

Sage Business Cloud Enterprise Management Subscription Agreement (Last Updated: February 2019)



IMPORTANT NOTICE! YOUR SUBSCRIPTION TO THE SERVICE IS SUBJECT TO ALL THE TERMS AND CONDITIONS IN THIS AGREEMENT. PLEASE READ ALL OF THE TERMS AND CONDITIONS IN THIS AGREEMENT CAREFULLY BEFORE CONCLUDING THE ACTIVATION PROCESS. THIS IS A LEGALLY BINDING AGREEMENT BETWEEN YOU AND SAGE FOR YOUR SUBSCRIPTION TO THE SERVICE.

IF YOU ARE ACCEPTING THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH COMPANY OR ENTITY TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY YOU MUST NOT ACCEPT THESE TERMS AND CONDITIONS OR OTHERWISE ACCESS OR USE THE SERVICE.

YOU INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT INCLUDING ANY TERMS AND CONDITIONS IMPOSED BY REQUIRED THIRD PARTY SERVICE PROVIDERS, BY DOING ONE OR MORE OF THE FOLLOWING OR ALLOWING OR AUTHORIZING A THIRD PARTY TO DO ONE OR MORE OF THE FOLLOWING FOR YOU: (1) CLICKING "I AGREE" OR A SIMILAR AFFIRMATION AS APPLICABLE WHICH APPEARS DURING THE ACTIVATION OF YOUR SUBSCRIPTION, OR (2) ACCESSING OR USING THE SERVICE, OR (3) EXECUTING AN ORDER THAT INCORPORATES THIS AGREEMENT, OR (4) SIGNING A COPY OF THIS AGREEMENT. SAGE WILL NOTIFY YOU OF ANY REQUIRED THIRD-PARTY SERVICE PROVIDER TERMS AND CONDITIONS BY SENDING AN EMAIL TO YOUR USER ADDRESS OR BY PUBLISHING A NOTICE ON ITS WEBSITE OR BY OTHERWISE DIRECTING YOU TO THE RELEVANT THIRD PARTY TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO BE LEGALLY BOUND BY THIS AGREEMENT INCLUDING ANY TERMS AND CONDITIONS IMPOSED BY REQUIRED THIRD PARTY SERVICE PROVIDERS, EACH IN THEIR ENTIRETY AND WITHOUT MODIFICATION OR ADDITION (UNLESS AGREED OTHERWISE IN WRITING BY SAGE), THEN YOU SHOULD CONTACT SAGE OR THE RESELLER YOU PURCHASED YOUR SUBSCRIPTION FROM AND YOU MUST NOT ACCESS OR USE THE SERVICE IN ANY WAY.

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 **"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control of the subject entity, where "control" is the ownership or control (whether directly or indirectly) of at least 50% 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.
- 1.2 **"Agreement"** means these terms and conditions for your Subscription to the Service including the Exhibits as amended and updated by Sage from time to time together with any other documents or addenda expressly incorporated into these terms and conditions by reference.
- 1.3 **"API"** means an application programming interface.
- 1.4 **"Commencement Date"** means the earliest date Sage either accepts your Order for your Subscription or you do anything consistent with accepting this Agreement such as Using the Service, signing a copy of this Agreement or ticking a box or clicking on a button (or something similar) when you are asked to confirm that you accept this Agreement during the sign up to the Service unless Sage agrees otherwise with you.
- 1.5 **"Controller"** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data; where the purposes and means of such Processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.
- 1.6 **"Customer Data"** shall mean the data, information or material provided, inputted or submitted by you or on your behalf into the Service including Your Content, which may include data relating to your customers and/or employees.
- 1.7 **"Customer Personal Data"** has the meaning set out in **section 13.1**.

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- 1.8 “**Customer Support**” means assistance Sage or your Reseller (as the case may be) may provide or make available to you on-line or by phone, email, chat or other means, as more particularly described in the Documentation.
- 1.9 “**Data Protection Laws**” means all applicable EU laws and regulations governing the use or processing of Personal Data, including the Data Protection Act 2018 and the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time.
- 1.10 “**Device**” means any device that meets Sage’s system requirements that you use to access any part of your Subscription.
- 1.11 “**Documentation**” means the prevailing documentation and information (as updated by Sage from time to time) made available to you by Sage which sets out a description of the Service , including but not limited to Orders, specifications, technical and user guides including guidance as to minimum cloud system requirements, that are set out in the Service help files and any release-related notes, guides or manuals Sage publishes specific to the version of the Service which is made available, but excluding marketing materials and sales publications.
- 1.12 “**Exhibits**” means the exhibits to this Agreement.
- 1.13 “**GDPR**” means EU General Data Protection Regulation 2016/679.
- 1.14 “**Maintenance**” means updates, upgrades, enhanced and new functionality, patches and fixes for the Service which may be provided by Sage or your Reseller (as the case may be), as more particularly described in the Documentation.
- 1.15 “**On-Premise Software**” means software that you may use on your on-premise computers or other Device(s) or network to use with the Service.
- 1.16 “**Order**” means the document evidencing your initial Subscription Term for the Service in written form specifying among other things, the number of Users, type of Users, the applicable Subscription Fees, the Subscription Period and other charges as agreed between you and Sage and any subsequent Order in written form evidencing some or all of the same; each such Order to be incorporated into and to become a part of this Agreement.
- 1.17 “**party**” means either you or Sage as the context requires and “**parties**” means you and Sage together;
- 1.18 “**Personal Data**” means any information relating to an identified or identifiable natural person (“**Data Subject**”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- 1.19 “**Privacy Notice**” means Sage’s privacy notice posted on www.sage.com (or such other URL as Sage may notify to you) and which may be amended by Sage from time to time.
- 1.20 “**Processing**” means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction and “**Process**”, “**Processed**” and “**Processes**” shall be construed accordingly.
- 1.21 “**Processor**” a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Controller.
- 1.22 “**Renewal Term**” means each successive twelve (12)-month period (unless a shorter or longer period is agreed with Sage) of your Subscription Term.

