

**SPEAKERBUS CADENCE AS A SERVICE**  
**Terms and Conditions of Service**

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## 1. Interpretation

1.1 The definitions and rules of interpretation in this clause 1 apply in this agreement.

**Acceptable Use Policy:** Speakerbus' policy concerning the use of the Managed Services as set out in Schedule 4.

**Acceptance Date:** has the meaning given in clause 2.5.

**Assets:** any Customer-site Equipment, Hardware, Software or Intellectual Property Rights used by Speakerbus exclusively for the delivery of the Managed Services to the Customer.

**Business Day:** a day, other than a Saturday, Sunday or Public Holiday in England when banks in London are open for business.

**Confidential Information:** all confidential information (however recorded or preserved) disclosed by a party or its employees, consultants, officers, representatives, advisers, agents or sub-contractors involved in the provision or receipt of the Services (together, its **Representatives**) to the other party or that party's Representatives in connection with this agreement which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure.

**Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.

**Customer Account Team:** the individuals appointed by the Customer and notified to Speakerbus from time to time who shall serve as Speakerbus' primary contacts for Speakerbus' activities under this agreement..

**Customer Data:** any information that is provided by or on behalf of the Customer to Speakerbus as part of the Customer's use of the Services, including any information derived from such information.

**Customer Site:** any premises occupied by the Customer at which it receives the Managed Services.

**Customer-site Equipment:** any equipment located or to be located on a Customer Site but controlled or to be controlled exclusively by Speakerbus as part of the Managed Services including (but not limited to) Speakerbus' iSeries equipment.

**Customer's Operating Environment:** the Customer's computing environment (consisting of hardware, software and telecommunications networks) that is to be used by the Customer in connection with its use of the Services and which interfaces with Speakerbus' System in order for the Customer to receive the Services, but excluding the Customer-site Equipment.

**Customer's Project Manager:** the member of the Customer Account Team appointed in accordance with clause 6(r) and notified to Speakerbus.

**Customer Software:** has the meaning given to that term in the definition of Software.

**Designated Representative:** has the meaning given in clause 25.2.

**Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

**Early Termination Charge:** The sum that is equivalent to first twelve (12) months of the Fees calculated from the Effective Date, less any Fees paid to Speakerbus by the Customer in advance of the early termination date. For the avoidance of doubt, the Customer shall pay to Speakerbus the Fees equivalent to the first twelve (12) months of the Agreement calculated from the Effective Date.

**Effective Date:** the date of this agreement.

**Error:** failure or technical issue related to the performance or functionality of the Services provided by Speakerbus as part of the agreement.

**Fees:** the Non-Recurring Charges and Monthly Recurring Charges payable to Speakerbus, as described in Speakerbus Cadence – MSA Execution Document.

**Hardware:** all physical telecommunications, networking and computer equipment (including switches, routers, cables, servers, racks, cabinets and peripheral accessories) provided and used by Speakerbus to deliver the Managed Services to the Customer.

**Incident:** any Vulnerability, Virus or security incident which:

- a) may affect the Assets;
- b) may affect Speakerbus' network and information systems such that it could potentially affect the Customer or the Assets; or
- c) is reported to Speakerbus by the Customer.

**Initial Term:** the period set out in the Particulars of Contract commencing on the Effective Date.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral 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 existing and future rights capable of present assignment, applications for and renewals or extensions of and rights to claim

priority from such rights, and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Maintenance:** any error corrections, updates and upgrades that Speakerbus may provide or perform with respect to the Managed Services, as well as any other support or training services to be provided to the Customer under this agreement, all as described in Schedule .

**Managed Services:** the service described in the Managed Services Specification to be performed by Speakerbus in accordance with this agreement.

**Managed Services Specification:** the specification for the Managed Services as described in Schedule 1.

**Mitigate:** the taking of such reasonable steps that would be taken by a reasonable supplier to mitigate against the Incident in question, which may include (in the case of a Vulnerability) coding changes, but could also include specification changes (for example, removal of affected protocols or functionality in their entirety), provided these are approved by the Customer in writing in advance, and the terms **Mitigated** and **Mitigation** shall be construed accordingly.

**Network Operations Centre:** the central operations centre provided by Speakerbus for the Customer to report any Error or Incident.

**Non-Recurring Charges:** the one-time fees for any installation, professional services, call charges or any loss of or damage caused to the Hardware.

**Normal Business Hours:** 8:00 am to 6:00 pm local UK time on Business Days.

**Particulars of Contract:** the particulars of the agreement including Customer details, the Initial Term and any variations to this agreement.

**Representatives:** has the meaning given to that term in the definition of Confidential Information.

**Service Credit:** any credits payable to the Customer in accordance with the Service Level Agreement.

**Services:** the Set-up Services, the Managed Services and the Maintenance Services provided by Speakerbus.

**Set-up Services:** the due diligence, configuration and related work, to be performed by Speakerbus to set up the Managed Services.

**Software:** any software used by Speakerbus (or any of its sub-contractors) to provide the Managed Services to the Customer whether owned by a third party (**Third Party Software**), by the Customer (**Customer Software**) or by Speakerbus (**Speakerbus Software**).

**Speakerbus Account Team:** the individuals appointed by Speakerbus from time to time who shall serve as the Customer's primary contacts for the Customer's activities under this agreement.

**Speakerbus' Project Manager:** the member of Speakerbus' Account Team at the Effective Date and notified to the Customer.

**Speakerbus Software:** has the meaning given to that term in the definition of Software.

**Speakerbus' System:** the information and communications technology system to be used by Speakerbus (or any of its sub-contractors) in performing the Services, including the Hardware, the Software, the Customer-site Equipment and communications links between the Hardware and the Customer-site Equipment and the Customer's Operating Environment.

**Third Party Software:** has the meaning given to that term in the definition of Software.

**UK Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**Uptime Service Level:** has the meaning given in Schedule 3.

**Virus:** includes any malicious code, trojan, worm and virus, lock, authorisation key or similar device that impairs or could impair the operation of the Software or the Managed Services.

**Vulnerability:** a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.
- 1.4 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.5 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

- 1.6 Any phrase introduced by the words **including, includes, in particular** or **for example**, or any similar phrase, shall be construed as illustrative and shall not limit the generality of the related general words.
- 1.7 References to clauses and Schedules are to the clauses and schedules of this agreement. References to paragraphs are to paragraphs of the relevant Schedule.
- 1.8 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.9 A reference to this agreement includes the Schedules. If there is an inconsistency between any of the provisions in Appendix 1 (Particulars of Contract), Appendix 2 (Terms and Conditions of Service) and the schedules, the provisions in Appendix 1 (Particulars of Contract) shall prevail.
- 1.10 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

## **2. Delivery and Installation**

- 2.1 Speakerbus shall use its reasonable endeavours to promptly deliver and install the Customer-site Equipment.
- 2.2 Speakerbus shall install the Customer-site Equipment at the Customer Site. The Customer shall procure that a member of the Customer Account Team shall be present at the installation of the Customer-site Equipment.
- 2.3 When Speakerbus considers that the Managed Services are ready for activation it shall so notify the Customer. Within three (3) Business Days of such notification the Customer shall review the operation of the Managed Services to confirm that they function in material conformance with the Managed Services Specification. If the Managed Services fail in any material respect to conform with the Managed Services Specification, the Customer shall give Speakerbus a detailed description of any such non-conformance (**Error**) in writing, within the five (5) Business Day review period via the Network Operations Centre.
- 2.4 Speakerbus shall use reasonable endeavours to correct any Error within a reasonable time and, on completion, re-submit the Managed Services to the Customer. The provisions of clause 2.2 and this clause 2.4 shall then apply again, up to three (3) additional times. If Speakerbus is unable to correct the Error after three attempts, either party may terminate this agreement with immediate effect by giving written notice to the other party, without further liability to the other.



