

Professional Services Agreement



This Agreement is between:

- (1) **Sage (UK) Limited** (registered number 1045967) whose registered office is at North Park, Newcastle upon Tyne, NE13 9AA (“**Sage**”); and
- (2) **Insert Details** (registered number **insert details**) with a registered company address at **insert details** (the “**Customer**”).

The parties to this Agreement accept all the provisions set out on the following pages by their duly authorised representatives signing below.

For and on behalf of:	Insert Details
Authorised Signatory [sign here]	X.....
Name [print name]
Title [insert job title]
Date [date of signature]

For and on behalf of:	Sage (UK) Limited
Authorised Signatory [sign here]	X.....
Name [print name]
Title [insert job title]
Date [date of signature]

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The parties agree as follows:

1. Definitions and Interpretation

1.1 In this Agreement the following words shall have the following meaning unless the context requires otherwise:

“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;

“Agreement” this professional services agreement, a relevant Statement of Work and any documentation annexed to a Statement of Work (as the case may be);

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

“Confidential Information” (a) the terms of this Agreement, (b) all information (of whatever nature and however recorded or preserved) disclosed by one party to the other, 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” shall mean the data, information or material provided, inputted or submitted by the Customer or on the Customer’s behalf into the Service which may include, without limitation data relating to the Customers’ customers, suppliers and/or its employees;

“Customer Personal Data” has the meaning set out in clause 12.1;

“Data 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;

“Data Processor” a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Data Controller;

“Data Protection Laws” means all applicable EU laws and regulations governing the use or processing of Personal Data, including (where applicable) the European Union Directive 95/46/EC (until and including 24 May 2018), the GDPR (from and including 25 May 2018) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time;

“Deliverables” materials and information created by Sage during the performance of the Service;

“Force Majeure Event” an event beyond the reasonable control of a party including: an act of God, governmental intervention, war, fire, flood, explosion, civil commotion, armed hostilities, act of terrorism, revolution, blockade, embargo, strike, lock-out, sit-in, industrial or trade dispute to the extent to which those things do not involve employees of the party claiming relief, seriously adverse weather or disease, the act or intervention of a competent judicial or regulatory authority which does not result from a party’s unlawful act or omission including its infringement of third party Intellectual Property Rights;

“GDPR” means EU General Data Protection Regulation 2016/679;

“Insolvency Event” an order being made or a resolution being passed for the winding up of a party or circumstances arising which entitle a court of competent jurisdiction to make a winding-up order of a party or an order being made for the appointment of an administrator to manage the affairs, business and property of a party or documents being filed with a court of competent jurisdiction for the appointment of an administrator of a party or notice of intention to appoint an administrator being given by a party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of schedule B1 to the Insolvency Act 1986), or a receiver being appointed over all or substantially all of a party’s assets or undertaking, or circumstances arising which entitle a court of competent jurisdiction or a creditor to

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appoint a receiver or manager of a party, or any other person taking possession of or selling a party's assets, or a party making any arrangement or composition with its creditors or making an application to a court of competent jurisdiction for the protection of its creditors in any way, or a party ceasing to trade or a party taking or experiencing any similar action in any jurisdiction in consequence of debt;

"Intellectual Property Rights" (a) copyright, database rights, patents, rights in trade marks, designs (in each of the last two cases, whether registered or unregistered), know-how and confidential information; (b) applications for registration and the right to apply for registration, for any of these rights; and (c) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

"Licence Agreement" the Sage standard software licence agreement for the use of the Software (which shall also apply to any modifications or enhancements to the Software made pursuant to this Agreement);

"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;

"Privacy Policy" means Sage's privacy notice posted on www.sage.com (or such other URL as Sage may notify to the Customer) and which may be amended by Sage from time to time;

"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, organisation, 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;

"Representative" the authorised representative of a party identified in the Statement of Work, or as identified in writing by a party to the other from time to time;

"Relevant Requirements" means all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption;

"Service" the service described in the Statement of Work, comprising the number of man days specified in the Statement of Work;

"Service Charge" the charge payable by the Customer for the Service as set out in the Statement of Work;

"Service Period" the period during which Sage shall provide the Service as set out in the Statement of Work, or if not so specified as may from time to time be agreed in writing (including e-mail) by the parties;

"Software" the Sage software supplied pursuant to the Licence Agreement and any upgrades or updates to it provided by Sage pursuant to the Licence Agreement or any associated support and maintenance agreement.

