

## **Sage Cloud Services Terms of Service**

**Applicable to Sage HR, Sage Business Cloud Accounting, Sage Business Cloud Payroll, Auto Entry and Go Proposal.**

THESE TERMS GOVERN YOUR ACCESS TO AND USE OF THE SERVICES AND ARE AN AGREEMENT BETWEEN YOU AND US (AS DEFINED BELOW). PLEASE READ, PRINT AND SAVE A COPY FOR YOUR RECORDS.

YOU ACCEPT THIS AGREEMENT AND ITS TERMS EITHER BY: (I) CLICKING A BOX INDICATING YOUR ACCEPTANCE; OR (II) SIGNING AN ORDER; OR (III) CREATING AN ACCOUNT OR SUBSCRIPTION FOR THE SERVICES; OR (IV) ACCESSING OR USING THE SERVICES. IF YOU DO NOT AGREE TO OR ACCEPT THIS AGREEMENT, YOU MUST NOT USE THE SERVICES.

IF YOU ARE AN ACCOUNTANT, RESELLER OR DEVELOPER USING THE SERVICES, THIS AGREEMENT TAKES PRECEDENCE IN RELATION TO YOUR OPERATION AND USE OF THE SERVICES AND APPLIES IN ADDITION TO ANY OTHER TERMS AND CONDITIONS IN PLACE BETWEEN US FROM TIME TO TIME.

### **1. Definitions**

1.1. In this Agreement, the following words shall have the following meanings:

**“Accountant”**: a professional financial adviser who subscribes to the accountant specific version of the Services, where applicable.

**“Affiliate(s)”**: any entity that directly or indirectly Controls, is Controlled by, or is under common Control with, the subject entity, where **“Control”** is the direct or indirect ownership or control of at least a majority of the voting rights in the entity, or otherwise the power to direct the management and policies of the entity. An entity is an Affiliate only so long as such Control continues.

**“Agreement”**: means (where applicable) these terms and conditions, the Service Specific Terms, your Order(s), the Data Protection Addendum, Privacy Notice, and any applicable attachments, exhibits, appendices, annexes and schedules or any other documentation or terms and conditions referred to within any of the aforementioned.

**“App”**: software designed to run on a mobile device which allows you and your Users to access and use the Services in accordance with this Agreement, where we make such an App available to you.

**“Business Day”**: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.



**“Customer Data”**: the data, information, files, photos, documents or material provided, inputted, shared or submitted by Users, or otherwise on your behalf, via the Services, which may include data (including Personal Data) relating to Users, your customers, suppliers, employees or other third parties.

**“Data Protection Addendum”**: the Data Protection Addendum posted on <https://www.sage.com/en-gb/legal/terms-and-conditions/product-and-service-terms-and-conditions/data-protection-addendum/> (or such other URL as notified to you) as amended from time to time.

**“Data Protection Laws”**: has the meaning as set out in the Data Protection Addendum.

**“Documentation”**: the online or written user guides, specifications, and manuals regarding the Services made available by us from time to time, including any Updates.

**“Effective Date”**: the date you accept this Agreement in one of the ways set out above.

**“Force Majeure”**: an act of God (e.g., a natural disaster or epidemic) or another event beyond the reasonable control of the party seeking excuse of performance (e.g., acts of war, terrorism, government authority or by another third party beyond the party’s control). For the purposes of this Agreement, a cyber-attack or breach of cyber security is beyond our reasonable control, subject to us being able to demonstrate that we acted in accordance with what would be reasonably considered to be good practice by a business accountancy and payroll software provider of an equivalent size and standing in taking steps to prevent such an attack or breach of security.

**“Free Trial”**: access to the Services, free of charge, for a limited or short-term period as set out in our marketing and sales material.

**“Insolvency Event”**: a winding up petition in bankruptcy or another proceeding relating to insolvency (within the meaning of Section 123 Insolvency Act 1986), receivership, liquidation or assignment for the benefit of creditors.

**“Intellectual Property Rights”**: rights recognised by any jurisdiction with respect to intellectual work product, such as patent rights (including priority rights), design rights, copyrights (including moral rights), mask work rights, trade secret rights, trademarks, service marks, domain name rights, database rights, know-how, rights in confidential information and all other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and renewals and extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**“Order”**: an ordering document (such as an order schedule or invoice) between us for your subscription to the Services and/or where there is no ordering document, any instruction from you to us to for your subscription to the Services.



**“Personal Data”**: shall have the meaning as set out in the Data Protection Addendum.

**“Privacy Notice”**: the privacy notice posted on <https://www.sage.com/en-gb/legal/privacy-and-cookies/> (or such other URL as notified to you) as amended from time to time.

**“Promotional Price”**: a reduction in the recommended retail price for the Services for a limited period as set out in our marketing and sales material. The term **“Promotional Prices”** shall be construed accordingly.

