

MASTER SERVICES AGREEMENT UK ROW 231124

- A. This Agreement sets forth the terms and conditions pursuant to which the Customer will be granted access to (i) certain of the Company's commercial software and/or certain services from the Company; and (ii) pursuant to which the Company will provide such commercial software and/or services to the Customer.
- B. This Agreement contains, among other things, warranty disclaimers, liability limitations and use limitations.
- C. Except as otherwise permitted by this Agreement, no variation to its terms will be effective unless in writing and signed by both the Company and the Customer.

TERMS AND CONDITIONS

1. Provision of Access

The Company will use commercially reasonable efforts to provide the Customer with: (i) Onboarding; (ii) the Cloud Service ; and (iii) the Professional Services, where agreed, (collective, the "**Services**") for the Term as set forth in the Ordering Document and in accordance with applicable policies of the Company, which are available [here](#).

2. Restrictions and Responsibilities

Except as otherwise permitted by local copyright legislation or agreed to in writing by the Company, the Customer must not reverse compile, disassemble, remove, release, disclose, reveal, copy, extract, modify or otherwise reverse engineer all or any part of the Services or any software, documentation or data related to the Services.

With respect to any Services that are distributed or provided to the Customer for use on the Customer's premises or devices, the Company will grant to the Customer a non-exclusive, irrevocable, non-transferable, non-sub-licensable license to use such Services during the Term only in connection with the Services. At termination of this Agreement, the license identified above shall be revocable by the Company.

The Customer represents, covenants, and warrants that the Customer will use the Services only in compliance with this Agreement and all applicable laws and regulations.

The Customer hereby agrees to indemnify and hold harmless the Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and legal fees) in connection with any claim or action that arises from any violation (alleged or actual) of the foregoing or otherwise arising from the Customer's use of Services. Although the Company has no obligation to monitor the Customer's use of the Services, the Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in

violation of the foregoing. All indemnification obligations are subject to the limitation of liability set forth in this Agreement.

The Customer shall obtain and maintain any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, “**Equipment**”). The Customer shall also be responsible for maintaining the security of the Equipment, the Customer account, passwords (including but not limited to administrative and user passwords) and files, and is responsible for all uses of the Customer account or the Equipment with or without the Customer’s knowledge or consent.

3. Confidentiality and Proprietary Rights

Each Party understands that the other Party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (referred to as “**Proprietary Information**” of the Disclosing Party). In particular, the Company may disclose Proprietary Information to the Customer and the Customer may disclose Proprietary Information to the Company.

Proprietary Information of the Company includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of the Customer includes non-public data provided by the Customer to the Company to enable the provision of the Services (“**Customer Data**”).

Each Party agrees:

- i. to take reasonable precautions to protect such Proprietary Information, and
- ii. not to use (except in performance of the Services or as otherwise permitted in this Agreement) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any such information that can be documented (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third Party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

The Customer shall own all right, title and interest in and to the Customer Data. The Company shall own and retain all right, title and interest in and to (a) the Services, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Services or support, and (c) all intellectual property rights related to any of the foregoing.

Notwithstanding anything to the contrary, the Company shall have the right to collect and analyse data and other information relating to the provision, use and performance of

various aspects of the Services and related systems and technologies (including, without limitation, Customer Data and information derived therefrom), and the Company will be free (during and after the term) to (i) use Customer Data in aggregate or de-identified form for improving and enhancing the Services, developing artificial intelligence (AI) models for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business.

The Customer grants the Company a non-exclusive, royalty-free, worldwide licence to use Customer Data in de-identified or aggregated form solely for the purpose of:

- i) improving the Services;
- ii) enhancing or developing the Company's machine learning or AI models; and
- iii) generating insights and benchmarking analysis.

The Company shall not use personal data or confidential information that identifies the Customer or any data subject in a manner that would permit re-identification without the Customer's prior written consent.

No rights or licenses are granted except as expressly set out in this Agreement.

4. Payment of Fees

The Customer will pay the Company the fees described in the Ordering Document for the Services in accordance with this Agreement (the "**Fees**").

If the Customer believes that the Company has billed the Customer incorrectly, the Customer must contact the Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to the Company's Customer support department at accounts@nplan.io.

The Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by the Company thirty (30) days after the Customer has received the invoice.

Unpaid amounts are subject to an interest charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection. At the Company's discretion, late payments may result in immediate termination of the Services.

Where applicable, any goods or services tax, charge, impost or duty payable in respect of this Agreement or the supply of any goods or service made under or in respect of this Agreement and any other taxes, duties or levies will be paid by the Customer at the then-prevailing rate.

5. Term and Termination

Subject to earlier termination as provided below, this Agreement shall begin on the date as agreed between the Parties in writing (the “**Effective Date**”) and with respect to each order shall remain in effect for the duration of the Term (as defined below) unless otherwise terminated in accordance with this Agreement.

In addition to any other remedies it may have, either Party may also terminate this Agreement upon thirty (30) days’ notice (or without notice in the case of non-payment), if the other Party materially breaches any of the terms or conditions of this Agreement. The Customer will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, the Company will make Customer Data available to the Customer in a form the Company deems appropriate for a period of thirty (30) days. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. Warranty and Disclaimer

The Company shall use reasonable efforts consistent with prevailing industry standards to provide the Cloud Service in a manner which minimises errors and interruptions in the Cloud Service and shall perform the Onboarding and Professional Services in a professional and proper manner.

Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by the Company or by third-Party providers, or because of other causes beyond the Company’s reasonable control, but the Company shall use reasonable efforts to provide advance notice in writing or by email of any scheduled service disruption. However, whilst all due care has been taken, the Company does not warrant that the Services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the Services; nor does it warrant that the Services will be compatible with any application, program or software not specifically identified as compatible by the Company.