"Statement of Work" a statement of work document to be agreed between the parties which will detail the parties' Representatives, the Service, the Service Charge, the Service Period and any other obligations in relation to provision of the Service.

"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.

"VAT" value added tax chargeable in accordance with the Value Added Tax Act 1994 and any tax of a similar nature which may be substituted for or levied in addition to it.

1.2 In this Agreement any reference, express or implied, to an enactment (which includes any legislation in any jurisdiction) includes references to:

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- 1.2.1 that enactment as re-enacted, amended, extended or applied by or under any other enactment (before, on or after the date of this Agreement);
 - 1.2.2 any enactment which that enactment re-enacts (with or without modification); and
 - 1.2.3 any subordinate legislation made (before, on or after the date of this Agreement) under that enactment, as re-enacted, amended, extended or applied as described in clause 1.2.1, or under any enactment referred to in clause 1.2.2.
- 1.3 In this Agreement:
- 1.3.1 references to a person include an individual, a body corporate and an unincorporated association of persons;
 - 1.3.2 references to a "party" means either the Customer or Sage (as the case may be) and reference to the "parties" means Sage and the Customer together;
 - 1.3.3 subject to clause 14.6 (General), reference to a party to this Agreement also include references to the successors or assigns (immediate or otherwise) of that party;
 - 1.3.4 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;
 - 1.3.5 technical expressions shall have the meaning commonly attributed to them in the information technology and computer software industry in the United Kingdom.
- 1.4 The headings in this Agreement do not affect its construction or interpretation.
- 1.5 If there is any conflict or inconsistency between a term of this Agreement and a term in a Statement of Work or other documents referred to or otherwise incorporated into this Agreement, the term in this Agreement shall take precedence, followed by a paragraph of the Statement of Work or other documents referred to. A provision of any other document which purports to relate to the Service will only take precedence over this Agreement if agreed to by separate written agreement between the authorised contractual signatories of the parties.

2. Service Provision

- 2.1 Subject to payment by the Customer of the Service Charge, Sage shall provide the Service to the Customer in accordance with the terms in this Agreement and the relevant Statement of Work.
- 2.2 The Customer may request that Sage performs additional services (including additional man days to the man days specified in a Statement of Work), which Sage may agree to do, subject to and on the terms of a separate services agreement or a variation to this Agreement or a Statement of Work.
- 2.3 The Customer acknowledges and agrees that Sage will be under no obligation to provide the Service if the Customer is in breach of a term of clause 4 (Customer's Obligations). If Sage does provide the Service in such circumstances, subject to clause 8.4 (Warranty and Liability), Sage excludes all its liability for any claim arising out of the provision of such Service, whether arising from tortious act or omission including negligence, breach of contract or any other cause of action.
- 2.4 Each of the parties shall fully cooperate with each other and perform their respective obligations in the manner described in the Statement of Work. Formal day to day communication between the parties shall be between the parties' Representatives.
- 2.5 Any request made by either party to change the Services shall be dealt with in accordance with the change control procedure in the Statement of Work. If there is no such change control procedure, the parties acknowledge that no request to change the Service shall be accepted unless accepted in writing by both party's Representatives and also acknowledge that the implementation of such change is likely to increase the amount of the Service Charge and extend the time for delivery of the Deliverables.
- 2.6 Sage shall ensure that its personnel performing the Service:
- 2.6.1 have the necessary skill and experience to perform the Service;
 - 2.6.2 use when appropriate, standard commercially available computer software virus detection and prevention software, while performing the Service.