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- 1.23 “**Required Third-Party Service**” means a required service, software, or Subscription functionality made available by a provider other than Sage that Sage makes available as part of your Subscription.
- 1.24 “**Reseller**” means an independent third party authorized or certified by Sage to act as a partner or distributor of the Service through Sage’s various authorised partner or other programmes.
- 1.25 “**Sage**” means the Sage Group plc entity with which you have Subscribed to the Service as indicated in Exhibit B.
- 1.26 “**Sage Technology**” means images, text, software, music, sound, photographs, video, graphics, applets, Documentation, screen shots, displays, graphical user interfaces and software incorporated into the Service and all copyright, trade secret, patent and patent applications, trademark and other intellectual property rights in and to the Service, including, but not limited to, object code, the underlying source code, algorithms, formulae, data structures, scripts, application programming interfaces and protocols, all inventions (whether patentable or not), know-how, ideas, discoveries, compositions, products, schematics, databases, drawings, designs, samples, models, processes, procedures, data, information, manuals, notes, and any item marked "confidential" or "proprietary".
- 1.27 “**Service**” means the provision of Sage Business Cloud Enterprise Management including related Maintenance and Customer Support that Sage or your Reseller (as the case may be) makes available to you as part of your Subscription and for which you must pay the applicable Subscription Fee, as more particularly described in the Documentation.
- 1.28 “**Subscription**” means your access to and Use of the Service in a cloud or wireless environment together with Use of any Supplemental Services and Required Third Party Services that Sage makes available to you as part of this Agreement and “**Subscribe**” or “**Subscribed**” shall be construed accordingly.
- 1.29 “**Subscription Fee(s)**” means the purchase price owed to the Sage Group plc entity with which you Subscribed to the Service for access to the various components of your Subscription for the Subscription Term whether paid directly by you to Sage or via a Reseller.
- 1.30 “**Subscription Term**” means an initial period of twelve (12) months (unless a shorter or longer period is agreed with Sage) and each successive Renewal Term for which you have paid a Subscription Fee.
- 1.31 “**Supervisory Authority**” means an independent public authority which is established under applicable Member State law and which concerns itself with the Processing of Personal Data.
- 1.32 “**Supplemental Services**” means, if available, optional software or services you may elect to include in your Subscription.
- 1.33 “**Use**” means to activate the Subscription, access the Service and use Customer Support, provided that: (a) you access the Subscription only from your Devices; and (b) you access the functionality of the Service during the Subscription Term (i) for its intended purpose solely in connection with the management of the business that you and where applicable your Affiliates conduct, and (ii) solely to the extent of any and all applicable limitations (whether as to the number or types of uses or Supplemental Services you purchase) set out in this Agreement.
- 1.34 “**Users**” means individuals that access your Subscription on your behalf in accordance with the terms of this Agreement, through use of your network, Devices or user ID(s) and password(s).
- 1.35 “**you**” and “**your**” means or refers to the organization or person that Sage has registered to Use the Service.
- 1.36 “**Your Content**” means the data and other information that you upload to or process through the Service.

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1.37 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, if the context requires, be interpreted as illustrative, not exhaustive; (c) words of a technical nature shall be construed in accordance with the relevant general usage in the computer software industry, (d) references to a person include an individual, a body corporate and an unincorporated association of persons; and (e) use of the singular shall be treated as including the plural and vice versa.

2. ACCESS, USE AND RESTRICTIONS

2.1 **Access and Use.** Subject to your compliance with this Agreement and payment of all applicable Subscription Fees, Sage grants you a limited, non-exclusive, non-transferable, non-sublicensable and revocable right to (a) access and Use the Service; and (b) permit Users to access and Use the Service, for the Subscription Term in accordance with instructions and Documentation that Sage provides, only if you or someone acting on your behalf and at your direction (such as your Reseller) has: (a) placed an Order with Sage for an initial Subscription Term or a Renewal Term (as the case may be), a Subscription upgrade (such as for more Users, Supplemental Services, etc.) and Sage has accepted such Order; (b) accepted all of the terms and conditions of this Agreement either before or during activation of your Subscription (as described above); (c) accepted or agreed to all of the terms and conditions that a third party imposes on your use of a Required Third Party Service; and (d) accepted or agreed to any terms and conditions that may be applicable to any such Supplemental Services. You may permit up to the maximum number of Users that you have purchased from Sage as part of your Subscription, to access and use the Service.

2.2 **API.** If the Service offers offers integration capabilities via an API, your use of the API may be subject to additional terms and conditions, costs or our specific policies. You may not access or use the API in any way that could cause damage to Sage or the Service, or in contravention of any applicable laws.

2.3. Required Third-Party Services and On-Premise Software

2.3.1. Your Subscription may include Required Third Party Services, which are a required component of your Subscription. Your use of a Required Third-Party Service is subject to the terms and conditions imposed by the Required Third-Party Service provider(s). If you do not accept or agree to the terms and conditions imposed by the Required Third-Party Service providers, Sage cannot grant you and you do not have a right to access and Use the Subscription.

2.3.2. The Service is hosted on Amazon's AWS platform, an internet-scale cloud computing and services platform hosted in Amazon data centers. Your use of the Service is also subject to the following Amazon terms, conditions and policies: (i) AWS Privacy Notice Statement: <http://aws.amazon.com/privacy>; (ii) AWS Service terms: <http://aws.amazon.com/serviceterms>; and (iii) AWS Acceptable Use Policy: <http://aws.amazon.com/aup/>. Neither you, nor anyone accessing the Service, may use AWS in any way prohibited by the AWS Acceptable Use Policy.

2.3.3. In the event you use On-Premise Software that integrates with the Service, your use of such On-Premise Software is subject to the terms and conditions of the relevant end user license agreement, subscription agreement, or other agreement applicable to such On-Premise Software. The Sage Group plc entity with which you Subscribed to the Service may require you to maintain a current Sage Business Care Plan for your On-Premise Software in order to subscribe for and continue use of the Service. ***In such circumstances, failure to maintain a current Sage Business Care Plan may result in the suspension or termination of your Subscription by Sage.***

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2.4. Restrictions.

2.4.1. You are only authorized to access and Use the functionality of the Service through (i) your private internet or extranet using an internet connection you provide or (ii) a wireless communication network you connect to, on Devices you provide.

2.4.2. You may not install any components of the Service on your Devices unless Sage provides express instructions for you to do so.

2.4.3. You shall not:

2.4.3.1. rent, lease, sublicense, loan, sell, reuse, distribute, market, or commercialize any portion of the Subscription or Service or Use the Service as part of a facility management, timesharing, or service bureau arrangement or for software or application development;

2.4.3.2. duplicate any portion of the Service or Documentation or remove any proprietary notices or labels from the Service including, but not limited to, the Sage name, Sage logo, Sage product names, or names or logos of Required Third Party Service providers wherever they appear;

2.4.3.3. transfer or delegate any right granted to you under this Agreement or permit any parent, Affiliate (except as allowed by **Section 2.4.4** below), subsidiary or any other third party to use or benefit from any functionality found in the Subscription, either directly or via a facility management, timesharing, service bureau or any other access arrangement; and

2.4.3.4. conduct any activity prohibited by **section 3.4**.

2.4.4. You may Use the Subscription and Service to process the data of an Affiliate only if:

2.4.4.1. your aggregate Use of the Service is limited to a single dataset unless you have paid the relevant Subscription Fees for Users of Affiliates to access and Use the Service, in which case the Users of such Affiliates may access and Use the Service in accordance with this Agreement;

2.4.4.2. You understand and agree that where Users of Affiliates access and Use the Service, any acts or omissions of the Users of Affiliates shall be deemed to be your acts or omissions and that you shall have in place appropriate measures including, but not limited to, organizational and technical measures to ensure that the Users of Affiliates are aware of and comply with the terms of this Agreement as if they were a party to it. If you become aware of any breach of the terms of this Agreement by Users of Affiliates, you must notify Sage immediately in writing of the breach and you must, at your own cost, take any corrective action as directed by Sage.

2.4.4.3. you maintain an accurate list of Affiliates on file with Sage;

2.4.4.4. you promptly notify Sage if any company is no longer an Affiliate, in which case such the Users of Affiliates shall automatically lose any rights of Use relating to the Service.

2.4.5 Except to the minimum extent allowed by your local jurisdiction, you shall not rename files or alter, modify, reconstruct, translate, localize, decompile, disassemble, decrypt, reverse engineer, discover, attempt to derive source code from, remove any proprietary notices from, or create derivative works based upon the Service, or Required Third Party Services, in whole or in part. If your local jurisdiction allows any of these activities, you shall provide Sage with ten (10) business days' prior written notice before conducting any of these activities.