- 2.5 If the Managed Services are found to conform with the Managed Services Specification or if the Customer does not provide any written comments within the three (3) Business Day review period described in Clause 2.2, the Managed Services shall be deemed accepted as from the date of the notification or expiry of the five (5) Business Day review period (in each case the **Acceptance Date**).

### **3. Service provision**

- 3.1 Speakerbus shall provide the Managed Services from the Acceptance Date until expiry or termination of this agreement for any reason, subject to Clause 14 of this agreement.
- 3.2 The Customer shall not store, distribute or transmit through the Managed Services any material that:
- (a) is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive;
  - (b) facilitates illegal activity;
  - (c) depicts sexually explicit images; and/or
  - (d) promotes unlawful violence, discrimination based on race, gender, age, disability, sexual orientation, religion, belief or gender reassignment, or any other illegal activity.
- 3.3 The Customer shall remain responsible for the use of the Managed Services under its control, including any use by third parties (whether fraudulent or invited by the Customer). The Customer shall be responsible for all losses (howsoever arising) from any unauthorised or fraudulent usage of Services provided under the Agreement to the Customer.
- 3.4 The Customer shall not:
- (a) provide the Managed Services directly or indirectly to third parties; or
  - (b) be allowed access to certain system configurations specified by Speakerbus without prior written permission.
- 3.5 Speakerbus reserves the right to:
- (a) modify Speakerbus' System, its network, system configurations or routing configuration;
  - (b) modify or replace any Hardware or Software in its network or in equipment used to deliver any Service over its network; and

- (c) take any and all action it deems appropriate (including blocking access to particular calling numbers or geographic areas) to prevent or terminate any fraud or abuse in connection with the Services, or any use thereof,

provided that this has no adverse effect on Speakerbus' obligations under this agreement and its provision of the Services or the Service Level Agreement. If such changes will have an adverse effect, Speakerbus shall notify the Customer and the parties shall follow the procedure set out in clause 10.

#### **4. Speakerbus' obligations**

- 4.1 Speakerbus confirms that the Services and obligations hereunder will be performed with all reasonable skill and care and the provisions of this agreement that the Managed Services will be provided substantially in accordance with the Managed Services Specification.
- 4.2 clause 4.1 shall not apply to the extent of any non-conformance that is caused by use of the Managed Services contrary to Speakerbus' instructions.
- 4.3 If the Services do not conform with the standard set out in clause 4.1, the Customer shall inform Speakerbus via the Network Operations Centre and Speakerbus shall, at its expense, initiate standard troubleshooting procedures including investigation of the network, port, local loop and equipment and if any Customer-site Equipment requires maintenance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of clause 4.1.
- 4.4 Following completion of the procedure set out in clause 4.3, if the Customer requires additional support after it has been determined that the source of the problem does not reside within the Speakerbus network and/or the local loop, the Customer will be given the option to continue to work with Speakerbus Network Operations Centre for a fee agreed between the parties, which for the avoidance of doubt shall be payable by the Customer in addition to the Fees set out in the specific Speakerbus Cadence – MSA Execution Document.
- 4.5 Notwithstanding the foregoing, Speakerbus does not warrant that the Customer's use of the Managed Services shall be uninterrupted or error-free.
- 4.6 This agreement shall not prevent Speakerbus from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services that are similar to those provided under this agreement.

## 5. Security

- 5.1 Speakerbus shall seek to ensure at all times that appropriate safety and security systems, policies and procedures are maintained and enforced to prevent unauthorised access or damage to, and to ensure the business continuity of, any and all Services, Speakerbus' System and related networks or resources and the Customer Data.
- 5.2 Speakerbus shall seek to ensure that Speakerbus' System is designed, maintained and upgraded at all times so as to Mitigate against Incidents. The parties agree that if Incidents are detected or discovered, each of them shall co-operate with the other to Mitigate the Incident and, particularly if the Incident causes or threatens the loss of operational efficiency, loss or corruption of Customer Data, or the reduced management of risks posed to the security of the Assets, Speakerbus' System, or the Customer's Operating Environment, the parties shall assist each other to mitigate any losses and restore the Services to their original operating and security efficiency. The costs of complying with this clause 5.2 shall be apportioned between the parties on a pro rata basis according to fault.
- 5.3 The Customer shall promptly inform Speakerbus if it suspects or uncovers any Incident and, subject to the cost allocations in clause 5.2, shall use all commercially reasonable endeavours to promptly mitigate such Incident.
- 5.4 Speakerbus shall:
- (a) notify the Customer immediately it becomes aware of any Incident and respond without delay to all queries and requests for information from the Customer about any Incident, whether discovered by Speakerbus or the Customer, in particular bearing in mind the extent of any reporting obligations the Customer may have under the Network and Information Systems Regulations 2018 (NIS Regulations) and Data Protection Legislation and that the Customer may be required to comply with statutory or other regulatory timescales;
  - (b) promptly cooperate with any request for information made in respect of:
    - (i) any Incident;
    - (ii) any of the information provided in any policies referred to in clause 5.1; or
    - (iii) any requests for information, or inspection, made by a regulator with competent jurisdiction over the Customer (including in connection with the NIS Regulations or Data Protection Legislation, if applicable).

## 6. Customer's obligations

The Customer shall:

- (a) provide Speakerbus with:
  - (i) space, power, and the appropriate environment for the operation of network equipment that resides at the Customer Site;
  - (ii) access to the Customer's facilities for the installation and maintenance of components of the Managed Services;
  - (iii) all necessary co-operation in relation to this agreement; and
  - (iv) all necessary access to such information as may be reasonably required by Speakerbus,

in order to provide the Services, including Customer Data, security access information, and software interfaces to the Customer's other business applications;

- (b) call into Speakerbus' Network Operations Centre to initiate standard trouble shooting procedures in the event of an Incident or where any technical support is required. The Network Operations Centre will provide support services as set out in Schedule 3 which may include troubleshooting the network, port, local loop and equipment, and if any component requires maintenance, Speakerbus will refer the trouble to the appropriate provider and that Maintenance shall be performed by Speakerbus as part of the service;
- (c) ensure that the Customer-site Equipment is kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions;
- (d) take such steps (including compliance with all safety and usage instructions provided by Speakerbus) as may be necessary to ensure, so far as is reasonably practicable, that the Customer-site Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained;
- (e) maintain at its own expense the Customer-site Equipment in good and substantial repair in order to keep it in as good an operating condition as it was on the Commencement Date (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Customer-site Equipment;
- (f) make no alteration to the Customer-site Equipment and shall not remove any existing component(s) from the Customer-site Equipment without the prior written consent of Speakerbus unless the component(s) is/are replaced immediately (or if removed in the ordinary course of repair and maintenance as soon as

practicable) by the same component or by one of a similar make and model or an improved/advanced version of it.