**“Reseller”**: an authorised Sage reseller through which you purchase a subscription to the Services.

**“Sage”**: The Sage Group plc or its Affiliate.

**“Sage Data”**: the information in an Order, data about the configuration and use of the Services, the Documentation, and other information provided to you via login in the Services or otherwise by Sage during performance under this Agreement, other than Customer Data.

**“Services”**: the products and services provided by us to you under this Agreement or otherwise, including any associated offline or mobile components, Updates and (whether optional or mandatory) any add-ons, modules, features or functionality that work with the products or services but excluding all Third Party Services.

**“Service Specific Terms”**: any service specific or special terms that you accept in addition to these terms.

**“Third-Party Service(s)”**: any product (e.g. software of any kind, cloud services, or forms), tool (e.g. integration or development tools) or service (e.g. implementation, configuration, development or accounting) provided to you under a separate agreement or terms and conditions by a party other than Sage (a **“Third-Party Provider”**).

**“Updates”**: any future modifications, additional features, enhancements, patches, fixes, revisions, and derivative works that may be made to Services or Documentation.

**“User(s)”**: a named individual authorised by you to use the Services and the Documentation, for whom you have purchased a subscription, and who has been supplied with user credentials for the Services by you or by us at your request.

**“we”, “us”, “our”**: Sage Global Services Limited a company incorporated in England (company registration number 09506951, VAT number GB 555 909 605) whose registered office is at C23 - 5 & 6 Cobalt Park Way Cobalt Park, Newcastle Upon Tyne, United Kingdom, NE28 9EJ, or such other entity as may be identified in the invoices which are issued to you with respect to your use of the Services, in which case your contracting



entity shall be the entity identified in your invoices unless and until specified otherwise by Sage.

**“you” or “your”:** both you and any company or other legal entity that you are authorised to represent (and to the extent appropriate any Affiliates) that accepts this Agreement.

## **2. Usage rights**

2.1. Free Trials and Promotional Prices. We may at our sole discretion offer Free Trials and/or Promotional Prices. We may withdraw or modify the same without prior notice and with no liability to you. Unless otherwise specified, you may only redeem any Free Trial and Promotional Price offers once and they cannot be used with any other promotions or offers with respect to the Services. At the end of the relevant Free Trial or Promotional Price, you will automatically be charged for the Services.

2.2. Access to the Services. Subject to the terms and conditions of this Agreement and your payment of all applicable fees (except with respect to a Free Trial, where applicable), we hereby grant you a limited, non-exclusive, non-sublicensable, non-transferable (except as expressly permitted under this Agreement) right to permit Users to access and use the Services and Documentation for the term of this Agreement, solely for your internal business purposes.

2.3. User Subscriptions. Unless notified to you, Services are purchased as time-based subscriptions. Each User must have a valid subscription for the Services on a named basis only and can't be shared with others. You can reassign subscriptions to new named Users from Users who cease using the Services. We may monitor your use of the Services to verify compliance with any subscription limits and this Agreement.

2.4. Your Responsibilities. You must use the Services only in accordance with this Agreement and the Documentation. You are responsible for: (i) protecting of the User access credentials that are in your possession or control; (ii) setting up appropriate internal roles, permissions, policies and procedures for Services to be used safely and securely; (iii) the activity of your Users in the Services; (iv) your Users' compliance with this Agreement; and (v) the accuracy, quality, reliability, and legality of Customer Data and the means by which you acquire Customer Data and input it into the Services. You must notify us promptly if you become aware, or reasonably suspect, that your or your Users' account security is compromised.

2.5. Restrictions. Except as expressly authorised by us prior to each instance, you shall not: (i) use the Services and/or Documentation to provide services to any third party, use the Services as a service bureau or otherwise violate or circumvent any use limitations or restrictions we have communicated to you; (ii) derive the source code or use tools to observe the internal operation of, or scan, probe or penetrate, the Services; (iii) copy, modify, duplicate or create derivative works from, frame, mirror, republish, download,



display, transmit, or distribute all or any portion of the Services and/or Documentation (as applicable) in any form or by any means; (iv) remove any proprietary markings or notices from the Services or Documentation; (v) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation or to benchmark with a non-Sage product or service; (vi) subject to clause 12.4, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Users; or (vii) use or access the Services: (a) to send spam, duplicative, or unsolicited messages in violation of applicable laws or regulations; (b) to store sensitive data such as financial information, social security numbers outside of the designated fields; (c) to send or store material that violates the rights of a third party; (d) to send or store material containing viruses, worms, Trojan horses or other harmful computer code; or (e) for any other illegal, discriminatory or unlawful purpose. You may not knowingly facilitate a third party in any of the foregoing activities. If you breach the provisions of this Agreement, or your use of the Services interferes with or disrupts the security, availability or performance of the Services, we reserve the right to immediately modify or temporarily restrict or suspend your access to all or part of the Services or any Third-Party Service without notice or liability to you.

