

## Onsite Training and Services Terms and Conditions

Last updated: April 2018

**Important:** You should read all of these terms to check that you agree to them before making any booking. By making a booking, you agree to the terms set out below.

### 1 Definitions and Interpretation

1.1 The definitions and rules of interpretation in this condition apply to the Contract:

<b>“Affiliate”</b>	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;
<b>“Confidential Information”</b>	all information (of whatever nature) disclosed by one party to the other, which (i) is 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;
<b>“Contract”</b>	the Contract between us and you made under these conditions including Appendix A, the Software Licence Agreement, the Proposal and any documentation annexed to the Proposal (as the case may be);
<b>“Customer Data”</b>	shall mean the data, information or material provided, inputted or submitted by you or on your behalf into the Services, which may include data relating to your customers and/or employees.
<b>“Customer Personal Data”</b>	has the meaning set out in clause 9.1.
<b>“Data Controller”</b>	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.
<b>“Data Processor”</b>	a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Data Controller.
<b>“Data Protection Laws”</b>	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.

<b>“Deliverables”</b>	all documents and materials developed by us in the provision of the Services, including computer code, data, reports and specifications but excluding the Software and any Third Party Software;
<b>“Fees”</b>	those fees payable by you to us as set out in the Proposal and payable in accordance with condition 4;
<b>“GDPR”</b>	means EU General Data Protection Regulation 2016/679.

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<b>“Intellectual Property Rights”</b>	all patents, copyrights, design rights, trade marks, service marks, trade secrets, know-how, database rights and other rights of a similar nature (whether registered or unregistered) anywhere in the world;
<b>“Personal Data”</b>	means any information relating to an identified or identifiable natural person ( <b>“Data Subject”</b> ); 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.
<b>“Privacy Notice”</b>	means our privacy notice posted on <a href="http://www.sage.com">www.sage.com</a> (or such other URL as we may notify to you) and which may be amended by Sage from time to time.
<b>“Processing”</b>	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 <b>“Process”</b> , <b>“Processed”</b> and <b>“Processes”</b> shall be construed accordingly.
<b>“Proposal”</b>	the proposal, order form or statement of work supplied to you by us or annexed to these conditions detailing information relevant to this Contract;
<b>“Services”</b>	the services to be performed for you as set out in the Proposal or such additional services that we agree (in writing) to perform for you under this Contract from time to time;
<b>“Software”</b>	our business software to be supplied pursuant to the Contract as set out in the Proposal (or as otherwise agreed to be supplied by us pursuant to this Contract);
<b>“Software Licence Agreement”</b>	our standard software licence agreement for the Software (which shall also apply to any modifications or enhancements to the Software made pursuant to the Contract);
<b>“Supervisory Authority”</b>	means an independent public authority which is established under applicable Member State law and which concerns itself with the Processing of Personal Data.

<b>“Third Party Software”</b>	any third party software to be supplied by us pursuant to this Contract as set out in the Proposal (or as otherwise agreed to be supplied by us pursuant to the Contract).
<b>”us, we or our”</b>	Sage (UK) Limited a company incorporated and registered in England and Wales under company number 1045967 whose registered office is at C23 5 & 6 Cobalt Park Way, Cobalt Park, Newcastle upon Tyne NE28 9EJ if you purchased your licence to use the Software in the United Kingdom or Sage Hibernia Limited trading as Sage Ireland a company incorporated and registered in the Republic of Ireland under company number 300549 whose registered office is at Unit 3096, Lake Drive, Citywest Business Park, Dublin 24 if you purchased your licence to use the Software in the Republic of Ireland; and
<b>“you or your”</b>	the individual, partnership, company or other organisation named in the Proposal.

- 1.2 Unless the context otherwise requires, references to statutory provisions include those statutory provisions as amended or re-enacted.
- 1.3 Words in the singular include the plural and in the plural include the singular.
- 1.4 In the case of conflict or ambiguity between these conditions, the Software Licence Agreement, the Proposal or any documentation annexed to the Proposal, these conditions shall take precedence followed by the Software Licence Agreement, the Proposal then any documentation annexed to the Proposal.