2.4.6 You must not use or copy (irrespective of the extent of copying) the whole or any part of the graphic user interface, operating logic or underlying database structure and database fields of the Service for incorporation into or the development of any software or other product or technology.

2.4.7 You must not use, or try to use, your Subscription and the Service in a way which Sage has not specifically allowed. For example, you must not try to make the Subscription or Service work in a particular way if it does not usually work in that way.

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2.4.8 Sage will use reasonable commercial efforts to ensure that the Service will be accessible to connection from the internet, however, you understand that the Service may be interrupted by routine maintenance. Sage will use its commercially reasonable efforts to minimise such interruption and to schedule such maintenance at non-peak hours.

2.4.9 You will be responsible for providing and maintaining your own compatible equipment, software and communications lines which are required to connect you to the internet and access the Service and for your compliance with any third party licence terms or other third party agreements in relation to your use of your equipment, software and communications lines.

2.4.10 You acknowledge and agree that as the Service is accessible via the internet it is therefore subject to limitations, security vulnerabilities, delays and other problems inherent to the operation of the internet and other electronic communications and that Sage and/or its licensors will not be liable or responsible to you for any such delays, interruptions, security problems, delivery failures or other damage resulting from such problems.

2.4.11 Sage may suspend access to the Service without telling you and without liability, but wherever practicable Sage will give you reasonable prior notice:

2.4.11.1 if there is an attack on the servers of Sage's hosting provider or other event for which Sage reasonably believes the suspension of the Service is necessary to protect you, other Sage customers, Sage or our third party hosting provider;

2.4.11.2 if required by law or regulation or as compelled by a law enforcement or government authority.

2.4.12 Any rights to Use the Service not expressly licensed to you in this Agreement are strictly prohibited. All rights not expressly set out in this Agreement are reserved by Sage.

2.5. Customer Support and Maintenance

2.5.1 Sage will not be required to provide Customer Support and Maintenance where errors arise from:

2.5.1.1 your incorrect use of the Service;

2.5.1.2 your failure to fulfil or observe your obligations in **sections 2.1, 2.2, 2.3, 2.4 and 3** of this Agreement;

2.5.1.3 your failure to maintain the required compatible equipment, software and communications lines which are required to connect you to the internet and access the Service; or

2.5.1.4 any other circumstances where it is stated in the Documentation that such Customer Support and Maintenance will not be provided.

3. RULES REGARDING USE OF YOUR SUBSCRIPTION

3.1 You acknowledge that you have been made aware of and have met all technical requirements for the Subscription, including, but not limited to, the requirement to have internet access.

3.2 You shall (a) comply with all applicable laws and regulations pertaining to your use of and access to your Subscription; (b) prevent unauthorized access to your Subscription and promptly notify Sage of any unauthorized access or use; (c) Use the Subscription and Service only in accordance with its Documentation and this Agreement; (d) comply with all notices, policies, and instructions Sage provides regarding Your Content; and (e) keep confidential all user ID(s) and passwords Sage provides you to access and activate your Subscription.

3.3 You are solely responsible for (a) your Users' compliance with this Agreement, and (b) maintaining the confidentiality of your user ID(s) and password(s) and for all activity that occurs under your user ID(s) and password(s) unless the breach in confidentiality is caused directly by Sage. You shall promptly notify Sage of any unauthorized activity or breach of security that you discover.

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- 3.4 Prohibited Activities.** You shall not use the Subscription to and Sage may immediately and without notice suspend or terminate your Subscription if you:
- 3.4.1** provide Sage with fraudulent information;
 - 3.4.2** send spam or other unsolicited or duplicative messages in violation of applicable laws;
 - 3.4.3** store, distribute or transmit material that is (i) obscene, threatening, libelous or otherwise unlawful or tortious (including material harmful to children or in violation of third party privacy or intellectual property rights), or (ii) contains viruses or other harmful or malicious code that may compromise the security or functionality of any website, program, process, business or data;
 - 3.4.4** use any tool, process, or method to (i) collect or detect email addresses, financial information, or other information from Sage or other Sage customers; or (ii) attempt to gain unauthorized access to the Subscription, the Service, other accounts, computer systems or networks connected to or supporting the Subscription through hacking, password mining or by any other means;
 - 3.4.5** post, upload, use framing techniques to use or otherwise distribute copyrighted material without the consent of the copyright holder;
 - 3.4.6** Use the Subscription in any way that threatens the integrity, performance or reliability of the Subscription infrastructure (including performance or stress testing), or in any manner that works around any technical limitations in the Subscription; or
 - 3.4.7** make or attempt to make a local non-cache copy of any part of the Subscription.

You shall not facilitate or aid a third party in any of the activities described in this **section 3.4**.

It is impossible to provide an exhaustive list of exactly what constitutes acceptable and unacceptable Use of your Subscription. In general, Sage will not tolerate any use which damages or is likely to damage Sage's business or reputation, the availability or integrity of the Service or which causes Sage or threatens to cause Sage to incur any legal, tax or regulatory liability.

- 3.5** Sage may charge you for any costs it incurs in connection with your breach of this Agreement, including costs incurred to enforce your compliance. Sage cannot monitor, has no control over, and is not responsible for your internet connection, network, wireless connection, bandwidth, the content of your Device(s) and/or any other equipment you utilize. Sage reserves the right to restrict, change, suspend, or terminate your Subscription by any means if your access, Use, or connection to the Service impairs or adversely affects Sage's operations or the Service, including Use of the Service by others.

4. SUBSCRIPTION TERM

- 4.1** You may Subscribe to the Service for the Subscription Term. Your Subscription Term will normally be stated on your Order or invoice but may also be communicated to you in another way.
- 4.2** Provided you pay the required Subscription Fees in accordance with this Agreement your Subscription will automatically renew for subsequent Renewal Terms equal to the expiring Subscription Term (unless agreed otherwise with Sage) in accordance with the terms of this Agreement and will continue until one of the following events occur: (a) you terminate your Subscription in accordance with the provision of this Agreement; (b) Sage terminates your Subscription in accordance with the provisions of this Agreement; or (c) this Agreement terminates in accordance with its terms.
- 4.3** If at any time during your Subscription Term you want to increase the number of your Users Subscribing to the Service or your access to additional components of the Service, you must pay the applicable Subscription Fee for each additional User and/or access to the additional Service component and your Subscription Fee will be pro-rated from the date access to the additional Service components is made available to you and/or the additional Users are added to your Subscription until the commencement of your next Renewal Term. If you wish to decrease the number of Users Subscribing to the Service or reduce your access to the various Service components you may do so from the commencement of your next Renewal Term when your Subscription Fees

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will be calculated for your next Renewal Term to take account of the reduced number of Users accessing the Service and/or your reduced access to the Service components.

