

Full terms and conditions

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Dot Loves Data (DOT) have developed a suite of products to make information easily consumable and provide valuable data, statistical, demographic and policy insights through interactive and dynamic dashboards. DotDotDash, US, Dynamic Deprivation Index, Bizmomento, Moodalizer, Community Compass, Turn Up and Leaky Bucket are products developed, owned and distributed by DOT.

DOT agrees to licence its Product(s) and provide Services to the Licensee, and the Licensee accepts that licence and agrees to pay for that licence and the Services, on the terms of this Agreement.

TERMS OF THE AGREEMENT

1 CHANGES

DOT may change the terms of the Agreement (including the Fees) at any time on giving no less than 30 days' notice to the Licensee. If the Licensee does not agree to the changed terms, it must terminate the Agreement by giving notice to DOT before the effective date of the changes. If the Licensee does not terminate the Agreement in accordance with this clause, it is deemed to have accepted the changed terms.

2 INTERPRETATION

2.1 Definitions:

In the Agreement, the following terms have the stated meaning:

Additional Services any services other than Support Services provided to the Licensee by DOT, which may include installation, integration, customisation and/or development services.

Agreement this agreement, including the Schedule and each Order.

Approved Purpose the Licensee's lawful internal business purposes and subject to any maximum numbers of users and other requirements and restrictions (if any) set out in the Order.

Business Days Monday to Friday, other than any public holiday in Wellington, New Zealand.

Confidential Information the terms of the Agreement and any information that is obtained from the other party in the course of, or in connection with, the Agreement. DOT's Confidential Information includes the Product(s) and/or Services and any Documentation.

Documentation any documentation designed to enable the Licensee to properly use and operate the Product(s) and/or Services, and includes any revision of the documentation.

Effective Date the date the first Order is accepted by DOT.

Fees the fees set out in the Order, as may be updated in accordance with the terms of the Agreement.

Force Majeure an act of God, disaster event such as earthquake, tsunami, fire, flood, pandemic or other similar event beyond DOT's control makes it impossible to deliver a Product or Service or an event that is beyond the reasonable control of a party, excluding: an event to the extent that it could have been avoided by a party taking reasonable steps or reasonable care; or a lack of funds for any reason.

GST goods and services tax, value added tax, sales tax or equivalent tax payable under any applicable law.

Intellectual Property Rights includes copyright, and all rights existing anywhere in the world conferred under statute, common law or equity in relation to inventions (including patents), registered and unregistered trademarks and designs, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity. Intellectual Property has a consistent meaning, and includes any enhancement, modification or derivative work of the Intellectual Property.

Invoicing Start Date the date upon which DOT first invoices the Licensee upon having provided the product or service.

Licensee the person on whose behalf an Order or agreed Terms is submitted to DOT.

Order has the meaning given in clause 4.

Permitted Users the Licensee's personnel who are authorised to access and use the Product or Service on the Licensee's behalf in accordance with clause 5.2.

Revision includes an update, upgrade or new version of the existing Product released to the Licensee by DOT.

Services the Support Services and the Additional Services.

Terms for the sale and purchase of the Product and/or Service agreed between DOT and the Licensee.

Year a 12 month period commencing on the Invoicing Start Date or any anniversary of the Invoicing Start Date.

2.2 Interpretation:
In the Agreement:

- A. clause and other headings are for ease of reference only and do not affect the interpretation of the Agreement;
- B. words in the singular include the plural and vice versa;
- C. a reference to:
 - a. a party to the Agreement includes that party's permitted assigns;
 - b. personnel includes officers, employees, contractors and agents, but a reference to the Licensee's personnel does not include DOT;

- c. a person includes an individual, a company or other body corporate, an association of persons (whether corporate or not), a trust, a government department, or any other entity;
- d. including and similar words do not imply any limit;
- e. a statute includes references to regulations, orders or notices made under or in connection with the statute or regulations and all amendments, replacements or other changes to any of them;
- D. no term of the Agreement is to be read against a party because the term was first proposed or drafted by that party; and
- E. where any conflict exists between the documents comprising the Agreement, those documents have the following descending order of precedence:
 - a. this document titled Dot Loves Data Limited Licence and Support Agreement, including the Schedule; and
 - b. the Orders or Terms.

3 LICENCE

DOT grants to the Licensee, and the Licensee accepts, a non-exclusive and non-transferable licence for the duration of the Agreement to use the Product and/or Service and any Documentation solely for the Approved Purpose and on the terms and conditions of the Agreement.