## **2 Application of Conditions**

These conditions shall apply to and be incorporated into the Contract and prevail over any inconsistent terms or conditions proposed by you or implied by law, custom, practice or course of dealing.

## **3 Services**

- 3.1 Subject to you paying the Fees and complying with your obligations under the Contract, we will provide the Services.
- 3.2 You acknowledge that the provision of the Services is subject to any limitations or customer requirements contained in the Proposal (for example any system or other equipment specifications).
- 3.3 You will fully cooperate with us and make available to us without charge any reasonable information or facilities requested by us to enable us to discharge our obligations under this Contract.
- 3.4 You confirm that you will comply with all relevant laws and that you have and will maintain all necessary permissions and licences to enable us to properly perform the Services for you.

## **4 Fees and Expenses**

- 4.1 We will invoice you for the Fees immediately following your order unless otherwise agreed between the parties in writing and you will pay the Fees to us within thirty days of the date of our invoice.
- 4.2 Where specified in the Proposal, you will pay our reasonable out of pocket expenses including travel, accommodation, subsistence and other related expenses incurred by our personnel in performing the Services elsewhere than at our premises, which you will pay at

the time specified in the Proposal or if not so specified, monthly in arrears. 4.3 If we are prevented or otherwise delayed in performing the Services as a result of your (or your contractors' or representatives') acts or omission you agree to pay to us any costs and other reasonable expenses that we incur as a result of such act or omission.

4.4 You will make all payments due under this Contract in full without any deduction or set off.

4.5 All sums payable under the Contract are exclusive of VAT (or other applicable sales tax), for which you will also be responsible.

4.6 Without prejudice to clause 4.7 below, if you fail to pay any amount due under this Contract by the appropriate due date, we may charge you interest on any overdue amount at an annual rate equal to over 4% above the then current base lending rate of The Bank of England (or The Bank of Ireland if you purchased your licence to use the Software in the Republic of Ireland), commencing on the due date and continuing until fully paid, whether before or after judgment.

4.7 In addition to charging interest, we reserve the right to immediately suspend the provision of the Services where you fail to pay any amount due under this Contract by the appropriate due date until such time as you make such payment.

## **5 Warranties and Limitation of Liability**

5.1 We warrant that we will perform the Services with reasonable skill and care.

5.2 If we breach the warranty given under condition 5.1 above, we will, at our own cost, provide replacement Services to remedy the breach within a reasonable time of you notifying us of the breach.

5.3 Except for the express warranty given under condition 5.1, all other warranties are excluded to the fullest extent permitted by law, including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality or fitness for purpose. Your attention is drawn specifically to the following provisions

5.4 Subject to condition 5.4.2 below:

5.4.1 we will have no liability for any losses or damages which may be suffered by you (or any person claiming under or through you), whether the same are suffered directly or indirectly or are immediate or consequential, which fall within the following categories:

5.4.1.1 special damage even though we were aware of the circumstances in which such special damage could arise; or

5.4.1.2 loss of profit and/or anticipated profit; or

5.4.1.3 loss of revenue, contract and/or business; or

5.4.1.4 loss of savings and/or anticipated savings; or

5.4.1.5 business interruption; or

5.4.1.6 depletion of goodwill and/or similar losses; or

5.4.1.7 loss or corruption of data; or

5.4.1.8 pure economic loss, costs, damages, charges or expenses.

5.4.2 our total liability, whether in contract, tort (including negligence) or otherwise in connection with the Services, shall in no circumstances exceed 125% of any Fees paid by you to us for those Services where such liability arose.

5.5 The exclusions in condition 5.4.1 shall apply to the fullest extent permissible at law, but we do not exclude liability for death or personal injury caused by our negligence or our officers, employees, contractors or agents fraudulent misrepresentation or any other liability which may not be excluded by law.

