

## Schedule 1 – Terms and Conditions

### Interpretation

1.1. In these terms and conditions, the following definitions apply:

**“Agreement”** means these terms and conditions for the provision of Services and/or Deliverables by Sage to you, the Main Agreement, including the Data Processing Agreement (“DPA”) found at this link: <https://www.sage.com/en-au/legal/agreements/>, the accompanying Statement of Work and/or Consulting Request Form (where applicable) entered into between you and us and any other documentation annexed to the Statement of Work or Consulting Request Form (where applicable) and/or incorporated by reference;

**“Commencement Date”** means the date this Agreement has been signed by both parties;

**“Confidential Information”** means (a) the terms of this Agreement, (b) all information (of whatever nature and however recorded or preserved) disclosed directly or indirectly by one party or its Representatives to the other party or its Representatives, which: (i) is marked as or has been otherwise indicated to be confidential, or (ii) derives value to a party from being confidential, or (iii) would be regarded as confidential by a reasonable business person, in each case except to the extent that such information is already in the public domain at the time of disclosure or enters the public domain otherwise than by a breach of any obligation of confidentiality;

**“Customer Data”** means the data, information or material provided, inputted, processed, or submitted by you (or by Users on your behalf) into the Service;

**“Data Protection Legislation”** means such data protection legislation applicable to the Sage entity with which have procured the Services from;

**“Deliverables”** means materials and information created by Sage during the performance of the Services;

**“Main Agreement”** means the underlying principal agreement signed by Sage and the customer;

**“Personal Information”** means any information about a living human being or existing organisation (as applicable data protection laws require), provided that someone is capable of identifying them from that information.

**“Processor”** means the person who processes personal information for a controller in terms of a contract or mandate, without coming under the direct authority of that party;

**“Representative”** means the employees, officers, contractors, professional representatives, advisers,

agents, subcontractors and/or consultants of a Customer or a Sage Group Company;

**“Sage Group Company”** means any entity that directly or indirectly controls, is controlled by, or is under common control with another entity within The Sage Group plc;

**“Sage Marks”** means any name, trademark, insignia, logo, symbol, or slogan (registered or unregistered) which is owned or used by Sage or a Sage Group Company now or in the future anywhere in the world, that Sage may licence to customer for use from time to time;

**“Service Charge”** means the charge payable by the Customer for the Services as set out in the Statement of Work or Consulting Request Form and/or as may be notified by Sage from time to time;

**“Service Period”** means the period during which Sage shall provide the Services as may be set out in the Statement of Work or Consulting Request Form or until such time as Sage determines, in its sole discretion, the Services to be completed;

**“Services”** means any services (or any part of them), as set out in the Statement of Work or Consulting Request Form ;

**“Shared Personal Data”** means the personal data to be shared between the parties under this Agreement;

**“Statement of Work”** or **“SoW”** or Consulting Request Form (“Form”) means the front page(s) of this Agreement which sets out the particulars of the Services as agreed by the parties, and any such Statement of Work or Consulting Request Form shall be attached as a separate Annexure to this Agreement and each Statement of Work or Consulting Request Form shall be numbered sequentially;

**“we”, “us”, “our”** or **“Sage”** means the Sage Group Company with which you have procured the Services from; and

Other capitalised terms have the respective meanings given to them elsewhere in this Agreement.

1.2. In this Agreement:

1.2.1. references to a person include an individual, body corporate and an unincorporated association of persons;

1.2.2. references to a “party” mean either the Customer or Sage (as the case may be) and reference to the parties means Sage and the Customer together;

1.2.3. any phrase introduced by the terms “include”, “including”, “in particular”, “such as”, “for example” or any similar expression will be construed as illustrative and not exhaustive and shall not limit the sense of the words prior to such term;

