OTISS
Online Tree Inspection & Survey System

1 Definitions

1.1 In this Agreement, unless the context otherwise requires, the following terms shall have the following meaning:

The Customer	means the registered users of OTISS. This includes registered estate managers, consultants, students, surveyors and contractors. These users may be registered for a free trial or have subscribed to one of our services
The Application	means the OTISS web site at http://www.otiss.co.uk that is accessed via the internet or an intranet, and/or Pear Technology Services Ltd server software systems accessed via Pear Technology Services Ltd mobile apps and client software systems, and third party software necessary to run the web sites and Pear Technology Services Ltd server software systems.
The Data	means all information stored in the Application that relates to the Customer's clients, estates, maps, photos, assets, trees and surveys.
The Server System	means the system used by Pear Technology Services Ltd to host OTISS. Being a shared part of a server system, including computer hardware, operating system software, networking and internet access hardware and software, security hardware and software, and backup and restore hardware and software.
The Service	means the service described in Section 2 below.
Normal Working Hours	means Monday to Friday between 09:00 and 17:00 BST, excluding English statutory holidays.

1.2 Words used in the singular shall include the plural and vice versa. Words in the masculine and neuter shall include the feminine and vice versa.

1.3 The headings contained in this Agreement are inserted for convenience of reference only and shall not be used in interpretation of this Agreement.

1.4 If any of the provisions contained in this Agreement shall be determined invalid, unlawful or unenforceable to any extent, such provision shall be severed from the remaining provisions which shall continue to be valid to the fullest extent permitted by law.

1.5 This Agreement forms part of the entire agreement between Pear Technology Services Ltd and the Customer with respect to the subject of this Agreement and supersedes all prior negotiations, representations or agreements whether written or oral unless and to the extent that they are expressly incorporated herein.

1.6 Any waiver by Pear Technology Services Ltd or the Customer of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision.

2 The Service

2.1 In relation to the provision of the Service, Pear Technology Services Ltd warrants that it shall:

Make the Application available for 24 hours per day, 365 days per year, excepting during periods of planned maintenance and breakdown. Pear Technology Services Ltd does not warrant or guarantee that the Application shall be available at all times.

Make reasonable endeavours to provide the Service in-line with this Agreement.

3 Maintenance

3.1 Pear Technology Services Ltd shall and apply corrective action following failure of the Server System and the Application.

3.2 Pear Technology Services Ltd shall monitor requirements for system and security upgrades to the Server System, and install upgrades as required.

3.3 If the Application is unavailable because of maintenance, an explanation page shall be displayed to users attempting to access the Application.

4 Backups

4.1 The Customer data shall be backed up daily, Monday to Friday, excluding English statutory holidays. Daily backups shall be stored on-site, and weekly backups off-site. Each backup shall be kept for a minimum of four weeks.

4.2 The backup process shall not be affect availability of the Application.

4.3 If the Customer data has to be restored from back-ups, Pear Technology Services Ltd shall be responsible for restoring data from the most appropriate backup.

5 Support

5.1 In the event that the Service fails, Pear Technology Services Ltd shall be responsible for restoring the Service.

5.2 Pear Technology Services Ltd shall provide support cover for the Service during Normal Working Hours.

5.3 Any faults in the Service found by the Customer shall be reported to the Pear Technology Services Ltd support team by telephone or email.

Telephone: 02392 499689

E-mail: info@peartechnology.co.uk

5.4 Pear Technology Services Ltd shall provide the Customer with a response to faults within eight Normal Working Hours from the time Pear Technology Services Ltd becomes aware of the fault.

6 Virus Protection

6.1 All electronic mail into and out from the Application shall be scanned with the latest version of an anti-virus system to protect against viruses.

7 Data Protection

7.1 The Customer and Pear Technology Services Ltd shall comply with relevant Data Protection legislation in providing the Service. For the purposes of the Data Protection Act, Pear Technology Services Ltd shall act as the data controller and a data processor.

7.2 We are registered as a data controller with the UK Information Commissioner's Office. Our data protection registration number is ZA766042.

7.3 The Customer's contact information and The Data will be kept confidential and will not be disclosed to third parties without prior consent. Access to The Data is strictly controlled and confined to the Customer, his appointed agents and to Pear Technology Services Ltd staff with responsibilities in these areas. The Data may be used in compiling anonymous statistical data on tree species distributions and safety inspections.

7.4 It is understood that the Customer is the 'owner' of The Data. At any time, the Customer can request a copy of The Data, which will be supplied within 10 working days in a format compatible with Microsoft Excel.

7.5 Emails sent by OTISS and emails sent to/from Pear Technology Services Ltd may not be secure.

7.6 We will retain all Customer Data for the length of any contractual relationship and after that for a period of up to 2 years. During this period a Customer may re-subscribe and retain all their previous Data.

8 Data Content, Complaint Handling and Acceptable Use

8.1 Should any of the Customer supplied data give rise to a complaint, the Customer shall be responsible for:

Identifying that a complaint has been made or received about the data content of the Application.

Removing the offending content, or instructing Pear Technology Services Ltd to remove the offending content, and/or instructing Pear Technology Services Ltd to prevent access to the Application until the offending content has been removed.

Issuing an apology where necessary.

8.2 If a complaint is made directly to Pear Technology Services Ltd, Pear Technology Services Ltd shall inform the Customer, and Pear Technology Services Ltd reserves the right to take any steps necessary to effect the removal of the offending content, prevent access and issue an apology.

8.3 The Customer shall indemnify Pear Technology Services Ltd for any claims made against Pear Technology Services Ltd arising out of all Customer provided content stored on the Application.

8.4 Pear Technology Services Ltd reserves the right to suspend the Service immediately in the event of a breach or suspected breach of acceptable use by the Customer.

9 Payments and Termination

9.1 The Customer is required to pay an annual subscription for use of this Service. The subscription fee is payable annually in advance.

9.2 We provide a full refund if you cancel the subscription within 14 days – after that no refunds are given. Users should avail of the free trial to evaluate OTISS and check that it meets their needs.

9.3 If the Customer fails to pay the annual subscription then access to the Service will be terminated within 30 days of the renewal date. After termination, the Customer can request a copy of The Data, which will be supplied within 10 working days in a format compatible with Microsoft Excel.

9.4 Pear offers free trials to allow potential users to evaluate the OTISS system. It is understood that during the free trial period, OTISS must not be used for commercial purposes without prior agreement. In cases where commercial usage is suspected, Pear reserves the right to immediately terminate the free trial and prevent access to the evaluation data.

10 General Conditions

10.1 Pear Technology Services Ltd is NOT an arboricultural consultancy or contractor. All arboricultural advice and recommendations will be made by independent, qualified, Arboricultural professionals.

10.2 Pear Technology Services Ltd excludes any liability for loss of business, sales, revenue, turnover, profit, goodwill, anticipated savings and consequential or special loss from the Service under this Agreement.

11 Our details

14.1 OTISS is owned and operated by **Pear Technology Services Limited**

14.2 We are registered in England and Wales under registration number 3013412 and our registered office is at Gatcombe House, Copnor Road, Portsmouth, PO3 5EJ.

14.3 You can contact us:

(a) by telephone, on the contact number published on our website; or

(b) by email, using the email address published on our website.