

## Agency Terms of Service

### 1 Definitions

1.1 In this Agreement the following words and expressions shall have the meaning set out below:

“**Buyers**” means those corporates who agree to use the Service, subject to the Buyer Terms;

“**Buyer Terms**” means the terms and conditions set out at [www.sliversoftime.com/terms/buyers](http://www.sliversoftime.com/terms/buyers);

“**Content**” means any and all information, software, and data provided by the Agency or any User in connection with the Service;

“**Documentation**” means the operating manuals, user instructions, technical literature and other related materials supplied to the Agency for aiding the use and application of the Service;

“**Fees**” means the communication charges and Service fees which apply to all transactions as set out at [www.sliversoftime.com/terms/fees](http://www.sliversoftime.com/terms/fees);

“**Group**” means entities that control, are controlled by, or are under common control with a party to this Agreement;

“**Intellectual Property Rights**” means any and all registered and unregistered copyright, patents, design rights, database and compilation rights, Marks (and related goodwill), trade secrets and other intellectual property rights, howsoever arising and in whatever media, and any applications for their protection or registration and all renewals and extensions anywhere in the world;

“**Marks**” means any and all names, brands, logos, trade marks, service marks, trade names and domain names; “**Reconnection Fee**” means the Fee payable by the Agency if the Service is to be resumed after being suspended or terminated by SoT in accordance with this Agreement;

“**Sellers**” means those individuals who agree to use the Service, subject to the Seller Terms;

“**Seller Terms**” means the terms and conditions set out at [www.sliversoftime.com/terms/sellers](http://www.sliversoftime.com/terms/sellers);

“**Service**” means the provision of NEMs as described at

[www.sliversoftime.com/terms/service](http://www.sliversoftime.com/terms/service);

“**SLA**” means the service level agreement detailed at

[www.sliversoftime.com/terms/service](http://www.sliversoftime.com/terms/service);

“**Users**” means any and all persons who use the Service, and shall include, the Agency, the Agency Group and any Sellers and Buyers.

1.2 Except where the context otherwise requires, words denoting the singular include the plural and vice versa, words denoting any gender include any other genders, and words denoting persons include firms and corporations and vice versa.

1.3 Unless otherwise stated, a reference to a Clause or Schedule is a reference to a Clause of or Schedule to this Agreement. References to website

links (URLs) shall be references to such content as provided from time to time.

Clause headings are for ease of reference only and do not affect the construction of this Agreement. “include” and “including” shall be construed without limitation.

### 2 Services

2.1 Provided the Agency complies with clause 3 below, SoT will provide the Service in accordance with this Agreement and the SLA.

2.2 SoT reserves the right to suspend the provision of the Service if SoT reasonably determines that the Agency is in breach of any term or condition of this Agreement. In such circumstances, SoT will attempt to notify the Agency by any reasonably practical means under the circumstances, including by telephone or by e-mail. Any resumption of the Service shall be subject to the payment by the Agency of the Reconnection Fee.

### 3 Agency Obligations

3.1 The Agency shall use all reasonable endeavours to market the Service and to recruit Buyers on the Buyer Terms and to recruit Sellers on the Seller Terms. The Agency shall use reasonable endeavours to verify the accuracy of the Content provided by the Buyers and Sellers in such recruitment. The Agency may not recruit existing Sellers for the Service.

3.2 The Agency acknowledges that the Service is provided over the Internet and over public telecommunications systems and agrees that SoT and its suppliers cannot be responsible for any failure by Agency or any User to access the Service or any failure in the transmission, confidentiality or accuracy of any data because of the performance of the Internet or any public telecommunications system or because of the acts or omissions of any third parties using the Internet or such systems.

3.3 The Agency shall ensure that the Service is not used in any manner which reflects adversely upon the name, reputation and/or goodwill of SoT and shall ensure that the Service is used in accordance with all applicable laws and regulations and in accordance with the Documentation.