2.6. Using an App with the Services. We may at our sole discretion make available to you an App which will allow you to access the Services. Your access to and use of such App is subject to this Agreement and any supplementary terms governing the use of the App. We will give you reasonable notice in the event we charge you for use of the App. You and/or your Users continued use of the App after such notice shall constitute your deemed acceptance of such charges.

2.7. Purchase Through a Reseller. Your acceptance of any agreement with the Reseller or an Order via a Reseller shall be an acceptance of this Agreement between you and us in respect of the Services. Any professional services or Third-Party Services provided by the Reseller shall not be a part of this Agreement. First-tier technical support for the Services will be provided by the Reseller unless we tell you otherwise. If you purchase the Services from a Reseller, then your payment obligations in respect of the Services shall be to the Reseller and the Reseller will administrate the renewal of your subscription to the Services. Non-payment of fees owed to a Reseller shall constitute a material breach of this Agreement. If you grant a Reseller access to Customer Data or to your account, such access shall constitute your consent to the disclosure of Customer Data to the Reseller pursuant to clause 7.2 below, and you will be responsible for terminating such access.

2.8. Accountants Access to the Services. Where applicable and subject to your permission, the Services may allow an Accountant to link to your account for the purposes of inputting, transferring and analysing data and documents on your behalf and for making the Services available to you. You are responsible for working with your



Accountant to set and manage access rights that your Accountant has over your account. Accordingly, we have no control over such access rights and, therefore, we are not liable for any loss or damage or other liability that you may suffer due to any act, omission or failure of your Accountant. If your Accountant suffers an Insolvency Event, or they are in breach of this Agreement or any agreement they hold with Sage relating to the Services, we may restrict or suspend your access to any aspect of the Services and/or delink your account from your Accountant. Where we have agreed in advance that your Accountant will pay your fees for the Services then: (i) payment of such fees by you to your Accountant shall constitute valid payment for the purposes of this Agreement; and (ii) you must inform your Accountant if you want to terminate this Agreement and we will only act on your Accountant's instructions in relation to the administration of your account.

2.9. Service Specific Terms. Your use of the Services may be subject to additional Service Specific Terms which will be set out on your Order or made available to you. Click here to see a list of some of our additional terms <https://www.sage.com/en-gb/legal/terms-and-conditions/product-and-service-terms-and-conditions/>.

### **3. Availability and Support**

3.1. Availability. We will use reasonable commercial endeavours to maintain availability of the Services 24 hours a day, seven days per week, except for: (i) planned maintenance; (ii) Force Majeure events; and (iii) any unavailability that is necessary to protect us, you, Users or our subcontractors (we will try to notify you of any such unavailability). We will endeavour to schedule planned maintenance affecting the availability of the Services at non-peak times, and you will receive reasonable advance notice of such planned maintenance, which may be posted within the Services. Despite the foregoing, we may at any time suspend without notice your or your Users' access to or use of the Services for the purpose of enabling us to carry out essential or emergency maintenance.

3.2. Technical Support. Where we provide you with training services then your Users who have undergone training for use of the Services will receive technical support for the Services and/or upgraded support(if purchased). Where we don't provide you with training services then technical support may, at our discretion, include online help, FAQs, training guides and templates and the use of email, chat or live help.

3.3. Maintenance. We may release Updates for the Services at our discretion. We will try and notify you when we are going to provide such Updates.

### **4. Fees and Payments**

4.1. Fees. You must pay all fees due for the Services as set out in the invoice provided to you or as otherwise notified to you. From time to time, we may change our fees. Unless otherwise set forth in the Service Specific Terms, you will be notified at least thirty (30) days in advance before we apply any fee changes to your Services and such fee change



will take effect from your next payment date after the notice period has ended. All payment obligations are non-cancellable and nonrefundable.

4.2. Changing Plans and Exceeding Plan Limits. From time to time, we may make available to you different charging plans in respect of the Services (“**Service Plan**”). If you choose to move up or down a Service Plan, then additional fees may be payable as specified by us from time to time. If you exceed any volume limitations set out within your then-current Service Plan, then we may at our discretion: (i) decide to upgrade you from one Service Plan to another Service Plan and additional fees may be payable; or (ii) we may invoice you for such additional volume in each case on a pro-rated basis for the first date of such excess volume through to the end of the subscription term. We will notify you of such upgrade either within the Services or by sending you an email. Any change in your Service Plan may waive your entitlement to a Free Trial or Promotional Price.

4.3. Billing and Contact Information. You agree to provide us with complete and accurate billing and contact information for your account with us and shall promptly notify us of any change to this information.

4.4. Taxes. All fees and other charges are exclusive of taxes, levies, and duties. Where applicable and unless you provide us with a valid tax exemption certificate in a timely manner, any taxes, with the exclusion of taxes on our net income, will either be added to the value of our fees or will be included in the value of our fees on our invoice to you, and you shall be responsible for their payment to us.