5. SUBSCRIPTION FEES

- 5.1** As part of the Subscription registration process, Sage will agree a payment method and payment frequency with you and you will provide Sage with payment information that is accurate and current, including your billing address and, if Sage accepts payment from you by credit, debit or other bankcard, the expiration date of such credit, debit or other bankcard. You shall notify Sage promptly of any changes to your payment information. You agree to accept invoices from Sage by email and to provide Sage with an email address to which invoices can be sent. You also agree to have in place the relevant procedures to ensure you monitor and check the email address for invoices that may be sent to you in connection with this Agreement.
- 5.2** You authorize Sage to collect your payment of Subscription Fees in advance in the applicable currency, using the payment method, payment frequency and payment information you provide and that Sage accepts. You must pay the Subscription Fees and any other charges arising under this Agreement within thirty (30) days of the date on Sage's invoice, or as otherwise agreed with Sage. Subscription Fees quoted do not include applicable taxes, but applicable taxes will be included in the amount Sage charges you. Subscription Fees may include late fees or penalties incurred because your financial institution fails to honor a check or electronic charge, direct debit or transfer. Late payments will accrue interest at the highest rate permitted by the laws of the Sage Group plc entity from which you purchased your Subscription or as otherwise agreed with your local Sage Group plc entity. You are obligated to pay all Subscription Fees irrespective of whether you received an invoice.
- 5.3** Where you have agreed to pay the Subscription Fee to your Reseller, the Reseller is responsible for paying all Subscription Fees to Sage on your behalf. If Sage has not received payment of the applicable Subscription Fees either from you or from your Reseller (as the case may be) or if Sage has received notification from your Reseller of your non-payment of the same, then without prejudice to Sage's other rights and obligations Sage may suspend or terminate your Subscription.
- 5.4** The Subscription Fees you pay will be based on Sage's current price list, which may vary from time to time and are subject to such concessions as Sage may in its absolute discretion apply from time to time. Subscription Fees may increase in accordance with **sections 4.3 and 5.5**.
- 5.5** Sage reserves the right to increase your Subscription Fees upon the commencement of your Renewal Term. Sage will use its reasonable endeavors to give you (or your Reseller if you purchased your Subscription from a Reseller) 60 days' written notice prior to the commencement of your Renewal Term of the amount by which your Subscription Fees will increase (unless the Sage Group plc entity from which you purchased your Subscription has agreed to give you a different number of days written notice prior to your Renewal Term). If you continue to Use your Subscription after the fee change takes effect, you will be deemed to (a) agree to the fee change and (b) authorize Sage to collect the new Subscription Fee amount using the agreed payment method.
- 5.6** You are responsible for providing Sage with your most current contact and billing information. You agree that, so long as your Subscription is active, Sage may automatically bill the same credit card or debit the same bank account you provided to Sage on the same periodic basis as previously agreed with you, unless subsequently agreed otherwise.
- 5.7** Subject to **section 5.3**, if you have agreed to pay the Subscription Fee to your Reseller, then the terms in your agreement with your Reseller in relation to payment of Subscription Fees and any other services provided by the Reseller to you will prevail over the payment terms in this **section 5**.

6. OWNERSHIP RIGHTS

- 6.1** Your right to Use the Subscription is licensed and not sold.

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6.2 As between you and Sage:

6.2.1 you shall own and retain all right, title and interest in Your Content, including your trade names, service marks, or any other trade insignia;

6.2.2 Sage and/or its licensors shall own and retain all intellectual property right, titles and interest in and to:

6.2.2.1 their respective trade names, logos, service marks, or any other trade insignia,

6.2.2.2 the Service, Documentation and the underlying technology, and

6.2.2.3 all content, including, without limitation, Sage Technology, but excluding Your Content.

Any right to use, transmit, reproduce, distribute, download, or exploit Sage Technology not expressly licensed to you in this Agreement is strictly prohibited. All rights not expressly set out in this Agreement are reserved by Sage.

6.3 You agree that Sage may, when necessary to maintain, upgrade, troubleshoot, and/or protect the integrity of your Subscription, Your Content and the Service, access and/or download Your Content on a limited basis and for the sole purpose of completing maintenance, upgrades, troubleshooting, and/or protecting the integrity of your Subscription, Your Content, and the Service.

7. LIMITED WARRANTIES AND DISCLAIMERS

7.1 Sage warrants that:

7.1.1 the Service will perform substantially in accordance with the Documentation (where utilised in accordance with Sage's operating instructions) and will be provided with reasonable care and skill. This warranty only applies so long as you use the Service in accordance with Sage's operating instructions (for example, the Documentation);

7.1.2 during your Subscription Term it will use commercially reasonable efforts to ensure that the Service will meet the service level specified in any service level guidelines notified to you by the Sage Group plc entity from which you purchased your Subscription.

7.2 If you notify Sage in writing that the Service does not conform with any of the warranties in **section 7.1** Sage will use reasonable commercial efforts to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Subject to your right to terminate the Service in accordance with the provisions of this Agreement, such correction or substitution constitutes your sole and exclusive remedy for any breach of the warranties set out in **section 7.1**.

7.3 Sage:

7.3.1 does not warrant that your Use of the Service will be uninterrupted or error-free, or that the Service, Documentation and/or the information obtained by you through the Service will meet your requirements or produce particular outcomes or results (irrespective of whether you informed Sage or a Reseller about how you intend to use the Service at the point of purchase); and

7.3.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7.4 **OTHER THAN THE EXPRESS, LIMITED WARRANTIES STATED IN THIS SECTION 7, SAGE AND ITS SUPPLIERS AND LICENSORS EXPRESSLY DISCLAIM TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS AND GUARANTEES OF ANY KIND OR NATURE WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES, CONDITIONS OR GUARANTEES (A)**

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OF MERCHANTABILITY OR SATISFACTORY QUALITY, (B) OF FITNESS FOR A PARTICULAR PURPOSE, OR (C) OF NON-INFRINGEMENT OF PROPRIETARY OR INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, AND (D) ARISING FROM CUSTOM OR TRADE USAGE OR BY ANY COURSE OF PRIOR DEALING OR COURSE OF PERFORMANCE. YOU ACKNOWLEDGE THAT THE UTILITY OF BUSINESS MANAGEMENT SOFTWARE DECREASES AS TECHNOLOGY EVOLVES AND THE BUSINESS ENVIRONMENT CHANGES AND THAT YOU ARE FREE TO DECIDE AND ARE RESPONSIBLE FOR DECIDING WHEN TO CEASE USING THE SERVICE.

7.5 Other Limitations and Requirements.

7.5.1 If you purchased your Subscription or any other related services from any distributor, reseller or dealer (including a Reseller) you should investigate and satisfy yourself regarding their experience, skills and qualifications. Any such third party from whom you have purchased the Subscription or other services is an independent contractor and is expressly not appointed or authorised by Sage as its servant or agent. No such person has any authority, either express or implied, to amend this Agreement, or to enter into any contract or provide any representation, warranty or guarantee with or to you on Sage's behalf, or otherwise to bind Sage in any way whatsoever. Sage will not be responsible for any modifications made to the Service by such persons, nor for any of their acts or omissions.

7.5.2 YOU ARE RESPONSIBLE FOR ADOPTING REASONABLE MEASURES TO:

7.5.2.1 ENSURE THE ACCURACY OF YOUR CONTENT AND THE PROCESS BY WHICH IT IS INPUT INTO THE SERVICE;

7.5.2.2 EXAMINE AND CONFIRM RESULTS OBTAINED FROM THE SERVICE BEFORE YOU RELY ON IT;

7.5.2.3 ADOPT PROCEDURES TO IDENTIFY AND CORRECT ERRORS AND OMISSIONS; AND

7.5.2.4 RECONSTRUCT YOUR CONTENT.

8. EXCLUSIONS OF AND LIMITATIONS ON LIABILITY

8.1 Nothing in this Agreement excludes Sage's liability for:

8.1.1 death or personal injury caused by Sage's negligence;

8.1.2 fraud or fraudulent misrepresentation;

8.1.3 any other matter Sage cannot limit or exclude by applicable law.

