

TERMS AND CONDITIONS OF BUSINESS

This Master Subscription Agreement (hereinafter "MSA") is an agreement between you or the entity that you represent (hereinafter "You" or "Your" and Penguin Commercial Ltd the business management software as a Service (hereinafter "Software" or "Service"). The MSA governs your usage of services from the date of signing up for any software products & services. By using our software services, you agree to the terms of this Agreement. This Agreement was last updated on 27 July 2020. It is effective between You and Us as of the date of You accepting this Agreement.

Section 1: General Terms and Conditions **- Definitions**

In this Agreement, these words have the following meanings:

Agreement: means these Terms and Conditions, any Order, and any other documents expressly incorporated by reference in these Terms and Conditions or any Order and any amendments or variations to the Terms and Conditions or any Order;

Authorised User/s: These are your employees, agents, contractors and advisers that are permitted to access our products/services and you assume responsibility for;

Business Day: This refers to any day which is not a Saturday, Sunday or Public Holiday in the United Kingdom, United States of America, Canada and Australia;

Charges: means the fees or charges specified in any Order or invoice and any other charges due pursuant to this Agreement, both current at the date of this Agreement or revised by Us, from time to time. All Charges exclude Value Added Tax ("VAT") and/or any other applicable taxes;

Commencement Date: means the date specified in an applicable Order or if not stated, the date when the Software or Services is made available for You to use;

Concurrent Users: means the total number of the Customer's Authorised Users or computer devices that are specified in a relevant Order as being authorised by Us to use or access the Software at any one time;

Confidential Information: This refers to information that is proprietary or confidential and is either clearly labelled as such or identified as confidential information;

Consultants: means the employees, agents, subcontractors and third party professional consultants that We use to perform the Services;

Current Release: means the most recent version of the Software which has been made available by Us and includes any new versions of the Software and updates;

Customer, Client, You or Your: These refer to the company or other legal entity for which you are accepting this Agreement and subsidiaries of that company or entity;

Data Conversion: means the service whereby We import and convert Your data into the correct data format for the Software. This service excludes (without limitation) data extraction unless specified in an Order;

Datacentre Licence: means a licence to use the Software and Licenced Material/s in or as part of a Datacentre;

Deliverables: means any output to be produced by Us as may be specified in an Order;

Documentation: means (where available and in any format) 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 Third Party Software documentation;

Downgrade: means a change in a licence from a Datacentre Licence to a Network Licence or Standalone Licence or from a Network Licence to a Standalone Licence, or the removal of separately charged modules, features or services from Your Licence;

Effective Date: This refers to the date we accept your order for our services/products;

Equipment: means either (i) Your hardware or system/infrastructure on which the Software is accessed from; or (ii) means the hardware of the Concurrent Users on which the Software is installed or Your server for the computer configuration situated at the Location as may be specified in an Order;

Group Company: means (in relation to each party) any subsidiary, group or parent company from time to time of a party;

Installation: means the installation of the Software on the Equipment;

Invoice: means the commercial document issued by Us to You, relating to the sale transaction and indicating the Products, Services, quantities, and agreed price.

Licence: means the Licence specified in the terms of this Agreement;

Licence Fee: means that part of the Charges which relates to the Licence for use of the Software;

Licensed Material/s: means the Software, Third Party Software, Current Releases, new releases, the Documentation, and any other material supplied or Licensed to You as part of this Agreement;

Licence Period: means, subject to prior payment of Licence and/or Support Fees or any other Charges, the period identified on the pricing information contained in an Order or as stated in an invoice, starting from the date that the Software is made available for You to use;

Location: means the single location of the Equipment on which the Software is Licensed to be used, or where the Services are to be provided, as identified in an Order and/or Invoice. If no separate Location is identified in an Order, the Location shall be Your registered address, as identified in an Order and/or Invoice;

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;

Minimum Commitment: means the minimum Licence Period or Services period signed up to in an Order/invoice;

Network Licence: means a licence to use the Software and Licenced Material in or as part of a computer network;

Order: means a request for Software, Products or Services and any other Deliverables made by You and accepted by Us either on the Website or in a schedule or an order form or the confirmation of an order sent to You, which sets out details of the Services and Deliverables to be Licensed or provided by Us or a Reseller to You during the Term together with the Charges;

Products: The software package comprised of the modules to which your subscription relates to as described in this Agreement;