- (g) keep Speakerbus fully informed of all material matters relating to the Customer-site Equipment and notify Speakerbus of any loss, accident or damage to the Customer-site Equipment;
- (h) keep the Customer-site Equipment at all times at the Customer Site and shall not move or attempt to move any part of the Customer-site Equipment to any other location without Speakerbus' prior written consent;
- (i) maintain operating and maintenance records of the Customer-site Equipment and make copies of such records readily available to Speakerbus, together with such additional information as Speakerbus may reasonably require;
- (j) not, without the prior written consent of Speakerbus, access certain configurations of the Customer-site Equipment, and the Customer acknowledges that it shall not be permitted to access or configure the elements in the absence of such consent, and further, the Customer indemnifies Speakerbus on demand in relation to all costs, expenses, liabilities and losses incurred by Speakerbus as a result of any such unauthorised access of the Customer-site Equipment;
- (k) not, without the prior written consent of Speakerbus, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Customer-site Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- (l) not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Speakerbus in the Customer-site Equipment, the Customer must take all necessary steps to ensure that Speakerbus may enter such land or building and recover the Customer-site Equipment both during the term of this agreement and for a reasonable period thereafter;
- (m) not suffer or permit the Customer-site Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Customer-site Equipment is so confiscated, seized or taken, the Customer shall notify Speakerbus and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Customer-site Equipment and shall indemnify Speakerbus on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- (n) ensure that at all times the Customer-site Equipment remains identifiable as being Speakerbus' property and wherever possible shall ensure that a visible sign to that effect is attached to the Customer-site Equipment;
- (o) obtain and maintain (at the Customer's expense) policies of insurance in respect of the Customer-site Equipment to an insured value not less than its full replacement value for all usual risks of loss, damage, destruction, theft or

accident, third party or public liability or any other risks which Speakerbus may consider necessary from time to time and not do or permit to be done anything which could invalidate such insurance policies;

- (p) provide such personnel assistance, including the Customer Account Team and other Customer personnel, as may be reasonably requested by Speakerbus from time to time;
- (q) appoint the Customer's Project Manager, who shall have the authority to contractually bind the Customer on all matters relating to this agreement. The Customer shall use reasonable endeavours to ensure continuity of the Customer's Project Manager, but has the right to replace them from time to time where reasonably necessary in the interests of the Customer's business;
- (r) comply with all applicable regulations with respect to its activities under this agreement, including those set out in clause 16; and
- (s) carry out all other Customer responsibilities set out in this agreement or in any of the Schedules 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, Speakerbus may adjust any timetable or delivery schedule set out in this agreement as reasonably necessary.

6.2 The Customer acknowledges that Speakerbus shall not be responsible for any loss of or damage to the Customer-site Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Customer or its officers, employees, agents and contractors, and the Customer undertakes to indemnify Speakerbus on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Customer to comply with the terms of this agreement.

## **7. Warranties**

7.1 The Customer warrants, represents and undertakes that:

- (a) it has the authority to grant any rights to be granted to Speakerbus under this agreement, including the right to provide access to the Software and Hardware to Speakerbus as indicated in this agreement and for the same to be used in the provision of the Services and otherwise in connection with this agreement;
- (b) it shall comply with and use the Services and Customer-site Equipment in accordance with the terms of this agreement and all applicable laws and shall not do any act that shall infringe the rights of any third party including the publishing or transmission of any materials contrary to relevant laws or in breach of the Acceptable Use Policy.

## 8. Customer Data

- 8.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 8.2 The parties acknowledge that:
- (a) if Speakerbus processes any personal data on the Customer's behalf when performing its obligations under this agreement, the Customer is the controller and Speakerbus is the processor for the purposes of the Data Protection Legislation.
  - (b) Schedule 5 sets out the scope, nature and purpose of processing by Speakerbus, the duration of the processing and the types of personal data and categories of data subject.
  - (c) the personal data may be transferred or stored outside the EEA or the country where the Customer is located in order to carry out the Services and Speakerbus' other obligations under this agreement.
- 8.3 Without prejudice to the generality of clause 8, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Speakerbus for the duration and purposes of this agreement so that Speakerbus may lawfully use, process and transfer the personal data in accordance with this agreement on the Customer's behalf.
- 8.4 Without prejudice to the generality of clause 8, Speakerbus shall, in relation to any personal data processed in connection with the performance by Speakerbus of its obligations under this agreement:
- (a) process that personal data only on the documented written instructions of the Customer unless Speakerbus is required by the laws of any member of the European Union or by the laws of the European Union applicable to Speakerbus and/or Domestic UK Law (where **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK) to process personal data (**Applicable Laws**). Where Speakerbus is relying on Applicable Laws as the basis for processing personal data, Speakerbus shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Speakerbus from so notifying the Customer;
  - (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental

loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

- (c) not transfer any personal data outside of the EEA unless the following conditions are fulfilled:
  - (i) the Customer or Speakerbus has provided appropriate safeguards in relation to the transfer;
  - (ii) the data subject has enforceable rights and effective legal remedies;
  - (iii) Speakerbus complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
  - (iv) Speakerbus complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- (d) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the Customer without undue delay on becoming aware of a personal data breach;
- (f) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the personal data; and
- (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 8 and immediately inform the Customer if, in the opinion of Speakerbus, an instruction infringes the Data Protection Legislation.

8.5 The Customer consents to Speakerbus appointing appropriate third-party processors of personal data under this agreement and as set out in our privacy policy. Speakerbus confirms that it has entered or (as the case may be) will enter with all third-party processors into a written agreement incorporating terms which are substantially similar to those set out in this clause 8 and in either case which Speakerbus confirms reflect and will continue to reflect the requirements of the Data Protection Legislation.



- 8.6 Either party may, at any time on not less than thirty (30) days' notice, revise this **Error! Bookmark not defined.** by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).
- 8.7 Speakerbus shall follow its archiving and security procedures for Customer Data, including those set out in clause 5.
- 8.8 Speakerbus shall promptly notify the Customer in writing of any actual or suspected loss or damage to the Customer Data. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for Speakerbus to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest backup of such Customer Data. Speakerbus shall not be responsible for any loss, destruction, alteration or unauthorised access to or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Speakerbus to perform services related to Customer Data maintenance and back-up). This clause 8 is without prejudice to the generality of clause **Error! Bookmark not defined.**

## 9. Charges and payment

- 9.1 The Customer shall pay the Fees set out in Speakerbus Cadence – MSA Execution Document for the Monthly Recurring Charges for the Managed Services, together with any Non-Recurring Charges.
- 9.2 The Customer shall reimburse Speakerbus for all actual, reasonable travel costs and expenses including airfares, hotels and meals incurred by Speakerbus in performance of the Set-up Services.
- 9.3 All amounts and Fees stated or referred to in this agreement are exclusive of value added tax, which shall be added to Speakerbus' invoice(s) at the appropriate rate and the Customer shall be liable for all other or equivalent taxes however designated, imposed on or based upon the provision, sale, or use of the Services, excluding taxes based on Speakerbus' net income. The Customer shall be responsible for the payment of all surcharges in effect from time to time, as required or permitted by applicable law, regulation or tariff and/or as specified on the Speakerbus website.
- 9.4 The Non-Recurring Fees set out in the Speakerbus Cadence – MSA Execution Document shall be payable within 30 days of the date of the invoice for such Fees. For Monthly Recurring Charges, Speakerbus shall invoice the Customer monthly in advance for all Services to be performed by Speakerbus during that month. If any Service Credits are due from previous months then they shall be shown as a deduction from the invoice.