8.2 You acknowledge that the provision of the Service is inherently complex and may not be free from errors and that you have been advised to verify the work produced by the Service. Subject to **section 8.1** neither Sage nor its suppliers, or third-party providers shall be liable to you whether in tort, (including negligence or breach of statutory duty), delict, contract, misrepresentation, restitution or otherwise (even if Sage knew or should have known there was a possibility you could suffer or incur such loss or damage) for:

8.2.1 any special, indirect, incidental, consequential or punitive damages resulting from any defect in the Subscription;

8.2.2 any loss of profits, loss of business, loss of chargeable time, loss of anticipated savings, depletion of goodwill or similar losses however caused;

8.2.3 loss of use or loss of or damage to data/information inputted by you into the Service.

8.3 **SUBJECT TO CLAUSES 8.1 AND 8.2 IN NO EVENT SHALL SAGE'S LIABILITY TO YOU ARISING OUT OF OR IN CONNECTION WITH THE SERVICE, YOUR SUBSCRIPTION OR THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID BY YOU IN THE TWELVE (12) MONTHS PRECEDING YOUR CLAIM, OR ANY SHORTER PERIOD IF THIS AGREEMENT TERMINATES FOR ANY REASON PRIOR TO THE END OF YOUR FIRST SUBSCRIPTION PERIOD.**

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- 8.4 You acknowledge and agree that this Agreement allocates risk between you and Sage as authorized by applicable law and that the Subscription pricing reflects this allocation of risk and the exclusions and limitations of liability contained in this Agreement. If any remedy hereunder is determined to have failed of its essential purpose, all other limitations of liability and exclusion of damages set out in this Agreement shall remain in full force and effect.
- 8.5 You acknowledge that unless you and Sage agree in writing for Sage to provide any other products and/or services directly to you in connection with your Subscription, you are responsible for engaging a qualified third party to provide those products and/or services for you on terms you negotiate. You also acknowledge that you are responsible for independently investigating the skills and qualifications of such third party to ensure that they provide you with the level of skill and service your business requires. You agree that Sage shall have no liability whatsoever for any failure associated with such products and/or services (including any delay or non-performance of the Service which is caused by such products and/or services), even if the party you engage is an authorized or certified Reseller, consultant, or installer of Sage products and/or services.
- 8.6 In the event that you wish to bring a claim or other civil proceeding arising out of or in connection with this Agreement, you represent and warrant to Sage that the involvement of you and any of your Affiliates in such a claim or proceeding shall not give rise to any increase in or multiplication of any cap placed on Sage's liability.
- 9. INDEMNIFICATION**
- 9.1 If you receive notice of any claim that your use of any part of the Service infringes any third party's intellectual property right in a patent, copyright, or trade secret (an "**Indemnity Claim**"), Sage shall defend and shall indemnify and hold you harmless by paying any resulting costs and damages finally awarded by a court of competent jurisdiction with respect to any such Indemnity Claim provided that you:
- 9.1.1 notify Sage in writing promptly upon becoming aware of the Indemnity Claim;
 - 9.1.1 at Sage's request and expense, give Sage such information and assistance as is reasonable under the circumstances; and
 - 9.1.2 do not independently defend or respond to any claim or threatened claim and give Sage the right to settle the Indemnity Claim in Sage's sole discretion and at Sage's expense.
- 9.2 You shall indemnify and hold Sage, its Affiliates and its officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a third party; or (ii) a claim alleging that your use of the Service or Content in breach of this Agreement infringes the rights of, or has caused harm to, a third party.
- 9.3 This indemnification does not extend to any Indemnity Claim:
- 9.3.1 arising from the combination of the Service with other elements not under Sage's sole control;
 - 9.3.2 arising from any part of the Service that you or a third-party modify, or that incorporates specifications, designs or formulas that you provide;
 - 9.3.3 which arises as a result of your continued Use of the Service after you have been notified that it infringes the rights of a third party; or
 - 9.3.4 if in relation to an Indemnity Claim you do not comply with **section 9.1 above**.
- 9.4 If you are prevented from Using the Service because of an actual or threatened infringement, then at Sage's option, Sage shall promptly either:
- 9.4.1 obtain for you the right to continue Using the affected part of the Service; or
 - 9.4.2 replace or modify the affected part of the Service so that it becomes non-infringing.

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9.5 If having used all reasonable commercial efforts Sage cannot achieve either of the circumstances in **sections 9.4.1 or 9.4.2** on reasonable terms and you give Sage a written notice to do so, Sage will promptly refund to you a pro-rata portion of the Subscription Fee based on your Use of the Service during your relevant Subscription Term, when this Agreement including your right to Use the Service shall automatically terminate.

9.6 THIS **SECTION 9** SETS OUT SAGE'S ENTIRE FINANCIAL LIABILITY FOR ANY INDEMNITY CLAIM.

10. PRIVACY

10.1 Sage will not actively monitor Your Content but will investigate complaints of violations of a third party right. Sage will cooperate with those attempting to minimize internet or telecommunication abuse and reserves the right to institute filters or other mechanisms for that purpose. Sage will cooperate with law enforcement authorities and may notify such authorities if it suspects that you are engaged in illegal activities. For more information regarding Sage's protection of your information, please consult Sage's Privacy Notice. Your use of third-party Supplemental Services or Required Third Party Services may also be subject to privacy policies of those third party providers.

11. CONFIDENTIALITY

11.1 Sage shall implement commercially reasonable security measures designed to prevent the disclosure or dissemination of Your Content and information regarding your Subscription to any third party without your written consent and shall not use Your Content for Sage's own benefit or for the benefit of any third party, except to its Affiliates and to the extent permitted by this Agreement. Notwithstanding the foregoing, you agree that Sage may provide Your Content to those third parties that Sage engages to provide services of and support for the Subscription, Required Third Party Services and your Supplemental Services.

11.2 You shall implement commercially reasonable security measures designed to prevent the disclosure or dissemination of the Service, Sage Technology and information about your Subscription to any third party without Sage's written consent, and shall not Use the Service, Sage Technology, or information about your Subscription for your own benefit or the benefit of any third party, except to the extent permitted by this Agreement.

11.3 If you are or Sage is requested pursuant to, or required by, applicable law, regulation or legal process to make disclosures of information ("**Protected Information**") otherwise prohibited by **sections 11.1 or 11.2**, above, each of us will promptly notify the other (if not prohibited by law or legal or regulatory process) so that the other may seek a protective order or other appropriate remedy or, in the other's sole discretion, waive compliance with the terms of this Agreement. In the event that no such protective order or other remedy is obtained, or that the other party does not waive compliance with the terms of this Agreement, then each party shall furnish only that portion of the Protected Information which it believes in good faith, after consulting with legal counsel, it is legally required to disclose and will exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded to the Protected Information.