4.5. Late Payment and Non-Payment. If we do not receive any fees you owe us by the due date, those fees shall accrue interest at the lower of: (i) 1.5% of the outstanding balance per month; and (ii) the maximum rate permitted by law. Non-payment of any fees for the Services (whether owed to Sage, an Accountant, Reseller or any other third party in connection with the Services) or of any other amounts owed by you to us is a material breach of this Agreement.

## **5. Proprietary Rights and Data**

5.1. Services. Subject to the limited rights expressly granted under this Agreement, Sage (and our licensors, where applicable) reserve and own all rights, title and interest in and to the Services (including any configurations, customisations, modifications, enhancements and Updates in respect of the Services), Sage Data and Documentation, including all related Intellectual Property Rights therein. All rights not expressly set out in this Agreement are reserved by Sage. The Sage name, logo and the product names associated with the Services are trademarks of Sage or third parties and no right or licence is granted to use them under this Agreement.

5.2. Customer Data. Subject to the limited rights expressly granted under this Agreement, you own all rights, title and interest, including all Intellectual Property Rights, in and to the



Customer Data. You grant Sage and its subcontractors a worldwide, royalty-free, irrevocable, perpetual, non-exclusive licence to host, process, copy, transmit, store, analyse, sublicense, display, reformat, create derivative works from and use the Customer Data to: (i) carry out research and development to improve our, and our Affiliates', services, products and applications; (ii) develop and provide new and existing functionality and services (including artificial intelligence functionality, capabilities for the digitisation and automation of business processes and other commercially reasonable purposes) to you, to Users, to Sage's customers generally or to any other individual or entity using Sage's products or services; (iii) provide, administer and ensure the proper operation of the Services and related systems; and (iv) perform our rights and obligations under this Agreement.

5.3. Feedback. You may, but are not required to, provide Sage or its Resellers or subcontractors with ideas, suggestions, requests, recommendations or feedback about the Services ("**Feedback**"). If you do so, subject to the limited rights granted expressly in this Agreement, Sage shall own all rights, title and interest, including all Intellectual Property Rights, in and to the Feedback, including any configurations and customisations.

5.4. Data privacy. Each party will comply with the Data Protection Addendum, and references in the Data Protection Addendum to the "Agreement" shall be construed as references to this Agreement. Any Personal Data used to provide the Services shall be handled in accordance with the requirements of the Data Protection Addendum. Further information on how Sage uses Personal Data is provided in Sage's Privacy Notice.

## **6. Confidentiality and Data Security**

6.1. Confidential Information. "**Confidential Information**" means all information (however recorded or preserved) of a party or its Affiliates ("**Discloser**") disclosed to the other party or its Affiliates ("**Recipient**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.

6.2. Exceptions. Confidential Information excludes: (i) information that was known to the Recipient without a confidentiality restriction prior to its disclosure by the Discloser; (ii) information that was or becomes publicly known through no wrongful act of the Recipient; (iii) information that the Recipient rightfully received from a third party authorised to make such disclosure without restriction; (iv) information that has been independently developed by the Recipient without use of the Discloser's Confidential Information; and (v) information that was authorised for release in writing by the Discloser.

6.3. Confidentiality Obligations. The Recipient will use the same degree of care as it uses for its own confidential information of like nature (but no less than reasonable care and skill) to protect the Discloser's Confidential Information from any use or disclosure not





permitted by this Agreement or authorised by the Discloser. The Recipient may disclose the Discloser's Confidential Information to its Affiliates, employees, contractors and service providers ("**Representatives**") as permitted by this Agreement, provided that they are bound by confidentiality obligations no less restrictive than those set out in this Agreement. The Recipient shall be responsible for any breach of this clause by its Representatives.

6.4. Disclosure Required by Law. The Recipient may disclose Confidential Information to the extent required by court or administrative order or law, provided that the Recipient provides advance notice of such disclosure (unless requested or ordered not to do so by law or a court or administrative order) and reasonable assistance, at the Discloser's cost, to enable the Discloser to prevent or limit such disclosure.

6.5. Injunctive Relief. Each party acknowledges that damages may not be an adequate remedy for a breach of confidentiality obligations and that the other party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this Agreement.