- 9.5 All Fees in respect of the Services shall be due and payable by the date that is thirty (30) days after the date of an invoice issued by Speakerbus for Fees (“**Due Date**”). If the Customer wishes to dispute any Fees, the Customer must provide Speakerbus with written notice of any disputed Fees prior to the Due Date of the invoice for Fees which the Customer is disputing, including an explanation of the basis of the dispute.
- 9.6 Each additional Customer Site and Service added after the Effective Date shall require its own rate schedule. For any Speakerbus service used by the Customer for which a rate is not specified in Schedule 1, Speakerbus’ standard rates shall apply.
- 9.7 Speakerbus may increase the Fees payable in respect of the Services on any anniversary of those Services being provided by giving the Customer one (1) months’ notice in writing prior to such anniversary.
- 9.8 The Parties shall in good faith attempt to promptly resolve any dispute, and upon resolution, the Customer shall either pay the disputed amount previously withheld within fifteen (15) days of such resolution (if and to the extent that the disputed amount has been withheld) or receive a credit on the Customer’s subsequent invoice(s). In the event the Customer fails to pay undisputed amounts of an invoice by the Due Date for such invoice, Speakerbus shall notify the Customer of the Customer’s failure to make payment. If the Customer’s failure to make payment continues for ten (10) or more Business Days after the date of such notice, Speakerbus may impose interest at two percent (2%) above the Bank of England base rate, per month and/or suspend the Customer’s access to the Services until such payment is made.
- 9.9 The Customer shall indemnify Speakerbus for any and all losses, damages, costs, expenses (including reasonable professional advisers’ costs and disbursements, and reasonable legal costs and disbursements) arising from or incurred by Speakerbus taking action for recovery of any unpaid Fees due under this agreement.

## **10. Change control**

- 10.1 If either party wishes to change the scope of the Services (including Customer requests for additional services), it shall submit details of the requested change to the other in writing. Speakerbus has no obligation to agree to such change to the scope of Services unless and until the parties have agreed in writing the necessary variations to the Fees, and any other relevant terms of this agreement to take account of the change. If either party requests a change to the scope or execution of the Services, Speakerbus shall, within a reasonable time, provide a written estimate to the Customer of:
- (a) the likely time required to implement the change;
  - (b) any variations to the Fees arising from the change; and

(c) any other impact of the change on the terms of this agreement.

10.2 Any additional Services provided by Speakerbus in accordance with this Clause 10 shall be subject to a minimum term of one (1) year and the Customer shall be responsible for payment of all Fees in respect of such additional services regardless of whether this agreement is terminated prior to the said minimum term. The Fees set out in the Speakerbus Cadence – MSA Execution Document shall be amended accordingly to reflect any additional services.

## **11. Proprietary rights**

11.1 The Customer acknowledges and agrees that, as between the parties, Speakerbus and/or its licensors own all Intellectual Property Rights in the Customer-site Equipment and Speakerbus Software and in all other materials connected with the Services and/or developed or produced in connection with this agreement by Speakerbus, its officers, employees, sub-contractors or agents. Except as expressly stated in this agreement, this agreement does not grant the Customer any rights to such Intellectual Property Rights.

11.2 Speakerbus acknowledges and agrees that the Customer owns and retains all rights, title and interest in and to the Customer Data. Speakerbus shall have no rights to access, use or modify the Customer Data unless on the Customer's instructions or where required to carry out the Services.

11.3 Speakerbus grants to the Customer, for the duration of this agreement, a limited, non-transferable, non-exclusive licence to use and access the Services for internal business purposes only, in accordance with and subject to the terms and conditions hereof.

11.4 The Customer may not (and may not permit others to) copy, translate, modify or adapt the Services, incorporate the Services, in whole or any part, into any other product or service, or create derivative works based on the Services. The Customer may not decompile, disassemble, reverse engineer or otherwise attempt to discover the source code for the Services or any component thereof. Speakerbus retains all right, title and interest (including all intellectual property rights) in and to the Customer-Site Equipment and any Speakerbus Software.

11.5 Speakerbus reserves all rights not expressly granted or transferred in or pursuant to this agreement.

## **12. Confidentiality**

- 12.1 Both Speakerbus and the Customer hereby agree to hold Confidential Information of the party disclosing such Confidential Information in strict confidence, and to protect such Confidential Information using the same standard of care that it uses to protect its own confidential or proprietary information of a similar nature, but in no case less than a reasonable standard of care. Upon the written request of the disclosing party, the receiving party shall, at the disclosing party's option, return or destroy all Confidential Information of the disclosing party in its control or possession, other than copies which the receiving party may be required to maintain under applicable law or regulation or for internal auditing and compliance purposes (and which copies shall remain subject to the confidentiality obligations hereunder).
- 12.2 Except as expressly permitted by this clause 12, the party receiving Confidential Information agrees not to use or disclose any Confidential Information of the disclosing party for any purpose. Notwithstanding the foregoing, Speakerbus may use the Customer's Confidential Information as necessary for the provision of the Equipment and Services and may disclose the Customer's Confidential Information on a "need to know" basis to third party providers of software and equipment integral to the Services. In addition, if the party receiving such Confidential Information is required by applicable law, regulation or legal process to disclose any Confidential Information of the disclosing party, the receiving party may disclose such Confidential Information only if the receiving party has, to the extent legally permissible, promptly provided the disclosing party with prior written notice in order to allow the disclosing party to seek a protective order or other appropriate remedy or waive compliance with this Clause 12.
- 12.3 The party receiving Confidential Information acknowledges that any breach of the confidentiality obligations hereunder would cause irreparable harm to the disclosing party for which no adequate remedy at law exists, and the receiving party therefore agrees that, in addition to any other remedies available, the disclosing party shall be entitled to seek injunctive relief as a remedy for such breach.

## **13. Limitation of liability**

- 13.1 This clause 13 sets out the entire financial liability of Speakerbus (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- (a) any breach of this agreement;
  - (b) any use made by the Customer of the Services; and

- (c) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this agreement.
  
- 13.2 Except as expressly provided in this agreement the Customer assumes sole responsibility for results obtained from the use of the Services. Speakerbus shall have no liability for any actions taken by Speakerbus at the Customer's direction and all warranties, conditions and other terms implied by statute, common law or otherwise are, to the fullest extent permitted by law, excluded from this agreement.
  
- 13.3 Nothing in this agreement excludes or limits the liability of either party for:
  - (a) death or personal injury caused by Speakerbus' negligence;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) any other liability which cannot lawfully be excluded or limited.
  
- 13.4 The Service Level Agreement set out in Schedule 3, states the Customer's full and exclusive right and remedy, and Speakerbus' only obligation and liability, in respect of the performance and availability of the Managed Services, or their non-performance and non-availability.
  
- 13.5 Subject to clause 13.3 and clause 13.4:
  - (a) Speakerbus shall not be liable whether in contract, tort (including for negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill or similar losses, or for any indirect or consequential loss, costs, damages, charges or expenses however arising;
  - (b) Speakerbus shall not be liable for any losses, costs, charges or expenses arising from interoperability, interaction, access or interconnection problems with applications, equipment, services, content or networks not provided by Speakerbus; service interruptions or lost or altered messages or transmissions (except to the extent credit allowances are specified in the applicable Service Level Agreement) or unauthorized access to or theft, alteration, loss or destruction of customer's, users' or third parties' applications, content, data, programs, information, network or systems; and
  - (c) Speakerbus' total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the price paid for the Services during the twelve 12 months preceding the date on which the claim arose.