Recurring Fees/Costs: means, if stated in an Order, aggregated Licence and Support Fees or any other Charges billed to You on a regular basis;

Release 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;

Reseller: means (where applicable) an officially accredited reseller for the Licensed Materials appointed by Us;

Services: This refers to the collection of online, web-based applications and tools provided by us. Also our websites, platforms, technical support, consultancy and advice are referred to as Services. Third Party Applications are not part of this category. All equipment, software or services which are subject to the customer's order which are to be supplied to the customer by us under this agreement;

Software: means, where applicable, on premise software or access to cloud based/hosted software (accessible from the website or remote access point notified to You) or third party owned Software that is resold to You by Us;

Standalone Computer: means a desktop or laptop computer that is used on its own

without requiring a connection to a local area network (LAN) or wide area network (WAN) and is able to function independently of any other hardware;

Standalone Licence: means a licence to use the Software and Licenced Material on a Standalone Computer;

Support: means, if or where applicable, the advice We shall provide to You via reasonable means (excluding site visits) as is reasonably appropriate and necessary to resolve any issues You experience in relation to accessing/installing and using the Software;

Support Fee: means the portion of the Charges relating to the provision of the Support, excluding any Charges relating to Installation, training or Data Conversion;

Term: means the Minimum Commitment plus any renewal term;

Third-Party Application/Software: This refers to online, web-based applications and offline software products that are provided by third parties that interoperate with the Services, and are commonly understood as third-party applications, including but not limited to those listed on the Partner-list on our websites and/or marketing literature;

Upgrade: means a change in a licence from a Standalone Computer Licence to a Network Licence or Datacentre Licence, or from a Network Licence to a Datacentre Licence, or the inclusion of additional separately charged features or services from Us not included in Your original licence;

User: means each and every single Authorised User of the Software;

We, Us or Our: These refer to Penguin Commercial Ltd, the company who you are contracting with. All legal queries should be directed to Apex House, Calthorpe Road, Birmingham B15 1TR, United Kingdom;

Writing: This includes email, hand-written and comparable means of communication;

Your Data: This refers to the data inputted by you (or for and on your behalf by your authorised users) into the Product/Software.

Section 2: General Terms and Conditions – Generic Clauses

1. Acceptance of Terms

If you are entering into this agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity and its affiliates and users to these terms and conditions, in which case the terms "You" or "Your" shall refer to such entity and its affiliates. If you do not have such authority, or if you do not agree with the terms and conditions in this agreement, you should not accept this agreement and may not use our services.

You must meet your country's legal age requirements to enter into a binding agreement in order to accept the Terms.

2. Provided Services

This section covers the services that are being provided by Us to You.

2.1 Provision of the service

In order to access the service, you need to sign up for a user account and provide all the information required in the required form. We shall make our services available to you pursuant to this agreement. You agree that Your acceptance hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

2.2 User subscriptions

User subscriptions are for designated users and should not be shared or used by more than one user. You can create new users by contacting your account manager and/or a sales representative. Consult your account manager and other relevant sources to understand more about this.

When subscribing to our Products/Services, You agree to: a) provide true and complete information about your company and b) maintain and promptly update that information as true and complete. If we have reason to believe that you have provided false or incomplete information, we may delete your account and prevent you from using the Services immediately or in the future.

2.3 Usage Limitations

Services may be subject to other limitations, such as, but not limited to, limits on software version, API load, Page views, etc.

3. Service Users

This section identifies the categories of users and acceptable usage conditions for each category of users:

3.1 Categories of Users

This section defines the various categories of users:

- End users – This category of users use our software to manage and run their business. This category has two subcategories:
 - **Entrepreneurs, business owners, promoters** – If you own a business or are thinking of starting a business.
 - **Employees** – If you are an employee of a business that uses our software services, you can become a user of our services for that employer.
- Competitors – These are Our competitors or those who intend to compete with Us.

3.2 Conditions of usage for End Users

You agree to allow access only to your employees (including yourself) to your firm during the usage of our software Products/Services. You shall not give access to the service to any third party representative. You are not allowed to provide any service based on the Service without a prior written permission from us. Using the Services for illegal purposes or spamming is strictly prohibited.

3.3 Conditions of usage for Competitors

If you are Our competitor or intend to compete with Us, you may not access our services, except with our prior written consent.

3.4 Conditions of usage for Data Aggregators

If you are a data aggregator, you are not allowed to use our Products/Services on another user's behalf, even if that user provides their credentials to you. If you need to aggregate data via an API/XML integration, you should become our affiliate and work with us to get your service implemented.