The Company’s obligation and the Customer’s exclusive remedy during the Term are limited, in the Company’s absolute discretion, to:

- a. the Company, at its own expense, using all reasonable endeavours to rectify any non-conformance of the Services by repair (by way of a patch, workaround, correction or otherwise) within a reasonable period of time; or
- b. if, in the Company's reasonable opinion, it is unable to rectify such non-conformance within a reasonable timescale or at an economic cost, the agreement will terminate and the Company will refund the Customer any pre-paid unused Fees from the date of termination; or
- c. issue "**Service Credits**" as described in Section 9 of this Agreement.

The Customer acknowledges and accepts that it is the Customer's sole responsibility to ensure that:

- a. the facilities and functions of the Services meet the Customer's requirements;
- b. the Services are appropriate for the specific circumstance of the Customer and are within the laws and regulations of the Customer's jurisdiction.

The Company does not purport to provide any legal, taxation or accountancy advice by providing the Services under this Agreement.

The Company will not be liable for any failure of the Services to provide any function not described in this Agreement or any failure attributable to:

- a. any modification to the Services other than by the Company;
- b. accident, abuse or misapplication of Services by the Customer;
- c. use of the Services with other software or equipment without the Company's written consent; or
- d. use other than in accordance with this Agreement.

The Company will perform the Professional Services at Customer request with reasonable due care and skill, noting that any results or recommendations provided as part of the Professional Services are based upon the instructions and information provided by the Customer and there is no guarantee or promise provided by the Company with respect to its Professional Services, the Cloud Service, and the Customer achieving a particular outcome or result with respect to the Professional Services or the Cloud Service.

7. Limitation on liability

Except in the case of death or personal injury caused by either Party's negligence, the aggregate liability of either Party under or in connection with this Agreement, to the other Party or to any third Party, whether arising in contract, tort, negligence, breach of statutory duty, or any other cause of action, to the maximum extent permitted by law, must not exceed the fees paid by the Customer to the Company for the Services under this

Agreement in the 12 months prior to the act that gave rise to the liability, in each case, whether or not that Party has been advised of the possibility of such damages.

Neither Party is liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other Party of an indirect or consequential nature including any economic loss or other loss of turnover, profits, business or goodwill, including without limitation where any such loss, damage, costs or expenses arise from the use of any reports or information generated as part of the Services or the adoption of any such reports or information or advice provided as part of any Professional Services.

8. Force Majeure

Neither the Customer nor the Company shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; pandemic; epidemic; threats or acts of terrorism; riots; crime or property theft; electrical, internet, or telecommunication outage that is not caused by the obligated Party; government restrictions (including, without limitation, the denial or cancelation of any export, import or other license); or other event outside the reasonable control of the obligated Party. Both the Customer and the Company will use reasonable efforts to mitigate the effect of a force majeure event. If such an event continues for more than 30 days, either of the Customer or the Company may cancel unperformed Services and affected orders upon written notice. Once causes for such exemption of liabilities are rectified and remedied, both Parties agree to resume performance of this Agreement with their best efforts. This Section does not excuse either Party's obligation to take reasonable steps to follow its normal disaster recovery procedures or the Customer's obligation to pay for the Services. If a Party claiming Force Majeure fails to notify the other Parties and provide sufficient evidence in accordance with the above provisions within 10 working days, it shall not be exempted from its liability for failure of performance or complete performance, or the necessity of delay in fulfilling its obligations.

9. Service Level Agreement

Commencing at the activation of the Cloud Service, except during maintenance periods and force majeure events, Company targets a Cloud Service uptime (“**Target Service Uptime**”) of 99.5%, calculated as (total time in preceding calendar month - Unplanned Downtime) ÷ total time in preceding calendar month, expressed as a percentage.

For any two months in a three month period in which Company's Cloud Service uptime is below the Target Service Uptime during a monthly reporting period, Customers are eligible

to receive “**Service Credits**” as a percentage of the affected monthly Cloud Services Fees, as follows:

- a. 5% when Cloud Service uptime is less than 99.5% but equal to or greater than 99.0% in the applicable calendar month
- b. 10% when Cloud Service uptime is less than 99.0%

Claims for Service Credits must be made within sixty (60) calendar days from the date that the Target Service Uptime was missed for the relevant monthly reporting period.

Should a Customer suspect that Target Service Uptime has not been achieved, it can request a calculation of the Target Service Uptime.

Customers are entitled to receive only one amount of Service Credits per monthly reporting period in which the applicable Target Service Uptime is missed. The Service Credits will be provided only towards any outstanding balance for the Cloud Service that, as of the date the Customer receives the Service Credits, is owed to Company under the relevant Agreement for such Cloud Services, and the provision of these Service Credits represents the Customer’s exclusive remedy, and Company’s entire liability, for the missed Target Service Uptime.

10. General

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

This Agreement is not assignable, transferable or sublicensable by the Customer except with the Company’s prior written consent. The Company may transfer and assign any of its rights and obligations under this Agreement without consent.

This Agreement is the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in writing signed by both Parties, except as otherwise provided in this Agreement.

No agency, partnership, joint venture, or employment is created as a result of this Agreement and the Customer does not have any authority of any kind to bind the Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing Party will be entitled to recover costs and legal fees.

The Customer authorises the Company to identify the Customer as a Customer on the Company website, or anywhere else the Company deems appropriate, and to use the Customer’s name, trademarks, and logos for such identification.

All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; the day after it is sent, if sent for next day delivery by recognised overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

This Agreement shall be governed by and construed in accordance with English Law and the Parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales in respect of any claim, dispute or difference arising out of or in connection with this Agreement.