- 5.6 Subject to clause 5.4.2 above, neither party may bring an action against the other under or in connection with this Contract more than 12 months after that party became aware of the cause of action or event giving rise to the claim.
- 5.7 You acknowledge that in providing these conditions we advise you that you should explore the availability of insurance for any liability which we exclude or limit under this Contract.

## **6 Intellectual Property Rights and Ownership**

- 6.1 All Intellectual Property Rights in the Deliverables shall belong to us absolutely. We hereby grant to you a non-exclusive licence to use the Deliverables to the extent necessary to enjoy the benefit of the Services as envisaged by this Contract and as detailed in the Proposal. Such licence shall be for the duration of the rights granted under the applicable Software Licence Agreement.
- 6.2 The Software and all Intellectual Property Rights comprised in the Software belong to us absolutely (or the appropriate third party owner(s)) and you acquire no rights in or to the Software other than the express right to use it in accordance with the terms of this Contract.
- 6.3 Where we supply any Software or Third Party Software pursuant to this Contract use of such Software or Third Party Software shall be subject to the terms of our (or the third party's as the case may be) Software Licence Agreement and any associated support and maintenance agreement.

## **7 Commencement and Termination**

- 7.1 The Contract shall commence on the date set out in the Proposal or such other date, as the parties shall agree in writing.
- 7.2 Subject to clause 7.3 below, the Contract will terminate upon completion of the delivery of the Services or as otherwise indicated in the Proposal.
- 7.3 We may terminate the Contract at any time on written notice to you if you:
- 7.3.1 fail to pay any Fees by the due date;
  - 7.3.2 are in material breach of any of the terms of this Contract and either that breach is incapable of remedy, or you fail to remedy that breach within 30 days after receiving written notice requiring you to remedy that breach; or
  - 7.3.3 are unable to pay your debts, or become insolvent, or are subject to an order or a resolution for your liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction), or have an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of your assets, or enter into or proposes any composition or arrangement with your creditors generally, or are subject to any analogous event or proceeding in any applicable jurisdiction;
  - 7.3.4 sell all of your assets or are merged or re-organised in circumstances where you are not the surviving entity.
- 7.4 Termination by us in accordance with our rights under condition 7.3 is without prejudice to any other of our rights or remedies accrued prior to termination.
- 7.5 On termination pursuant to condition 7.3:
- 7.5.1 all rights granted to you under the Contract and the licence granted pursuant to condition 6 shall immediately cease;
  - 7.5.2 you will immediately destroy or return to us (at our option) all copies of the Software and any Deliverables in your possession or control and, in the case of destruction, certify to us that you have done so.

7.6 On termination for any reason (including pursuant to condition 7.3) you will immediately pay any sums due to us under the Contract

## **8 Cancellation and Rescheduling Charges**

8.1 Unless otherwise advised by us to you in writing, if you wish to cancel delivery of the Services (or any part of them), you must inform us via email at [onsite@sage.com](mailto:onsite@sage.com) if you purchased your licence to use the Software in the United Kingdom or [customer.training@sage.com](mailto:customer.training@sage.com) if you purchased your licence to use the Software in the Republic of Ireland and the following charges will apply to any cancellations:

8.1.1 if notification is received 28 days or more in advance of the scheduled date of the Services, 50% of the Fees will be refunded or credited where an invoice is outstanding;

8.1.2 in respect of notifications of cancellation received less than 28 days in advance of the scheduled date of the Services, there can be no refund of the Fees and any outstanding invoice will remain due and payable in accordance with clause 4.1.

