

**1. General.** These terms and conditions (the “Terms and Conditions”) and the Subscription Order Form or Subscription Renewal, and the License Subscription Agreement constitute the entire agreement (“Agreement”) between Sage Business Solutions Pty Ltd. (“SAGE”, “we”, “us”, or “our”) and the buyer identified in the Customer Name section of the Subscription Order Form (“you” or “your”) regarding your entitlement to Software Assurance. The “Software” refers to Sage 300, Sage 300 Construction & Real Estate, Sage CRM and X3 product(s). This Agreement supersedes all prior and contemporaneous agreements regarding its subject matter and may be amended only in writing signed by SAGE.

**2. Software Assurance Plans.** Subject to your payment of all applicable fees set forth in the Subscription Order Form or Subscription Renewal (the “Fees”), you will receive the Software Assurance Plan (“Software Assurance”). The Software Assurance Plan may be amended or modified from time to time by SAGE, in its sole discretion, upon thirty (30) days notice via posting or other written notice given by SAGE. Certain Software Assurance Plans may not be available in some countries. The Software Assurance Plans may, as applicable to the Software, consist of any updates or any new versions released during the currency of the Software Assurance, published service packs and hot fixes, technical support to Business Partners, services provided through SAGE, Business Partners or SAGE.

**3. Current Version; Media.** To use or install any upgrades, service packs, or any other documentation data or materials available under Software Assurance (“Materials”), you must have a valid license for the then-current version of the Software; installing the Materials with older versions of the Software may cause the Materials and/or the Software to function improperly and/or the Software to cease functioning. The Materials, including but not limited to upgrades and service packs shall be released as determined appropriate by SAGE, Sage Software Inc. Sage Technologies Limited, or other relevant Sage subsidiary of the Sage Group plc (individually and collectively “SAGE”) in its sole discretion, and may be provided via DVD, CD, download, your Solution Provider and/or other delivery method at SAGE’s sole discretion. If available on DVD or CD, SAGE will deliver the Materials to you (i) FOB origin; and (ii) after advance payment of an annual shipping and handling charge for all regular shipments to you under this Agreement during the applicable Initial or Renewal Term, as defined in section 5.

**4. Pricing, Payment, and Acceptance.** Charges for Software Assurance are included in your Subscription Fees. You agree to be bound by the EULA’s and this Agreement. Unless otherwise indicated in the Subscription Order Form or Subscription Renewal, all amounts set forth therein are exclusive of taxes, insurance, and shipping and handling charges and you are responsible for payment thereof.

**5. Term and Termination.** Subject to your payment of all Fees, the term of this Agreement starts on the date indicated in the Subscription Order Form and shall continue in effect for a one-year period or such other period expressly set forth in the Subscription Order (“Initial Term”). Subject to your payment of the Subscription Renewal Fees and other Fees, this Agreement shall renew automatically on a monthly basis or such other period as expressly set forth in the Subscription Renewal Invoice. This Agreement shall terminate upon (a) your failure to timely pay any renewal or other Fees, as specifically set forth in any Invoice; (b) your delivery of a written notice of termination to SAGE sixty (60) days prior to the commencement of each Renewal Term, provided that you are not in breach of any terms of this Agreement; or (c) your breach of this Agreement and failure to cure such breach within thirty (30) days after written notice thereof by SAGE, provided that SAGE hereby reserves all rights and remedies available to it as a result of such breach. Upon expiration or termination of this Agreement for any reason, you acknowledge and agree that (i) you shall not be entitled to a refund or offset of any amounts owed or paid to SAGE; and (ii) you must cease using the Materials and any copies thereof, remove the Materials and any copies thereof from all computers and other devices in your control, and destroy all media in your control containing the Materials or copies thereof. Unless otherwise provided herein, remedies are cumulative and there is no obligation to exercise a particular remedy. Expiration or termination of this Agreement shall not prejudice, limit, or restrict any other rights or remedies either party may have arising prior to such expiration or termination. To the maximum extent permitted by law, SAGE has no obligation to refund any amounts paid by you. This Agreement may be amended by SAGE by providing you with thirty (30) days written notice prior to the end of the Initial Term or each Renewal Term.

**6. Additional Services.** Technical support services, other than Tech-Support On Demand, may be provided by SAGE, subject to a separate written agreement between the parties. Fees for such technical support services shall be at SAGE’s then-current published rates, plus any costs and expenses, including reasonable transportation and lodging. Availability of and Fees for international technical support services shall be determined by SAGE, in its sole discretion.

**7. Audits.** SAGE or its agents may audit your books, records and information systems to ensure that your use of the Software and Materials complies with the

end user license agreement (the “EULA”) between you and SAGE concerning the Software and Materials.

**8. Customer ID.** You must maintain the security of your Customer ID number, and you may not allow anyone other than your employees or employees of your authorised SAGE Solution Provider of record to use your Customer ID number. You may change your Solution Provider of record by completing the appropriate form provided by SAGE.

**9. Limitations.** SAGE has no obligation to support: (a) altered, damaged, or modified Software and Materials, (b) problems, issues, or errors caused by negligence, abuse, or misapplication of the Software and Materials; (c) use of the Software and Materials other than as specified in the SAGE Software documentation; or (d) hardware malfunctions, third-party software not licensed from SAGE. At SAGE’s request and your own expense, you will provide SAGE with documentation of problems and test data, and cooperate with SAGE to resolve the issue(s) submitted by you. SAGE shall provide Software Assurance in the English language, except as otherwise agreed in writing.