## **7. Third-Party Services**

7.1. No Endorsement or Warranty. We may present to you, or the Services may integrate with, Third-Party Services that are offered by Third-Party Providers. We do not endorse or make any representation, warranty or promise regarding, and do not assume any responsibility for, any such Third-Party Services or a Third-Party Provider. Accordingly, we shall not be liable whatsoever for any damages, liabilities or losses caused by any act or omission in respect of a Third-Party Service or Third-Party Provider, irrespective of whether it is: (i) described as "authorised," "certified", "recommended" or the like; or (ii) included in your Order or the Services. Your use of Third-Party Services is subject to the terms and conditions imposed by the Third-Party Providers in addition to this Agreement (to the extent applicable). If there is a conflict or inconsistency between this Agreement and such terms and conditions imposed by the Third-Party Providers, this Agreement shall take precedence in connection with the use of the Service. You are solely responsible for evaluating Third-Party Services and Third-Party Providers, and for reviewing all applicable terms and conditions of any such Third-Party Providers. We have no obligation to make available or provide support for Third-Party Services and do not guarantee the initial or continuing interoperability of the Services with any Third-Party Services. If a Third-Party Provider ceases to make the Third-Party Services available for interoperation with any feature of the Services, we may cease providing such feature without providing you with any refund, credit or other compensation.

7.2. Data Sharing. If you obtain a Third-Party Service that requires access to or transfer of Customer Data, you acknowledge that any such access or transfer is between you and the Third-Party Provider pursuant to the Third-Party Provider's own privacy notices and



policies, and that we are authorised to provide the Customer Data as requested by the Third-Party Service. We are not responsible for any modification, loss, damage or deletion of Customer Data by any Third-Party Service obtained by you.

## **8. Term and Termination**

8.1. Fixed Term Subscription. Where there is a fixed term subscription period for the Services specified within your Order (and unless set out otherwise in any Service Specific Terms), then this Agreement commences on the Effective Date and continues for such subscription period (“**Fixed Term Subscription**”). All Fixed Term Subscriptions will automatically renew for additional fixed term subscription periods as set forth in any renewal Order, unless either party gives the other party written notice of non-renewal at least thirty (30) days prior to the end of the relevant Fixed Term Subscription. If you are a direct customer of ours, we will use commercially reasonable efforts to notify you of your upcoming renewal prior to such renewal. This Agreement will remain in effect during any Fixed Term Subscription until all User subscriptions have expired or the Agreement has been terminated in accordance with this Agreement.

8.2. All Other Subscriptions. Where there is no fixed term subscription period for the Services specified within your Order (and unless set out otherwise in any applicable Service Specific Term), then this Agreement commences on the Effective Date and continues until: (i) it is terminated for convenience at any time by either party giving the other party thirty (30) days written notice of termination; or (ii) it is terminated in accordance with this Agreement.

8.3. Termination. Either party may terminate the Agreement: (i) in accordance with clause 8.1 (where you have a Fixed Term Subscription to the Services); (ii) clause 8.2 (where you do not have a Fixed Term Subscription to the Services); (iii) immediately if the other party commits a material breach of any term of this Agreement and such breach is not capable of remedy or the other party fails to remedy such breach within thirty (30) days of being notified in writing to do so; or (iv) immediately upon written notice to the other party if the other party becomes the subject of an Insolvency Event. If you or your Users materially breach this Agreement, we may, without limitation of other rights and remedies, temporarily suspend or terminate your access to the Services or withhold further performance of our obligations under this Agreement. We may terminate this Agreement immediately upon written notice to you in the event there is a change in Control that results in you being acquired by, or being an Affiliate of, any of our direct competitors.

8.4. Effect of Termination. On expiration or termination of this Agreement for any reason: (i) all applicable User licences and other rights granted to you shall immediately terminate; (ii) a party’s rights, remedies, obligations (including payment obligations) and liabilities that have accrued up to the date of termination shall not be affected; (iii) we will not be obligated to refund any prepaid and unused fees; and (iv) subject to clause 8.5



below, the Recipient shall, at the request of the Discloser, delete the Discloser's Confidential Information in its possession or control. Notwithstanding the foregoing, the Recipient may retain the Discloser's Confidential Information: (a) to the extent required by law or governmental authority; or (b) that is automatically stored in accordance with the Recipient's generally applicable back-up policies ("**Back-up Media**"). All Back-up Media shall remain subject to the confidentiality obligations set out in this Agreement, despite the expiration or termination of this Agreement, so long as it remains undeleted.

8.5. Access to Customer Data. Customer Data may be exported at any time during the term of this Agreement. Unless set out otherwise in any Service Specific Terms, we will not delete Customer Data from our production environment for a period of six (6) months after termination or expiration of the Agreement and may assist you with exporting Customer Data during such period at our standard hourly consulting rate. After such six (6) month period has expired, we may delete all Customer Data and will not make it available to you. Should you require longer storage of Customer Data, paid archival services may be available. Please see the Data Protection Addendum and the Privacy Notice for further details of data retention.

8.6. Survival. Clauses 1, 5, 8, 10, 11 and 12 will survive any expiration or termination of the Agreement.

## **9. Representations and Warranty Disclaimer**

9.1. Authority. Each party represents to the other that it has the authority to enter into this Agreement, to carry out its obligations under it and to give the rights and licences granted under this Agreement.