4. Third-Party Providers and Service Provider Network Services

This section covers all the clauses covering services provided/performed by third parties, but are either advertised in or integrated into our Products/Service.

4.1 Partner Ratings

In our partner community, participants may rate or comment about products, services and service providers. These ratings are not reflective of our opinions about them and cannot be construed as either our recommendation to use or not use a particular product or service or provider.

4.2 Signing up for third-party services and products

At various points in the business process, We might offer third party applications for sale or subscription. Any acquisition/use by you of third-party products or services, including but not limited to Third-Party Application's and implementation, customization and other consulting services, and any exchange of data between you and any third-party provider, is solely between you and the applicable third-party provider. We do not warrant or support third-party products or services, whether or not they are provided by us or otherwise, except as specified in writing.

4.3 Third-party applications and your data

If you subscribe to a third-party service for use with Services, you acknowledge that we may allow providers of those third party applications to access your data as needed by both Us and the third-party service to interact meaningfully. We are not responsible for any disclosure, creation, modification or deletion of your data resulting from any such access by third-party providers.

4.4 Availability of third-party services

Service features that interoperate with third-party services depend on the availability of such services. If a provider no longer supports You or ceases to make an API available to Us, We may cease to support that provider.

4.5 Performance of third-party services

Third-party service integrations may impact the speed at which a particular transaction can be performed in our Products/Services. We do not take any responsibility of this.

5. Payment terms

This section covers all the fees, and payments for purchased services.

5.1 User Charges/Fees

The paid service offerings are provided to you under terms stated in this Agreement. Except as otherwise specified herein or in writing:

- Fees are quoted and payable in the currency quoted.
- Fees are based on services purchased. Additional fees could apply based on actual usage.
- Payment obligations are non-cancellable and fees paid are non-refundable unless otherwise mentioned in section 5.5.

Payment frequency will be in accordance with an applicable Order or Invoice. Once a relevant payment has been received by Us, We may, if applicable, send You an electronic receipted invoice.

If any payment due under this Agreement or any other Agreement with Us or any Group Company is or are in arrears, or if a credit card payment is cancelled by You or Your bank, We and Our Reseller (as applicable) reserve the right without prejudice to any other right or remedy to:

- (i) charge an administration fee 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 in accordance with any legal proceeding/s;

- (ii) immediately suspend the provision of any or all of the Services, Software and access to Your data;
- (iii) withhold access to Your data until all outstanding payments are received in cleared funds;
- (iv) terminate this Agreement pursuant to the applicable termination in clause 12 (Term and Termination);
- (v) In the event a payment is cancelled by You or declined by Your bank or payment is refused for any reason, We reserve the right without prejudice to any other right or remedy to charge You an administrative fee to reinstate or replace the payment mandate;
- (vi) Upon termination of the Licence, We shall at Our absolute discretion have the right to levy upon You a reasonable administrative fee for Your access to data;
- (vii) In the event that additional features and/or functionality is added by Us to the Software and Services, You shall be notified by Us of the additions and of resulting increase in the Charges and shall unless otherwise agreed by Us pay the increased Charges upon renewal of the Licence Period or upon download of the additional features or functionality in the Services, whichever is the sooner;

We reserve the right to change the fees and to start charging for use of Services that are currently available free of charge. You will not be charged for using any Services unless you choose to opt for a paid plan.

User subscription fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof.

We reserve the right to require the Customer to pay for Products/Services in advance and to recharge or refuse discount if the Customer fails to maintain credit account arrangements satisfactory to us.

We reserve the right to charge a late payment fee for any fees which remain overdue.

5.2 Invoicing and Payment

Unless otherwise agreed in writing, the initial charges are due and payable before access to Service/s. You will provide us with valid and up-to-date payment information. You authorize us to charge your credit card or bank account for the initial subscription term and any subsequent renewals. Such charges shall be made in advance, either annually or monthly or quarterly, depending on the nature of the fee. If you cancel your subscription at any point, your account will be active until the end of the period that you already paid for. Cancellations will be effective from the next subscription period or until the time the current subscription is completed. If the Customer is not an account holder approved in writing by Us all invoices are payable before any usage of our Products/Services or immediately following submission of a pro forma invoice from Us whichever is the earlier. If the Customer is an approved account customer all invoices are payable net within 10 days of the date of invoice. The Customer shall not be entitled to withhold payment of any amount due to Us in respect of any claim for damage to Products/Services or any alleged breach of contract by Us, nor shall the Customer be entitled to any right of set-off.