4 ORDERS

4.1 Submission of Orders: If the Licensee requires any Product and/or Service, any additional Product features, any variation to the permitted number of users or any other usage metric or restriction that applies to the Product and/or any Services, it must submit an order to DOT. An order may be submitted by way of:

- A. signing, and returning to DOT, a form titled Order Confirmation that is attached to a quote or proposal issued by DOT;
- B. signing licence terms, provisioning or variation form (or similar) provided by DOT or accessible via DOT's website;
- C. or by such other means as is designated by DOT from time to time.

4.2 Order acceptance: Unless specified otherwise by DOT:

- A. the following Orders are deemed to be accepted by DOT on receipt by DOT:
 - a. a signed form that accepts a quote or proposal issued by DOT without amendment; and
 - b. any provisioning or variation form (or similar) accessible via DOT's website; and
 - c. Terms agreed in written form by email, document or other means of written correspondence.
- B. any other type of Order is subject to acceptance by DOT. Acceptance will take place on the earlier of DOT confirming acceptance by email, commencing supply of the relevant Product or Service, or taking any other action to fulfil the Order.

4.3 Effect of Orders:

- A. Each Order accepted by DOT in accordance with clause 4.2 forms part of, and is governed by, the Agreement.
- B. By submitting an Order, the Licensee accepts the terms of the Agreement. If the Licensee does not accept the Agreement, it is not authorised to access and use the Product or Service, and it must not install the Product or have it installed on its behalf.

5 LICENCE CONDITIONS

5.1 *Conditions*: The Licensee must:

- A. use the Product(s) and/or Services for lawful purposes only and must not copy (except making copies exclusively for the Licensee's own back-up purposes), reproduce, translate, decompile, reverse engineer, resell, modify, vary, sub-license or otherwise deal in the Product and/or Service or any Documentation except:
 - a. as expressly provided for in the Agreement; or
 - b. to the extent expressly permitted by any law or treaty that is in force in the Licensee's jurisdiction where that law or treaty cannot be excluded, restricted or modified by the Agreement;
- B. ensure the Product and/or Service and the Documentation are protected at all times from misuse, damage, destruction or any form of unauthorised use, copying or disclosure;
- C. maintain all proprietary notices on the Product and/or Service and the Documentation;
- D. not transfer, assign or otherwise deal with or grant a security interest in the Product and/or Service, the Documentation or the Licensee's rights under the Agreement;
- E. not challenge DOT's ownership of (including the Intellectual Property Rights in) the Product and/or Service, the Documentation or any other item or material created or developed by or on behalf of DOT under or in connection with the Agreement; and
- F. notify DOT in writing immediately after it becomes aware of any circumstance which may suggest that any person may have unauthorised knowledge, possession or use of the Product and/or Service or the Documentation.

5.2 *Permitted Users*: Without limiting clause 5.1, no individual other than a Permitted User may access or use the Product and/or Service. The Licensee may authorise any member of its personnel to be a Permitted User, provided that the maximum number of users set out in the Order or Terms is not exceeded. The Licensee must procure each Permitted User's compliance with clause 5.1 and any other reasonable condition notified by DOT to the Licensee. A breach of any of the Agreement by any of the Licensee's personnel (including, to avoid doubt, a Permitted User) is deemed to be a breach of the Agreement by the Licensee.

6 SUPPORT SERVICES & ADDITIONAL SERVICES

6.1 *Support Services*: DOT must provide the Licensee with the Support Services agreed in the Order or any Terms, provided the Licensee has:

- A. paid all Fees due;

- B. maintained the proper use of the Product and/or Service in accordance with any guidance from DOT, including in any Documentation submitted to the Licensee; and
- C. complied with the Agreement and the Documentation.

6.2 *Additional Services*: Unless expressly stated in the Order or otherwise agreed in writing with DOT, the Agreement does not cover, and the Fees do not include fees for, the provision of any Additional Services. DOT may, subject to the Licensee paying the applicable fees and agreeing to any applicable further terms, agree to provide one or more Additional Services to the Licensee.

7 FEES

7.1 *Fees*: The Licensee must pay the Fees to DOT for the provision of the Product and/or Service.