**10. DISCLAIMER OF WARRANTIES.** THE SOFTWARE, UPGRADES AND MATERIALS RELATED THERETO ARE SUBJECT EXCLUSIVELY TO THE WARRANTIES SET FORTH IN THE EULA. NO OTHER WARRANTIES ARE MADE BY SAGE WITH RESPECT TO THE SOFTWARE AND MATERIALS. SERVICES PROVIDED PURSUANT TO THIS AGREEMENT ARE NOT WARRANTED. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SAGE PROVIDES THE MATERIALS AND SERVICES “AS IS” AND “AS AVAILABLE” AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. EXCEPT AS PROVIDED IN THE LIMITED WARRANTY, IF ANY, SAGE HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, OR DUTIES OF EVERY NATURE WHATSOEVER (EXCEPT ANY DUTIES OF GOOD FAITH). FURTHER, THERE IS NO WARRANTY OF TITLE, ENJOYMENT, OR LACK OF INFRINGEMENT, OR THAT THE PROVISION OR OPERATION OF ANY MATERIALS WILL BE TIMELY OR UNINTERRUPTED.

**11. Limitation of Liability and Exclusion of Damages.** NOTWITHSTANDING ANY DAMAGES YOU MAY INCUR FOR ANY REASON WHATSOEVER, SAGE’S ENTIRE LIABILITY FOR ANY BREACH OF THIS AGREEMENT OR FOR ANY CAUSE OF ACTION OF ANY NATURE (INCLUDING WITHOUT LIMITATION, TORT OR PRODUCTS LIABILITY), OR UNDER THE LIMITED WARRANTY, AND YOUR EXCLUSIVE REMEDY AGAINST SAGE SHALL BE LIMITED TO THE AMOUNT OF DAMAGES ACTUALLY INCURRED BY YOU, UP TO AN AMOUNT NOT EXCEEDING THE FEES PAID TO SAGE FOR THE PRECEDING 12-MONTH PERIOD. PROVISIONS SET FORTH IN SECTIONS 9, 10 AND 11 SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SAGE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR INDIRECT DAMAGES OR LOSSES WHATSOEVER, ARISING OUT OF OR IN ANY WAY RELATED TO THE SAGE MATERIALS, EVEN IF SAGE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IN THE EVENT OF FAULT, TORT (INCLUDING NEGLIGENCE) OR STRICT OR PRODUCT LIABILITY OR MISREPRESENTATION.

**12. Supported Product Policy.** As part of SAGE’s commitment to our customers, we undertake to support both the current version and the two (2) most immediate prior versions for all our solutions. This ensures that as new releases become available, customers can upgrade at a time suitable to their business. However, **product fixes and service packs will only be available for the current version and the one (1) most immediate prior version.** Always consult the product compatibility guide as product fixes will not be available for previous versions to make them compatible with external products. For supported versions of SAGE solutions please contact your Sage Solution Provider or visit [www.sage.com/au](http://www.sage.com/au). Sale of software will only be available to customers who are current on Software Assurance. Technical support provided by SAGE to Solution Providers on behalf of a customer will only be available where the customer is current on Software Assurance.

**13. Obsolete Product Policy.** Obsolete products are those that have been replaced by a newer version and are no longer supported.

**14. Miscellaneous.** To the extent permitted by local law, this Agreement shall be governed by and construed exclusively in accordance with the laws of New South Wales without regard to the conflict of law’s provisions thereof and without regard to the United Nations Convention on Contracts for the International Sale of Goods. In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover costs and attorneys’ fees.

**15. Data Protection and Privacy.** “The parties agree to comply with local data protection and privacy laws. In addition, pursuant to the General Data Protection Regulation (GDPR) (EU) 2016/679, the parties further agree to comply with the terms set out in <https://www.sage.com/en-au/legal/agreements/>.

**16. Sanctions.**

16.1 The Customer hereby confirms that: 16.1.1 It shall, at all times during the term of this Agreement, conduct its business in compliance with 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; 16.1.2 Neither

it nor any of its Affiliates is named on any “denied persons list” (or equivalent targeted sanctions list) in violation of any such sanctions restrictions, laws, regulations or regimes, nor is it or any of its Affiliates owned or controlled by a politically exposed person; and 16.1.3 It has and shall maintain throughout the duration of this Agreement appropriate procedures and controls in place to ensure and be able to demonstrate Customer’s compliance with this Clause 16.1.

16.2 The Customer shall not permit Users to use or access the Services in violation of any export restrictions in any jurisdictions or any sanctions law or regulation or in any Restricted Territories. Such use and / or access is not permitted by Sage and shall constitute a material breach of this Agreement, and where Sage is aware of or suspects the Customer (or any of its Users) to be using, accessing, permitting or otherwise facilitating such use or access in any Restricted Territory in breach of such laws or regulations, Sage may immediately suspend use of the Services to the extent that Sage considers necessary without prior notice, and Sage shall promptly notify the Customer of such suspension and investigate any potential breach.

16.3 The Customer will promptly notify Sage if either it or any of its Affiliates has violated, or if a third party has a reasonable basis for alleging that it or any of its Affiliates has violated, this Clause 16.

16.4 In the event that Sage has grounds to suspect the Customer is using and / or accessing the Sage Services in violation of this Clause 16, the Customer shall provide Sage with full cooperation and assistance to Sage in respect of its use and access of the Sage Services and of compliance with this Clause 16.

16.5 The Customer shall indemnify and keep indemnified Sage against any losses, liabilities, damages, costs (including legal fees) and expenses incurred by, or awarded against, Sage or any Sage Affiliate as a result of the Customer’s (or its Users) breach of this Clause 16.