5.3 Suspension of Service and Acceleration

If our attempt to charge your credit card or bank account results in a denial, we may, accelerate your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend services until such amounts are paid in full. Without prejudice to Us other rights if the Customer fails to pay any amount on the due date, and such amount is not reasonably in dispute; a) We shall have the right to cancel any contract made with the Customer and/or to suspend/terminate service in the event payment is not made ten (10) business days following receipt of notice of non-payment being given by Us; b) The Customer shall indemnify Us and keep Us indemnified in respect of all costs (including legal fees) reasonably incurred in attempting to recover

such overdue amounts; C) We have the right to pass on any debt to a third-party debt collection agency and You will be liable for all associated costs.

5.4 Taxes

Unless otherwise stated, our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes. You are responsible for paying all taxes associated with your purchases. If we have the legal obligation to pay or collect taxes for which you are responsible, the appropriate amount shall be clearly stated on any tax invoice/s.

5.5 Refunds

We shall stop monthly or yearly automatic billing on any proxy account or other account or service provided when you opt out of the paid services. If you sign up for a monthly service and request the service to be cancelled, your account will no longer be rebilled starting with the date of your notification. The paid plan service will still be active until the renewal date; at which time the account will be subject to this agreement. We will then stop billing your account. All fees are strictly non-refundable, non-transferable in any circumstances and We are not liable for any additional costs.

Annual plan fees that are discounted are also non-refundable.

6. Proprietary Rights

This section details your and our proprietary rights.

6.1 Reservation of Rights

Subject to the limited rights expressly granted herewith, we reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to you other than what is expressly set forth herein.

6.2 Restrictions

You shall not:

- Permit anyone except you and your Authorised Users to access the services without our permission.
- Create derivative works based on the services.
- Copy, frame or mirror any part or content of the services, other than for your own internal purposes.
- Reverse engineer our software and services.
- Access the services in order to:
 - Build a competitive product or service.
 - Copy any features, functions or graphics of the Products/Services.

6.3 User Generated Content

You are solely responsible for the photos, profiles (including your name and image), messages, notes, text, information, advertisements, listings, and other content that you upload, publish or display (hereinafter, "post") on or through the Service, or transmit to or share with other users. You may not post, transmit, or share content on the Service that you did not create or that you do not have permission to post.

You understand and agree that we may, but are not obligated to, review the Service and may delete or remove (without notice) any content in our sole discretion, for any reason or no reason, that in our sole judgment violates this Agreement, or which might be offensive, illegal, or that might violate the rights, harm, or threaten the safety of users or others. You are solely responsible at your sole cost and expense for creating backup copies and replacing any content you transmit to, post, or store on the Service.

As between Us and You, you own all rights, title and interest in and to all of your data. Notwithstanding this unconditional ownership, if the service is not used by you for more than 180 days consecutively, we may decide to delete your data. Unless you permit the use of your content for commercial, marketing or any similar purpose, we will not use, reproduce, adapt, modify or publish any content created

by you or stored in your account with us. We do have the right to access, copy, store, transmit, reformat or distribute the content of your account, if it is required to provide the Services to you.

6.4 Feature Requests

We encourage users to suggest their ideas for improving the Products/Services. We shall have all rights to such requests, suggestions, and any content that is part of that request.

7. Information Protection

You are responsible for all activities that occur in your user account. If there is any unauthorized use of your user account, you should inform us immediately. You are expected to keep your username, password and other sensitive information confidential. We are not responsible for any loss or damage to you or to any third party incurred as a result of any unauthorized access and/or use of your user account.

Regarding the protection of your personal information, view our Privacy Policy.

8. Illegal Activities

You are not allowed to use the Service for illegal purposes and/or activities, or to promote illegal activities. You are not allowed to use the Service or our website(s) to harass, abuse, harm or discriminate others.

You will be solely responsible for the activities you use the Services for, and the content you upload or create in the Service. We will take no responsibility to monitor the conduct of any User of the Service. Using the service for transmission of "spam", "junk mail", "chain letters", "phishing" or for unsolicited mass distribution of email is strictly prohibited.

If we have reason to believe that you are using the Services for illegal or unauthorised action, we may terminate your account immediately and prevent you from using the Services now or in the future.