7.2 *Invoicing and payment*:

- A. DOT will provide the Licensee with valid tax invoices on the dates set out in the Order, or if there are none:
 - a. for Services provided on a time and materials basis, monthly in arrears; and
 - b. for Products and all other Services, monthly in advance.
- B. The Fees exclude GST, which the Licensee must pay on taxable supplies (if any) under the Agreement.
- C. The Licensee must pay the Fees:
 - a. in accordance with any payment terms set out in the Terms, or if there are none, by the 20th of the month following the date of invoice; and
 - b. electronically in cleared funds without any set off or deduction except to the extent required by law.
- D. If the Licensee is required by law to make any deduction, the Licensee must pay DOT any additional amount that is necessary to ensure receipt by DOT of the full amount which DOT would have received but for the deduction.

7.3 *Overdue amounts*: DOT may charge interest on overdue amounts. Interest will be calculated from the due date to the date of payment (both inclusive) at an annual percentage rate equal to the corporate overdraft reference rate (monthly charging cycle) applied by DOT's primary trading bank as at the due date (or if DOT's primary trading bank ceases to quote such a rate, then the rate which in the opinion of the bank is equivalent to that rate in respect of similar overdraft accommodation expressed as a percentage) plus 2% per annum.

7.4 *Increases*: Without limiting clause 1, the Fees will increase automatically each Year by the greater of 3% or the percentage change in the New Zealand Consumer Price Index (or similar or equivalent index if that index ceases to be published) over the 12 months preceding the last quarterly publication of that index issued by Statistics New Zealand prior to the date of the notice, with the increase to take effect on the anniversary of the Invoicing Start Date. If the Licensee does not wish to pay the increased Fees, it must terminate the Agreement in accordance with clause 12.2b, provided the notice is received by DOT before the effective date of the Fees increase. If the Licensee does not terminate the Agreement in accordance with this clause, it is deemed to have accepted the increased Fees.

8 INTELLECTUAL PROPERTY

8.1 *Retained Intellectual Property*: Subject to clauses 8.2 and 8.3, the following Intellectual Property remains the property of the current owner:

- A. Intellectual Property that existed prior to the Effective Date; and
- B. Intellectual Property that was developed independently of the Agreement.

8.2 *Product(s) and related IP*: From the date of creation or development, DOT owns all Intellectual Property Rights in:

- A. the Product(s) and/or Services and the Documentation; and
- B. data, code, business information, ideas and concepts, designs and know-how associated with the Product.
- C. any other item or material created, developed or provided by or on behalf of DOT under or in connection with the Agreement.

8.3 *Feedback*: If the Licensee provides DOT with ideas, comments or suggestions relating to the Product(s) and/or Services, the Documentation or the Services (together feedback):

- A. all Intellectual Property Rights in that feedback, and anything created as a result of that feedback (including new material enhancements, modifications or derivative works), are owned solely by DOT; and
- B. DOT may use or disclose any feedback for any purpose.

8.4 *Transient reproduction of work*: A reproduction of a work does not infringe copyright in the work if the reproduction—

- (a) is transient or incidental; and
- (b) is an integral and essential part of a technological process for—
 - (i) making or receiving a communication that does not infringe copyright; or
 - (ii) enabling the lawful use of, or lawful dealing in, the work; and
- (c) has no independent economic significance.

8.5 *IP indemnity*:

- A. DOT indemnifies the Licensee against any claim or proceeding brought against the Licensee to the extent that claim or proceeding alleges that the Licensee's use of the Product(s) and/or Services in accordance with the Agreement constitutes an infringement of a third party's Intellectual Property Rights (IP Claim). The indemnity is subject to the Licensee:
 - a. promptly notifying DOT in writing of any IP Claim;
 - b. making no admission of liability and not otherwise prejudicing or settling the IP Claim, without DOT's prior written consent; and
 - c. giving DOT complete authority and information required for DOT to conduct and/or settle the negotiations and litigation relating to the IP Claim. The costs incurred or recovered are for DOT's account.
- B. The indemnity in clause 8.4a does not apply to the extent that an IP Claim arises from or in connection with:
 - a. the Licensee's breach of the Agreement;

- b. the use of the Product(s) in a manner or for a purpose not reasonably contemplated by the Agreement and not otherwise authorised in writing by DOT;
 - c. any third party data or data owned by the Licensee; or
 - d. modification or alteration of the Product(s) and/or Services by a person other than DOT.
- C. If at any time an IP Claim is made, or in DOT's reasonable opinion is likely to be made, then in defense or settlement of the IP Claim, DOT may (at DOT's option):
 - a. obtain for the Licensee the right to continue using the items that are the subject of the IP Claim; or
 - b. modify, re-perform or replace the items that are the subject of the IP Claim so they become non-infringing.

