

## LICENCE & SUPPORT AGREEMENT

THIS AGREEMENT is

BETWEEN: IRIS Business Software Limited trading as '12Pay' ("We/Us/Our")

AND: The person, firm or company specified in the Invoice or other written notification from Us ("Customer/You/Your")

You should print a copy of these terms and conditions for future reference.

Please click on the button marked "I Accept" if You have read, understood and accept the terms of this licence, support and services agreement. Please understand that if You refuse to accept these terms and conditions, You will not be able to use Our Software, Support or Our Services.

### 1. Definitions & Interpretation

#### 1.1 Definitions

"Acceptance Date" means the date on which the Software is accepted or deemed to be accepted by You pursuant to clause 3;

"Agreement" means these terms and conditions for the supply of Software, Support and Services as may be amended by Us from time to time including the Invoice and any other documents expressly incorporated by Us;

"Charges" means any charges due under this Agreement and includes the Licence Fee, Support Fee, Services Fees, Data Conversion Fee, Installation Fee, Training Fee, any administration fee payable for the benefit of spreading payments over a period of time subject to Our confirmation that You are entitled to do so, or any other charge or expense payable under this Agreement, invoiced by Us and calculated in accordance with Our current standard rates from time to time, details of which are available on request;

"Commencement Date" means the date You first use any Licensed Material/Services;

"Concurrent Users" means the total number of Your employees, authorised representatives or computer devices that are authorised to use or access the Software at any one time;

"Consultants" means the employees, subcontractors and consultants We use to perform the Services;

"CPU" has the meaning given to that term in clause 2.2.2;

"Current Release" means the most recent version of the Software which has been made available by Us, which from time to time is publicly marketed and offered for purchase by Us in the course of Our normal business;

"Data Conversion" means the service whereby We import and convert Your data into the correct data format, this service excludes (without limitation) data extraction unless specified otherwise in the Invoice or other written notification We send to You;

"Data Conversion Fee" means the fees for the Data Conversion;

"Deliverables" means any output to be produced by Us as may be specified in the Invoice or other written notification We may send to You;

"Delivery Date" means the estimated delivery date(s) specified in the Invoice or other written notification We may send to You;

"Documentation" means (where available) the operating manuals, user instructions, technical literature and other related materials We or a Reseller supply to You in any form pursuant to this Agreement for aiding the use of the Software, including any part or copy of them and any Third Party Software documentation;

"Equipment" means hardware on which the Software is installed or Your server for the computer configuration situated at the Location as may be specified in the Invoice or other written notification We send to You which conforms to the Specification as published by Us in hard copy or available on the Website from time to time;

"Fee Earner" means the total number of Your employees who contribute to the earning of fees including, but not limited to solicitors (partners, assistants, associates and consultants), legal executives, paralegals and trainees;

"Group Company" means (in relation to each party) any subsidiary, group or parent company from time to time of a party (as such words are defined in the Companies Act 2006) and any subsidiary of any such parent company;

"Initial Term" means the period of twelve (12) months from the Commencement Date unless specified otherwise in the Invoice or other written notification We send to You;

"Installation Fee" means the fee for the Installation Service;

"Installation Service" means the installation of the Software on the Equipment;

"Invoice" means any invoice We send to You for the Charges due which may indicate the variables, metrics, price and payment terms of the Software, Support and/or Services provided or to be provided by Us or a Reseller to You during the Term;

"IPR" means all intellectual property rights including, without limitation, all patents, copyright, design rights, database rights (including rights in the design or structure of any database) trade marks, confidential know-how, database rights and all other similar rights (whether registered or unregistered) and all applications for the same anywhere in the world;

"Licence" means the Licence specified in clause 2;

"Licence Code" means the unlocking code supplied by Us to You which allows You to use the Software on the Equipment in accordance with the purchased functionality and this Agreement;

"Licence Fee" means the fee for the use of the Software as published by Us from time to time, or as set out in the Invoice or other written notification We send to You;

"Licensed Companies" means the number of companies, restricted to five Affiliates (as such term is defined in the Companies Act 2006) and each such company must be notified to Us in writing pursuant to clauses 4.3 and 15;

"Licensed Materials" means the Software, Current Releases, Release Codes, the Documentation, physical media on which Software is stored and any other material supplied to You with the Software or as part of the Support service;

"Location" means the location of the Equipment on which the Software is licensed to be used, or where the Services are to be provided, as may be specified in the Invoice or other written notification We may send to You;

"Maintenance Release" means any release of the Software which corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a Current Release;

"Monthly Usage" means the number of Your Payroll Individuals and Payroll Companies Processed, including employer PAYE reference numbers, using and/or using the Software per calendar month;

"Payroll Companies" means the number of Your companies (including but not limited to Your Group Companies) and Your clients' companies Processed using and/or using the Software per calendar month;

"Payroll Individuals" means the number of Your employees and Your clients (and clients' employees) Processed using the Software per calendar month;

"Portable Users" has the meaning given to that term in clause 2.2.4;

"Processed" means You paying Your Payroll Individuals and/or Payroll Companies using the Software;

