.2.2 interest shall accrue on such due amounts at an annual rate equal to 2%, commencing on the due date and continuing until fully paid, whether before or after judgment.

8.3 All amounts and fees stated or referred to in this Agreement:

8.3.1 shall be payable in euro or other currency specified in the Order Form;

8.3.2 are exclusive of value added tax, which shall be added to Webio's invoice(s) at the appropriate rate.

8.4 Webio shall be entitled to increase the Supply Fees pursuant to Clause 8.3 at the start of each Renewal Period upon 60 days' prior notice to the Customer and the Order Form shall be deemed to have been amended accordingly.

9. Proprietary Rights

9.1 The Customer acknowledges and agrees that Webio and/or its licensors own all Intellectual Property Rights in the Services, Software and Documentation. Other than the right to use the Services, Software and Documentation in accordance with the terms of this Agreement, this Agreement does not grant the Customer any Intellectual Property Rights, or any other rights or licences in respect of the Services, Software or Documentation.

9.2 The Customer shall do or procure to be done all such further acts and things and execute or procure the execution of all such other documents as Webio may from time to time require for

the purpose of giving Webio and/or its licensors the full benefit of the above clause 9.1.

- 9.3 The Customer shall not, directly or indirectly, engage in, nor permit any third party to engage in, any reverse engineering, disassembly, or any other attempt to derive the source code, underlying ideas, algorithms, structure, or organization of any IP provided by Webio.
- 9.4 The Customer shall not create derivative works, modify, or alter the IP in any manner without the prior written consent of Webio.
- 9.5 The Customer agrees that during the term of this Agreement and for a period of two (2) years following its termination, The Customer shall not, directly or indirectly, develop, manufacture, market, or sell any product or service that is similar to or competitive with the IP or technology of Webio.
- 9.6 The Customer shall not assist any third party in developing, manufacturing, marketing, or selling any product or service that is similar to or competitive with the IP or technology of Webio.
- 9.7 Webio confirms that it has all the rights in relation to the Services that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

10. Confidentiality

- 10.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:
 - 10.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 10.1.2 was in the other party's lawful possession before the disclosure;
 - 10.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 10.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 10.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 10.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 10.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 10.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of

Confidential Information caused by any third party.

- 10.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute part of Webio's Confidential Information.
- 10.6 Webio acknowledges that the Customer Data is part of the Confidential Information of the Customer.
- 10.7 The parties acknowledge that the terms of any non-disclosure agreement executed by them shall remain in force. In the event of any inconsistencies with the provisions of any such non-disclosure agreement and the terms of this Agreement, this terms of this Agreement shall take precedence.
- 10.8 This Clause 10 shall survive termination of this Agreement, however arising.

11. Indemnity

- 11.1 The Customer shall defend, indemnify and hold harmless Webio against all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services.

12. Limitation of Liability

- 12.1 This Clause 12 sets out the entire financial liability of Webio (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
 - 12.1.1 arising under or in connection with this Agreement;
 - 12.1.2 in respect of any use made by the Customer of the Services or any part of them; and
 - 12.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 12.2 Except as expressly and specifically provided in this Agreement:
 - 12.2.1 the Customer assumes sole responsibility for results obtained from the use of the Services by the Customer, and for conclusions drawn from such use. Webio shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Webio by the Customer in connection with the Services, or any actions taken by Webio at the Customer's direction;
 - 12.2.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, are excluded from this Agreement; and
 - 12.2.3 the Services are provided to the Customer on an "as is" basis. Webio does not warrant that the Software, Services, Documentation or any other materials provided pursuant to this Agreement will meet the Customer's requirements or that they or their access or use will be uninterrupted, error free, or completely secure. Except as expressly provided in this Clause 12, the entire risk as to the products, Services, Software and any other materials provided by Webio passes to the Customer on access being

granted to the Services and Software being granted to the Customer, including for quality and performance and for accuracy or quality of any information transmitted, received or otherwise delivered via the Software or the Services.

12.3 Nothing in this Agreement excludes the liability of Webio:

12.3.1 for death or personal injury caused by Webio's negligence; or

12.3.2 for fraud or fraudulent misrepresentation.