9. Warranties and Disclaimers

9.1 Our Warranties We warrant that:

- All articles – whether promoting service usage or general business

advice – are provided on an “as is” basis. We DO NOT make any warranties – expressed or implied – by publishing these articles on our marketing communication material.

- All third-party services, either software based or not, will be governed by individual agreements between You and the third-party service providers. We do not make any warranties – expressed or implied – by creating the integration between our Products/Services and the various service provider network participants.

For any breach of such warranty, your exclusive remedy shall be as provided in section 12.2 (Termination for Cause) and section 5.5 (Refunds).

9.2 Your Warranties

You warrant that you will use our Products/Services in accordance with the usage policies outlined in Section 2 and the policies mentioned throughout this Agreement. You also warrant that you will not use our Products/Service to do anything unlawful. In cases where you are found to be in conflict with the law, We will always take the side of the law and abide by the law, including releasing information about your activities, data to the appropriate legal authority. For any breach of such warranty:

- We may suspend your account immediately without notice.
- You may be disallowed to purchase and/or use our Products/Services until further notice.
- You may be disallowed to open new accounts with us.

9.3 Mutual Warranties

Each party represents and warrants that:

- It has the legal power to enter into this Agreement.
- Will obey the factors and clauses stated in this Agreement.

9.4 Disclaimers

We disclaim all warranties of any kind. Except as expressly provided herein, either party makes no warranties of any kind, express, implied, statutory or otherwise. This disclaimer applies to everything including warranties of merchantability or fitness for a particular purpose, to the maximum extent permitted by applicable law.

10. Limitation of Liability

IN NO EVENT WILL WE BE LIABLE FOR ANY LOST PROFITS, LOSS OF BUSINESS, LOST SAVINGS OR OTHER CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT.

IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGE, BUSINESS INTERRUPTION, COMPUTER FAILURE, OR LOSS OF PROFITS, INFORMATION OR OTHER LOSS ARISING OF OR CAUSED BY YOUR USE OF OR INABILITY TO USE THE SERVICE.

ANY ACTION AGAINST US MUST BE BROUGHT NO LATER THAN 6 MONTHS AFTER THE CUSTOMER BECOMES AWARE THAT A CAUSE OF ACTION HAS ARISEN.

10.1 Force Majeure

Either Party's performance will be excused, if and to the extent reasonably necessary, in the event that an act of God, war, civil commotion, fire, explosion, or other force majeure event that occurs without the fault or negligence of the non-performing party prevents timely performance under this Agreement.

11. Indemnification

By agreeing to this Agreement, you agree to indemnify and hold harmless Our company, employees, suppliers and Resellers' from and against any losses, damages, fines and expenses, arising out of or relating to any claims that you have used the Service in violation of any law, provisions of the terms or any other claim related to your use of Services, except where such use is authorized by us.

12. Term and Termination

12.1 Term

The term of this Agreement will commence on the date you accept it and shall remain in full force and effect for one year unless terminated pursuant to the provisions of this Section. Thereafter, this Agreement will be renewed automatically for successive one-year periods unless terminated pursuant to the provisions of this Section.

12.2 Termination for Cause

We reserve the right to terminate your user account and deny the Services upon reasonable belief that you have violated the terms of this Agreement.

This Agreement and/or any work Order(s) issued under it may be terminated by either party by written notice to the other party in the event such other Party materially breaches any of its material obligations as set forth in this Agreement and/or any Work Order(s) issued under it and fails to cure such breach within thirty (30) days after written notice thereof from such notifying Party. The termination will occur as follows:

- We will terminate user/s by suspending the user/s. The termination of user account may include denial of access to all Services, deletion of information in your user account, and deletion of all data in your user account. Authorized User/s can terminate usage by simply not using the service. We reserve the right to delete or clean up any unused accounts.

12.3 Termination for Convenience.

The Client may terminate this Agreement for convenience at any time by not using the service. All fees will be non-refundable and we reserve the right to collect any unpaid/outstanding Invoice/s.

12.4 Survival

Provisions of this Agreement which by their express terms or context impose continuing obligations on the Parties will survive the expiration or termination of this Agreement for any reason.

13. General Provisions

This section contains all the general provisions of this agreement.

13.1 Export Compliance

Each party shall comply with the export laws and regulations of the United Kingdom, United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing:

- Each party represents that it is not named on any UK and/or U.S. government list of persons or entities prohibited from receiving exports.
- You shall not permit Users to access or use Services in violation of any UK and/or U.S. export embargo, prohibition or restriction.