"Project Proposal" means the statement of work or any proposal setting out all or any of the following: Your requirements; details of the Software, Support and/or Services; timescales, charges, payment milestones and Deliverables;

"Renewal Term" means the period defined in clause 12.1;

"Reseller" means an officially accredited reseller for the Licensed Materials appointed by Us;

"Services" means any services whether additional to Support or not and includes installation and implementation, training, data conversion and/or bespoke modification services or additional services to be supplied by Us or a Reseller pursuant to this Agreement, as may be specified in the Invoice or other written notification We may send to You ;

"Services Fees" means the fees set out in the Invoice or other written notification We may send to You ;

"Service Hours" means the standard hours during which the Services will be provided as specified in the Invoice or other written notification We may send to You ;

"Software" means the computer programs specified in the Invoice or other written notification We may send to You including any Maintenance Releases and any copies of the same supplied by Us or a Reseller but excluding source code material and all preparatory design material;

"Specification" means the functional specification (if any) for the Software or minimum and/or optimum system environment or hardware specifications for use of the Software published by Us in hard copy format or on the Website;

"Standard Support Hours" means the standard hours during which the Support will be provided as specified in clause 7.4;

"Support" means the support service comprising advice by telephone, facsimile, post, email, the Website or other means available to Us (excluding on site visits) as may be appropriate and necessary to resolve Your difficulties and queries in relation to installing and using the Software, such advice will be provided to Your contacts specified in the Invoice or other written notification We may send to You ;

"Support Fee" means the fee for the provision of the Support incorporating any Charges, but excluding the Installation Fee, Training Fee or Data Conversion Fee as published by Us from time to time;

"Term" means the Initial Term and any Renewal Term;

"Third Party Software" means all software owned by a third party but legally licensed for use or distribution by Us as part of or for use within the Software;

"Training Fee" means the fees payable in respect of the training services delivered by Us to You;

"UK" means the United Kingdom;

"Website" means the website specified on Our invoice or stationary sent to You from time to time.

## 1.2 Interpretation

In the event of any conflict or inconsistency between any of the parts of this Agreement (unless expressly stated otherwise) the terms of the part first appearing below shall prevail to the extent of the inconsistency:

- 1.2.1 the terms and conditions of the main body of this Agreement;
- 1.2.2 the Invoices or other written notification We send to You;
- 1.2.3 any other documents expressly incorporated in this Agreement by Us.

## 2. Grant of Licence

2.1 Subject to the terms of this Agreement, in consideration of the payment to Us by You of the Licence Fee, We grant You a non-exclusive and non-transferable licence ('the Licence') during the Term to use the Licensed Materials on the Equipment at the Location in the UK, the Republic of Ireland and/or the Channels Islands either for single use, or by the number of Concurrent Users or by the number of Portable Users as specified in the Invoice or other written notification We may send to You ;

2.2 The Licence entitles You to:

2.2.1 receive one copy of the Software for use on the Equipment, at the Location, together with the necessary Documentation and to install and use the same;

2.2.2 load, install and use the Software either (a) on one Central Processing Unit ("CPU") of the Equipment at the Location if the Equipment is single-user or the Software is for single use (a separate Licence Fee being required for each CPU upon which you wish to use the Software); or (b) if the Equipment is multi-user or networked by the number of Concurrent Users;

2.2.3 install the Software on a file server for the sole purpose of distribution to other workstations or computers at the Location. Such use will not be counted for the purposes of ascertaining the number of Concurrent Users. Additional Concurrent Users may be added by purchasing an additional Licence from Us;

2.2.4 use the Software on a portable, lap-top or home computer proprietary to You, where the Software is permanently installed on the hard disk or other storage device of the Equipment (but not a file server) and You or Your employee are the predominant user of the Software ("Portable User") and where applicable, such use will form part of and will count as one for the purpose of the Portable User limit. You may add Portable Users by purchasing an additional Licence from Us.

2.3 You will only receive Licence Codes upon payment of the Licence Fee.

## 3. Acceptance

You will be deemed to have accepted the Software on the date of either dispatch by Us or immediately prior to install or first use by You of the Licensed Materials to the Location. Risk in the Licensed materials shall pass on such acceptance.

#### 4. Permitted Use

4.1 You may use the Software only on the Equipment at the Location within the UK, the Republic of Ireland and/or the Channel Islands. The use of the Software on different equipment or at a different location requires Our prior written consent.

4.2 The Licence will be restricted to the licence metrics specified in the Invoice or renewal Invoice or other written notification We issue to You, defined, where applicable, by the number of Licensed Companies, Portable Users, CPUs or Concurrent Users, which will, except for Portable Users, be one, unless otherwise agreed or specified in the Invoice or renewal Invoice or other written notification We issue to You,.

4.3 It is Your obligation to ensure that the Invoice, or any other written notification we send or give to you confirming the terms of this Agreement, correctly state the information set out in them. If the licence metrics specified in those documents change during the Term of this Agreement, You may write to Us to request a change to them. If there is any change to the licence metrics or variables relating to the Software, Support and/or Services and/or the Charges due under this Agreement We will issue You with a revised Invoice or other written notification and/or take any changes into account in the renewal invoice issued to You before the start of the Renewal Term.