- 1.2.4. any reference to the singular will include the plural and vice versa;
  - 1.2.5. technical expressions shall have the meaning commonly attributed to them in the information technology and computer software industry in the United Kingdom.
  - 1.3. The headings in this Agreement do not affect its construction or interpretation.
  - 1.4. If there is any conflict, ambiguity, or inconsistency,
    - 1.4.1. in so far as it relates to the Services and/or Deliverables:
      - 1.4.1.1. Subject to clause 1.4.3.2, this Agreement; then
      - 1.4.1.2. Main Agreement.
    - 1.4.2. In so far as it relates to any other matter
      - 1.4.2.1. the Main Agreement; then
      - 1.4.2.2. this Agreement
    - 1.4.3. between a term of this Agreement and a term in a Statement of Work or Consulting Request Form or other documents referred to or otherwise incorporated into the Agreement,
      - 1.4.3.1. this Agreement shall take precedence, followed by the Statement of Work or Consulting Request Form or other documents referred to.
      - 1.4.3.2. A provision of any other document which purports to relate to the Services and/or Deliverables will only take precedence over these terms and conditions if agreed to by separate written agreement between the authorised contractual signatories of the parties.
- 2. Commencement and Term**
- 2.1. This Agreement shall commence on the Commencement Date and shall continue until the end of the Service Period, unless terminated earlier in accordance with clause 7 (*Termination*).
- 3. Service Provision**
- 3.1. Subject to payment of the Service Charge by the Customer, Sage shall provide the Services to the Customer in accordance with the terms of this Agreement and/or SOW or Form.
  - 3.2. Each of the parties shall fully cooperate with each other and perform their respective obligations in the manner described in the Statement of Work or Consulting Request Form.
  - 3.3. The Customer may request that Sage performs additional services (including additional man days to any man days specified in a Statement of Work or Consulting Request Form), which Sage may agree to provide in its sole discretion, subject to an additional Statement of Work or Consulting Request Form and/or variation of the existing Statement of Work or Consulting Request Form and payment of any additional Service Charge as notified by Sage to Sage from time to time.
- 4. Intellectual Property Rights**
- 4.1. Sage, Sage Group Companies and/or their licensors retain all right, title and interest in the Deliverables, including any Sage Marks as may be applicable, and/or Services including any updates and upgrades to them, all derivative works of the Deliverables and/or Services and all proprietary rights in them, both during and after termination of this Agreement.
  - 4.2. Except for the limited rights granted expressly by Sage to Sage under this Agreement, Sage reserves all rights, title, and interests in and to the Deliverables and Services and no right, title, ownership, interest or licence in or to the Deliverables and Services whether by implication, estoppel or otherwise is granted, assigned or transferred to Sage under or in connection with this Agreement.
- 5. Service Charge and Payment**
- 5.1. Sage shall invoice the Customer for the Service Charge at the time specified in the Statement of Work or Consulting Request Form or, if not so specified, monthly in arrears, and the Customer shall pay the Service Charge to Sage within thirty (30) days of the date of Sage's invoice.