13.2 Relationship of the Parties

The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency and fiduciary or employment relationship between the parties.

13.3 Entire Agreement

This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. In addition to this agreement other information provided by Us, such as but not limited to the Privacy Policy, should be taken into consideration. In the event of a conflict between this agreement and other information provided by Us, This Agreement shall prevail.

13.4 Waiver and Cumulative Remedies

No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.

13.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the

fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

13.6 Governing Law and Attorney Fees

The interpretation of the rights and obligations of the parties under this Agreement, including, to the extent applicable, any negotiations, arbitrations or other proceedings hereunder, (including any non-contractual disputes or claims arising in relation to the subject matter of this Agreement) will be governed in all respects exclusively by the laws of the United Kingdom. Each party agrees that it will only bring any action or proceeding arising from or relating to this Agreement in a court in the UK. You irrevocably submit to the personal jurisdiction and venue of any such court in any such action or proceeding or in any action or proceeding brought in such courts by Us.

You shall pay on demand all of our reasonable attorney fees and other costs incurred by us to collect any fees or charges due to us under this agreement following your breach of this agreement.

13.7 Communication

We may communicate with you through emails, newsletters and service announcements. You can unsubscribe from our Newsletter but you will not be able to opt-out from receiving service announcements and administrative messages.

14. Trademark

The Customer recognises Our ownership of and title to all trademarks, service marks, trade names, patents, copyright and other intellectual property rights. You will take no action to violate, obliterate, remove, alter, conceal or misuse any such marks, trade name or copyright notice. You shall promptly notify Us if you become aware of any infringement of such intellectual property rights by any third party and shall provide reasonable assistance in connection with any legal proceedings.

15. Data Protection

We will process Your Personal Data (as defined in the linked document) in accordance with the Privacy Policy. You have a right at any time to stop Us from contacting You for

direct marketing by writing to Us at Our registered office. If applicable and relevant, We shall follow Our archiving procedures for data. In the event of any loss or damage to Customer data, Your sole and exclusive remedy will be a copy of the data from the latest back-up of such data maintained by Us in accordance with Our archiving procedure. We shall not be responsible for any loss, destruction, alteration or disclosure of Your data caused by any third party.

16. Security & Privacy

Except as contained in this Agreement, You shall own all rights, title and interest in all of Your personal data and other data sent through to Us and shall have sole responsibility for its legality, reliability, accuracy and quality. Where applicable, You accept and acknowledge that for Us to provide You with Software, Services and Deliverables in accordance with this Agreement, We and Our Consultants may have access (subject always to clause 15 above and this clause 16) to any data inputted by You in the Software. This access may be as a result of the following:

- (i) routine maintenance of the service;
- (ii) bugs & fixes;
- (iii) updates/upgrades/improvements;
- (iv) regulatory/legal compliance;
- (v) upon Your request for any support/assistance; and
- (vi) upon Your consent for any other reason.

To the extent the Software or Services use encryption to reduce the probability of an un-authorised interception of information transmitted using the Software or Services, You must use a browser that supports such encryption technology in order to access the Software or Services. It is Your and Your Authorised Users' responsibility not to access the Software or Services from a location that is not secure, would violate laws or would otherwise be inappropriate. You acknowledge that use of or connection to the Internet provides the opportunity for unauthorised third parties to circumvent security precautions and illegally gain

access to the Software and Services and Customer data and that no form of encryption is 100% secure. Accordingly, subject to clause 15, We cannot and do not guarantee the privacy, security or authenticity of any information so transmitted over or stored in any system connected to the Internet. You shall be solely responsible for the accuracy, quality, integrity and legality of Customer data and of the means by which You acquire Customer data. Where applicable, You authorise Us and Our Consultants to serve as the host and repository for the data You enter into the Software. You shall ensure that each User keeps any usernames, passwords or any other unique credentials secure for their use and access to the Licensed Materials and/or Services. We reserve the right to process, collate, aggregate, analyse and use: (i) any location data; (ii) any traffic data; (iii) any technical device information; and (iv) any other data only where that data has been anonymised prior to collation with other data by Us. The purpose of processing the information detailed above is to understand how the Software is used and to rectify any problems with the Software in relation to provision of Support and in order to provide a better service to You and other customers. We may share with third party partners or publicise the anonymised statistical data that results from Our analysis of the information detailed in this clause. Where applicable, You acknowledge and agree that We may use cookies to operate the Software/Service and to monitor Your use of the Software/Service to maintain and improve the functioning of the Software/Service. For further details you may request a copy of our Privacy Policy.