9 CONFIDENTIALITY

9.1 *Security*: Each party must, unless it has the prior written consent of the other party:

- A. keep confidential at all times the Confidential Information of the other party;
- B. effect and maintain adequate security measures to safeguard the other party's Confidential Information from unauthorised access or use; and
- C. disclose the other party's Confidential Information to its personnel or professional advisors on a need to know basis only and, in that case, ensure that any personnel or professional advisor to whom it discloses the other party's Confidential Information is aware of, and complies with, the provisions of clause 9.1a and 9.1b.

9.2 *Permitted disclosure*: The obligation of confidentiality in clause 9.1a does not apply to any disclosure or use of Confidential Information:

- A. for the purpose of performing the Agreement or exercising a party's rights under the Agreement;
- B. required by law (including under the rules of any stock exchange);
- C. which is publicly available through no fault of the recipient of the Confidential Information or its personnel;
- D. which was rightfully received by a party to the Agreement from a third party without restriction and without breach of any obligation of confidentiality; or
- E. by DOT if required as part of a bona fide sale of its business (assets or shares, whether in whole or in part) to a third party, provided that DOT enters into a confidentiality agreement with the third party on terms no less restrictive than this clause 9.

10 WARRANTIES

10.1 *Mutual warranties*: Each party warrants that it has full power and authority to enter into and perform its obligations under the Agreement which, when accepted, will constitute binding obligations on the warranting party.

10.2 *No other warranties*: To the maximum extent permitted by law:

- A. the Product(s) and/or Services are provided on an as is basis without warranty of any kind, either expressed or implied, including, but not limited to, any implied warranties of merchantability and fitness for a particular purpose; and
- B. without limiting clause 10.2a, DOT makes no representation or warranty concerning the quality of the Product(s) and/or Services, and does not promise that the Product(s) and/or Services will be error-free, bug-free, or will operate without interruption.

10.3 *Business use*: The Licensee agrees and represents that it is acquiring its licence to the Product(s) and/or Services, and entering the Agreement, for the purpose of a business and that no consumer protection legislation applies to the supply of the Product(s) and/or Services, or the Agreement.

11 LIABILITY

11.1 *Liability exclusion*: To the maximum extent permitted by law:

- A. the Licensee accesses and uses the Product(s) and/or Services at its own risk; and
- B. DOT is not liable or responsible to the Licensee or any other person for any claim, damage, loss, liability and cost under or in connection with the Agreement, Product(s) and/or Services or the Licensee's access and use of (or inability to access or use) the Product(s) and/or Services. This exclusion applies regardless of whether DOT's liability or responsibility arises in contract, tort (including negligence), equity, breach of statutory duty, or otherwise.

11.2 *Maximum liability*: To the maximum extent permitted by law and only to the extent clause 11.1 does not apply, the maximum aggregate liability of DOT under or in connection with the Agreement or relating to the Product(s) and/or Services, whether in contract, tort (including negligence), equity, breach of statutory duty or otherwise, will be limited (at DOT's option) to:

- A. remedying, repairing or replacing the Product(s) and/or Services;
- B. remedying or reperforming the Services; and/or
- C. refunding the Fees paid by the Licensee under the Agreement in the 3 month period preceding the first event giving rise to liability.

11.3 *Unrecoverable loss*: Neither party is liable to the other under or in connection with the Agreement for any:

- A. loss of profit, revenue, savings, business, data and/or goodwill; or
- B. consequential, indirect, incidental or special damage or loss of any kind.

11.4 *Unlimited liability*:

- A. Clauses 11.1 to 11.3 do not apply to limit DOT's liability:
 - a. under the indemnity in clause 8.4a; or
 - b. under or in connection with the Agreement for:
 - i. personal injury or death;
 - ii. fraud or wilful misconduct; or
- B. a breach of clause 9.
- C. Clause 11.3 does not apply to limit the Licensee's liability:
 - a. to pay the Fees;
 - b. under or in connection with the Agreement for:

- i. breach of clause 3 or 5; or
- ii. those matters stated in clause 11.4.A.b; or
- c. for infringement of DOT's Intellectual Property Rights.