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3. Intellectual Property Rights

- 3.1 All Intellectual Property Rights in the Deliverables shall belong to Sage and/or its licensors absolutely. Sage hereby grants the Customer a non-exclusive, non-transferable, revocable licence to use the Deliverables to the extent necessary to enjoy the benefit of the Services as envisaged by this Agreement and as detailed in the Statement of Work with the effect that a reference in the Licence Agreement to the Software shall be deemed also to be a reference to any Deliverables. Such licence shall be for the duration of the rights granted under the applicable Licence Agreement.
- 3.2 The Software and all Intellectual Property Rights comprised in the Software belong to Sage absolutely (or the appropriate third party licensor(s)) and the Customer acquires no rights in or to the Software other than the express right to use it in accordance with the terms of the Licence Agreement.
- 3.3 Where Sage supplies any Software or third party software pursuant to this Agreement, the use of such Software or third party software shall be subject to the terms of Sage's (or the third party's as the case may be) relevant Licence Agreement.

4. Customer's Obligations

- 4.1 The Customer shall:
- 4.1.1 implement effective project management and apply sufficient technical and managerial resources;
 - 4.1.2 fully cooperate with Sage and make available, without charge, any reasonable information or facilities which are requested by Sage; and
 - 4.1.3 remain responsible for the overall management and conduct of their Representatives,
- in order to enable Sage to discharge its obligations under this Agreement during the provision of the Services.

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, if not so specified, monthly in arrears, and the Customer shall pay the Service Charge to Sage within thirty days of the date of Sage's invoice.
- 5.2 The Service Charge is based on the Service being provided from 0900 to 1700 Monday to Friday, excluding public and bank holidays in England and as otherwise specified in the Statement of Work. Sage may in its sole discretion provide services in addition to or outside these hours if the Customer pays Sage's then standard out of hours rates.
- 5.3 The Customer shall pay for Sage's reasonable out of pocket expenses including travel, accommodation, subsistence and other related expenses incurred by Sage's personnel in performing the Services elsewhere than at Sage's premises, which the Customer shall pay at the time specified in the Statement of Work or if not so specified, monthly in arrears. The Customer shall pay for any necessary materials required for the Service provided that Sage obtains the prior written approval of the Customer's Representative prior to ordering them, unless specified otherwise in the Statement of Work.
- 5.4 The Service Charge is exclusive of all taxes (including VAT or other applicable sales tax) and duties which the Customer shall pay in addition to the Service Charge at the then applicable rate.
- 5.5 All amounts due under this Agreement shall be paid in full without any deduction or withholding other than as required by law and neither party shall be entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.
- 5.6 If the Customer is required by law to make any withholding or deduction from the Service Charge, the Customer shall pay the full amount of the Service Charge to Sage and shall pay the amount of any such withholding or deduction to the appropriate authority. The parties shall cooperate and use all reasonable endeavours to obtain any available relief from such withholding or deduction.

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- 5.7 Notwithstanding any other term of this Agreement, Sage shall be under no obligation to perform the Service and may suspend its performance of the Service if, and for so long as, the Customer fails to pay the Service Charge or any part of it when the Service Charge is due in accordance with this Agreement.
- 5.8 Without prejudice to clause 5.7, if the Customer fails to pay any amount due under this Agreement by the appropriate date, Sage will be entitled to claim interest under the Late Payments of Commercial Debts (Interest) Act 1998.
- 5.9 Sage may revise its standard rates from time to time. For the avoidance of doubt such revision shall not affect the Service Charge.

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 employees, officers, professional representatives or advisers, sub-contractors and agents, 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 in this Agreement.
- 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 termination of this Agreement or any other cessation of any business relationship between the parties.

7. Duration and Termination

- 7.1 This Agreement shall commence on the Commencement Date and shall continue until it is terminated in accordance with the provisions of this Agreement.
- 7.2 Subject to clause 11 (Cancellation Charges) a Statement of Work will continue until the end of a Service Period as set out in a Statement of Work. The termination of a Statement of Work will not affect any other Statement of Work which may be in force at the same time as this Agreement. For the avoidance of doubt and subject to clause 7.3, this Agreement will remain in full force and effect even if there is no active Statement of Work.
- 7.3 Subject to the Services being provided until the end of a Service Period in any extant Statement of Work, a party may terminate this Agreement by providing the other party with at least thirty (30) days' written notice.
- 7.4 Without prejudice to its other rights or remedies, a party may terminate this Agreement immediately by written notice to the other if:
 - 7.4.1 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 thirty days (or such other period as is agreed between the parties) after receiving written notice requiring it to remedy that breach; or
 - 7.4.2 the other party experiences an Insolvency Event.