17. File Sharing

If applicable, some Services may include the ability for You to share files with third parties and for them to share files with You. You agree to obtain all necessary licences and consents to enable Us to share such files between You and such third parties and You shall indemnify Us against any liability that We may incur as a result of Your failure to obtain

such licences and/or consents. We accept no responsibility for the content of files uploaded by You or any third parties. While we may provide a document storage and exchange service this does not involve checking for malicious software, which shall be Your responsibility. We reserve Our rights to remove any files that You and/or such third parties may share or immediately disable Your access and/or terminate Your account should Your file sharing activities (or those of such third parties) be deemed in Our sole discretion to be inappropriate, illegal and/or threaten the security of other customers.

18. Non-Solicitation

You will not attempt to employ either directly or indirectly or as consultants any of Our employees during the Term or for a period of twelve (12) months after termination of this Agreement (howsoever caused) without Our prior written consent. If You (whether directly or indirectly) employ or retain the services of any of Our employees who has provided the Services to You, You shall pay to Us by way of liquidated damages representing a pre-estimate of Our loss a sum equal to 50% of the first year's salary and emoluments (including all payments fixed in advance) to be paid or intended to be paid to such individual unless We agree in writing to the transfer in which case the liquidated damages will be waived.

19. Third party rights

Any person and/or entity who is not party to this Agreement shall have no right under this Agreement. You hereby acknowledge and agree that this Agreement will not be enforceable against any Group or associated company of Ours, 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. Any of Our Group Companies shall have the right to enforce any term of this Agreement and receive any benefit of this Agreement.

20. Modification of terms

This Agreement supersedes any previous Agreement to which You and We may have

been bound. This Agreement may be modified by Us in our sole discretion from time to time and such modifications will become part of this Agreement and will be effective immediately once issued by us. You should review the website and this Agreement from time to time for any modifications. Your continued use of the Service will be taken as your agreement to the modified Terms.

Section 3: General Terms and Conditions – Cloud Terms only

1 Grant of Licence

1.1 Subject to the terms of this Agreement, in consideration of the payment to Us/Our Reseller by You of the Charges, We grant You a non-exclusive and non-transferable Licence during the Term to use/have access to the Licensed Materials in accordance with this Agreement.

1.2 The Licence entitles You to access the Software on any computer, lap-top, tablet, smart-phone or other mobile computing device proprietary to You.

1.3 If You purchase an upgrade to a different package of the Software during Your Licence Period then the Commencement Date will be amended to be the date that the new version of the Software is accessed by You and a new Minimum Commitment (as per the previous original) from the new Commencement Date shall apply.

2 Acceptance

You will be deemed to have accepted the Software on the date that it is accessed by You.

3 Permitted Use

3.1 The Licence will be restricted to the Software use to a single unique User, unless multiple user packages have been purchased by You from Us.

3.2 You accept that any breach of this Agreement by You shall entitle Us to immediately terminate this Agreement without any liability to You.

4 Support and Services

Where applicable, We shall use reasonable endeavours to maintain twenty four (24) hour online presence for the Service but cannot guarantee continuous, uninterrupted use. There may be times when We are required to interrupt the provision of the Service in order to carry out routine maintenance, repairs, reconfigurations or upgrades or in circumstances beyond Our control. We shall notify You in advance of any planned interruptions.

5 Customer Obligations

5.1 You undertake when a Current Release is available to ensure compliance with any instructions given by Us.

5.2 In relation to the Services, You shall use all reasonable endeavours to ensure that the Software is used in a proper manner by You or competent trained employees only or by persons under their supervision. Any breach of this clause may result in a restriction or termination of the Service by Us.

Section 4: General Terms and Conditions – Terms for On Premise Software only

1 Grant of Licence

1.1 Subject to the terms of the Agreement, in consideration of the payment to Us by You of the Charges, We grant You a non-exclusive and non-transferable Licence during the Term to use the Licenced Materials at the Location in accordance with this Agreement.