12. ANTI-BRIBERY AND CORRUPTION

12.1 Each party will and will procure that persons associated with them:

12.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption (the "**Relevant Requirements**");

12.1.2 not engage in any conduct which would constitute an offence under any of the Relevant Requirements;

12.1.3 not do, or omit to do, any act that may lead the other party to be in breach of any of the Relevant Requirements;

12.1.4 promptly report to the other party any request or demand for any undue financial or other advantage received by it in connection with this Agreement;

12.1.5 have and maintain in place during the term of this Agreement its own policies and procedures to ensure compliance with the Relevant Requirements and will enforce them where appropriate.

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13. DATA PROTECTION

13.1 This **Section 13** applies to the extent the GDPR governs Sage's Processing of your data (including Customer Data).

13.2 For the purposes of this Agreement, the parties agree that you are the Controller in respect of Personal Data contained within Customer Data ("**Customer Personal Data**") and as Controller, you have sole responsibility for its legality, reliability, integrity, accuracy and quality.

13.3 You warrant and represent that:

13.3.1 you will comply with and will ensure that your instructions for the Processing of Customer Personal Data will comply with the Data Protection Laws;

13.3.2 you are authorized pursuant to the Data Protection Laws to disclose any Customer Personal Data which you disclose or otherwise provide to Sage regarding persons other than yourself;

13.3.3 you will where necessary, and in accordance with the Data Protection Laws, obtain all necessary consents and rights and provide all necessary information and notices to Data Subjects in order for:

13.3.3.1 you to disclose the Customer Personal Data to Sage;

13.2.3.2 Sage to Process the Customer Personal Data for the purposes set out in this Agreement; and

13.2.3.3 Sage to disclose the Customer Personal Data to: (a) its agents, service providers and other companies within the Sage group of companies; (b) law enforcement agencies; (c) any other person in order to meet any legal obligations on Sage, including statutory or regulatory reporting; and (d) any other person who has a legal right to require disclosure of the information, including where the recipients of the Customer Personal Data are outside the European Economic Area.

13.4 To the extent the GDPR governs Sage's Processing of any Customer Personal Data, the terms of Exhibit A shall apply and the parties agree to comply with such terms.

13.5 Where, and to the extent Sage Processes your Personal Data as a Controller in accordance with the Privacy Notice, Sage shall comply with all Data Protection Laws applicable to Sage as Controller.

13.6 You agree that Sage may record, retain and use Customer Data generated and stored during your use of the Service (including Customer Personal Data, which Sage shall Process as Controller as set out in the Privacy Notice, on the basis of Sage's legitimate business interests), in order to:

13.6.1 deliver advertising, marketing (including in-product messaging) or information to you which may be useful to you, based on your use of the Service;

13.6.2 carry out research and development to improve Sage, and its Affiliates', services, products and applications;

13.6.3 develop and provide new and existing functionality and services (including statistical analysis, benchmarking and forecasting services) to you and other Sage customers;

13.6.3 provide you with location based services (for example location relevant content) where Sage collects geo-location data to provide a relevant experience,

provided that Sage shall only record, retain and use the Customer Data and/or Process Customer Personal Data on a pseudonymized basis, displayed at aggregated levels, which will not be linked back to you or to any living individual. If at any time you do not want Sage to use Customer Data in the manner described in this **section 13.6**, please contact Sage at the email address set out in the Privacy Notice.

14. TERMINATION

14.1 This Agreement commences on the Commencement Date and continues until it is terminated in accordance with the provisions of this Agreement. You cannot access the Service after this Agreement is terminated.

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- 14.2** Subscriptions will automatically renew for the Renewal Term equal to the expiring Subscription Term (unless agreed otherwise between the parties) unless either party gives the other or a Reseller (as the case may be) written notice of non-renewal (and the written notice required will be as notified to you by the Sage Group plc entity from which you purchased your Subscription) before the end of the relevant Subscription Term. Where a party gives such written notice then your Subscription shall end at the end of the relevant Subscription Term.
- 14.3** Sage may terminate this Agreement on written notice to you:
- 14.3.1** if you fail to pay when due any Subscription Fee and Sage then gives you ten (10) business days' written notice of such late payment and after ten (10) business days you have still not paid such amount (unless the Sage Group plc entity from which you purchased your Subscription has agreed a different notice period within which you must pay your Subscription Fee);
 - 14.3.2** if you fail to comply with any term of this Agreement and, if capable of remedy, do not rectify your non-compliance within thirty (30) days of Sage's written notice requiring you to remedy your non-compliance. Where a breach is a material breach or a breach not capable of remedy Sage may in its sole discretion terminate this Agreement on written notice to you with immediate effect;
 - 14.3.3** to the extent applicable under your local jurisdiction, if you cease to exist, cease to trade, become bankrupt, go into liquidation, suffer or make any winding up petition, make an appointment with your creditors, have an administrator, administrative receiver or other receiver appointed, benefit from a statutory moratorium of your debts, or if you are affected by any similar circumstances.
- 14.4** If this Agreement terminates for any reason, Your Content will remain Your Content and you are entitled to extract it before the end of this Agreement. However, your failure to extract Your Content will not prevent this Agreement from ending. Sage may be able to extract Your Content up to thirty (30) days after this Agreement has terminated and may make a charge for providing Your Content to you in such circumstances.
- 14.5** Sage will have no liability to you or any third party for the termination of this Agreement with or without cause, including without limitation, liability for compensation, reimbursement or damages on account of the loss of prospective profits or on account of expenditures, investments, leases or commitments made in connection with your business or goodwill or for any other reason whatsoever.
- 14.6** Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
- 14.7** Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.
- 15. GENERAL TERMS**
- 15.1 Independent Contractors.** Each party is an independent contractor and neither party will represent itself as agent, servant, franchisee, joint venture or legal partner of the other.
- 15.2 Export.** The Service and your Subscription may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any United States government denied-party list. You shall not permit your Users of the Service to access or Use the Service in a United States embargoed country or in violation of any United States export law or regulation.
- 15.3 Transfer and Assignment.** You shall not transfer, delegate, or assign this Agreement in whole or in part, directly or indirectly, by operation of law, merger, acquisition, or otherwise without Sage's prior written consent. This Agreement is assignable by Sage and Sage is entitled to sub-contract any of its obligations under this Agreement provided that any such sub-contracting will not relieve Sage of its obligations to you.