11.5 No liability for other's failure:

Neither party will be responsible, liable, or held to be in breach of the Agreement for any failure to perform its obligations under the Agreement or otherwise, to the extent that the responsibility, liability or failure is caused by the other party failing to comply with its obligations under the Agreement, or by the negligence or misconduct of the other party or its personnel.

11.6 Mitigation: Each party must take reasonable steps to mitigate any loss or damage, cost, or expense it may suffer or incur arising out of anything done or not done by the other party under or in connection with the Agreement.

12 TERM, TERMINATION AND SUSPENSION

12.1 Duration: The Agreement starts on the Effective Date and continues until terminated in accordance with its terms.

12.2 Termination rights:

- A. Either party may, by notice to the other party, immediately terminate the Agreement if the other party:
 - a. breaches any material provision of the Agreement and the breach is not:
 - i. remedied within 10 days of the other party notifying it of the breach; or
 - ii. capable of being remedied;
 - b. becomes insolvent, liquidated or bankrupt, has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, becomes subject to any form of insolvency action or external administration, or ceases to continue business for any reason; or
 - c. is unable to perform a material obligation under the Agreement for 15 days or more due to Force Majeure.
 - d. The Licensee may terminate the Agreement at any time on giving no less than 30 days' notice to DOT.
 - e. Without limiting any of its other rights and remedies, DOT may, by notice to the Licensee, immediately terminate the Agreement if:
 - i. the remedies in clause 8.4c are exhausted without remedying or settling the IP Claim; or
 - ii. the Licensee fails to install a Revision within 24 months of it being released to the Licensee by DOT.

12.3 *Suspension:* Without limiting any of its other rights and remedies, DOT may suspend the Licensee's licence to use the Product(s) and/or Services or otherwise restrict the Licensee's access and use of the Product(s) and/or Services if any amount payable is not paid by the due date or if in DOT's reasonable opinion the Licensee is in breach of any other term of the Agreement.

12.4 Consequences of termination or expiry:

- A. Termination or expiry of the Agreement does not affect either party's rights and obligations accrued before that termination or expiry.
- B. On termination or expiry of the Agreement, the Licensee must pay all Fees for the rights and Services provided prior to that termination or expiry. Fees paid in advance are not refundable in any circumstances, except to the extent required by law.
- C. Each party must, at the other party's request following the termination or expiry of the Agreement, return to the other party or (at the other party's option) destroy all Confidential Information of the other party (including, in the case of the Licensee, the Product(s) and/or Services and Documentation) in the first party's possession or control.

12.5 Obligations continuing: Clauses which, by their nature, are intended to survive termination or expiry of the Agreement, including clauses 8, 9, 11, 12.4, 12.5 and 13, continue in force.

13 DISPUTES

13.1 Good faith negotiations: Before taking any court action, a party must use its best efforts to resolve any dispute under, or in connection with, the Agreement through good faith negotiations.

13.2 Obligations continue: Each party must, to the extent possible, continue to perform its obligations under the Agreement even if there is a dispute.

13.3 Right to seek relief: This clause 13 does not affect either party's right to seek urgent interlocutory and/or injunctive relief.

14 GENERAL

14.1 Force majeure: Neither party is liable to the other for any failure to perform its obligations under the Agreement to the extent caused by Force Majeure, provided that the affected party:

- A. immediately notifies the other party and provides full information about the Force Majeure;
- B. uses best efforts to overcome the Force Majeure; and
- C. continues to perform its obligations to the extent practicable.

14.2 Waiver: To waive a right under the Agreement, that waiver must be in writing and signed by the waiving party.

14.3 Independent contractor: DOT is an independent contractor of the Licensee. No other relationship (e.g. joint venture, agency, trust or partnership) exists under the Agreement.

14.4 Notices: DOT may provide notice to the Licensee by email. A notice given by the Licensee to DOT under the Agreement must be delivered to DOT via email to jason@dotlovesdata.com and paul@dotlovesdata.com or such other email address notified by DOT to the Licensee for this purpose.

14.5 Severability: Any illegality, unenforceability or invalidity of a provision of the Agreement does not affect the legality, enforceability or validity of the remaining provisions of the Agreement.

14.6 Variation: Except as set out otherwise in the Agreement, any variation to the Agreement must be in writing and signed by both parties.