12.4 Subject to Clause 12.3:

12.4.1 Webio shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

12.4.2 Webio's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total Supply Fees paid during the 6 months immediately preceding the date on which the claim arose.

13. Term and Termination

13.1 This Agreement shall, unless otherwise terminated as provided in this Clause 13, commence on the Commencement Date and shall continue for Initial Supply Term of 36 Months and, thereafter, this Agreement shall be automatically renewed for successive periods of 36 months (each a Renewal Period), unless:

13.1.1 either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Supply Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Initial Supply Term or Renewal Period; or

13.1.2 otherwise terminated in accordance with the provisions of this Agreement and the Initial Supply Term together with any subsequent Renewal Periods shall constitute the Supply Term.

13.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this Agreement without liability to the other if:

13.2.1 the other party is in material breach of the terms of this Agreement and either (a) the breach cannot be remedied or (b) in the case of a breach that is capable of remedy, is not remedied by that party within thirty (30) days of being given notice to do so by the other party;

13.2.2 the other party ceases business, becomes insolvent or bankrupt or makes an arrangement for, or composition with, its creditors or makes an application to a court for protection from its creditors (otherwise than voluntarily for the purposes of a bona fide

amalgamation or reconstruction) or if a receiver, examiner, administrator or administrative receiver is appointed over any part of that party's business or if anything analogous occurs in relation to that party under the laws of another jurisdiction.

13.3 On termination of this Agreement for any reason:

13.3.1 all licenses granted under this Agreement shall immediately terminate;

13.3.2 each party shall return and make no further use of any Confidential Information, equipment, property and other items (and all copies of them) belonging to the other party;

13.3.3 the Customer shall immediately destroy or return to Webio (at Webio's option) all copies of any Software then in its possession, custody or control further to this Agreement and, in the case of destruction, certify to the reasonable satisfaction of Webio that it has done so;

13.3.4 the Customer shall immediately pay to Webio any sums due to Webio under this Agreement;

13.3.5 Webio may destroy or otherwise dispose of any of the Customer Data in its possession unless Webio receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Webio shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Webio in returning or disposing of Customer Data; and

13.3.6 the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

14. Dispute Resolution

14.1 In the event that there is a dispute in connection with this Agreement, the matter in the first instance will be referred to each party's representative for resolution. If such dispute cannot be resolved between the parties at the operational level, then both parties agree to the procedure set out below.

14.2 Each party's representative will notify the other party's representative in writing giving a detailed explanation of the nature of such dispute as soon as reasonably practicable after concluding that such dispute cannot be resolved at the operational level.

14.3 The dispute will then be referred to management representatives of each party for resolution within seven days of the matter first being referred to them.

14.4 In the event that the management representatives cannot agree a resolution to the dispute within twenty-one (21) days following the referral of it to them, then the dispute shall be finally

settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

15. General

- 15.1 **Interpretation:** In the Agreement (except where the context otherwise requires): (a) any reference to “persons” includes individuals, firms, partnerships, companies, corporations, associations, organisations, foundations and trusts (in each case whether or not having separate legal personality); (b) any reference to a “party” shall mean Webio or the Customer as the case may be and any such reference to “parties” shall (as the case may be and the context so requires) mean both of them and their permitted successors and assigns; (c) any phrase introduced by the terms “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; (d) Schedules form part of the Agreement and shall have effect as if set out in full in the body of the Agreement; (e) any references to the Agreement include the Schedules; and (f) any reference to time shall be local time at the location of Webio as set out in the Agreement.
- 15.2 **Further assurance:** Each party shall do, sign, execute and deliver all deeds, documents, assurances, acts, instruments and things reasonably required of it by notice from the other party to carry out and give full effect to the Agreement and the rights and obligations of the parties under it. The parties shall use their respective reasonable endeavours to procure, so far as they are able that any third parties shall, execute and perform all such further deeds, documents, assurances, acts, instruments and things as any of the parties may reasonably require, by notice in writing to the other to carry the provisions of the Agreement into effect.
- 15.3 **Assignment and sub-licensing:** The Customer shall have no right to sub-licence, assign or otherwise transfer the Agreement or any rights and obligations under the Agreement whether in whole or in part without the prior written consent of Webio. Webio may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement
- 15.4 **Notices:** All notices which are required to be given under the Agreement shall be in writing and shall be sent to the address of the recipient as set out in the Agreement or such other address as the recipient may designate by notice given in accordance with the Agreement. Any such notice may be delivered personally or by registered post or by fax and shall be deemed to have been served: if by hand, when delivered; if by registered post, 48 hours after posting; and if by fax, when despatched.
- 15.5 **Entire agreement:** The Agreement, and the documents referred to in it, constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of the Agreement. Each of the parties acknowledges and agrees that in entering into the Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty, understanding, promise or assurance (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as expressly set out in the Agreement as a warranty.
- 15.6 **Force majeure:** Neither party shall be liable to the other for any delay or non-performance of its obligations under the Agreement arising from any cause beyond its control including without