## 14. Term and termination

- 14.1 This agreement shall commence on the Effective Date. Unless terminated earlier in accordance with this clause 14, this agreement shall continue in force for the Initial Term and shall automatically extend for successive monthly periods (**Extended Term**) at the end of the Initial Term and at the end of each Extended Term. A party may give written notice to the other party, not later than sixty (60) days before the end of the Initial Term or thirty (30) days before the end of the relevant Extended Term, to terminate this agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.
- 14.2 Without prejudice to any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than thirty (30) days after being notified to make such payment;
  - (b) the other party commits a material breach of any term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;
  - (c) the other party breaches any of the terms of clause 12;
  - (d) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - (e) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
  - (f) there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 14.3 This agreement shall automatically terminate and all Fees incurred up to the date of termination shall immediately become due and payable on demand if any act, omission or default of the Customer causes the Customer-site Equipment to be, in Speakerbus' reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

- 14.4 In the event that the Customer terminates this agreement at any time prior to the Effective Date, but where services have been provided by Speakerbus, for which Non-Recurring Charges would usually be charged, the Customer shall pay to Speakerbus the Early Termination Charge.
- 14.5 The Customer shall pay to Speakerbus all Fees which would (but for the termination) have been payable up to the end of the Initial Term or the relevant Extended Term.
- 14.6 Any provision of this agreement which expressly or by implication is intended to come into or continue in force on or after expiry or termination of this agreement shall remain in full force and effect.
- 14.7 Expiry or termination of this agreement for any reason shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at expiry or termination.
- 14.8 On expiry or termination of this agreement for any reason:
- (a) Speakerbus shall immediately cease provision of the Set-Up Services, Managed Services and Maintenance Services and licence as set out in clause 11.3 shall be revoked;
  - (b) (subject to clause 14.9) each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party; and
  - (c) if Speakerbus receives, no later than ten (10) days after the effective date of the expiry or termination of this agreement for any reason, a written request for the delivery to the Customer of the most recent backup of the Customer Data and such request is, where relevant, in accordance with **Error! Bookmark not defined.**<sup>14</sup>, Speakerbus shall use reasonable commercial endeavours to deliver the backup to the Customer within thirty (30) days of its receipt of such a written request in the format stored or in a format as otherwise reasonably agreed with the Customer, provided that the Customer has at that time paid all fees and charges outstanding at (and including any resulting from) expiry or termination (whether or not due at the date of expiry or termination). Once such ten (10) day period has expired or Speakerbus has, at the Customer's request, delivered to the Customer the most recent backup of the Customer Data (as applicable), Speakerbus shall (subject to clause 14.9) promptly expunge from Speakerbus' System and otherwise destroy or dispose of all of the Customer Data in its possession or control. The Customer shall pay all reasonable costs and expenses incurred by Speakerbus in returning and disposing of Customer Data and expunging it from Speakerbus' System.

14.9 If a party is required by any law, regulation, or government or regulatory body (**Regulatory Requirement**) to retain any documents or materials which it would otherwise be obliged to return or destroy under clause 14.8(c), it shall notify the other party in writing of such retention, giving details of the documents or materials that it must retain. clause 12 shall continue to apply to any such retained documents and materials for as long as any such requirement continues in force, subject to any disclosure mandated by any Regulatory Requirement.

## 15. Force Majeure

15.1 Neither party shall have any liability to the other under this agreement if it is prevented from, or delayed in, performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, except to the extent that it could reasonably have avoided such circumstances by exercising the level of diligence that could reasonably have been expected of it, including strikes, lock-outs or other industrial disputes (including any industrial disputes involving the workforce of the party seeking to rely on this clause), act of God, war, riot, civil commotion, compliance with any law or regulation, fire, flood or storm (each a **Force Majeure Event**), provided that:

- (a) the other party is notified of such an event and its expected duration; and
- (b) it uses all reasonable endeavours to mitigate, overcome or minimise the effects of the Force Majeure Event concerned,

and that if the period of delay or non-performance continues for eight (8) weeks or more, the party not affected may terminate this agreement by giving not less than thirty (30) days' written notice to the other party.

## 16. Anti-bribery

16.1 Each party to this agreement shall:

- (a) comply with all applicable laws, statutes relating to anti-bribery and anti-corruption, including the Bribery Act 2010 (**Relevant Requirements**); and
- (b) promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by the reporting party in connection with the performance of this agreement;

16.2 Each party shall ensure that any person associated with it or who is otherwise performing services or providing goods in connection with this agreement does so only on the basis of a written contract that imposes on and secures from such person terms equivalent to those imposed on the parties to this agreement in this clause 16.

16.3 Breach of this clause 16 shall be deemed a material breach under clause 14.2(b).



## **17. Waiver**

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

## **18. Severance**

18.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

18.2 If any provision or part-provision of this agreement is deemed deleted under clause 18.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **19. Entire agreement and variation**

19.1 This agreement constitutes the entire agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.

19.2 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

19.3 No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## **20. Assignment**

20.1 Speakerbus may at any time assign, transfer, mortgage, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under this agreement without the consent of the Customer.

20.2 The Customer shall not, without the prior written consent of Speakerbus, assign, transfer, mortgage, charge, sub-contract, delegate, declare a trust over or deal in any other manner with any of its rights or obligations under this agreement.

## **21. No partnership or agency**

- 21.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, or constitute any party the agent of another party nor authorise any party to make or enter into any commitments for or on behalf of any other party.
- 21.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## **22. Third party rights**

Except as expressly provided elsewhere in this agreement, no one other than a party to this agreement, its successors and permitted assignees, shall have any right to enforce any of its terms.

## **23. Rights and remedies**

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

## **24. Notices**

- 24.1 Any notice or other communication required to be given to a party under or in connection with this agreement shall be in writing and shall be
- (a) delivered by hand or by pre-paid first class post or other next Business Day delivery service at its registered office; or
  - (b) sent by fax to the other party's main fax number.
- 24.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
  - (b) if sent by pre-paid first class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting;
  - (c) if sent by fax, at 9.00 am on the next Business Day after transmission.
- 24.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause 24, "writing" shall not include e-mail.

## 25. Dispute resolution

- 25.1 If a dispute arises under or in connection with this agreement (**Dispute**), including any Dispute arising out of any amount due to a party, then before bringing any legal proceedings or commencing any other alternative dispute resolution procedure in connection with such Dispute, a party must first give written notice (**Dispute Notice**) of the Dispute to the other party describing the Dispute and requesting that it is resolved under the dispute resolution procedure described in this clause 25.
- 25.2 If the parties are unable to resolve the Dispute within thirty (30) days of delivery of the Dispute Notice, each party shall promptly (and in any event within five (5) Business Days):
- (a) appoint a representative who has authority to settle the Dispute and is at a higher management level than the person with direct responsibility for the administration of this agreement (**Designated Representative**); and
  - (b) notify the other party of the name and contact information of its Designated Representative.
- 25.3 Acting reasonably and in good faith the Designated Representatives shall discuss and negotiate to resolve the Dispute, including agreeing the format and frequency for such discussions and negotiations, provided that all reasonable requests for relevant information relating to the Dispute made by one party to the other party shall be complied with as soon as reasonably practicable).
- 25.4 If the parties are unable to resolve the Dispute within thirty (30) days after the appointment of both Designated Representatives, either party may proceed with any other available remedy.
- 25.5 Notwithstanding any other provision of this agreement, a party may seek interim or other equitable relief necessary (including an injunction) where damages would be an inadequate remedy.

## 26. Governing law and jurisdiction

- 26.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 26.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

## **Schedule 1 Managed Services Specification**

### **Managed Services Specification**

Collectively refer to as the Services, Speakerbus will provide Customer with cloud-based, hosted services that support Customer's trader voice communication functions including telephony, intercom, private lines, and hoot-n-holler persistent open circuit communication:

- Deploy hardware trading turrets (Equipment) to customer's Site designated in the Order Form to use the Services
- Deploy virtual turrets (ARIA) to customer computers to use the Services remotely
- Establish dedicated trader voice servers and other shared service platforms at Speakerbus datacenters to support the Services. (Cadence, the hosted trader-voice-as-a-service product family, uses regional datacenters to host equipment and software that cannot be virtualized such as gateways and servers, as well as cloud-based services. Each regional datacenter is set up for high availability and uses diverse, redundant, MPLS primary network connections and the Internet for backup and remote connectivity.)