1.2 The Licence entitles You to:

- (i) receive, install and use one copy of the Software, together with the necessary Documentation, on one Central Processing Unit (CPU) of the Equipment in respect of each User. For the avoidance of doubt, where the Software is Licenced to multiple Concurrent Users it may be installed on a file server of the Equipment for the sole purpose of distribution to the number of Concurrent Users Licenced and such file server use will not be counted for the purposes of ascertaining the number of Concurrent Users;

- (ii) (if expressly specified in an Order only) use the Software on any home computer, lap-top, tablet, smart-phone or other mobile computing device 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;
- (iii) (unless Your Licence is a Datacentre Licence) You may only install and use the Software at a single Location and any access to the Software from another Location shall require You to purchase an Upgrade to a Datacentre Licence. Unless Your Licence is a Network Licence or Datacentre Licence, You may have a Standalone Licence to install, access and use the Software on only one CPU/terminal, identified as the Equipment, at the Location and installation. Access and use of the Software (other than purely for backup purposes) on another CPU/terminal shall require You to purchase either a Network Licence or a Datacentre Licence.

1.3 Subject to this Agreement, You may request to add additional Users to an existing Licence or order additional Services from Us by submitting a separate Order for Our approval (such approval not to be unreasonably withheld) and upon which We shall grant access to the Software, Services and Licenced Materials to such additional User(s) in accordance with the terms of this Agreement.

1.4 If We accept the request for additional Users to the Licence, and if such additional Users are purchased by You part way through the Minimum Commitment or any renewal term (as applicable), such fees shall be pro-rated for the remainder of the Minimum Commitment or then current renewal term.

1.5 You may request to purchase an Upgrade to an existing Licence or order additional Services from Us by submitting a separate Order for Our approval (such approval not to be unreasonably withheld).

1.6 If You purchase an Upgrade, and Your Licence Period is less than one (1) year, then unless We agree otherwise, the Commencement Date will be amended to be the date that the Upgrade is made available to You and a new Minimum Commitment of a period of twelve (12) calendar months from the new Commencement Date shall apply. No Downgrade or reduction in the number of Concurrent Users or portable users or in the level of Services shall be permitted during the initial commitment, and, after the initial commitment, You may only make any such Downgrade or reductions by giving Us ninety (90) days advance written notice to take effect at the end of the Minimum Commitment or a subsequent renewal term.

2 Acceptance

You will be deemed to have accepted the Software on the date of dispatch by Us of the Licenced Materials to the Location. Risk in the Licenced Materials shall pass on such acceptance.

3 Permitted Use

3.1 You may use the Software only on the Equipment at the Location.

3.2 You shall permit Us, or Our agents, on reasonable prior notice, to inspect and have access to the Location or any premises or equipment at or on which the Software is being kept or used, and any records kept pursuant to this Agreement, to verify that Your use of the Licenced Materials and the Services is in accordance with the terms of this Agreement. If necessary, We may require You to operate and run a tool or programme provided by Us on Your equipment to verify this.

3.3 You may not alter, disassemble, decompile, translate, adapt or reverse-

engineer the Runtime Software or the report file (RPT) format.

3.4 You may not use, distribute or integrate the Runtime Software with any general-purpose report writing, data analysis or report delivery product or any other product that performs the same or similar functions.

3.5 You may not use the Runtime Software to create for distribution a product that is generally competitive with Crystal Decisions product offerings; You agree not to use the Runtime Software to create for distribution a product that converts the report file (RPT) format to an alternative report file format used by any general-purpose report writing, data analysis or report delivery product that is not the property of Crystal Decisions.

3.6 You may not use the Software on a rental or time sharing basis or to operate a service bureau facility for the benefit of third-parties unless You first acquire an Application Service Provider Licence from Crystal Decisions.

4 Support and Services

The Support is compulsory as part of the supply of the Licenced Materials and is charged separately from the Licence Fee as part of the Support Fee (or may be charged in aggregate in an Order as 'Recurring Fees'). Where the Licenced 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 an Order or other written notification We or a Reseller send to You. Any Deliverables will be produced for Your exclusive use within Your business only.

You are not permitted to disclose the Deliverables to any third party.

5 Customer obligations

5.1 You undertake 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 and to ensure compliance with this Agreement.

5.2 In relation to the Services, You shall:

- (i) 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;
- (ii) 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 from the date it is received by You;
- (iii) where applicable provide a valid serial and registration number to Us when performing an upgrade to obtain a Release Code.

End of Agreement:

You can address any comments or questions regarding this agreement to our Legal Department. This Agreement was last updated on 27 July, 2020.