4.4 Employees of any Group Company are not permitted to use the Software, unless that company has been licensed to use the Software in accordance with this Agreement.

4.5 You may use the Licensed Materials for processing Your own data for Your own internal business purposes only.

4.6 You shall not:

4.6.1 use or attempt to use the Licensed Materials or any of the Software's output or permit any third party to do so to provide a data processing service to any third party, or otherwise, or contrary to any other restrictions stated in this Agreement without Our prior written consent or where specified in the invoice;

4.6.2 translate or adapt the Licensed Materials for any purpose nor arrange or create derivative works based on the Licensed Materials without Our express prior written consent in each case;

4.6.3 transfer or distribute (whether by licence, loan, rental, sale or otherwise) or otherwise deal in, charge or encumber all or any part of the Licensed Materials to any other person or use the Licensed Materials on behalf of any third party or make available the same to any third party;

4.6.4 make, or permit any third party to make for any purpose (including without limitation for error correction), any alterations, modifications, additions or enhancements to the Software except as specifically described in the Documentation;

4.6.5 permit any third party to, alter, adapt, make error corrections to, decompile, reverse engineer or disassemble the Software or any part or permit the Software to be combined with any other programs except that You may decompile the Software only to the extent permitted by law.

4.7 You shall follow all lawful and reasonable instructions and directions given by Us from time to time in relation to the use of the Licensed Materials.

4.8 You shall permit Us, or Our agent, on reasonable prior notice, to inspect and have access to the Location or any premises, and to the computer equipment located there, at or on which the Software is being kept or used, and any records kept pursuant to this Agreement, to verify that the use of the Software by You is in accordance with the terms of this Agreement. Alternatively We may require You to operate and run a tool or programme provided by Us on your Equipment in order to verify that Your use of the Software complies with the terms of this Agreement.

4.9 You shall use appropriate hardware and software to operate the software in accordance with the Specification.

4.10 You may not use the Software other than as specified in this Agreement without Our prior written consent, and You acknowledge that additional fees may be payable on any change of use authorised or approved by Us.

## 5. Extent of permitted reproduction

5.1 You are permitted to make one back-up copy of the Software for Your lawful use and You shall record the location of that copy and take steps to prevent unauthorised use or copying. The copy will belong to Us.

5.2 You may only use a back-up copy of the Software by substituting it for the copy You are using. If copies that You have made of the Software fall into the hands of a third party, You agree that You will be responsible for paying Us the full licence and other fees connected with the use of these unauthorised copies.

5.3 You shall not make or permit others to make any copies of the Documentation without Our prior written consent, excluding the printing of help files which is permitted in so far as the making of such copies are necessary for the use of the Software permitted by the Licence. Such copies will belong to Us.

5.4 A separate Licence is required and must be purchased for the use of copies of the Software on equipment other than the Equipment situated at the Location.

5.5 You undertake to effect and maintain adequate security measures and maintain accurate and up-to-date records of the number and location of all copies of the Software or



the Licensed Materials and upon prior written notice forthwith produce such record to Us, and to supervise and control use of the Software in accordance with this Agreement.

## 6. Proprietary rights

6.1 All copyright, database rights and other IPR in the Licensed Materials or Deliverables and rights in any copies of them shall belong to Us and You shall have no rights in respect of any of them except the right, as expressly granted under this Agreement, to use them in accordance with this Agreement. You shall do or procure to be done all such further acts and things and shall execute or procure the execution of all such other documents as We may from time to time require for the purpose of giving Us the full benefit of the provisions of this clause.

6.2 You agree not to remove, suppress or modify in any way any proprietary marking, including any trade mark or copyright notice, on or in the Software or which is visible during its operation or which is on any physical media or on any Documentation. You agree to include Our proprietary marks in any copies of the Licensed Material made by You in compliance with this Agreement.

6.3 You shall notify Us immediately if You become aware of any unauthorised access to, use, copying or disclosure of, any part of the Licensed Materials including any feature of the design or structure of any database by any person and permit Our staff remote access to the Licensed Materials or access to the Location or such other location as We consider necessary or appropriate to ensure and monitor compliance.

## 7. Support and Services

7.1 In consideration of Your payment of the Support Fee and the performance of all Your other obligations pursuant to this Agreement, We agree to provide the Support in accordance with the terms of this Agreement.

7.2 Maintenance Releases or details of such releases may be issued at Our discretion.

7.3 Support covers assistance in relation to significant operational errors that make the program set unusable when operated in conformity with the online user instructions in the help function in the program or the Documentation (as the case may be). Such errors shall be notified by You to Our Customer Support Department as published on the Website. We will use reasonable endeavours to attempt to correct or assist You to avoid errors thought to be suitable to the problem or at Our option resort to other means toward a mutually satisfactory solution.

7.4 The Support will be provided during the hours published on the Website excluding UK public holidays and where applicable any Republic of Ireland public holidays and any company shutdowns. Any such company shutdowns will be notified in advance on the Website.