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- 7.5 Without limiting the general meaning of clause 7.4.1, the Customer shall be in material breach of this Agreement if it is in breach of the Licence Agreement, fails to pay the Service Charge or is in breach of clause 6 (Confidentiality).
- 7.6 If Sage terminates this Agreement in accordance with clauses 7.3 or 7.4, then the Customer shall immediately pay all sums due to Sage under this Agreement.
- 7.7 Immediately on termination of this Agreement each party shall return the other party's Confidential Information.
- 7.8 Any termination of this Agreement shall not affect any accrued rights or liabilities of either party, nor shall it affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to come into force or continue in force on or after termination.

8. Warranty and Liability **THE CUSTOMER SHOULD ENSURE IT UNDERSTANDS THIS CLAUSE**

- 8.1 Sage warrants that it shall perform the Service with reasonable skill and care. Subject to clauses 8.3 and 8.4, this warranty is instead of all warranties, conditions, terms and representations implied by statute, common law, course of dealings or otherwise, all of which Sage excludes to the maximum extent permitted by law.
- 8.2 If Sage breaches the warranty given under clause 8.1 above, 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 by Sage of clause 8.1.
- 8.3 If as part of the Services Sage has developed any computer code specifically for the Customer (that is code which does not form part of the core Software), the warranty provided in clause 8.1 is limited to 60 days from the date the computer code is delivered to the Customer. If the Customer has elected to pay for annual support and maintenance for any computer code which has been specifically developed for the Customer (in which case this will be indicated in the relevant Statement of Work), then any subsequent support and maintenance will be provided by Sage as described in the Statement of Work. If the Customer has not paid for annual support and maintenance for any specifically developed computer code, then any subsequent support and maintenance (which may include any updates, patches, revisions, corrections or re-coding) that may be required to that computer code will be chargeable by Sage to the Customer at Sage's prevailing rates.
- 8.4 Neither party excludes or limits its liability for:
 - 8.4.1 fraud (including fraudulent misrepresentation);
 - 8.4.2 death or personal injury arising from its negligence or the negligence of its employees, agents or subcontractors;
 - 8.4.3 any other matter which may not be excluded by law.
- 8.5 Subject to clause 8.4, neither party shall be liable to the other for:
 - 8.5.1 loss of profits and/or anticipated profit;
 - 8.5.2 loss of revenues, contracts and/or business;
 - 8.5.3 loss of savings and/or anticipating savings;
 - 8.5.4 business interruptions;
 - 8.5.5 loss of goodwill, loss of reputation and/or similar losses;
 - 8.5.6 loss of or corruption to data,
(in each case whether arising directly or indirectly and whether it is known, foreseen or foreseeable);
 - 8.5.7 indirect, incidental, special, punitive or consequential loss or damage.
- 8.6 Subject to clauses 8.4 and 8.5, the liability of either party to the other under or in connection with this Agreement, whether arising from tortious act or omission including negligence, breach of contract, any

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indemnity or otherwise, shall not exceed one hundred and twenty five per cent (125%) of the Service Charge.

- 8.7 Subject to clause 8.4, neither party may bring an action against the other under or in connection with this Agreement (whether for tortious act or omission including negligence, breach of contract, misrepresentation, under any indemnity or otherwise) more than two years after that party becomes aware of the cause of action, claim, or event giving rise to the cause of action or claim.
- 8.8 Each party shall take all reasonable steps to mitigate any loss and damage it incurs in relation to any claim or action, whether for tortious act or omission including negligence, breach of contract, misrepresentation, under any indemnity or otherwise, which it brings against the other.
- 8.9 Each of the party's employees, agents and sub-contractors may rely upon and enforce the restrictions of liability in this clause 8 in that person's own name and for that person's own benefit, provided that the parties reserve the right to rescind or vary this Agreement or vary any term of it by written agreement between themselves, without the consent of such individuals.
- 8.10 The parties agree that:
 - 8.10.1 the limitations and exclusions set out in this clause are reasonable having regard to all the relevant circumstances, including the nature of the Service and the amount of the Service Charge;
 - 8.10.2 should any limitation or provision contained in this clause 8 be held to be invalid under any applicable statute or rule of law, that limitation or provision shall to that extent be deemed to be omitted and that if any party becomes liable for loss or damage which would otherwise have been excluded, such liability shall be subject to the other limitations and provisions set out in this Agreement.