9.2. WARRANTY DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND ONLY FOR COMMERCIAL USE, SUBJECT TO ANY RESTRICTIONS IN THIS AGREEMENT OR THE DOCUMENTATION. WE, ON BEHALF OF OURSELVES, OUR AFFILIATES AND LICENSORS, DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS, TERMS, UNDERTAKINGS AND GUARANTEES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING THOSE: (I) OF MERCHANTABILITY OR SATISFACTORY QUALITY; (II) OF FITNESS FOR A PARTICULAR PURPOSE; (III) OF NON-INFRINGEMENT; AND (IV) ARISING FROM CUSTOM, TRADE USAGE, COURSE OF PRIOR DEALING OR COURSE OF PERFORMANCE. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, WE, OUR AFFILIATES AND OUR LICENSORS DO NOT WARRANT, REPRESENT, GUARANTEE OR UNDERTAKE THAT YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT THE SERVICES ARE FREE FROM VIRUSES, BUGS, ERRORS OR MISTAKES, THAT THE SERVICES, DOCUMENTATION AND/OR THE INFORMATION OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR REQUIREMENTS OR PRODUCE PARTICULAR OUTCOMES OR



RESULTS OR THAT THE SERVICES WILL PRODUCE ERROR-FREE MACHINE-GENERATED ANALYSIS, BENCHMARKS, INSIGHTS OR RESPONSES. WE, OUR AFFILIATES AND LICENSORS ARE NOT RESPONSIBLE OR LIABLE FOR: (A) ANY ISSUES WITH THE SERVICES THAT ARISE FROM CUSTOMER DATA, THIRD-PARTY SERVICES OR THIRD-PARTY PROVIDERS; OR (B) ANY DELAYS, DELIVERY FAILURES OR ANY OTHER LOSS OR DAMAGE RESULTING FROM THE TRANSFER OF DATA OVER COMMUNICATION NETWORKS AND FACILITIES, INCLUDING THE INTERNET, AND YOU ACKNOWLEDGE THAT THE SERVICES AND DOCUMENTATION MAY BE SUBJECT TO DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. YOU FURTHER ACKNOWLEDGE THAT WE DO NOT PROVIDE ANY ACCOUNTING, TAXATION, FINANCIAL, INVESTMENT, LEGAL OR OTHER ADVICE TO YOU, USERS, OR ANY THIRD PARTY, AND YOU ACCEPT THAT IT IS YOUR RESPONSIBILITY TO ENSURE THAT THE SERVICES MEET YOUR REQUIREMENTS.

9.3. ARTIFICIAL INTELLIGENCE TECHNOLOGY. FOR THE AVOIDANCE OF DOUBT, THE WARRANTY DISCLAIMER AT CLAUSE 9.2 SHALL ALSO APPLY TO ANY ARTIFICIAL INTELLIGENCE (AI) TECHNOLOGY THAT SAGE USES TO PROVIDE THE SERVICES AND/OR MAKES AVAILABLE TO YOU VIA THE SERVICES. OUTPUTS FROM THE AI TECHNOLOGY DO NOT REPRESENT THE OPINIONS OR VIEW OF SAGE.

## **10. Indemnification**

10.1. Our Indemnification. Subject to clause 10.3, we shall defend, indemnify and hold you and your Affiliates, officers, directors and employees harmless from and against any and all claims, costs, damages, losses, liabilities and expenses, (including without limitation, reasonable legal fees and court costs) (collectively, “**Damages**”) to the extent arising out of or in connection with a third-party claim alleging that your use of the Services infringes the Intellectual Property Rights of a third party. In no event shall Sage, its Affiliates, employees, consultants, agents and subcontractors be liable to you to the extent that the alleged infringement is based on: (a) a customisation or modification of the Services at your direction or by anyone other than us; (b) your use of the Services in combination with any service, software, hardware, network or system not supplied by us, if the alleged infringement relates to such combination; (c) your use of the Services in a manner contrary to our instructions or the Documentation; or (d) your use of the Services after notice of the alleged or actual infringement from Sage or any appropriate authority. If the Services infringe, or we reasonably believe they may infringe, Intellectual Property Rights, we may, at our own expense and option: (i) procure the right for you to continue use of such Services; (ii) replace or modify such Services so that they become non-infringing without material loss of functionality; or (iii) if (i) and (ii) are not feasible, terminate this Agreement and refund to you a pro-rata portion of any prepaid and unused fees for the Services covering the period following the effective date of termination.



10.2. Indemnification by You. Subject to clause 10.3, you will defend, indemnify and hold us and our Affiliates, officers, directors, employees, and agents harmless from and against any and all Damages to the extent arising out of or in connection with your and your Users' acts or omissions in connection with: (i) your and your Users' use of the Services; (ii) any Customer Data; or (iii) you or your Users' breach of any of your obligations under this Agreement including a claim alleging that: (a) your collection, retention or use of Customer Data infringes the rights of, or has caused harm to, a thirdparty; or (b) your use of the Services in breach of this Agreement infringes the rights of, or has caused harm to, a third-party, or otherwise violates applicable law.