7.5 The provision of any Support outside the Standard Support Hours is at Our sole discretion. Charges in respect of all time spent in providing any Support outside the Standard Support Hours will be invoiced to You at Our discretion at Our then current rates.

7.6 We will use reasonable endeavours to provide the Support promptly having regard to the availability of personnel, necessary supplies and facilities.

7.7 If You make unreasonable, excessive or inappropriate use of the Support, then We may at Our absolute discretion either suspend or charge extra for such Support and invoice You, and You agree to pay, for the additional Charges in respect of time spent supplying such Support at the then current rates.

7.8 The Support is compulsory as part of the supply of the Licensed Materials and is charged separately from the Licence Fee as part of the Support Fee. Where the Licensed Materials are supplied by a Reseller, the Reseller will provide the Support in respect of the Software in accordance with and subject to this Agreement, unless specified otherwise in the Invoice or other written notification We or a Reseller send to You.

7.9 We will perform the Services and produce any Deliverables in consideration of the Charges.

7.10 All Deliverables will be produced based on the data, information and explanations supplied by You. All information that We provide is supplied in good faith but We do not warrant or guarantee the accuracy or completeness of any information provided by Us or any third party. It is not within the scope of Our obligations to enquire as to, or to verify the accuracy or completeness of information that We receive from You or any third parties.

7.11 Any Deliverables will be produced for your exclusive use within your business. You are not permitted to disclose the Deliverables to any third party.

7.12 We shall not be obliged to provide any Services or produce any Deliverables under this Agreement which are not described in the Invoice or other written notification We send to You.

7.13 We shall only be obliged to provide the Services during Service Hours at the Location(s) unless otherwise agreed in writing.

7.14 We shall use reasonable endeavours to provide the Services in accordance with the Invoice.

7.15 The provision of any Services outside the standard Service Hours may be provided at Our sole discretion and all time spent supplying any Services outside these hours will be charged at the rates as specified in the Invoice or other written notification We may send to You.

7.16 We will use reasonable endeavours to ensure that the Services and/or the Deliverables are supplied promptly or (if applicable) by the Delivery Date or such other dates as agreed by the parties having regard to the availability of Consultants or other personnel but any delivery dates or times quoted for delivery, commencement or completion of any part of the Services or the Deliverables will be estimates only and time will not be of the essence.

7.17 The provision of Consultants or Our agents to perform Our obligations under this Agreement shall be at Our discretion.

## 8. Customer obligations

### 8.1 You undertake:

8.1.1 to satisfy Yourself that the Software meets the needs of Your business, and it is Your sole responsibility to determine that the Software is ready for operational use in Your business before it is so used. If You are not qualified to make these assessments Yourself, it is Your responsibility to engage the services of someone with requisite expertise who can make that assessment for You;

8.1.2 to allow Our Software to transmit data to Us, at any time, to enable Us to check whether You are using a Current Release or enable Us to prompt You when a Current Release is available.

8.1.3 to allow Us to study Your information and data used with the Software for the purpose of rectifying any problems with the Software in relation to provision of Support;

8.1.4 to allow Us to monitor the Monthly Usage of the Software and to provide Us with full and accurate information and requested data as required in order for Us to monitor and calculate the Charges for the Monthly Usage;

8.1.5 to ensure that the operating system and compiler and any other software with which the Software will be used is either Your property or it is legally licensed to You for use with the Software, You will indemnify Us in respect of any claims by third parties and all related costs, expenses or damages in the event of any alleged violation of third party proprietary right which results in any claims against Us;

### 8.2 In relation to the Support and/or Services, You shall:

8.2.1 use all reasonable endeavours to ensure that the Current Release and the Equipment are used in a proper manner by competent trained employees only or by persons under their supervision;

8.2.2 ensure that each Maintenance Release or Current Release We issue to You is installed and implemented as soon as is reasonably possible and in any event implemented not later than three (3) months of receipt by You;

8.2.3 notify Us promptly by notice in writing if the Software is not operating correctly or of any other problem with the Software;

8.2.4 co-operate to a reasonable extent with Our staff as reasonably required to perform the Support and Services and provide facilities for remote testing and diagnostic purposes;

8.2.5 provide Our staff with access to the Licensed Materials, the Equipment and the Location during the Standard Support Hours and Service Hours and at such other times as We may request on reasonable prior notice or as may otherwise be expressly agreed with Us;

8.2.6 where applicable provide a valid serial and registration number to Us when performing an upgrade to obtain a Licence Code;

8.2.7 designate primary and secondary contacts and procure that the contacts shall be those who deal with Us with regard to any matters reported in connection with the Support and the only contacts authorised to use the telephone helpline, and inform Us as soon as reasonably possible if contacts or their details change.

8.3 If any of Our staff work on Your premises, You will ensure that Our staff are provided with suitable and safe office accommodation, suitable services (including telephone, facsimile and photocopying facilities) and any computing and ancillary facilities, and use free of charge such items, third party software, facilities and services (if any) as may be required to perform the Support.

8.4 We reserve the right to refuse to provide any Support and/or Services to You, if in Our sole opinion You are abusive to Our staff, do not comply with clause 8.3 or Your other obligations under this Agreement.