9. Force Majeure

- 9.1 Subject to clause 9.2, a party ("Affected Party") shall not be liable to the other party for any delay or non-performance of its obligations under this Agreement to the extent to which that delay or non-performance arises from a Force Majeure Event.
- 9.2 So long as the Affected Party promptly notifies the other party in writing of the cause of the delay or non-performance and the likely duration of the delay or non-performance, and so long as the Affected Party uses its reasonable endeavours to limit the effect of that delay or non-performance on the other party, to the extent the performance of the Affected Party's obligations is affected by the Force Majeure Event, those obligations shall be suspended while the Force Majeure Event continues. If performance is not resumed within ninety days (or such other period as is agreed between the parties) after that notice, the other party may terminate this Agreement immediately by written notice to the Affected Party.
- 9.3 The provisions of this clause 9 shall survive the termination of this Agreement.

10. Notices

- 10.1 The Customer's day to day communication with Sage must be via the contact details given in Sage's relevant documentation and Sage's communication to the Customer will be via those details given to Sage when the Customer signed this Agreement (or any new details which the Customer subsequently notifies to Sage). 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. 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).

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11. Cancellation Charges

11.1 If the Customer wishes to cancel the delivery of the Services (or any part of them) the Customer must inform Sage in writing 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, the cancellation charges set out in the table below. The provisions in this clause 11 are without prejudice to any other rights or remedies Sage may have under this Agreement.

Number of Days Written Notice of Cancellation	Cancellation Charges Payable
15 days or more	Nil
14 days to 8 days	50% of Service Charge
7 days or less	100% of Service Charge

11.2 Sage and the Customer agree that the cancellation charges represent a genuine pre-estimate of the loss that Sage would suffer if the delivery of the Services (or the applicable part of the Services as the case may be) were cancelled.

11.3 If Sage wishes to cancel or postpone the delivery of any part of the Services, it will endeavour to provide the Customer with seven days' written notice. Sage will refund or credit the Customer for Fees paid in respect of any cancelled Services (but not for any Services performed to date).

12. Data Protection

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

12.2 The Customer warrants and represents that:

12.2.1 it will comply with and will ensure that its instructions for the Processing of Customer Personal Data will comply with the Data Protection Laws;

12.2.2 it is authorised pursuant to the Data Protection Laws to disclose any Customer Personal Data which it discloses or otherwise provides to Sage regarding persons other than itself;

12.2.3 it 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:

12.2.3.1 it to disclose the Customer Personal Data to Sage;

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

12.2.3.3 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.

12.3 To the extent that Sage Processes any Customer Personal Data, the terms of Exhibit A shall apply and the parties agree to comply with such terms.

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

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

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

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- 12.5.2 carry out research and development to improve Sage, and its Affiliates', services, products and applications;
- 12.5.3 develop and provide new and existing functionality and services (including statistical analysis, benchmarking and forecasting services) to the Customer and other Sage customers;
- 12.5.4 provide the Customer 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 pseudonymised basis, displayed at aggregated levels, which will not be linked back to the Customer or to any living individual. If at any time the Customer does not want Sage to use Customer Data in the manner described in this clause 12.5, please contact Sage at the email address set out in the Privacy Notice.

13. Anti-Bribery and Corruption

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

- 13.1.1 comply with the Relevant Requirements;
- 13.1.2 do not engage in any conduct which would constitute an offence under any of the Relevant Requirements;
- 13.1.3 do not do, or omit to do, any act that may lead the other party to be in breach of any of the Relevant Requirements;
- 13.1.4 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;
- 13.1.5 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.

14. General

14.1 Nothing in this Agreement shall be deemed to constitute a partnership between the parties, nor constitute either party as the agent of the other party for any purpose.

14.2 The rights of each party under this Agreement:

- 14.2.1 may be exercised as often as necessary;
- 14.2.2 are cumulative and unless expressly provided otherwise are not exclusive of rights or remedies provided by law; and
- 14.2.2 may be waived only in writing and specifically.