14.7 Entire agreement: The Agreement sets out everything agreed by the parties relating to the Product(s) license and the Services and supersedes and cancels anything discussed, exchanged or agreed prior to the Effective Date. The parties have not relied on any representation, warranty or agreement relating to the Product(s) license and the Services that is not expressly set out in the Agreement, and no such representation, warranty or agreement has any effect from the Effective Date.

14.8 No assignment:

- A. The Licensee may not assign, novate, subcontract or transfer any right or obligation under the Agreement without the prior written consent of DOT, that consent not to be unreasonably withheld. The Licensee remains liable for its obligations under the Agreement despite any approved assignment, subcontracting or transfer. Any assignment, novation, subcontracting or transfer must be in writing.
- B. Any change of control of the Licensee is deemed to be an assignment for which DOT's prior written consent is required under clause 14.8a. In this clause, change of control means any transfer of shares or other arrangement affecting the Licensee or any member of its group which results in a change in the effective control of the Licensee.

14.9 Law: The Agreement is governed by, and must be interpreted in accordance with, the laws of New Zealand. Each party submits to the non-exclusive jurisdiction of the courts of New Zealand in relation to any dispute connected with the Agreement.

15 PRIVACY & SECURITY

15.1 Personal Information: The Privacy Act 1993 guides how DOT manages any personal information it receives. We follow the privacy principles (set out in the Act) when collecting, storing and using personal information.

15.2 Customer Information: DOT undertakes to ensure all customer data use and storage is compliant with appropriate New Zealand and International regulations, codes and legislation. All necessary steps are taken to ensure that client information remains confidential, secure and necessary suppression applied.

15.3 Storage of Information: Licensee information is stored in a secure online environment through Microsoft's Power BI platform for the purpose of administering and improving DOT's Product(s) and/or Services. This data is not shared with any other parties, nor is it used for any other purposes. Personal customer information is only stored for the period of the licensing agreement, at which point it is destroyed.

15.4 Security Breach In the event of a security breach of DOT's systems, DOT agrees to notify the Licensee within four hours of the breach being identified.

15.5 Conclusion of Licence Period: At the conclusion of the Licence period, DOT agrees to delete or destroy all Licensee specific data.

SCHEDULE – SUPPORT SERVICES

1 DEFINITIONS

In addition to the defined terms set out in clause 2.1 of the Agreement, in this Schedule the following terms have the stated meaning:

Business Hours 9:00 a.m. to 5:00 p.m. on Business Days.

Error any verifiable failure of the Product(s), unless such failure:

- A. does not materially affect the operation and use of the Product(s); or
- B. results from any of the matters set out in sections 4.6a to 4.6d of this Schedule.

Support Request a report from the Licensee of an Error or suspected Error, or a request for information relating to the Product(s).

Support Start Date the start date for Support Services set out in the Order, or if there is no such date stated, the Effective Date.

Support Term the period commencing on the Support Start Date and ending on the termination of the Agreement.

Technical Support the technical support services described in section 4 of this Schedule.

Workaround a temporary solution to an Error that DOT has implemented, or enabled the Licensee to implement, and that allows the Product(s) to regain functionality.

2 SUPPORT SERVICES

2.1 Maintenance and Technical Support: For so long as the Licensee has paid all Fees, maintained a proper operating environment for the use of the Product(s) in accordance with any guidance from DOT, including the Documentation, and otherwise complied with the Agreement and the Documentation, DOT will provide to the Licensee for the Support Term:

- A. Maintenance Support; and
- B. Technical Support, using reasonable efforts to meet the time frames described in section 5 of this Schedule.

2.2 Discontinuance: DOT may discontinue any Product(s) or Revision, and stop supporting Product(s) or Revisions 24 months after a subsequent Revision has been released to the Licensee by DOT.

2.3 Additional Services: If DOT performs services at the Licensee's request beyond the scope of the services set forth in this Schedule, the Licensee will be billed for such services as Additional Services at DOT's then current charges for such services.

3 MAINTENANCE

3.1 DOT Product(s) Maintenance Update: From time to time, DOT may develop permanent fixes or solutions to known problems in the Product(s) and incorporate them into a formal update to the Product(s) (Maintenance Update). If the Licensee is under valid maintenance coverage on the general release date of a Maintenance Update, DOT will provide the Licensee with the Maintenance Update and related Documentation, both at no additional charge to the Licensee.

It is the Licensee's sole responsibility to implement any Maintenance Update on its systems. In the event the Licensee requests DOT to implement the Maintenance Update for the Licensee, then this will be charged for as an Additional Service at DOT's current hourly rate.