8.5 You shall indemnify Us against any losses, damages, costs (including legal and other professional fees) and expenses incurred by or awarded against Us as a result of Your breach of this Agreement or any negligent or wrongful act by You or Your officers, employees, contractors or agents.

8.6 You hereby acknowledge and agree that this Agreement will not be enforceable against any Group Company of IRIS Business Software Limited, and Your sole recourse and/or any rights or remedies You may have whether in contract, tort or otherwise arising from Our failure to comply with the terms of this Agreement will be against Us alone.

8.7 You undertake to ensure that You backup all your data whether stored on the Equipment, file server, workstations or computers at the Location(s) or on a portable, lap-top or home computer or any other media proprietary to You before We install the Software. You will indemnify Us in respect of any and all losses, damages, claims or actions brought by You or any third party, arising from Your failure to back up Your data.

8.8 You will promptly provide Us with full and accurate information, data and explanations as and when required. Where applicable You will also provide Us appropriate test scripts, tests and test data.

8.9 You shall procure all necessary right from third parties (including, without limitation intellectual property licences in relation to computer software) which are from time to time required in order for Us to be able to provide the Services.

8.10 If We are delayed or impeded or obliged to spend additional time or incur additional expenses in the performance of any of Our obligations under this Agreement, by reason of Your acts or omissions (including the provision of any incorrect or inadequate data or the provision delay or failure to provide information or instructions or perform your obligations under this Agreement), then You shall pay Us any additional reasonable costs and expenses incurred by or on Our behalf and any timetable agreed for the performance by Us of any of Our obligations shall be extended accordingly.

## 9. Payment terms

9.1 You agree to pay Us the Charges within 30 days of the date of invoice or, if otherwise agreed, the terms for payment set out in any invoice We send to You.

9.2 Certain Software shall incur Charges calculated with reference to Monthly Usage. Where the Monthly Usage based Charges occur, this will be referenced on the Invoice, as appropriate.

9.3 Where the Term is for periods of 3 months or less:

9.3.1 You agree to pay Us the Charges invoiced by Us monthly in advance in three (3) equal instalments, the first such payment being due on or prior to the Commencement Date and subsequent payments being due monthly thereafter on the same day each month until expiry of the Term.

9.3.2 We will not issue Licence Codes in respect of Software until We have received payment that is due in full and in cleared funds. The Licence Codes will automatically expire at the end of the Term. We reserve the right to use temporary Licence Codes that will expire thirty (30) days after commencement of the Term.

9.4 All Charges payable by You to Us should be paid in full in accordance with terms stated on Our invoice.

9.5 All amounts due under this Agreement are exclusive of VAT and any other taxes, duties or levies. The Services Fees, Installation Fee, Support Fee, and Training Fee, are exclusive of any travel, subsistence and other out-of-pocket expenses reasonably incurred by Us in respect of the provision of such Services, which We shall be entitled to invoice to You, and You agree to pay, at Our then current rates for such Services.

9.6 We will be entitled to increase any Charges due under this Agreement, by giving You notice in the renewal invoice We send to You or if sooner by giving You thirty (30) days prior notice of such increase. In the event that You pay any amount due under this Agreement in instalments You agree that any increase in price during any relevant Term due to any change requested by You will be applied pro-rata to all subsequent instalments.

9.7 Where Licence Codes are required, We will not issue the full Licence Codes in respect of the Software until payment of all Charges due under this Agreement have been received by Us in full and in cleared funds. Where applicable, any Licence Code issued prior to receipt of such payment will be temporary only and will in some of Our Software automatically expire at the end of thirty (30) days from the date of installation on the Equipment or alternatively Your right to use the Software will cease or shall be restricted after thirty (30) days from the date of commencement of the Term, invoice or installation or such other date as specified in the Invoice or any other written notification We send to You.

9.8 If any payment due under this Agreement or any other Agreement with Us is or are in arrears, We and Our Reseller (as applicable) reserve the right without prejudice to any other right or remedy to:

9.8.1 charge interest on such overdue sum on a daily basis from the original due date until payment is received in full as well as after any judgment at a rate of 3% per annum above

Lloyds TSB plc's base lending rate in force from time to time and alternatively reserve the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and/or

9.8.2 suspend the provision of any Support and/or Services under this Agreement on seven (7) days' prior notice to You; and/or

9.8.3 withhold the full Release Code until any outstanding payment is both received and cleared; and/or

9.8.4 terminate this Agreement pursuant to clause 12.

9.9 You will notify Us or Our Reseller (as the case may be) in writing within fourteen (14) days of receipt of an invoice if You consider such invoice incorrect or invalid for any reason and the reasons for withholding payment, failing which such invoice will be deemed accepted and You will make full payment in accordance with it.

9.10 We reserve the right to refuse to provide the Licence Codes, Support and the Services at any time without refunding the Charges paid by You, if any attempt is made, other than by Us, to tamper with the Software, or if You have failed to pay an invoice from Us in accordance with this Agreement or where, in Our reasonable opinion, Your system and/or the Equipment has ceased to be capable of running the Software successfully for any reason.