- 5.2. Sage's daily rates for the Services shall be notified by Sage to Sage from time to time and are based on an eight (8) hour day (excluding one hour for lunch). These rates apply specifically to Monday to Friday inclusive and between 0700 hours to 1900 hours. Any Services provided by Sage in excess of seven (7) hours in any one day but strictly within the hours of 0700 to 1900 will be charged at the pro rata hourly rate. However, any Services (where available) provided by Sage outside these hours (0700 to 1900) or during weekends or public holidays will be charged by the hour at double Sage's current hourly rate. Where Customer makes a half day booking, half (0.5) of the day rate will be charged plus an additional premium recorded in the applicable Statement of Work or Consulting Request Form.
  - 5.3. Travel time to and from the required place of work by our Representatives will be charged at the half hourly rate (30 minutes) as specified in the Statement of Work or Consulting Request Form and shall form part of the Service Charge payable in accordance with this Agreement.
  - 5.4. Any expenses incurred by our Representatives in providing the Services including but not limited to airfare, rail fare, car parking, and toll roads will be charged back to Customer at cost. Any hotel and subsistence costs incurred will also be charged back at cost to Customer unless you provide reasonable business standard accommodation and subsistence as may be accepted by Sage and its Representatives from time to time.
  - 5.5. You agree and acknowledge that the time and costs listed in the Statement of Work or Consulting Request Form represent estimates only and these may be subject to change. Actual project time and cost may vary from the estimates provided.
  - 5.6. All Services are provided on a time and materials basis. Billing and payment are not dependent or conditioned on delivery of any Deliverables.
  - 5.7. The Service Charge is exclusive of all taxes (including GST or other applicable sales tax) and duties which the Customer shall be solely responsible for and shall pay in addition to the Service Charge.
  - 5.8. Notwithstanding any other term of this Agreement, Sage shall be under no obligation to perform the Services and may suspend its performance of the Services immediately if the Customer fails to pay the Service Charge or any part of it when the Service Charge is due and becomes payable in accordance with this Agreement.
  - 5.9. Without prejudice to clause 5.8, if the Customer fails to pay any amount due under this Agreement by the applicable due date, Sage will be entitled to charge interest of 4% above the base rate of Sage's bankers at the time, on any overdue balance which shall accrue on a monthly basis. Non-payment of any or all of the Service Charge or of any other amounts due to be paid by you to us is a material breach of this Agreement.
6. **Confidentiality**
    - 6.1. Each party shall keep confidential all Confidential Information and not use it except for the purpose of exercising or performing its rights and obligations under this Agreement. Each party may disclose Confidential Information to its Representatives, provided that they:
      - 6.1.1. need to know it for the purpose of exercising or performing that party's rights and obligations under this Agreement;
      - 6.1.2. have been informed of the confidential nature of the Confidential Information divulged; and
      - 6.1.3. agree to act in compliance with the confidentiality requirements of this Agreement.
    - 6.2. The disclosing party shall procure that any third party to which Confidential Information is disclosed pursuant to clause 6.1 complies with the terms of this clause 6. Otherwise, neither party will disclose Confidential Information to any third party or use it except as otherwise permitted by the other party in writing.
    - 6.3. Notwithstanding any other provision of this Agreement, it shall not be a breach of this Agreement for either party to disclose any Confidential Information pursuant to a court order or a binding request from a regulatory (or other similar) authority with jurisdiction or from any other third party with power to require the disclosure of such information, provided that (to the extent it is permitted to do so) the affected party gives all reasonable notice of such disclosure to the other party.
    - 6.4. The terms of this clause 6 shall continue to apply notwithstanding expiry or termination of this Agreement or any other cessation of any business relationship between the parties.
  7. **Termination**
    - 7.1. Subject to clauses 7.2 and 7.3, this Agreement shall automatically terminate on completion of the Services.
    - 7.2. Either party may terminate this Agreement by giving the other party at least seven (7) days' written notice.
    - 7.3. Without prejudice to its other rights or remedies, a party may terminate this Agreement immediately by written notice to the other if:
      - 7.3.1. the other party is in material breach of any of its obligations under this Agreement and either that breach is incapable of remedy or the other party shall have failed to remedy that breach within fourteen (14) days (or such other period as is agreed between the parties) after receiving written notice requiring it to remedy that breach; or