8.2 If you wish to reschedule the Services (or any part of them), you must inform us via email at [onsite@sage.com](mailto:onsite@sage.com) if you purchased your licence to use the Software in the United Kingdom or [customer.training@sage.com](mailto:customer.training@sage.com) if you purchased your licence to use the Software in the Republic of Ireland and the following charges (unless otherwise advised by us to you in writing) will apply to any rescheduled services:

8.2.1 for requests received 28 days or more in advance of the scheduled date of the Services, there is no rescheduling charge; or

8.2.2 for notification given between 14 and 27 days inclusive before the scheduled date of Service, a charge of £125 per course (plus VAT) (if you purchased your licence to use the Software in the United Kingdom) or €200 (plus VAT) per course (if you purchased your licence to use the Software in the Republic of Ireland) will be charged to reschedule.

Please note, you cannot reschedule the Services on less than 14 days' notice and any such request will be treated as a cancellation for which there can be no refund of the Fees in accordance with clause 8.1.2.

8.3 In the event of non-attendance by you where payment has been received, there shall be no refund and in the event of non-attendance where the Fees have not been received, the Fees will remain due and payable.

8.4 We will process any refunds of Fees payable by us to you pursuant to paragraph 8.1.1 and 8.1.2 as soon as possible following the date of cancellation via electronic payment to the bank account details you supply to us or via another payment method we specify from time to time.

8.5 If we wish to cancel or postpone the delivery of any part of the Services, we will endeavour to provide you with seven days written notice. Where it is not possible to reschedule the delivery of the Services, we will refund or credit you any Fees paid in respect of any cancelled Services (but not for any Services performed to date).

## **9 Data Protection**

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

9.2 You warrant and represent that:

- 9.2.1 you will comply with and will ensure that your instructions for the Processing of Customer Personal Data will comply the Data Protection Laws;
- 9.2.2 you are authorised pursuant to the Data Protection Laws to disclose any Customer Personal Data which you disclose or otherwise provide to us regarding persons other than yourself;
- 9.2.3 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:
  - 9.2.3.1 you to disclose the Customer Personal Data to us;
  - 9.2.3.2 us to Process the Customer Personal Data for the purposes set out in these conditions; and
  - 9.2.3.3 us to disclose the Customer Personal Data to: (a) our 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 us, 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.
- 9.3 To the extent that Sage Processes any Customer Personal Data, the terms of Appendix A shall apply and the parties agree to comply with such terms.
- 9.4 Where, and to the extent we Process your Personal Data as a Data Controller in accordance with our Privacy Notice, we shall comply with all Data Protection Laws applicable to us as Data Controller.
- 9.5 You agree that we may record, retain and use Customer Data generated and stored during your use of the Services (including Customer Personal Data, which we shall Process as Data Controller as set out in our Privacy Notice, on the basis of our legitimate business interests), in order to:
  - 9.5.1 deliver advertising, marketing (including in-product messaging) or information to you which may be useful to you, based on your use of Services;
  - 9.5.2 carry out research and development to improve our, and our Affiliates', services, products and applications;
  - 9.5.3 develop and provide new and existing functionality and services (including statistical analysis, benchmarking and forecasting services) to you and other Sage customers;
  - 9.5.4 provide you with location based services (for example location relevant content) where we collect 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 you or to any living individual. If at any time you do not want us to use Customer Data in the manner described in this clause 9.5, please contact us at the email address set out in the Privacy Notice.

## **10 Confidentiality**

- 10.1 Subject to the following, 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 Contract.
- 10.2 Each party may disclose Confidential Information to its employees, officers, professional representatives or advisers, sub-contractors and agents, provided that they (i) need to know it for the purpose of exercising or performing that party's rights and obligations under this Contract; (ii) have been informed of the confidential

- nature of the Confidential Information divulged; and (iii) agree to act in compliance with the confidentiality requirements of this Contract.
- 10.3 The provisions of condition 10 shall not apply to information which is already public knowledge or becomes so at a future date (other than by breach of the Contract) or which either party is required to disclose by law.
- 10.4 Subject to the other terms of this Contract, this condition 10 shall remain in full force and effect notwithstanding termination of the Contract for any reason.