limitation, act of God, act or omission of government or regulatory body, war, fire, flood, explosion or civil commotion or any other act or omission whether similar to the foregoing or not. In the event that the same continues for a period of more than 60 days either party shall have the right to terminate the Agreement immediately upon written notice.

- 15.7 **Modification:** No addition to, or modification of, any provision of the Agreement shall be binding on the parties unless made by a written instrument and signed by a duly authorised representative of each of the parties.
- 15.8 **No waiver:** The failure to exercise or delay in exercising a right or remedy under the Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under the Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy. The rights and remedies contained in the Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 15.9 **Severability:** If any provision of the Agreement is judged to be invalid, illegal or unenforceable, this shall not affect or impact the continuation in full force and effect of the remainder of the provisions.
- 15.10 **No partnership or agency:** Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 15.11 **Non-solicitation:** Each party agrees that, during the term of this Agreement and for a period of six months from the date of termination of this Agreement, it shall not (without the other party's prior agreement in writing, which shall not be unreasonably withheld or delayed) directly or indirectly offer to employ, engage as an independent contractor or induce any person who has been associated in a technical or managerial capacity with any of the Services during the preceding six months to leave the other party's employment.
- 15.12 **Counterparts:** The Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original but all the counterparts together shall constitute one and the same instrument.
- 15.13 **Third party rights:** No term of the Agreement is intended to confer a benefit on or to be enforceable by, any person who is not a party to the Agreement.
- 15.14 **Governing law and jurisdiction:** This Agreement shall be exclusively governed by and construed in accordance with English law and the English courts shall have exclusive jurisdiction over all disputes arising pursuant to this Agreement or in connection with its subject matter.

Schedule 1: Service Level Agreement

Standard, Business and Enterprise SLA Packages

1. Service Description

- 1.1. Webio is committed to simplified, effective communication in a noisy world. We are proud to offer support that is consistent with these principles. will provide a conversational interface for Clients, with functionality to build, initiate, manage and report conversations through the available channels. The service will be supported via the Customer Service Desk.

2. Support Requests

- 2.1. The Customer may request Support Services from within their channel of choice from the available modes. Each Support Request shall include a description of the problem and the start time of the incident.
- 2.2. To enable speedy resolution, it is important that the Customer can provide as much information as possible when logging an issue, including:
 - 2.2.1. Webio user account
 - 2.2.2. Name and contact details
 - 2.2.3. Name of the campaign or report (if applicable)
 - 2.2.4. Description of incident and requested priority such output and other data, documents, information, assistance and (subject to compliance with all Customer's security and encryption requirements notified to Webio in writing) remote access to the Customer system, as are reasonably necessary to assist the Supplier to reproduce operating conditions similar to those present when the Customer detected the relevant fault and respond to the relevant Support Request.
- 2.3. The Customer acknowledges that, to properly assess and resolve Support Requests, it may be necessary to permit Webio direct access at the Customer site to the Customer system and the Customer's files, equipment and personnel.
- 2.4. The Customer shall provide such access promptly, provided that Webio complies with all the Customer's security requirements and other policies and procedures relating to contractors entering and working on the Customer site notified to Webio in writing.