10.3. Indemnification Procedure. In the event of a potential indemnity obligation under this clause 10, the indemnified party shall provide to the indemnifying party: (i) prompt written notice of the claim or a known threatened claim; and (ii) control of, and reasonable assistance in, the defence and settlement of the claim, at the indemnifying party's expense. Without the prior written consent of the indemnified party, the indemnifying party shall not settle or consent to an adverse judgment in any such claim that adversely affects the rights or interests of, or imposes additional obligations on, the indemnified party.

10.4. Exclusive Remedy. The indemnification obligations set forth above represent the sole and exclusive liability of the indemnifying party and the exclusive remedy of the indemnified party for any third-party claim described in this clause 10.

## **11. Limitation of Liability**

11.1. General Liability. OTHER THAN: (I) YOUR OBLIGATIONS TO PAY FEES AS SET OUT IN THIS AGREEMENT; AND (II)THE INDEMNIFICATION OBLIGATIONS OF EACH PARTY UNDER CLAUSE 10, IN NO EVENT SHALL EITHER PARTY'S (INCLUDING ITS AFFILIATES') MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE VALUE OF THE FEES PAID OR PAYABLE BY YOU TO US IN RELATION TO THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO A CLAIM.

11.2. Exclusion of Damages. In no event shall either party be liable to the other for any: (i) loss of or damage to data, revenue, business, profits, or anticipated savings; (ii) business interruption, loss of reputation or goodwill; (iii) loss of opportunity or contracts; (iv) wasted management or other staff time; or (v) any indirect, punitive, special, exemplary, incidental or consequential damages or losses.

11.3. Unlimited Liability. Nothing in this Agreement shall be construed so as to limit, reduce or exclude any liability under or in connection with this Agreement to the extent that it arises in respect of: (i) death or personal injury caused by a party's negligence; (ii) fraud or fraudulent misrepresentation by a party; (iii) any other matter for which it would



be unlawful for either party to exclude or limit or attempt to exclude or limit its liability; or (iv) the indemnification obligations of each party under clause 10.

11.4. Scope. The exclusions and limitations set out in this clause 11 apply to all causes of action (in each case whether direct or indirect and howsoever arising), whether arising from any breach of contract, tort (including negligence), breach of statutory duty or otherwise, even if such loss was reasonably foreseeable or if one party had advised the other of the possibility of such loss. The allocation of risk in this Agreement is reflected in the level of fees payable under this Agreement. A party may not circumvent the limitations of liability in this Agreement or receive multiple recovery under this Agreement by bringing separate claims or claims on behalf of its Affiliates.

## 12. General Provisions

12.1. Compliance with Laws. Each party shall comply with all applicable laws, statutes, codes and regulations in relation to your use of the Services, including applicable anti-bribery and anti-corruption laws, Data Protection Laws, tax evasion laws and all sanctions laws, regulations and regimes imposed by relevant authorities including but not limited to the Office of Foreign Assets Control (OFAC), the UN, the UK and EU (“**Relevant Requirements**”). You shall, and shall procure that persons associated with you shall: (i) comply with all Relevant Requirements; (ii) not engage in any conduct which would constitute an offence under, or otherwise breach, any of the Relevant Requirements; (iii) not do, or omit to do, any act that may lead Sage to be in breach of any Relevant Requirements; and (iv) have and maintain in place during the term of this Agreement your own policies and procedures to ensure and demonstrate compliance with the Relevant Requirements and will enforce them where appropriate.

12.2. Notwithstanding the generality of clause 12.1, the Services may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it and its Affiliates are not named on any U.S. government “denied persons list” (or equivalent targeted sanctions list) and that it and its Affiliates are not owned or controlled by a politically exposed person. You shall be obliged to notify us if, during the term of this Agreement, you or any of your Affiliates become named on any U.S. government “denied persons list” (or equivalent targeted sanctions list) or you become owned or controlled by a politically exposed person. In the event that these circumstances arise, we shall be entitled to terminate this Agreement immediately on written notice to you. You shall not permit Users to access or use the Services in a U.S. embargoed country or in violation of any U.S., UK or EU export laws or regulations or in any Prohibited Territories. “**Prohibited Territories**” means: (i) any country or territory that is subject to comprehensive state or government wide sanctions by the United Kingdom, the European Union, or the U.S; and (ii) any other country or territory that becomes subject to such sanctions by the United Kingdom, the European Union, or the U.S after the Effective Date. You shall have and shall



maintain throughout the term of this Agreement appropriate procedures and controls to ensure and be able to demonstrate your compliance with this clause 12.1. Each party will promptly report to the other party if it has violated, or if a third party has a reasonable basis for alleging that it has violated, this clause. In the event that this clause 12.1 is breached by you, we shall have a right to immediately suspend your use of the Services to the extent that we consider necessary without prior notice and/or terminate the Agreement immediately on written notice to you. You shall indemnify (and keep indemnified) Sage and our officers, directors, employees, attorneys and agents against any Damages arising out of or in connection with your (or your Users) breach of this clause 12.2.