## 10. Warranty

10.1 We warrant the media will be free from defects in materials and workmanship under normal use for a period of ninety (90) days from the Acceptance Date and the functionality of the Software, when properly used on the Equipment and in conformity with the user guide in the help function in the Software and/or the Documentation, will, for a period of six (6) months from the Acceptance Date, operate substantially in accordance with the Specification or Documentation.

10.2 Our obligation and Your exclusive remedy under the warranty given in clause 10.1 is limited to replacing defective media notified to Us and with respect to the Software, at Our option either repair (by way of Maintenance Release) within a reasonable period of time, or replace the Software in whole or in part, and in the case of Third Party Software the supply of a corrected version where available from the supplier of the same. All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated in this Agreement whether by statute, common law or otherwise, are hereby excluded including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

10.3 We will have no liability or obligation under clauses 10.1 or 10.2 unless prior written notice of any alleged default is received from You within fourteen (14) days of the delivery of the media or within fourteen (14) days of Acceptance Date in the case of Software. The warranty in clause 10.1 shall not apply to any Software developed or modified under the Agreement.

10.4 Subject to You giving Us notice in accordance with clause 10.3, any faulty media and/or related materials should be returned by post, with post paid in advance (including

insurance) to Our trading address available on the Website and marked for the attention of the Customer Support Department or such other addressee We may specify.

10.5 You acknowledge that it is Your responsibility to ensure that the facilities and functions of the Software meet Your requirements and that We or Our Reseller will not be liable for any failure of the Software to provide any facility or function not described in the Specification or Documentation or for any failure of the Software attributable to any modification to the Software or the Equipment by persons other than Our staff or combination of the Software with other software or equipment without Our express prior written consent, or for the results of, loss or damage arising from any Support We have given to help You to develop or implement back-up routines.

10.6 We will use reasonable care and skill in performing the Services.

10.7 We will investigate any problem or error in any Deliverables provided that You notify Us in writing within seven (7) days following delivery of the Deliverables giving Us all necessary information to be able to investigate the problem, breach or error and limit Our liability to the right to re-submit the Deliverables or re-perform the Service.

10.8 Except as provided in this Agreement no further warranty, condition, undertaking or term, express or implied, statutory or otherwise as to the condition, quality, performance or fitness for purpose of the Services provided hereunder is given or assumed by Us.

## 11. Liability

11.1 Nothing in this Agreement shall in any way exclude or limit Our liability (but excluding Resellers) for death or personal injury caused by negligence, or liability for fraudulent misrepresentation, or for any breach of Our obligations as to title under section 12 of the Sale of Goods Act 1979 or section 2 of Supply of Goods and Services Act 1982 or for any other liability which by law it is not possible to exclude or limit.

11.2 Our liability for the loss or damage to tangible property, during the repair or upgrade of the Software whether or not the same are under warranty, shall be limited in accordance with clause 11.3 of this Agreement.

11.3 Subject to sub-clause 11.6 below, Our total liability for direct losses in contract, tort, misrepresentation or otherwise in connection with this Agreement or the provision of the Software, Support and or any Services for any one event or a series of related events shall be limited to the total Charges and resulting sums paid (excluding VAT and expenses) by You to Us in the 12 months before the event(s) complained of.

11.4 We shall have no liability to You in respect of defaults covered by clause 11.3 unless You notify Us within six (6) months of the date You became aware of the circumstances giving rise to the event(s) complained of. We shall have not less than ninety (90) days following written notice by You) or such other notice period notified to You in which to remedy any default.

11.5 In no event will We be liable to You in contract, tort, misrepresentation or otherwise, for any indirect or consequential loss or damage, costs, expenses or other claims for



consequential compensation whatsoever, nor for any direct or indirect loss of profit, loss of anticipated profits, loss of revenue, loss of anticipated revenue, loss of savings or anticipated savings, loss of business opportunity, increases in cost of working whether anticipated or not, loss or corruption of data, loss of use or loss of operating time and any costs and expenses associated therewith, loss or damage to Software or data which it contains during repair or upgrade whether or not the same are under warranty, the cost of purchasing elsewhere, depletion of goodwill or reputation or otherwise which arise out of or in connection with this Agreement and whether or not foreseeable or made known to Us.

11.6 We shall indemnify You against any claim that the normal use or possession of the Licensed Materials infringes the intellectual property rights of any third party which are effective in the UK provided we are notified promptly of any claim, We are given control of any claim, You do not prejudice Our defence of any claim and You give Us all reasonable assistance (at Our reasonable cost) and that the claim does not arise as a result of (a) the use of the Licensed Materials in combination with equipment or software not approved by Us, (b) by reason of alteration or modification not approved by Us or (c) where the claim arises because of a feature specified and requested by You. We shall have the right to procure the continuing use of the infringing part, modify or replace the infringing part or refund an equitable proportion of the License Fee provided that exercise of any of these options shall operate as an entire discharge of Our liability to You under this sub-clause.