3. Customer Support

- 3.1. System Availability: 24x7
- 3.2. Service Availability: 99.96%
- 3.3. Webio Core Support Hours: Core hours are between 09:00 to 17:00; Monday thru Friday with support personnel available to support incidents, problems or queries.

Contact	Detail
E-mail	support@webio.com
Chat	Help Centre
Telephone	020 3355 9718

3.4. Classification

3.4.1. How Incidents Are Classified

Webio has 3 classifications for all support incidents, this helps everyone to know quickly how an incident is being treated and what attention is being given to it.

P1 - The system is down and users are unable to converse. Webio will dedicate a resource 24/7 until resolved. Priority always High

P2 - Client specific issues. Webio and client will dedicate resource within standard business hours until resolved. Priority High or Medium

P3 - Client specific issues that have minimal impact on conversations. Webio and client will work on within standard business hours. Priority Low

3.4.2. Client to advise of requested priority. Webio has full and final decision on the prioritisation of an incident.

3.5. Response and Resolution Times

Once you have raised a support incident you will get an initial response and a target resolution time dependent on your agreed service plan. These are shown in the tables below. Regardless of plan, each incident has a named owner that will ensure you receive the information you need.

Standard

Priority	Response Time	Resolution Times
High	1 working days	3 working days
Medium	2 working days	6 working days
Low	5 working days	15 working days

Business

Priority	Response Time	Resolution Times
High	2 working hours	1 working day
Medium	4 working hours	2 working days
Low	1 working day	5 working days

Enterprise

Priority	Response Time	Resolution Times
High	1 working hour	4 hours
Medium	2 working hours	1 day
Low	4 working hours	2 days

3.6. Escalation Points: Should you need to escalate your incident please contact the Customer Service desk, if you need to escalate further then please contact your Webio Account Manager.

3.7. Case Resolution Detail: Upon case resolution a notification will be sent to the caller to identify:

- time the incident was resolved
- what the “Case Reasons” was
- case customer name and id
- case subject

3.8. Change Management Procedures: All requests for change must be directed to the Service desk.

4. Reporting Requirements

4.1. Reporting requirements will be assessed during implementation and agreed reports will be provided as per defined schedule.

5. Managed Service

5.1. If required Webio will be able to offer a full managed service. Allow our Webio Maestros to understand your requirements and then design, deliver and support the solutions that deliver on your objectives. Charges may be applied dependent on the level of SLA contracted.

6. Upgrading Support

6.1. The monthly fee for Standard support and maintenance is 15% of monthly spend (this is subject to a minimum monthly fee of £1,000).

6.2. If you require a higher level of support, out of hours’ support, quicker response times, a designated contact when things go wrong or simply to take advantage of many other benefits talk to us about upgrading to either the Business or Enterprise Support package.

7. Support Costs

7.1. The monthly fees are as follows:

Standard – 15% of monthly spend (subject to minimum monthly fee of £1,000)
Business – 18% of monthly spend (subject to minimum monthly fee of £2,000)
Enterprise – 20% of monthly spend (subject to minimum monthly fee of £4,000)

8. **Change of Scope**

The scope of services provided by Webio may be amended by agreement between the parties in writing and the Customer acknowledges that additional fees may be payable on any change approved by Webio.

Schedule 2: Acceptable Use Policy

1. Backgrounds and Definitions

- 1.1 The Webio Acceptable Usage Policy merely defines acceptable and unacceptable use of the Webio system (The “System”) by those who have been provided access to the service.
- 1.2 The Webio Acceptable Usage Policy applies in the first instance to any organisation (The “User Organisation”) or individual authorised (“Users”) to use The System. Users are permitted to access and use the Webio System subject to the terms and conditions set out in this Acceptable Usage Policy and the Webio Service Supply Agreement.
- 1.3 The User Organisation shall incorporate the terms and obligations of the Webio Acceptable Usage Policy into its own user policy.
- 1.4 The sending of communications that are grossly offensive or of an indecent, obscene or menacing character may be a criminal offence. It is also a criminal offence to harass another person. It is the policy of Webio to advise customers to report any such communications to the authorities and offer every assistance in helping any associated investigation.