3.4 The Agency shall ensure that the Buyers agree to and comply with the Buyer Terms and that the Sellers agree to and comply with the Seller Terms and in particular undertakes to ensure that such Sellers are entitled to work in accordance with section 8 of the Asylum and Immigration Act 1996. The Agency agrees that SoT shall not be the employer of any Sellers. The Agency shall also ensure that the Users have no rights in the Service, other than as set out in their terms, or against SoT.

3.5 The Agency shall allow SoT to use the Agency’s name as a reference site subject to prior arrangement and

clearance by the Agency of proposed material/media.

3.6 The Agency shall not arrange a work engagement offered by the Service with any User, other than by using the Service.

### 4 Intellectual Property

4.1 Title and Intellectual Property Rights in the Service, Documentation, and any technology provided or used with the Service and any modifications and adaptations thereto shall be assigned by way of present and future assignment with full title guarantee to SoT.

### 5 Warranties

5.1 Each party warrants to the other that it has the full right, power and authority to enter into and perform this Agreement and has not entered into any arrangement which in any way conflicts with this Agreement or inhibits, restricts or impairs its ability to perform its obligations under this Agreement.

5.2 The Agency is solely responsible for all Content and warrants to SoT that the Content supplied by the Agency or any User in no way whatsoever violates or infringes any third party Intellectual Property Rights, rights of privacy or publicity or any other rights whatsoever of any person and that the Content is not obscene, libellous or defamatory or in any other way unlawful and will not in any way inhibit, restrict or impair SoT in its ability to provide the Service under this Agreement.

5.3 SoT warrants that the provision of the Service (save for the provision of the Content or any derivative or adaptation) shall not infringe any copyright or database right. To avoid potential infringement, even if not alleged, SoT may at its option suspend or substitute or cancel the Service.

5.4 SoT does not warrant that the Service will meet the Agency’s or User’s requirements or that the operation of the Service will be uninterrupted or error free or that defects in the Service will be corrected. Nor does SoT make any warranty as to the results that may be obtained from the use of the Service.

5.5 Except as expressly provided in this Agreement each party expressly disclaims any further representations, warranties, conditions or other terms, express or implied, by statute, collaterally or otherwise, including but not limited to implied warranties, conditions or other terms of satisfactory quality, fitness for a particular purpose or reasonable care and skill.

### 6 Payment

6.1 SoT shall invoice the Agency and the Agency shall pay the Fees. All Fees and other charges are payable in Pounds Sterling within 30 days of the invoice date. All Fees described herein are exclusive of any taxes, including any excise, sales, use, value added (VAT),

withholding and similar taxes. The Agency shall be liable and shall pay all applicable taxes associated with the Fees. The Agency shall gross up any payments to compensate SoT for any withholding tax payable.

6.2 If any sum due to SoT remains outstanding after thirty (30) days from the invoice date then, without prejudice to any other rights and remedies of SoT, such sums shall attract interest at the then current rate of HSBC plc plus four percent, before and after judgement, from the invoice date until payment is made in full.

6.3 In the event that SoT has to resort to collection enforcement as a result of the non-payment of its charges, SoT will charge any reasonable expenses it has incurred associated with such collection including, but not limited to reasonable legal costs, lawyers' fees, court costs and collection agency fees.

## 7 Indemnities and Insurance

7.1 SoT shall indemnify and keep the Agency fully and effectively indemnified on demand against any liability, damage, expense, claim or cost (including reasonable legal costs and expenses) determined under any final judgment or settlement as a result of any breach by SoT of the warranties set out in Clauses 5.1 and 5.3.

7.2 Agency shall indemnify and keep SoT fully and effectively indemnified on demand against any liability, damage, expense, claim or cost (including reasonable legal costs and expenses) as a result of any breach by the Agency of Clauses 3.4, 5.1 and 5.2.