The Services also include the following:

#### **Turrets:**

- The iTurret and AYRE Deskstations support telephony, Intercom and trader voice (private lines and hoot 'n' holler) functionality. Ten concurrent voice calls based on any combination of telephony calls and trader voice can be supported. For example, it is possible to have a telephony call on each of the two available handsets, and eight hoot channels or private wires on the eight speaker channels. The iTurret and AYRE Deskstations incorporate an eleven-party, client-side conference capability that does not rely on the Unified Communications System (UCS) conference resources or any kind of external resources as audio mixing is conducted locally on the iTurret. Acoustic echo cancellation is also supported as standard on the iTurret for a gooseneck microphone and two handsets.

#### **ARIA Turret Soft Clients:**

- ARIA is Speakerbus' virtual endpoint solution, providing the same global hoot, advanced telephony and private line capabilities as Speakerbus' iTurret and AYRE Deskstations. Trader voice capabilities are accessible from either a Chrome or Firefox browser, removing the need to install any additional software.
- Headsets for computers to be used by the ARIA soft client solution are not included.

#### **Networking to Customer Sites:**

- As part of the Services, at no additional cost, Speakerbus will provide physical firewall devices or SD-WAN appliances as deemed appropriate, to establish VPN connection

between Customer sites and Speakerbus datacenters to enable proper function of the turret

- Also at no additional cost, Speakerbus will provide a software SSL VPN client for the remote soft client users to establish VPN connection to Speakerbus datacenters

#### **PSTN:**

- PSTN will be provided by Customer's choice of Public Branch Exchange (PBX) service. Testing may be required for any application other than standard PSTN SIP trunking.
- Speakerbus, and the customer or its agent, will jointly establish a secure VPN connection from the Speakerbus Session Border Controller to the Customer's PBX service, over which the Customer's SIP trunk simultaneous voice paths and direct inward dial numbers will integrate into the Speakerbus hosted turret solution.

#### **Private Wires:**

- Customer will provide Speakerbus with a Letter of Agency to act on behalf of the Customer with their Private Wire (PW) vendors.
- Customer will provide Speakerbus with a line list of all Private Lines with both A and B end trader information.
- Speakerbus will coordinate the cutover of the private wires to the new system. Customer should consider forking all current lines to the new system for pretesting and the cutover until they wish to cut out the old system.
- PW vendors utilizing SIP trunks will terminate them on the Speakerbus SBC in the same manner as the PSTN indicated above. These SIP PWs will be integrated to the voice trading turret in the same manner as the PSTN trunks and can be shared by all Customer users.
- PW vendors using traditional Time-Division Multiplexing (TDM) services will be required to present dedicated lines to Speakerbus datacenters. Speakerbus will terminate those lines into the gateways and convert them to SIP and integrate them into Speakerbus' session border controller in the same manner SIP PW vendors integrated their trunks above.
- Speakerbus will integrate the customer's separately contracted private wire connections to its service. Private wire providers will bill customer directly for their services. Speakerbus will manage those private wire integrations post cutover.
  - a. To the limits of the included moves, adds, changes, and deletes (MACD) in the Order Form, Speakerbus will, for no additional fee, provide MACD work on private wires for the customer.
  - b. After the included limits, MACD charges may apply.
  - c. During service issues on 3<sup>rd</sup> party private wires, Speakerbus will, to the best of its ability, work with customer and their private wire vendor to resolve issues and return the lines to working order.
  - d. If the service issue is proven to be with the private wire provider, Speakerbus will standby test and return the line to service while the provider manages its issues.

- e. Separately contracted 3<sup>rd</sup> party services are not subject to the SLA provisions regarding Credit for Interruption as articulated in Service Level Agreement, section below.

**Project Management:**

- Included as part of the Service. From the outset, the Speakerbus Solution Architects will be engaged with Customer to develop a design strategy based on, providing a fully resilient, high-availability design solution. Once the design has been agreed and finalized, the Solutions Architects will communicate the design to the project team; from that point the relevant project documentation can be prepared, such as Scope of Works, Roles & Responsibilities, high-level project, prerequisites information plan etc. The Speakerbus project team will engage with the Customer's project team to commence the detailed planning required for each phase of the project, encompassing; project deliverables, regional requirements, Datacenter core infrastructure requirements; installation plans, project timings, 3rd party system integration, phased cut-over schedules, training schedules and planned cut-over dates and go-live support requirements.
- It is expected that the Speakerbus resources will work on-site, alongside their Customer counterparts at all relevant times, both before, during and after the project phases. Speakerbus will coordinate regular project meetings throughout the project, all project meetings will be attended by the relevant Speakerbus personnel, all project meetings will be documented by Speakerbus and distributed accordingly.

**Training:**

- As part of the project deliverables, the following training will be provided on-site at Customer locations.
- End User Training – end user training will consist of one-hour sessions (in person provided this can be achievable with COVID-19 restrictions and social distancing) or via virtual with one of our dedicated staff. We recommend the training to take place no longer than 1 week prior to cutover. In each session, the user will have the ability to view their profile and make any changes. Client Services will also be onsite for the go-live day (as required and able) to answer any questions.

## Schedule 2 Service Level Agreement

### Service Level Agreement

#### 1. Scope.

- a. This Service Level Agreement (“SLA”) between Customer and Speakerbus provides Customers subscribing to the Speakerbus Service with certain rights and remedies regarding the performance of the Speakerbus Service. The “Service” is defined as the Speakerbus owned and operated Speakerbus hardware and software, certain third-party hardware and software, network, and selected points of presence (“POPs”) and the connections between them.
- b. The Speakerbus Service Level Agreement scope does not include:
  - i. implementation, which is covered in the Project Plan and NRC.
  - ii. customer premise equipment
    1. not associated with the service,
    2. or where spares are not provided in the agreement.
  - iii. any local loop or access facilities connecting Customer’s premises to the Speakerbus POP.
  - iv. connections between Speakerbus’ network and other service providers, or
  - v. other service provider networks.
- c. The terms of this schedule to the SLA will take effect the first full calendar month after Customer’s first use of the Speakerbus Services.

#### 2. General Standard.

- a. Service response.
  - i. Speakerbus will use reasonable efforts under the circumstances to maintain its overall network quality. The quality of service provided hereunder shall be consistent with other common carrier industry standards, government regulations and sound business practices.
- b. Service Availability
  - i. Speakerbus is committed to delivering during each month of the term of Customer's agreement network availability of 99.999%.
  - ii. Service Availability is defined as the Percentage Availability =  $A/M * 100$ , where A is the total number of minutes during the month for which the Service was available, and M is the total number of minutes in the month.
- c. Service Management.
  - i. Service support desk & coverage.
    1. The service desk is available to clients and partners 24 hours per day, 7 days a week. This ‘follow the sun’ approach utilizes our network operation centers in Singapore, London, and New York, where the support migrates seamlessly throughout the day to ensure continuity of cover.



2. Once a ticket has been logged, we will retain ownership of the ticket until it has been resolved to the client's satisfaction. The ticket will remain in the customer relationship management system, to which all our engineers have direct access.
3. As Speakerbus is the manufacturer, access to the highest level of technical support is immediately available should it be required. All our engineers are fully qualified and accredited on the installation and support of our solutions to a minimum of 2nd line support, most are qualified to 3rd line support.
4. Our engineers have direct access to the solutions specialists that can provide in-depth technical support to 4th line levels. This team has direct access to Speakerbus' design teams.
5. The service desk application used by Speakerbus conforms to ITIL v3 for service management, it is used globally by all our system engineers to track, upgrade, and resolve tickets logged by our clients and partners.
6. To log a ticket with the global service desk, visit the Speakerbus web site and select the Support option.  
<https://www.Speakerbus.com/helpdesk>. Alternatively send an email to [support@Speakerbus.com](mailto:support@Speakerbus.com). There is a list of contact telephone numbers for the global service desk on the Speakerbus web site. For those clients that choose to take 24x7 comprehensive service support, they will be provided with relevant out of hours contact telephone numbers as part of the SLA.

d. Fault Categorization.