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- 15.4 U.S. Government Restricted Rights.** If the Sage Group plc entity with which you contracted for the Subscription and Service is Sage Software, Inc., the Subscription and Service are made available with RESTRICTED RIGHTS. Use, duplication, or disclosure by the U.S. Government (including its agencies and instrumentalities) is subject to restrictions set forth in 48 CFR 52.227-19 or DFARS 252.227-7014, as applicable. Sage Software, Inc. is the distributor in North America. Sage Software, Inc.'s address in the United States is 271 17th Street, Suite 1100, Atlanta, Georgia 30363; Sage Software, Inc.'s address in Canada is 13888 Wireless Way, Suite 120, Richmond, British Columbia, V6V 0A3, Canada.
- 15.5 Jurisdictional Rights.** This Agreement gives you specific legal rights and you may also have other rights which vary from jurisdiction to jurisdiction, for example, some jurisdictions do not allow the exclusion or limitation of implied warranties or of liability for incidental or consequential damages, so some or all of the provisions of this Agreement may not apply to you in which case the provisions of **section 15.14** will apply.
- 15.6 Waiver.** No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver or continuing waiver of such rights. Such rights may only be waived in writing signed by both parties.
- 15.7 Audit Rights.** With or without prior notice, Sage may audit your Use of the Subscription through the Service to ensure that you comply with the terms and conditions of this Agreement. If an audit reveals that you have underpaid fees or owe fees to Sage, Sage will invoice you for the underpayment or amount due based on Sage's price list in effect at the time the audit is completed.
- 15.8 Auto updates.** Your Subscription may contain auto update technology, a feature used to provide Maintenance as part of your Subscription. This feature cannot be disabled. This feature will: (a) connect to Sage or service provider computer systems over the internet; (b) use internet protocols to recover standard computer information in order to determine whether Maintenance is required; and (c) automatically download and install, or prompt you to download and/or install, current Maintenance. By Using the Service initially, you consent to the transmission of standard computer information and the automatic downloading and installation of Maintenance.
- 15.9 Force Majeure.** Sage will have no liability to you under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control.
- 15.10 No Third-Party Beneficiaries.** Except as expressly set out in this Agreement, a person who is not a party to this Agreement will have no rights to enforce any terms in this Agreement.
- 15.11 Notices and Electronic Communications.** Your day to day communication with Sage must be via the contact details given in Sage's relevant documentation and Sage's communication to you will be via those details given to Sage when you accepted this Agreement (or any new details which you subsequently notify to Sage). Each party will use the appropriate communication medium, including e-mail and in the case of Sage communicating with you, by publishing notices on its website. Any formal notice required to be given under this Agreement will be in writing and will be sent by pre-paid mail or recorded delivery 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) recorded delivery on the next business day; or (c) email at 0900 on the next business day after the email is sent, or earlier if the intended recipient has confirmed receipt (either specifically or by conduct).
- 15.12 Reference Program.** Unless you send us a notice in accordance with **section 15.11**, Sage (or any company within the Sage Group Plc group of companies) may reference the relationship established by this Agreement by including your company name, and/or trade mark(s) and/or logo(s):
- 15.12.1** in its list of customers on Sage corporate websites or printed materials;
 - 15.12.2** in communications presenting Sage and its product and services to existing and prospective clients;
 - 15.12.3** in press releases (including in a 'customer win' release which is an announcement about Sage new clients and in Sage case studies (written or video) which may include a mutually agreeable quote or

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testimonial from one of your executives. Sage press releases and case studies may be published on Sage corporate websites.

If at any time you do not want Sage to use your company name and/or trade mark(s) and/or logo(s) in the ways described above please let Sage know by sending an email to ipfilings@sage.com or by contacting your usual Sage representative. Sage will remove any reference to your company name and/or trade mark(s) and/or logo(s) as soon as reasonably possible, however, you acknowledge that it may take a short while to process your request and that some former publications of your company name and/or trade mark(s) and/or logo(s) may still be publicly available. For more information about how Sage uses information about you please refer to the Privacy Notice.

15.13 Entire Agreement. This Agreement represents the complete and exclusive understanding between you and Sage regarding your Subscription and Use of the Service and supersedes any prior purchase order terms, confirmation, advertising, representation, agreement or other communication. Notwithstanding the fact that you may click on an "I Accept" or similar button during the activation of your Subscription, if you sign a paper copy of this Agreement, the parties agree that the terms in the physical signed document shall prevail over the terms of this Agreement to which you indicate your electronic acceptance by clicking the "I Accept" or similar button during the activation process. The parties acknowledge that in entering into this Agreement they have not relied on and will have no rights or remedies in respect of any statement, representation, assurance or warranty other than as expressly set out in this Agreement. Nothing in this section shall limited or exclude the parties' liability for fraudulent misrepresentation.

15.14 Severability. If any provision of 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. Any such severed provision shall be replaced with a similar provision that conforms to applicable law of the Sage Group plc entity from which you purchased the Subscription and embodies as closely as possible the original intent of the parties.

15.15 Dispute Resolution. If a dispute or other disagreement arises between the parties, then:

15.15.1 each party agrees to promptly raise the matter internally to the relevant account managers for resolution and if the account managers are unable to rectify the matter within thirty (30) days of being requested to do so, the parties will each escalate the matter to senior managers for resolution who will attempt to resolve the dispute within a further period of thirty (30) days;

15.15.2 if the senior managers are unable to resolve the matter within thirty (30) days of being requested to do so, the parties will each escalate the matter to a director or vice president. The director or vice president will then in good faith attempt to resolve the matter within a further period of thirty (30) days;

15.15.3 where the matter has not been resolved following the procedure in **subsections 15.15.1 and 15.15.2**, then either:

15.15.3.1 where you Subscribe to the Service primarily in North America, Argentina, Caribbean (except French Caribbean), Chile, Columbia, Cuba, Ecuador, Guatemala, Mexico, Panama, Peru, Puerto Rico or Uruguay, then any cause of action or claim arising out of or relating to this Agreement or the breach thereof, including without limitation, the validity, enforceability or scope of this Agreement, shall be settled by binding arbitration conducted in Atlanta, Georgia. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In addition, you agree that any cause of action or claim will be arbitrated individually and that you will not consolidate or seek class treatment for any claims, unless previously agreed to in writing by you and Sage; or

15.15.3.2 otherwise either party is free to pursue alternative remedies.

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Neither party can commence any litigation or court proceedings in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute in accordance with this **section 15.15** except where a party seeks interim injunctive relief or to issue a claim within an applicable limitation period.

15.16 Governing Law and Jurisdiction. This Agreement and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the laws of the Sage Group plc entity that you are contracting with as set out in the column entitled "Governing Law" in the table set out in Exhibit B.

Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of the country and State (as applicable) of the Sage Group plc entity you are contracting with as set out in the column entitled "Court of Jurisdiction" in the table set out in Exhibit B over any claim or matter arising out of or in connection with this Agreement or the legal relationships established by it.

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EXHIBIT A – DATA PROTECTION

1. Interpretation

- 1.1 Where there is any inconsistency between the terms of this Exhibit A and any other terms of this Agreement, the terms of this Exhibit A shall take precedence.

2. Processing of Customer Personal Data

- 2.1 During the term of this Agreement Sage warrants and represents that it:

2.1.1 shall comply with the Data Protection Laws applicable to Sage whilst such Customer Personal Data is in Sage's control;

2.1.2 when acting in the capacity of a Processor, shall only Process the Customer Personal Data:

2.1.2.1 as is necessary for the provision of the Service under this Agreement and the performance of Sage's obligations under this Agreement; or

2.1.2.2 otherwise on your documented instructions.

- 2.2 Sage agrees to comply with the following provisions with respect to any Customer Personal Data Processed for you in connection with the provision of the Service under this Agreement.

3. Obligations of Sage

- 3.1 Sage shall:

3.1.1 taking into account the nature of the Processing, assist you by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of your obligations to respond to requests from individuals for exercising Data Subjects' rights; and

3.1.2 taking into account the nature of the Processing, and the information available to it, provide reasonable assistance to you in ensuring compliance with your obligations relating to:

3.1.2.1 notifications to Supervisory Authorities;

3.1.2.2 prior consultations with Supervisory Authorities;

3.1.2.3 communication of any breach to Data Subjects; and

3.1.2.4 privacy impact assessments.