12.3. You shall assist in any due diligence process we may ask you to participate in from time to time to ensure your compliance with this Agreement and this clause 12. You shall provide us with all reasonable co-operation, information and assistance in relation to our due diligence processes for any purpose, including but not limited to enabling us to establish ownership and to identify any territory in which you and any or all of your Users use and access the Services for whichever purpose. Your failure to engage in any such a process and/or provide the required information shall be deemed to be a material breach of this Agreement and we shall have a right to terminate this Agreement immediately on written notice to you.

12.4. Assignment. You may not assign, transfer, novate, charge, sub-contract or deal in any other matters with any of your rights or obligations under this Agreement, whether in whole or in part, directly or indirectly, by operation of law merger, acquisition or otherwise without our prior written consent (not to be unreasonably withheld). Sage may assign, transfer, novate, charge, sub-contract, or deal in any other manner with this Agreement, whether in whole or in part, without your consent. Any attempted assignment in breach of this Agreement shall be void.

12.5. Remedies Not Exclusive. Except as expressly set out in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

12.6. Third Party Beneficiaries. Certain aspects of the Services may be provided by our Affiliates. In such case, each such Affiliate shall be a third-party beneficiary of this Agreement to the extent of such Services.

12.7. Third Party Rights. Except as expressly set out in this Agreement, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999, or otherwise.

12.8. Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding the use of the Services. Each party acknowledges that in entering into



this Agreement it does not rely on and shall have no rights or remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) other than as expressly set out into this Agreement.

12.9. Severability. If any provision or part-provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, then to the extent possible such provision shall be deleted, or shall be construed, as far as possible, to reflect the intent of the original provision, with all other provisions in this Agreement remaining in full force and effect.

12.10. No Partnership or Agency. Each party is an independent contractor, and neither party has any authority to act on behalf of the other. Neither party will represent itself as agent, servant, franchisee, joint venture or legal partner of the other. We are entering into this Agreement as principal and not as agent for any other Sage company. Subject to any permitted assignment under clause 12.4, the obligations owed by us under this Agreement shall be owed to you solely by us and the obligations owed by you under this Agreement shall be owed solely to us.

12.11. Waiver. A party's failure or delay to exercise or enforce any of its rights under this Agreement will not act as a waiver or continuing waiver of such rights. Such rights may only be waived in writing signed by the waiving party.

12.12. Force Majeure. Neither party shall be in breach of this Agreement or otherwise liable for any failure or delay in the performance of its obligations to the extent that such delay or failure is due to a Force Majeure event.

12.13. Order of Precedence. In the event of any express conflict or inconsistency, the order of precedence shall be: (i) the Data Protection Addendum; (ii) the Service Specific Terms (where applicable); (iii) your Order (where applicable); (iii) these terms (including any annexes or exhibits hereto); and (iv) the Documentation.

12.14. Variation. From time to time, we may amend the terms of this Agreement in our sole discretion. We will use reasonable endeavours to notify you of any material changes by sending you an email or posting a notice in the Services, but it is up to you to ensure that you regularly check, read, understand and agree to the most recent version of the Agreement. By continuing to access or use the Services, you are indicating that you agree to be bound by the modified terms.

12.15. No Publicity. Neither party shall make any public statement about this Agreement, or the relationship of the parties governed by this Agreement that identifies the other party without the other party's prior written consent, except that while you are a customer, Sage may use your name and logo in its customer list in a manner that does not suggest endorsement.





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

12.17. Notices. Except as otherwise specified in this Agreement, any formal notice required to be given under this Agreement will be in writing and sent by pre-paid mail, courier service or email to the contact address or email last provided in writing to the notifying party by the notified party. Any notice will be deemed to have been duly received: (i) if sent by pre-paid mail, 48 hours after posting; (ii) if sent by courier, on the next Business Day; or (iii) if sent by email, at 9 a.m. recipient's local time on the next Business Day after the email is sent, or earlier if the intended recipient has confirmed receipt either expressly or by conduct.

12.18. Interpretation. In this Agreement: (a) the headings are for convenience only and shall not affect its construction or interpretation; (b) "including" and "includes" and similar expressions shall, be interpreted as illustrative, not exhaustive; (c) references to a person include an individual, a body corporate and an unincorporated association of persons; (d) (e) unless otherwise specified, a reference to "writing" or "written" includes email but not faxes; (f) a reference to a statute, statutory provision or subordinate legislation is a reference to it as in force from time to time, taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.