Speakerbus is able to offer various levels of response times.

See Fault Fix Times Sheet below.

Criticality Category	Response Time	Target Fix Time	Escalation Time	Escalation Path
Category 1	1 Hour (Dependant on chosen SLA)	1 Hour (From Access to System)	SLA in Jeopardy  + 2 Hours  + 4 Hours  + 8 Hours	Global Service Desk  Client Services Manager Regional Operations Manager Global Operations Director
Category 2	1 Hour (Dependant on chosen SLA)	1 Hour (From Access to System)	SLA in Jeopardy  + 2 Hours  + 4 Hours  + 8 Hours	Global Service Desk  Client Services Manager Regional Operations Manager Global Operations Director
Category 3	4 Hours (Dependant on chosen SLA)	2 Hours (From Access to System)	SLA in Jeopardy  + 2 Hours  + 4 Hours  + 8 Hours	Global Service Desk  Client Services Manager Regional Operations Manager Global Operations Director

e. Conformance to Performance Metrics.

- i. Any issues that are encountered during normal operation that are identified as potential bugs that require a fix are logged within our internal support system and categories depending on the level of severity as follows:
  1. Category 1 – Major Service Affecting Issues are investigated and a remediation consisting of a product update and/or reconfiguration will be taken at the earliest suitable opportunity. The remediation of Category 1 issues are given priority in Speakerbus resource planning.
  2. Category 2 – Minor Service Affecting Issues are investigated and a remediation reconfiguration will be taken at the earliest suitable opportunity. A remediation consisting of a product update will be taken at the next planned product update point. It is our policy that Category 2 issues are resolved prior to the general release of the product version user test. The remediation of Category 2 issues is included in Speakerbus resource planning and product release schedules.
  3. Category 3 – Non-Service Affecting Issues are referred to the Product Manager for action. A remediation consisting of a product update may be taken at subsequent planned product update points. It is our policy that Category 3 issues may be included in the next general release of the product version. Category 3 issues are commonly be resolved by

observing operational guidelines or restricting access to the affected product features.

- f. Escalation Procedure.
  - i. For the latest escalations procedure and lists please refer to the escalation list provided to you at the time of service, or the latest version as published on the Speakers website.

Support Contact Name:	Contact Number:	Email Address:
<b>Speakerbus</b>		
North America Service Desk: North America Service Desk <b>(Toll Free)</b>	+ (1) 646 289 4700  + (1) 877 238 9845	<a href="mailto:support@Speakerbus.com">support@Speakerbus.com</a>  or  <a href="https://www.Speakerbus.com/helpdesk/">https://www.Speakerbus.com/helpdesk/</a>
Europe Service Desk (1p per minute from BT phone line) Europe Service Desk (from outside UK)	+44 (0) 870 240 7252  +44 (0) 207 398 6868	
Asia Service Desk	+ 65 6590 9228	
Regional Operations Manager		
Regional Account Manager		

**3. Interruptions in Service.**

- a. "Interruption" Defined. For the purpose of applying this provision, the word "interruption" (whether capitalized or not) shall mean a complete loss of service resulting in the inability to complete calls due to equipment malfunction or human errors for a continuous period of more than thirty (30) minutes. "Interruption" does not include, and no allowance shall be given for service difficulties such as slow dial tone, circuits busy, latency or other network and/or switching capacity shortages. No allowance shall be made for interruptions due to electric power failure where, by the provisions of this Agreement, where Customer is responsible for providing electric power.
- b. Subject to the provisions of Section 4 hereof, interruptions in service will be credited to Customer as set forth below for the part of the service that the interruption affects. In the event that Customer subscribes to services from Speakerbus, Speakerbus may offer additional service level standards with respect to such services. In such event, a service schedule shall be added to this SLA. The provisions of this SLA shall apply to the interpretation of the service schedule.

#### **4. Credit for Interruptions.**

An interruption period begins when Customer reports a service, facility, or circuit to be interrupted through the opening of a trouble ticket and makes it available for testing and repair. An interruption period ends when the service, facility, or circuit is operative. If Customer reports a service, facility, or circuit to be inoperative but declines to make it available for testing and repair, it is considered to be impaired, but not interrupted.

- a. For calculating credit allowances, every month is considered to have thirty (30) days. A credit allowance is applied on a pro rata basis against the monthly recurring charges for the affected service and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit. No credit will be given on any usage sensitive portion of the service.
- b. A credit allowance will be given for interruptions of thirty (30) minutes or more, upon written request of the customer no later than thirty (30) business days after the occurrence of the outage to either Customer's SPEAKERBUS Account Manager (if applicable) or to the SPEAKERBUS SOCC. Credit allowances will be calculated as follows:
  - i. if the interruption continues for less than twenty-four (24) hours:
    1. 1/30th of the monthly recurring charge if it is the first interruption in the same billing period.
    2. 2/30ths of the monthly recurring charge if there was a previous interruption of at least twenty-four (24) hours in the same billing period.
  - ii. if the interruption continues for more than twenty-four (24) hours, 1/30 of the monthly recurring charge for the first twenty-four (24) hours and 2/30ths of such rate for each additional twenty-four (24) hours (or fraction thereof); however, if service is interrupted for over twenty-four (24) hours, more than once in the same billing period, the 2/30ths allowance applies to the first twenty-four (24) hours of the second and subsequent interruptions.
- c. Two or more interruptions of thirty minutes or more during any one twenty-four (24) hour period shall be considered as one interruption.
- d. Maximum Credit.
  - i. In no event may the credits provided for hereunder (either individually or on a cumulative basis) in any billing period exceed the total monthly recurring charges for that period for the service and facilities furnished by Speakerbus. Speakerbus shall issue only one credit for the same incident in the same month, regardless of how many of the parameters in Section 2 above were affected. The credits set forth in this SLA shall be Speakerbus' sole liability

and Customer's sole remedy in the event of any interruption and under no circumstances shall an interruption be deemed a breach of the Agreement.

e. Limitations on Credit Allowances.

i. No credit allowance will be made for:

1. interruptions arising from the acts or omissions of, or non-compliance with the provisions of the Agreement or any schedule thereto (including without limitation this SLA, the Data Standard Terms and Conditions or Acceptable Use Policy) by, Customer or any authorized user, or any interruptions due to any party other than Speakerbus or for events happening on any other party's network, including but not limited to service providers or other common carriers connected to, or providing service connected to, the service of Speakerbus or to Speakerbus' facilities;
2. interruptions due to the failure or malfunction of non-Speakerbus network equipment, including service connected to Customer provided electric power (For Speakerbus manufactured/customer owned equipment please refer to your Speakerbus Inc. hardware service agreement);
3. interruptions of service during any period in which Speakerbus is not given full and free access to its facilities and equipment for the purpose of investigating and correcting interruptions.
4. interruptions of service during any scheduled maintenance period or when Customer has released service to Speakerbus for maintenance purposes or for implementation of a Customer order for a change in service arrangements.
5. interruptions of service due to force majeure events beyond the reasonable control of Speakerbus.