## **11 General**

- 11.1 If any provision of this Contract is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions shall not be prejudiced.
- 11.2 You have no right to assign or to otherwise transfer the Contract or any of your rights or obligations under this Contract without our prior written consent. We may assign or otherwise transfer this Contract or any of our rights or obligations under this Contract at any time.
- 11.3 No party shall be liable to the other for any delay or non-performance of its obligations under the Contract arising from any cause beyond its control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion.
- 11.4 Any amendment or variation to the Contract or the Services shall not be binding unless agreed between the parties in writing.
- 11.5 Any notice required to be given under this Contract, shall be in writing and shall be sent by pre-paid first class post or email, to each party required to receive the notice at the address for that party contained in the Proposal or as otherwise specified by the relevant party by notice in writing to the other party. Any notice shall be deemed to have been duly received if sent by: (a) pre-paid first class post or recorded delivery, 72 hours after posting; or (b) email on actual receipt by the recipient party.
- 11.6 These conditions, the Proposal and any other documents annexed as appendices to the Proposal contain the entire agreement between the parties relating to the provision of the Services and supersede all prior contracts, arrangements and understandings between the parties relating to the Services and you agree that, in entering into the Contract, you did not rely on any representations of any kind relating to the Services other than those expressly set out in the Contract.
- 11.7 A person who is not a party to this Contract shall not have any rights under or in connection with it.
- 11.8 If you purchased your licence to use the Software in the United Kingdom then this Contract is governed by the laws of England and you and we both agree that the courts of England will be the only courts that can decide on legal disputes or claims about this Contract. If you purchased your licence to use the Software in the Republic of Ireland then this Contract is governed by the laws of the Republic of Ireland and you and we both agree that the courts of the Republic of Ireland will be the only courts that can decide on legal disputes or claims about this Contract.

## **Appendix A – Data Protection**

### **1. Interpretation**

- 1.1. Where there is any inconsistency between the terms of this Appendix A and these conditions, the terms of this Appendix A shall take precedence.

## **2. Processing of Personal Data**

2.1. During the term of these conditions we warrant and represent that we:

2.1.1 shall comply with the Data Protection Laws applicable to us whilst any Personal Data is in our control;

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

2.1.2.1 as is necessary for the provision of the Services under these conditions and the performance of our obligations under these conditions; or

2.1.2.2 otherwise on your documented instructions.

## **3 Our Obligations** 3.1 We

shall:

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

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

3.1.3.1 notifications to Supervisory Authorities;

3.1.3.2 prior consultations with Supervisory Authorities; 3.1.3.3

communication of any breach to Data Subjects; and

3.1.3.4 privacy impact assessments.

## **4 Personnel**

4.1 We shall:

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

4.1.3 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 these conditions; and

4.1.4 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. We 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, we shall make available to you all information reasonably necessary to demonstrate compliance with the obligations set out in this Appendix 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 us.

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 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;
- 5.3.14 legislative, regulatory and contractual compliance.

## **6 Data Breach**

6.1 We shall notify you if we become 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 our, or our sub-processors, acts or omissions.

## **7 Transfer of Personal Data outside the EEA**

7.1 You expressly agree that we 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 You acknowledge that the provision of the Services may require the Processing of Personal Data by sub-processors in countries outside the EEA. We 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 your prior written consent.

## **8 Return and deletion**

8.1 At your option, we shall delete or return all Personal Data to you at the end of the provision of the Services and delete all existing copies of Personal Data unless we are under a legal obligation to require storage of that data or we have another legitimate business reason for doing so.

## **9 Use of Sub-Processors**

9.1 You agree that we have general authority to engage third parties, partners, agents or service providers, including our Affiliates, to Process Personal Data on your behalf in order to provide the applications, products, services and information you have

requested or which we believe is of interest to you (“**Approved Sub-Processors**”). We 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, we shall ensure that the same obligations set out in this Appendix A shall be imposed on that subprocessor.

9.2 We shall be liable for the acts and omissions of any Approved Sub-Processor to the same extent we would be liable if performing the services of each Approved SubProcessor directly under these conditions.