- 7.3.2. the other party becomes the subject of a winding up petition in bankruptcy or another proceeding relating to insolvency (within the meaning of the Corporations Act 2001 as amended from time to time), receivership, liquidation, or assignment for the benefit of creditors.
- 7.4. If Sage terminates this Agreement in accordance with clauses 7.1, 7.2 or 7.3, then the Customer shall immediately pay all sums due to Sage under this Agreement.
- 7.5. Notwithstanding clause 7.3.1, if a Customer materially breaches this Agreement, Sage may in its sole discretion, without limitation of other rights and remedies, temporarily suspend or terminate Customer's access to the Services or withhold further performance of its obligations under this Agreement.
- 8. Force Majeure**
- Save for payment obligations due to Sage, neither party will be liable to the other for any failure to perform or for any delay in performance under this Agreement to the extent such non-performance or delay is caused by any of the following circumstances beyond a party's reasonable control : damage to and/or theft of Sage equipment, fire, war, civil commotion, any act of central or local government, any industrial disputes, any act of terrorism, act of God, lockouts, pandemics, epidemics (as declared by the Australian government or the World Health Organisation), and strikes of any third party.
- 9. Warranty and Liability**
- 9.1. Sage warrants that it shall perform the Services with reasonable skill and care.
- 9.2. If Customer notifies Sage in writing that the Services do not conform with the warranty in clause 9.1, Sage will, at its own cost, provide replacement Services to remedy the breach within a reasonable period of time of the Customer notifying Sage of the breach and this will be the Customer's sole warranty remedy for a breach of clause 9.1.
- 9.3. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND IS ONLY FOR COMMERCIAL USE, SUBJECT TO ANY RESTRICTIONS IN THIS AGREEMENT. SAGE, SAGE GROUP COMPANIES AND LICENSORS, DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ALL OTHER REPRESENTATIONS, WARRANTIES 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 HEREIN, SAGE, SAGE GROUP COMPANIES AND OUR LICENSORS DO NOT WARRANT THAT YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT THE SERVICES AND/OR THE INFORMATION OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR REQUIREMENTS OR PRODUCE PARTICULAR OUTCOMES OR RESULTS.
- 9.4. Neither party excludes nor limits its liability for:
- 9.4.1. fraud (including fraudulent misrepresentation);
- 9.4.2. death or personal injury arising from its negligence or the negligence of its employees, agents, or subcontractors;
- 9.4.3. any other matter which may not be excluded by law.
- 9.5. Subject to clause 9.4, neither party shall be liable to the other for:
- 9.5.1. loss of profits and/or anticipated profit;
- 9.5.2. loss of revenues, contracts and/or business;
- 9.5.3. loss of savings and/or anticipating savings;
- 9.5.4. business interruptions;
- 9.5.5. loss of goodwill, loss of reputation and/or similar losses;
- 9.5.6. loss of or corruption to data, (in each case whether arising directly or indirectly and whether it is known, foreseen or foreseeable);
- 9.5.7. indirect, incidental, special, punitive, or consequential loss or damage.
- 9.6. Subject to clauses 9.4 and 9.5, the liability of either party to the other under or in connection with this Agreement, whether arising from a tortious act or omission including negligence, breach of contract, any indemnity or otherwise, shall not exceed an amount equal to the Service Charge paid or payable in the twelve (12) months preceding the claim.
- 9.7. Notwithstanding anything to the contrary in this Agreement Sage shall have no direct and/or indirect liability whatsoever towards the end customer and you expressly accept and agree to indemnify and hold Sage harmless for any liability and/ or damages that may arise in this respect.
- 10. Data Protection**
- 10.1. The parties agree that to the extent that Sage is a Processor of Personal Information on your behalf in accordance with this Agreement, the DPA found at <https://www.sage.com/en-au/legal/agreements> and Sage's Privacy Notice and Privacy Policy as amended and updated from time to time found at <https://www.sage.com/en-au/legal/privacy-and-cookies/> form part of this Agreement.
- 10.2. You agree that we may, for the purposes of providing the Services and/or for the purpose of protecting the integrity of the Services, access and/or download your Customer Data on a limited basis.
- 11. Notices**
- 11.1. Each party will use the appropriate communication medium, including e-mail, and in the case of Sage communicating with the Customer, by publishing notices on its website.

- 11.2. Any formal notice required to be given under this Agreement will be in writing and will be sent by pre-paid mail, or courier or next day delivery service, or by email to the party required to receive the notice at the address given for that party. Any notice will be deemed to have been duly received if sent by: (a) pre-paid mail, 48 hours after posting; or (b) courier or next day delivery service at 09:00 on the next business day; or (c) email at 09:00 on the next business day after the email is sent, or earlier if the intended recipient has confirmed receipt (either specifically or by conduct).

## 12. Cancellation Charges

- 12.1. If the Customer wishes to cancel the delivery of the Services (or any part of them) the Customer must inform Sage in writing in advance of the affected Services being delivered and Sage may, at its discretion, agree to such cancellation by providing the Customer with written confirmation. If Sage agrees to cancellation of the Services (or any part of them), it reserves the right to charge, and the customer agrees to pay a cancellation charge in accordance with the terms of this Agreement. For time and material Services that have been completed, the customer agrees to pay in full. The provisions in this clause 12 are without prejudice to any other rights or remedies Sage may have under this Agreement.

## 13. General

- 13.1. Except as expressly provided in the Agreement, any amendment of this Agreement shall not be binding on the parties unless it is in writing and signed by an authorised representative of each party.
- 13.2. If any provision in this Agreement is found to be void, invalid or unenforceable, it shall be severed from and shall not affect the remainder of this Agreement, which shall remain valid and enforceable.
- 13.3. The Customer may not assign this Agreement nor subcontract the performance of its rights or obligations in it without the prior written consent of Sage.
- 13.4. This Agreement and the documents referred to in it constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.
- 13.5. Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract, or other assurance (except those set out in this Agreement) made by or on behalf of any other party before the date of this Agreement.
- 13.6. Each party waives all rights and remedies which, but for this clause 13, might otherwise be available to it in respect of any such

representation, warranty, collateral contract, or other assurance.

## 14. Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of New South Wales,