## 12. Term & Termination

12.1 This Agreement will commence on the Commencement Date. The Licence will continue for the Initial Term and unless terminated earlier in accordance with these terms, shall automatically renew on expiry of the Initial Term for subsequent periods of one (1) year or as otherwise specified in the Invoice or other written notification We send to You ("Renewal Term") provided that You have not breached this Agreement. You will pay any Charges due to Us in respect of such Renewal Term in accordance with the Invoice or other written notification We send to You and sub-clause 12.3 below. The Services will continue for the period set out in the Invoice or other written notification We send to You or until terminated by either party giving thirty (30) days prior written notice.

12.2 We may terminate this Agreement (or at Our discretion, the supply to You of any Software Licences, Support, or any Services) (a) immediately if You fail to pay any sum due to Us under this Agreement and such sum remains unpaid for fourteen (14) days after notice has been given to You that such sum has not been paid or (b) on sixty (60) days prior written notice provided that We refund to You pro rata any monies paid by You in advance.

12.3 You may only terminate this Agreement by giving not less than ninety (90) days' prior written notice to take affect at the expiry of the Initial Period or any Renewal Term, but will not be entitled to any refund of any Charges paid under this Agreement. In the absence of such notice this Agreement will automatically renew on expiry of the Initial Term or Renewal Term as described in clause 12.1.



12.4 Either party shall be entitled to terminate this Agreement forthwith by notice in writing to the other if the other:

12.4.1 is in material breach of this Agreement and either that breach is incapable of remedy, or the other party fails to remedy the breach within thirty (30) days of receipt of written notice setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement;

12.4.2 becomes the subject of a voluntary arrangement under section 1 of the Insolvency Act 1986, or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or notice has been received of a pending appointment of or the appointment of a receiver, manager, administrator or administrative receiver over all or any part of its undertaking, assets or income, intends to pass or has passed a resolution for its winding-up, or has a petition presented to any court for its winding-up or for an administration order, or has ceased or threatened to cease to trade.

12.5 Termination of the Licence, however caused, shall not affect the rights of either party under this Agreement which may have accrued up to the date of termination.

12.6 On termination of this Agreement however caused the Licence shall terminate and accordingly your right to use the Licensed Materials will automatically cease and at Our option, You shall either return all copies of them or, delete, destroy or otherwise make permanently unusable the Licensed Materials and certify to Us in writing that this has been done within fourteen (14) days of the date of termination.

12.7 On expiry of the Term of the Licence, or in the event that You choose not to pay for the Support or renew the Support, then Your right to use the Software to create new data will cease. In such circumstances, depending on the Software licensed to You, on expiry of the Licence Codes and any permitted grace period within which you may renew the Licence, Your access to the Software and any data or files created using the Software may be denied prior to the expiry of the Licence Codes. In the event your access to the Software is denied, your access to the data or files created using the Software will be denied as well, and the data or files may be destroyed by us. In accordance with clause 8.7, it is your responsibility to ensure you have backed up any of your data or files.

### 13. Force majeure

No party shall be liable to the other for any delay or non-performance of its obligations under this Agreement arising from any cause beyond its control. For the avoidance of doubt, nothing in this clause 13 shall excuse You from any payment obligations under this Agreement. If any such event continues for more than ninety (90) days and provided substantial performance is still impeded either party may terminate this Agreement forthwith by prior written notice without prejudice to the accrued rights of either party.

### 14. Assignment

We may assign, sub-contract or otherwise transfer any of Our rights or obligations under this Agreement without Your consent. You may only assign, sub-contract or otherwise transfer any of Your rights or obligations with Our prior written consent. If that is to an outsourcing provider, the Software must remain in the UK and the outsourcing provider must dial in to the Software to meet its obligations.

## 15. Notices

15.1 Any notice required to be given pursuant to this Agreement shall unless otherwise stated in it, be in writing, sent to the other party marked for the attention of the person at the address specified in this Agreement (or to such other address as either party may from time to time notify to the other in writing in accordance with this clause).

15.2 For the purpose of notices to be given by Us in writing, the expression "writing" or "written" shall be deemed to include email communications or facsimile transmissions. At Our option, We may send You written notice addressed to the facsimile number or by email at the email address You supply to Us.

15.3 A correctly addressed notice sent by first-class post shall be deemed to have been delivered 72 hours after posting, correctly directed faxes shall be deemed to have been received instantaneously on transmission, and correctly addressed emails shall be deemed to have been delivered 24 hours after sending.

## 16. Severability

If any provision of this Agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions shall not be prejudiced.

## 17. Waiver

No forbearance or delay by either party in enforcing its rights shall prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach.

## 18. Entire Agreement

18.1 This Agreement and any document expressly incorporated in it contains the entire and only agreement between the parties and supersedes all previous agreements between the parties with respect to the subject matter hereof. Each party acknowledges that in entering into this Agreement, it has not relied on any representation, undertaking, promise or statement whether oral or in writing which is not expressly set out in this Agreement. Except as expressly provided in this Agreement all conditions, warranties, stipulations and other statements

whatsoever that would otherwise be implied or imposed by statute, at common law, or otherwise howsoever are excluded to the fullest extent permitted by law. Nothing in the foregoing shall however affect any liability for fraudulent misrepresentation

18.2 You will be notified of any changes to this Agreement on the Website. Changes to the Agreement will take effect from the date of commencement of the Renewal Term or if sooner after thirty (30) days of notice being given to You pursuant to this clause.