## Schedule 3 Acceptable Use Policy

### Acceptable Use Policy

#### 1. Introduction.

- a. As a Service Provider, The Speakerbus CADENCE AS A SERVICE, (via “Speakerbus Limited” or “Speakerbus”) offer its customers, through its own or 3<sup>rd</sup> party technology (collectively, “the service”), the means to acquire and disseminate public, private, commercial and non-commercial information. Speakerbus also wants its customers to be informed of their rights and obligations -- and those of Speakerbus – in connection with their use of these services. This Acceptable Use Policy (“AUP”), which supplements and explains certain terms of each customer’s services agreement (“Services Agreement”), is intended as a plain English guide to those rights and obligations.
- b. This AUP may be revised from time to time. Customers are responsible for monitoring their portal for changes. A customer’s use of Speakerbus’ services after changes to the AUP are posted on our portal will constitute the customer’s acceptance of any new or additional terms of the AUP that result from those changes.
- c. By using our services, the customer and all users who have access to Speakerbus’ services confirm that they accept the terms of this policy and that the customer and users of Speakerbus’ services agree to comply with them.

#### 2. Use of the Service

- a. The customer is solely responsible for the judgment and responsibility of those who use our service, both in the information they acquire and, in the information they disseminate to others. When customers obtain information through our service, they must keep in mind that Speakerbus cannot monitor, verify, warrant or vouch for the accuracy and quality of the information that customers may acquire. For this reason, the customer must exercise their best judgment in relying on information obtained from our service. Speakerbus cannot censor the content provided over our service, and will not attempt to do so, Speakerbus expressly exclude liability for any loss or damage arising from the use of any of Speakerbus’ services by a customer (or any of their end users or accounts holders) in contravention of Speakerbus’ standards whether such loss or damage results from inaccurate, unsuitable, offensive, illegal or unlawful communications or otherwise.
- b. When the Customer disseminates information through our service, they also must keep in mind that Speakerbus does not review, edit, censor or take responsibility for any information its customers may disseminate. When users disseminate information on our service, they have the same liability as other authors for copyright infringement, defamation and other harmful speech.

#### 3. Unacceptable Use

- a. The bulleted actions described below are defined by Speakerbus as “system abuse” and are expressly prohibited under this AUP. The examples listed below are not exhaustive and are provided solely as guidance to the customer. In general, Customers may not use the Speakerbus services in any manner which:

- violates any applicable law, regulation, treaty or tariff;
- is unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;
- violates the acceptable use policies of any networks, machines, or services which are accessed through Speakerbus' network;
- infringes on the intellectual property rights of Speakerbus or others;
- violates the privacy of others;
- involves deceptive online marketing practices including the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam);
- or otherwise violates this AUP.

b. Prohibited activities also include, but are not limited to, the following:

- attempting to interfere with or denying service to any user or host (e.g., denial of service attacks);
- falsifying header information, user identification or user information;
- introduction of malicious programs into the network (e.g., viruses, worms, Trojan horses, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware);
- monitoring or scanning the networks of others without permission (e.g., port scan);
- attempted or successful security breaches or disruption of communication, including without limitation accessing data, machines or networks of which the customer is not an intended recipient or user or logging into a server or account that the customer is not expressly authorised to access (e.g., hacking or cracking);
- executing any form of network monitoring (e.g., packet sniffer) which will intercept data not intended for the customer;
- using any program/script/command, or sending messages of any kind, designed to interfere with a third-party customer session, via any means, locally or via our service;
- transmitting or receiving copyright infringing material, including but not limited to copyrighted music, video, software, books, programs or other published material;
- transmitting or receiving obscene, indecent, offensive, racist, defamatory, unreasonably violent, threatening, intimidating or harassing material;
- Other activities, whether lawful or unlawful, that Speakerbus or any of its third-party providers or peering partners determines to be harmful to its customers, subscribers, operations or reputation, including any activities that restrict or inhibit any other user from using and enjoying the service or our service.

c. The Customer also agrees:

- Not to reproduce, duplicate, copy or re-sell any part of Speakerbus' services.
- Not to access without authority, interfere with, damage or disrupt:
  - any part of our website;
  - any equipment or network on which our website is stored;
  - any software used in the provision of our website; or
  - any equipment or network or software owned or used by any third party.

#### 4. Monitoring & Actions

a. As pointed out, the responsibility for avoiding the harmful activities described above rests primarily with the customer. Speakerbus will not, as an ordinary practice, monitor

the communications of customers to ensure that they comply with Speakerbus policy or applicable law.

- b. When Speakerbus becomes aware of harmful communications, or when it is notified or becomes aware of actual or potential violations of this AUP, Speakerbus may take any action to stop the harmful activity, including but not limited to: filtering; denying access to our service; suspending or terminating our service access of customers; and/or taking any other actions as deemed appropriate by Speakerbus. Speakerbus shall have the sole discretion to determine which action is appropriate under the circumstances. Speakerbus may take action immediately without regard to any cure periods that may be set forth in the customer's applicable Service Agreement. Speakerbus shall have the sole right to interpret the meaning of any provision of this AUP or whether a customer's or any of its end-user's or account holder's activity violates this AUP.
  - c. Customers who violate this AUP may incur criminal or civil liability. Speakerbus may refer violators to civil or criminal authorities for prosecution and will cooperate fully with applicable government authorities in connection with the civil or criminal investigations of violations. Speakerbus also is aware that many of its customers are, themselves, providers of services, and that information reaching Speakerbus' facilities from those customers may have been originated by end users, account holders or customers of those customers or other third parties.
  - d. The provisions of this AUP (as such AUP may be revised by Speakerbus from time to time), apply to Speakerbus' customer's end users, account holders and customers. Speakerbus customers who provide services to their own users and customers must affirmatively and contractually pass on the restrictions of this AUP to its users and customers and take steps to ensure compliance by their users and customers with this AUP. Failure to cooperate with such corrective and preventive measures is a violation of Speakerbus policy.
  - e. Notwithstanding anything herein to the contrary, a violation of this AUP by a customer, account holder or end-user of any Speakerbus customer shall be considered a violation of this AUP by such Speakerbus customer and Speakerbus may take immediate action, without regard to any cure periods in the Speakerbus customer's applicable Service Agreement, in response to such violation, including without limitation termination of the Speakerbus customer's service.
5. Privacy & Security
- a. Speakerbus also is concerned with the privacy of communications. Speakerbus cannot take any responsibility for the security of communications transmitted over Speakerbus' facilities. Speakerbus will comply fully, however, with all applicable laws concerning the privacy of its customers' on-line communications. In particular, Speakerbus will not intentionally monitor or disclose any private electronic mail messages sent or received by its customers unless required to do so by law. Speakerbus may, however, monitor its service electronically to determine that its facilities are operating satisfactorily. Also, Speakerbus may be required to disclose information transmitted through its facilities in order to comply with court orders, statutes, regulations or governmental requests.



- b. Speakerbus may disclose information transmitted over its facilities where necessary to protect Speakerbus and its customers from harm, or where such disclosure is necessary to the proper operation of the system.
- 6. Governing Law
  - a. The terms of this policy, its subject matter and its formation (and any non-contractual disputes or claims) are governed by English law. Customers agree to the exclusive jurisdiction of the courts of England and Wales.
- 7. Indemnification
  - a. Users agree to indemnify, defend and hold harmless Speakerbus, its officers, directors, employees, agents, affiliates, shareholders, licensors, and suppliers from and against all claims, liabilities, losses, expenses, damages and costs, including reasonable attorneys' fees, that arise from: (1) any violation of this AUP by Users; (2) any violation of any rights of a third party by Users; (3) any violation of applicable law; (4) information or content that a User submits, posts, transmits or makes available through the service; or (5) Users' use of the service.
- 8. Contact
  - a. To contact Speakerbus with any questions, comments about the AUP or any claimed violations of this AUP, please email Speakerbus at [support@speakerbus.com](mailto:support@speakerbus.com)