Acceptable Use

- 1.5 A User Organisation may use the System for the purpose of communicating with other User Organisations and their members, and with individuals and services attached to networks which are reachable via the System. All use of the System is subject to the Webio Service Supply Agreement.
- 1.6 Subject to clause 4 below, the System may be used by the User Organisation for any lawful activity that furtherance of the aims and policies of the User Organisation.
- 1.7 It is the responsibility of the User Organisation to ensure that its Users use the System in accordance with this Acceptable Usage Policy, and in accordance with all applicable laws, including the regulations of an appropriate regulatory body.
- 1.8 By registering and/or using the Webio System you agree:
 - 1.8.1 to comply (and have all employees, sub-contractors and agents comply) with the terms of this Acceptable Use Policy;
 - 1.8.2 to report any violation of these terms and conditions;
 - 1.8.3 to comply with all reasonable instructions or requests of Webio in relation to the investigation of any offences and to abide by all applicable laws and regulations (including copyright and intellectual property laws), licences, codes of practice and usage policies of connected networks;
 - 1.8.4 that you shall not resell, sub-licence or attempt to resell, sub-licence or otherwise exploit commercially the System (or any part thereof) or any material or information accessed via the System;
 - 1.8.5 not to attempt to gain unauthorised access to or interfere with the System, other user accounts, computer systems or connected networks;

- 1.8.6 not to disguise the origin of any transmitted communication or impersonate any other person or entity;
- 1.8.7 to notify Webio immediately of any unauthorised use of an account or any other breach of security or any claim or legal proceedings against you relating to your use of the System; and
- 1.8.8 to comply with the terms and conditions of any internet service provider whose services you use.

Unacceptable Use

- 1.9 The System may not be used by User Organisations or Users for any activity which is contrary to the purpose for which access to the System is provided, including:
 - 1.9.1 Creation or transmission, or causing the transmission, of any offensive, obscene or indecent images, data or other material, or any data capable of being resolved into obscene or indecent images or material
 - 1.9.2 Creation or transmission of material with the intent to cause annoyance, inconvenience or anxiety;
 - 1.9.3 Creation or transmission of material that is unlawful, harmful, threatening, facilitates illegal activity, promotes unlawful violence, causes damage or injury to any person or property, is racially or ethnically offensive or is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability;
 - 1.9.4 Creation or transmission of material with the intent to defraud;
 - 1.9.5 Creation or transmission of defamatory material;
 - 1.9.6 Creation or transmission of material such that this infringes the copyright of another person;
 - 1.9.7 Deliberate activities having, with reasonable likelihood, any of the following characteristics:
 - a. wasting staff effort or networked resources, including time on end systems accessible and the effort of staff involved in the support of those systems;
 - b. corrupting or destroying other users' data;
 - c. violating the privacy of other users;
 - d. disrupting the work of other users;
 - e. denying service to other users (for example, by deliberate or reckless overloading of the service);
 - f. misuse of the System, such as the introduction of "viruses" or other harmful software
 - 1.9.8 Unless expressly permitted by Webio:

- (a) attempts to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or duplicate all or any portion of the System in any form or media or by any means including any data entered into the System;
- (b) attempts to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the System; or
- (c) accessing all or any part of the System in order to build a service which competes with Webio.

- 1.10 A User Organisation may not extend Webio access to other individuals unless it has written permission to do so from an authorised Webio representative.

Compliance

- 1.11 It is the responsibility of the User Organisation to take reasonable steps to ensure its Members' compliance with the conditions set out in this Policy document, and to ensure that unacceptable use of the System is dealt with promptly and effectively should it occur.
- 1.12 Where necessary, service may be withdrawn from the User Organisation or User, in accordance with the Webio Service Supply Agreement. Where violation of these conditions is unlawful, or results in loss or damage to Webio or Webio resources or the resources of third parties relating to Webio, the matter may be referred for legal action.