3.2 DOT Product Upgrades: From time to time, DOT may release to its licensees a major revision to the Product(s), which adds new and different functions, or capabilities to the Product(s). If the Licensee is under valid maintenance coverage on the general release date of the Upgrade, DOT will provide the Licensee with the Upgrade, at no additional charge to the Licensee. It is the Licensee's sole responsibility to implement any Upgrade on its systems. In the event the Licensee requests DOT to implement the Upgrade for the Licensee, then this will be charged for an Additional Service at DOT's current hourly rate.

3.3 New versions: From time to time, DOT may release to its end user licensees a major revision to the Product(s), which adds significant new and different functions or capabilities to the Product(s), or which include major architecture changes (New Version). New Versions may be subject to payment of an additional Fee. If the New Version is provided at no additional Fee, or the Licensee agrees to pay the applicable additional Fee, DOT will provide the Licensee with the New Version. It is the Licensee's sole responsibility to implement any New Version on its systems. In the event the Licensee requests DOT to implement the New Version for the Licensee, then this will be charged for an Additional Service at DOT's current hourly rate.

4 TECHNICAL SUPPORT

4.1 Support Requests: The Licensee will be given contact details for DOT's support staff. Where the Licensee considers (acting reasonably) that the Product is not functioning in all material respects, the Licensee will be entitled to contact DOT during Business Hours by email to consult with DOT technical analysts concerning problem resolution and general technical guidance. DOT will assist the Licensee in utilising the Product(s) and in identifying and providing Workarounds, if possible.

4.2 Error reporting: The Licensee agrees to email DOT promptly following the discovery of any Error or suspected Error. The Licensee agrees, if requested by DOT, to submit promptly to DOT a listing of output and any other data, including the operating conditions under which the Error occurred or was

discovered, that DOT may reasonably require to fix the Error. Such listings, data, and requested information will constitute the Licensee's confidential information.

4.3 Product requests: The Licensee may submit to DOT a request identifying potential problems in, or improvements to the Product(s). Any such request should be emailed to DOT's. DOT retains the right to determine the final disposition of all such requests, and will inform the Licensee of the disposition of each request.

4.4 Licensee responsibilities: The Licensee:

- A. will need to maintain its computer system and associated peripheral equipment in good working order in accordance with the manufacturers' specifications, and ensure that any problems reported to DOT are not due to hardware malfunction;
- B. must supply DOT with access to and use of all information and facilities determined to be necessary by DOT to render the Technical Support described in this section; and
- C. must perform any tests or procedures recommended by DOT for the purpose of identifying and/or resolving any problems.

4.5 Conditions for Technical Support: The provision of Technical Support by DOT is conditional on the Licensee:

- A. first using reasonable efforts to resolve the issue by referring to the Documentation;
- B. providing DOT with all information and access reasonably required by DOT to resolve the issue; and
- C. Emailing DOT to request support.

4.6 Exclusions from Technical Support: Nothing in the Agreement (including in this Schedule) requires DOT to provide Technical Support where the support is required as a result of:

- A. modification of the Product(s) by any person other than DOT;
- B. the Licensee's breach of the Agreement, including use of the Product(s) by the Licensee or its personnel in a manner or for a purpose not reasonably contemplated by the Agreement, and not otherwise authorised in writing by DOT;

If DOT provides support services for a problem caused by another product, or if DOT's service efforts are increased as a result of another product, DOT will charge for such extra services as an Additional Service on a time and materials basis. If, in DOT's opinion, performance of Technical Support is made more difficult or impaired because of another product, DOT will notify the Licensee. The Licensee will be solely responsible for the compatibility and functioning of other products with DOT Products.

4.7 Additional Services: In the event the Licensee requests DOT to perform any work or provide assistance that is not covered by this Schedule, DOT reserves the right to charge for time spent as an Additional Service at DOT's current hourly rate.

5 RESPONSE AND RESOLUTION TIMES

5.1 Response Timeframes

For serious errors DOT will endeavor to respond to the Licensee within one business day. For non-urgent issues, DOT will endeavor to respond to the Licensee within two business days.

5.2 *Conditions*: The following terms apply to response time targets above:

- A. Response times are targets only. DOT will use reasonable efforts to meet these targets, but will have no liability to the Licensee if the targets are not met.
- B. Only hours and days within Business Hours count towards response times.