4. Personnel

- 4.1 Sage shall:

4.1.1 take reasonable steps to ensure the reliability of any personnel who may have access to the Personal Data;

4.1.2 ensure that access to the Customer Personal Data is strictly limited to those individuals who need to know and/or access the Customer Personal Data for the purposes of this Agreement; and

4.1.3 ensure that persons authorized to Process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

- 4.2 If so required by Data Protection Laws, Sage shall appoint a data protection officer and make details of the same publicly available.

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5. Security and Audit

- 5.1 Sage shall implement and maintain appropriate technical and organizational security measures appropriate to the risks presented by the relevant Processing activity to protect the Personal Data against unauthorized or unlawful Processing and against accidental loss, destruction, damage or disclosure. Such measures include, without limitation, the security measures set out in **section 5.3** below.
- 5.2 Subject to any existing obligations of confidentiality owed to other parties, Sage shall make available to you all information reasonably necessary to demonstrate compliance with the obligations set out in this Exhibit A, which may include a summary of any available third party security audit report, or shall, at your sole cost and expense (including, for the avoidance of doubt any expenses reasonably incurred by us), allow for and contribute to independent audits, including inspections, conducted by a suitably-qualified third party auditor mandated by you and approved by Sage.
- 5.3 Sage operates, maintains and enforces an information security management programme ("**Security Program**") which is consistent with recognized industry best practice. The Security Program contains appropriate administrative, physical, technical and organizational safeguards, policies and controls in the following areas:
- 5.3.1 information security policies;
 - 5.3.2 organization of information security;
 - 5.3.3 human resources security;
 - 5.3.4 asset management;
 - 5.3.5 access control;
 - 5.3.6 cryptography;
 - 5.3.7 physical and environmental security;
 - 5.3.8 operations security;
 - 5.3.9 communications security;
 - 5.3.10 system acquisition, development and maintenance;
 - 5.3.11 supplier relationships;
 - 5.3.12 information security incident management;
 - 5.3.13 information security aspects of business continuity management;
 - 5.1.14 legislative, regulatory and contractual compliance.

6. Data Breach

- 6.1 Sage shall notify you if it becomes aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to the Customer Personal Data arising from any act or omission of Sage or its sub-processors.

7. Transfer of Personal Data outside the EEA

- 7.1 You expressly agree that Sage may transfer Customer Personal Data within the Sage group of companies on the terms of Sage's Master Data Processing and Transfer Agreements, which incorporate the European Commission's standard contractual clauses.
- 7.2 You acknowledge that the provision of the Service may require the Processing of Customer Personal Data by sub-processors in countries outside the EEA. Sage shall not transfer Customer Personal Data outside the EEA to a sub-processor where such transfer is not subject to: (a) an adequacy decision (in accordance with Article 45 of the GDPR); or (b) appropriate safeguards (in accordance with Article 46 of the GDPR); or (c) binding corporate rules (in accordance with Article 47 of the GDPR), without your prior written consent.

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8. Return and deletion

- 8.1 At your option, Sage shall delete or return all Customer Personal Data to you at the end of the provision of the Service and delete all existing copies of Customer Personal Data unless Sage is under a legal obligation to require storage of that data or Sage has another legitimate business reason for doing so.

9. Use of Sub-Processors

- 9.1 You agree that Sage has general authority to engage third parties, partners, agents or service providers, including its Affiliates, to Process Customer Personal Data on your behalf in order to provide the applications, products, services and information you have requested or which Sage believes is of interest to you ("**Approved Sub-Processors**"). Sage shall not engage a sub-processor to carry out specific Processing activities which fall outside the general authority granted above without your prior specific written authorisation and, where such other sub-processor is so engaged, Sage shall ensure that the same obligations set out in this Exhibit A shall be imposed on that sub-processor.
- 9.2 Sage shall be liable for the acts and omissions of its Approved Sub-Processors to the same extent Sage would be liable if performing the services of each Approved Sub-Processor directly under the terms of this Exhibit A.

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EXHIBIT B

Reference to the term “Sage” in this Agreement means the Sage Group plc entity as indicated in the table below:

	Sage Entity and Address	Governing Law	Court of Jurisdiction
If you contracted with Sage in the United Kingdom (including where your company, business or organization is based in the Republic of Ireland) for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage (UK) Limited, registered company number 1045967, with a registered office address at North Park, Newcastle upon Tyne, NE13 9AA.	English law	English.
If you contracted with Sage in the United States or your company, business or organization is based in Argentina, Caribbean (except French Caribbean), Chile, Columbia, Cuba, Ecuador, Guatemala, Mexico, Panama, Peru, Puerto Rico or Uruguay, for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Software, Inc., a Virginia corporation located at 271 17 th Street, Suite 1100, Atlanta, Georgia 30363.	The laws of the State of Georgia (without reference to its conflicts of law principles) and controlling United States federal laws.	The exclusive court will be located in Gwinnett County, Georgia for state subject matter and Fulton County, Georgia for federal subject matter.
If you contracted with Sage in Canada for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Software Canada Limited, an Ontario corporation located at 120 Bremner Blvd, Suite 1500, Toronto, Ontario M5J 0A1 Canada.	The laws of the Province of Ontario.	The exclusive court will be located in Ontario.
If you contracted with Sage in France for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage SAS, with a share capital of 6,750,000€ and registered in Paris under number 313 966 129, located at 10, rue Fructidor-75834 Paris cedex 17 Paris.	French law.	Court of Paris.
If you contracted with Sage in Germany for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage GmbH Franklinstraße 61-63, 60486 Frankfurt am Main.	German law (without reference to its conflicts of law principles and without the	Frankfurt am Main.

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If you contracted with Sage in Spain for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Spain, S.L., with registered office at Madrid, Avenida Europa, 19, 1 st floor, (28108) Alcobendas (Madrid).	Spanish law.	Madrid courts.
If you contracted with Sage in South Africa for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage South Africa (Pty) Ltd, with a street address at Sage Technology Park, 102 Western Services Road, Gallo Manor Ext. 6, Johannesburg, 2191, South Africa and a postal address at PO Box 781893, Sandton, 2146, South Africa.	South African law.	Johannesburg, South Africa.
If you contracted with Sage in Australia (including where your company, business or organization is based in New Zealand or the Pacific Islands) for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Business Solutions Pty Ltd (ACN 091 525 898), with a registered office address at Level 11, Zenith Tower B, 821 Pacific Highway, Chatswood NSW 2067, Australia.	Australian law.	New South Wales, Australia.
If you contracted with Sage in Portugal for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Portugal – Software, S.A., Edifício Olympus II, Av. Dom Afonso Henriques 1462, 4450 Matosinhos, Portugal.	Portuguese law.	Porto courts.
If you contracted with Sage in Switzerland for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Schweiz AG, Platz 10, 6039 Root D4, Switzerland.	Swiss law.	Lucerne, Switzerland.
If you contracted with Sage in Brazil for the Use of the Service, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Brasil Software S.A. Rodovia Luiz de Queiroz (SP 304), km. 127,5, city of Americana, State of São Paulo, Brasil.	Brazilian Law.	City of Americana, State of São Paulo.