Any delay in exercising or not exercising any such right is not a waiver of that right.

14.3 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 of the parties.

14.4 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.

14.5 Each party undertakes, at the request and cost and expense of the other party, to sign all documents and to do all other acts, which may be necessary to give full effect to this Agreement.

14.6 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. Sage may assign any or all of its obligations under this Agreement as part of a bona fide merger, reorganisation or sale of its business, including as part of a bona fide merger, reorganisation or sale of the whole or any part of the group of companies ultimately held or controlled by The Sage Group plc. Sage may authorise a distributor, dealer, service centre or other third party service or support organisation to provide the Services and/or to invoice the Customer for and collect the Service Charge as Sage's designated representative. Such authorisation may be in the form of a sub-contract or other arrangement deemed appropriate by Sage.

14.7 Each party shall pay its own costs and expenses incurred in connection with entering into this Agreement.

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- 14.8 The Customer shall not, without the prior written consent of Sage, at any time from the Commencement Date to the expiry of six months after termination or expiry of this Agreement, solicit or entice away from Sage or employ or attempt to employ any person who is, or has been, engaged as an employee of Sage in the provision of the Services. Any consent given by Sage in accordance with this clause 14.8 shall be subject to the Customer paying to Sage a sum equivalent to six months of the then current annual basic salary of the departing employee.
- 14.9 Except as expressly stated in this Agreement, a person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 14.10 Subject to clause 8.4:
- 14.10.1 this Agreement and the documents referred to in it contain the whole agreement between the parties relating to the transactions contemplated by this Agreement and supersede all previous agreements between the parties relating to those transactions;
 - 14.10.2 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
 - 14.10.3 each party waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.

15. Law and Jurisdiction

- 15.1 This Agreement and any non-contractual obligations arising out of or in connection with it is governed by and interpreted in accordance with the English law and the parties submit to the exclusive jurisdiction of the English courts in relation to any claim or matter arising under or in connection with this Agreement or the legal relationships established by this Agreement.

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APPENDIX 1 – 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 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 Personal Data is in Sage's control;
 - 2.1.2 when acting in the capacity of a Data Processor, shall only Process the 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 the Customer's documented instructions.
- 2.2 Sage agrees to comply with the following provisions with respect to any Personal Data Processed for the Customer 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 the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's 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 the Customer in ensuring compliance with its 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 Personal Data is strictly limited to those individuals who need to know and/or access the Personal Data for the purposes of this Agreement; and
 - 4.1.3 ensure that persons authorised to Process the 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.

5. Security and Audit

- 5.1 Sage shall implement and maintain appropriate technical and organisational security measures appropriate to the risks presented by the relevant Processing activity to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage or disclosure. Such measures include, without limitation, the security measures set out in clause 5.3 below.

- 5.2 Subject to any existing obligations of confidentiality owed to other parties, Sage shall make available to the Customer 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 the Customer's sole cost and expense (including, for the avoidance of doubt any expenses reasonably incurred by Sage), allow for and contribute to independent audits, including inspections, conducted by a suitably-qualified third party audit or mandated by the Customer and approved by Sage.
- 5.3 Sage operates, maintains and enforces an information security management programme ("**Security Program**") which is consistent with recognised industry best practice. The Security Program contains appropriate administrative, physical, technical and organisational safeguards, policies and controls in the following areas:
- 5.3.1 information security policies;
 - 5.3.2 organisation 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 the Customer if it becomes aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Personal Data arising from any act or omission of Sage or its sub-processors.

7. Transfer of Personal Data outside the EEA

- 7.1 The Customer expressly agrees that Sage may transfer 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 The Customer acknowledges that the provision of the Service may require the Processing of Personal Data by sub-processors in countries outside the EEA. Sage shall not transfer 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 the Customer's prior written consent.

8. Return and deletion

- 8.1 At the Customer's option, Sage shall delete or return all Personal Data to the Customer at the end of the provision of the Service and delete all existing copies of 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 The Customer agrees that Sage has general authority to engage third parties, partners, agents or service providers, including its Affiliates, to Process Personal Data on the Customer's behalf in order to provide the applications, products, services and information the Customer has requested or which Sage believes is of interest to the Customer ("**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 the Customer's 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.

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- 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.