7.3 To take benefit of an indemnity, the claiming party shall: (i) notify the other party promptly in writing and in any event within ten (10) business days of first learning of the circumstances giving rise to such claim, lawsuit, action or proceeding; (ii) consent to the other party having the sole authority to control the defence and/or settlement of any such claim, lawsuit, action or proceeding; and (iii) provide reasonable co-operation and assistance to the other party, at that party's expense, in defending any such claim, lawsuit, action or proceeding.

7.4 The Agency shall also effect and maintain professional indemnity insurance policies.

## 8 Limitation of Liability

8.1 Save as provided in Clauses 7.2 and 8.2, both parties disclaim all, and neither party shall be liable in contract, tort (including negligence), statutory duty, pre-contract or other representations (other than fraudulent misrepresentations) or otherwise arising out of or in connection with this Agreement for: (a) consequential, indirect or special loss or

damage; or (b) any loss of goodwill or reputation; or (c) any economic losses (including loss of revenues, profits, contracts, business or anticipated savings). In each case whether advised of the possibility of such loss or damage and howsoever incurred.

8.2 Save as provided in Clause 7.2, both parties agree that the maximum liability of either party in contract, tort (including negligence), statutory duty, pre-contract or other representations (other than fraudulent misrepresentations) or otherwise arising out of or in connection with this Agreement, and each part thereof, including its execution and performance; shall, in respect of any one or more events or series of events (whether connected or unconnected) be limited to the greater of the Fees paid by the Agency in the 12 months immediately preceding the claim and £20,000.

8.3 Nothing in this Agreement shall exclude or limit liability for death or personal injury resulting from the negligence of either party or their servants, agents or employees acting in the course of their duties.

## 9 Confidentiality and Data

9.1 During the term of this Agreement and for two (2) years thereafter, each party will treat as confidential all information that they obtain concerning, but not limited to, the business, finances, technology and affairs of the other, ("**Confidential Information**"). Each of the parties will use at least the same degree of care (and not less than a reasonable degree of care) it uses to prevent the disclosure of its own confidential information of like importance, to prevent the disclosure of Confidential Information of the other party. Each party will promptly notify the other party of any actual or suspected misuse or unauthorised disclosure of the other party's Confidential Information.

9.2 The provisions of this Clause 9 shall cease to apply to: (i) information that has come into the public domain other than by breach of this Clause or any other duty of confidence; (ii) information that is obtained from a third party without breach of this Clause or any other duty of confidence; and (iii) information that is required to be disclosed by a regulatory or government body or court of competent jurisdiction with power to compel the disclosure.

9.3 Each party will comply with its obligations pursuant to the Data Protection Act 1998 and specifically SoT shall comply with its obligations as a processor. In addition, the Agency undertakes to ensure that SoT is permitted to process personal data relating to Users.

## 10 Term and Termination

10.1 This Agreement shall commence on the date it is accepted by the Agency ("**Commencement Date**") and shall (unless terminated at an earlier date by Clause 10.2 or 10.3) continue until terminated by either party giving the other not less than three months' prior written notice.

10.2 Each party shall have the right to terminate this Agreement on written notice in the event that the other:

10.2.1 commits any material breach of the terms of this Agreement which, in the case of a breach capable of remedy, is not remedied within thirty (30) days of service of a notice specifying the breach and stating the intention to terminate the Agreement if not remedied; or

10.2.2 holds any meeting with or proposes to enter into or has proposed to it any arrangement or composition with its creditors (including any voluntary arrangement as described in the Insolvency Act 1986); has a receiver, administrator, or other encumbrancer take possession of or appointed over or has any distress, execution or other process levied or enforced (and not discharged within 7 days) upon the whole or substantially all of its assets; ceases or threatens to cease to carry on business or becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or suffers any analogous event.

10.3 SoT may terminate this agreement without further notice in the event that there is any change of control of the Agency.

10.4 On termination or expiry of this Agreement, Agency hereby consents to SoT, or its agents, contacting the Buyers and Sellers to ensure a continuity of Service.