## 19. Third party rights

A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## 20. Technical Support Data Protection Consent

20.1 You consent to and/or will procure the relevant consent to Our access of personal data in order to assist with the provision of technical support and services as requested by You from time to time. Any personal data will only be processed (as defined in the Data Protection Act 1998) for the sole purpose of providing technical support and services.

## 21. Data Protection

21.1 Each party shall comply with the Data Protection Act 1998 or equivalent binding legislation incorporating the General Data Protection Regulation ('GDPR') or otherwise (collectively the 'Act') and references in this Clause to "processor", "controller" and "personal data" shall have the meanings defined in the Act. Neither party shall by any act or omission, put the other party in breach of the Act and each party shall do and execute, or arrange to be done and executed each act, document and thing necessary or desirable to ensure that it does not put the other party in breach of the Act.

21.2 If We process any personal data on Your behalf when performing Our obligations under this Agreement, the parties' record their intention that You shall be the data controller and We shall be a data processor and in any such case:

21.2.1 You shall ensure that You are entitled to transfer the relevant personal data to Us so that We may lawfully process the personal data in accordance with this Agreement on Your behalf;

21.2.2 We shall process the personal data only in accordance with this Agreement and any lawful documented instructions reasonably given by You to Us from time to time, including with regard to transfers of personal data to countries outside of the EU or international organisations (which You acknowledge We may need to do in order to provide Our Software/Services to You);

21.2.3 In accordance with Article 32 of the GDPR, each party shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. Each party shall take steps to ensure that any natural person acting under the authority of either party who has access to personal data does not process them except on instructions from the other, in accordance with this Agreement.

21.2.4 each party will comply with any specific guidance or instructions issued by the Information Commissioner.

21.2.5 We shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

21.2.6. We shall respect the conditions referred to in paragraphs 2 and 4 of Article 28 of the GDPR for engaging another processor. You, by executing this Agreement, authorise Us to sub contract data processing at Our discretion. We shall inform You of any intended changes concerning the addition or replacement of sub contracted processors, thereby giving You the opportunity to reasonably object to such changes (grounds for objection being non-compliance of data protection legislation).

21.2.7 We shall reasonably assist You in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR, taking into account the nature of the processing under this Agreement and the information available to Us.

21.3 After the end of the provision of Our services to You under this Agreement, We will delete all personal data supplied by You relating to this Agreement including any existing copies of the data unless a legal obligation requires Us to retain all or some of the data for a further period of time.

21.4 We will make available to You all information reasonably necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for audits (where there is reasonable cause and not more than once in any 12-month period), including inspections, conducted by You or another auditor mandated by You.

21.5 We, and Our Group Companies, will use Your personal details and any information We obtain from other sources, including the Monthly Usage, to provide You with our goods and services, for administration and customer services, to analyse Your purchasing preferences and to ensure that the content, services and direct marketing that We offer are tailored to Your needs and interests. We may keep Your information for a reasonable period for these purposes. We may disclose Your personal information to any member of Our group, which means Our subsidiaries, Our ultimate holding company and its subsidiaries as defined in section 1159 of the Companies Act 2006, to joint venture partners and resellers of any of Our group companies, Our service providers, partners and agents for these purposes. They or We may use Your information to write, phone or contact You by other means to offer products and services or promotions. Any information provided to third parties for this purpose will be under Our strict supervision and within the requirements of the Act. We may record telephone calls to improve Our service to You and assist with training. The information You give Us is not sold on to other companies and We have a serious and dedicated commitments

to the security of Your information. By submitting Your personal details You confirm that You consent to the contents of this clause.

21.6 You have a right at any time to stop Us and Our Group Companies from contacting You for direct marketing by writing to Us at Our registered office.

## 22. Confidentiality

22.1 Both parties agree not to use or disclose confidential information relating to or owned by the other, received or disclosed to it by the other party during the term of this Agreement, save for use or disclosure required in order to perform their respective obligations under this Agreement. Disclosure shall be limited to such of the receiving party's employees, officers, agents or contractors directly involved in performing the receiving party's obligations.

22.2 The parties agree that information is not to be regarded as confidential and that the receiving party will have no obligation regarding confidentiality where that information is already in the public domain or enters the public domain through no fault of the receiving party, or is received from a third party without any obligations of confidentiality, or is used or disclosed with the prior written consent of the owner of that information, or is disclosed in compliance with a legal requirement, or is independently developed by the receiving party.

22.3 Any confidential information will be returned or destroyed by the receiving party forthwith at the prior written request of the owner.

22.4 We will be allowed to refer to You in any publicity after performance of the Services.

22.5 In the event that the parties execute a separate confidentiality agreement, the terms of that agreement shall prevail.

## 23. Governing law

This Agreement shall be construed in accordance with and governed by the law of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.