10.5 Termination or expiry of this Agreement shall be without prejudice to any rights, liabilities or remedies of a party accrued before termination nor shall it affect any provision of this Agreement which is expressly intended to come into or continue in force after termination or expiry.

## 11 Notices

11.1 Any notice given under this Agreement will be in writing and shall be deemed served if hand delivered to the other party or sent by pre-paid post (with or without a facsimile transmission or confirmed email copy) to the address of the other party or such other address or number as may be notified under this Agreement by that party from time to time for this purpose. Notices will be deemed to be effective on personal delivery, within 48 hours of posting (if the address is in the UK or within 96 hours otherwise), or

upon confirmation of receipt of facsimile or email.

**12 Force Majeure**

12.1 A party will not be liable for any failure/delay in performing its obligations under this Agreement to the extent that this failure is the result of any cause or circumstance beyond the reasonable control of that party including acts of god, war, civil commotion or industrial dispute and that failure could not have been prevented or overcome by that party acting reasonably and prudently. If consequently either party is prevented from performing its obligations for a period exceeding three (3) months then the other party may terminate this Agreement on one month written notice.

**13 Assignment and Sub-contracting**

13.1 Each party shall not be entitled to assign, transfer, charge or licence the whole or any part of its rights and/or obligations under this Agreement to any party without consent of the other party which when asked of the Agency shall not be unreasonably withheld or delayed.

13.2 SoT may engage any person, firm or company as its sub-contractor to perform any of its obligations, but shall not be released from any liability therefor.

**14 General**

14.1 **Relationship** Nothing in this Agreement shall be deemed to create a partnership or joint venture or contract of employment of any kind between the parties nor shall it be deemed to grant any authority not expressly set out in the Agreement or create any agency between the parties.

14.2 **Entire agreement** Each party confirms that this Agreement sets out the entire agreement and understanding between the parties and that it

supersedes all previous agreements, arrangements and understandings between them relating to the subject matter of the Agreement. Each party confirms that it has not relied upon any statement, representation or understanding that is not an express term of this Agreement and shall not have any remedy in respect of any statement, representation or understanding which is not an express term unless made fraudulently.

14.3 **Waiver** No failure or delay exercise by any party in exercising any right, power or remedy under this Agreement will operate as a waiver of that or any other right, power or remedy nor will any single or partial exercise by either party of any right, power or remedy preclude any further exercise of any other right, power or remedy.

14.4 **Severance** To the extent that any provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of this Agreement, it shall not affect the validity, lawfulness or enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

14.5 **Time of the Essence** Any times, dates or periods specified in the agreement may be extended or altered by agreement in writing between the parties. However, time shall not be of the essence except where it is expressly stated to apply.

14.6 **Rights of Third Parties** Nothing in this Agreement shall create or confer any rights or other benefits whether

pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise in favour of any person other than the parties to this Agreement.

14.7 **Further Assurance** Each party shall at the cost and expense of the other party use all reasonable endeavours to do all such further acts and things and execute or procure the execution of all such other documents as that party may from time to time reasonably require for the purpose of giving that party the full benefit of the assets, rights and benefits to be transferred to the other party under this agreement.

14.8 **Governing law** This Agreement shall be governed in accordance with the laws of England and each party hereby irrevocably submits to the non-exclusive jurisdiction of the courts of England.

14.9 **Miscellaneous** The rights and remedies of the parties under this Agreement are cumulative and in addition to any rights and remedies provided by law. Any variation to this Agreement must be in writing and agreed by the parties. This agreement may be executed in counterpart.

**15 Dispute Resolution**

15.1 If any dispute arises between the parties out of this Agreement, the parties shall attempt to settle it by referring it to a Board member of each party. If the dispute is not resolved by such board members within 3 months of such referral then it shall be resolved by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure for a period not exceeding 3 months.

**Acceptance on behalf of:**

Agency Name \_\_\_\_\_

Signatory Name \_\_\_\_\_

Position \_\_\_\_\_

Signature \_\_\_\_\_

Commencement Date \_\_\_\_\_