

Sage 1000 Software Licence, Support and Maintenance Agreement

(Last Updated: May 2018)



You have purchased a Licence to Use the version of Sage 1000 software which accompanies this Agreement for a period of one year, together with a right to receive Support and Maintenance during that time. You do not own the Product; ownership remains with Sage (UK) Limited or its licensors at all times. Your right to use the Product (in object code only) and to receive Support and Maintenance is subject to all the terms of this Agreement. This Agreement is worded so that it covers all of the parts of the Product however you are only Licensed to Use those parts of the Product for which you have paid the relevant Fee.

Before using the Product, you must signify you accept this Agreement in accordance with clause 1.3 below. You should therefore read all of this Agreement carefully before doing this.

Please note:

- that this is an annual software licence agreement, so the terms may have changed since you last read them;
- clause 4 regarding our warranties to you, clause 6 regarding our disclaimer and limitation of liability, clause 8 and Appendix A regarding our use of your personal information.

If you do not agree to be bound by all the terms of this Agreement you should not sign this Agreement or indicate your acceptance of it in any other way (such as by installing the Product), but should immediately notify us and return the CD-ROM to us, together with all packaging and associated documentation, with a written request for a refund (when we will need to verify that you have not installed it). In those circumstances you must return the CD-ROM within 30 days of the date it was provided to you, otherwise you irrevocably confirm your acceptance of this Agreement.

1. DEFINITIONS AND INTERPRETATIONS

In this Agreement:-

- 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 this software licence agreement including the Schedule and the Appendix;
- 1.3 **"Annual Licence Fee"** means the sum paid by you for the first Year of this Agreement for Support and Maintenance and for subsequent Years of this Agreement for Support and Maintenance and for the Licence to Use the Product for the relevant Year;
- 1.4 **"Appendix"** means appendix A to this Agreement;
- 1.5 **"Commencement Date"** means the earlier of date on which this Agreement is either signed by you or the date the Product is installed;
- 1.6 **"Concurrent Users"** means agents, whether human or electronic, which are Using the Product at the same time;
- 1.7 **"Customer Data"** shall mean the data, information or material provided, inputted or submitted by you or on your behalf into the Sage Software, which may include data relating to your customers and/or employees;
- 1.8 **"Customer Personal Data"** has the meaning set out in clause 8.1;
- 1.9 **"Customer Prioritised Development"** means any development work that may be undertaken by or on behalf of us and which is incorporated into the Sage Software;
- 1.10 **"Customer Services Handbook"** means the document which describes how we provide Support for the Product, as issued by us from time to time;
- 1.11 **"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;
- 1.12 **"Data Processor"** a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Data Controller;
- 1.13 **"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

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- (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;
- 1.14 “**Documentation**” means the user guide and other technical documentation (but excluding marketing literature and sales publications) of the Sage Software whether in printed or electronic format;
 - 1.15 “**Environment**” means the server, operating system, database and other operating software required for Use with the Software;
 - 1.16 “**Fees**” means the Annual Licence Fee, the Initial Licence Fee and any other fees payable under this Agreement by you;
 - 1.17 “**GDPR**” means EU General Data Protection Regulation 2016/679;
 - 1.18 “**Initial Licence Fee**” means the amount paid by you for the Licence to use the Software for the first Year of this Agreement;
 - 1.19 “**Licence**” means a non-exclusive, non-assignable right to Use the Product for the Licence Period and which is supplied to you in accordance with the terms of this Agreement and “**Licensed**” shall have the corresponding meaning;
 - 1.20 “**Licence Key**” means the alpha-numeric character string supplied to you which enables you to Use the Software;
 - 1.21 “**Licence Period**” means a period of one year from the date the Software is registered with us and any successive one year period for which you have paid the relevant Annual Licence Fee;
 - 1.22 “**Location**” means the address where your server is physically located;
 - 1.23 “**Maintenance**” means the provision of Replacement Software as described in this Agreement;
 - 1.24 “**Named User**” means a living named individual permitted by you to access and Use the Software;
 - 1.25 “**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;
 - 1.26 “**Privacy Notice**” means our 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;
 - 1.27 “**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;
 - 1.28 “**Product**” means collectively the Sage Software, the Documentation and the Third Party Software;
 - 1.29 “**Renewal Date**” means the date on which your Licence Period expires;
 - 1.30 “**Replacement Software**” means any Updates or Upgrades. Replacement Software excludes anything which we inform you is separate software, even if it is similar to the Sage Software, or capable of being integrated with the Sage Software;
 - 1.31 “**Sage Software**” means the Sage 1000 standard software, including any Customer Prioritised Development, Updates, Upgrades, modifications, enhancements, revisions or corrections supplied to it under this Agreement;
 - 1.32 “**Schedule**” means the schedule to this Agreement;
 - 1.33 “**Software**” means the Sage Software and the Third Party Software;
 - 1.34 “**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;
 - 1.35 “**Support**” means support of the Software provided by us as detailed in this Agreement and the Customer Services Handbook;
 - 1.36 “**Third Party Software**” means the computer programs in machine readable object code form and/or any part of them, together with any user guides or technical documentation (in printed or electronic format) of the third party software (excluding marketing materials and sales publications) which may be supplied by us under this Agreement, the intellectual property rights in which are vested in a person or organisation other than us. Third Party Software shall also include back-up copies as well as any updates, upgrades, modifications, enhancements or corrections which may be supplied to it;
 - 1.37 “**Update**”, “**Updated**” means a permanent fix or solution to known problems in the Sage Software or a legislative amendment to the Sage Software as provided by us at times deemed appropriate by us;
 - 1.38 “**Upgrade**” means any new version of the Sage Software which Sage classifies as an Upgrade and which adds new and different functions or capabilities to the Sage Software;
 - 1.39 “**us**”, “**we**” and “**our**” means Sage (UK) Limited of North Park, Newcastle upon Tyne, NE13 9AA (company registration number: 1045967);
 - 1.40 “**Use**”, “**Using**” means to load, store, run, display and otherwise utilise the Software in accordance

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with the Documentation, for your own legitimate business purposes;

- 1.41 “Year” means a year, starting on the Commencement Date or its anniversary, as the context expresses or implies;
- 1.42 “you” and “your” mean the organisation identified on page 11 of this Agreement which is registered to Use the Product; and
- 1.43 (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 in England, (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. OUR LICENCE TO YOU

2.1 In consideration of your acceptance of the terms of this Agreement, we grant you a Licence for which you have paid the relevant Fee for the Licence Period. If your Licence has been financed over a fixed period, the Licence Period shall be equivalent to the period for which we have received payment by you. Thereafter, the Licence will be renewed on the Renewal Date for a further period of 12 months, subject to payment by you of the then current Annual Licence Fee. Such payment shall be due and payable in accordance with clause 7. Your Use of the Product and/or any Replacement Software after the Renewal Date will be governed by this Agreement, unless a new, subsequent agreement is included in any Replacement Software. Subject to the terms of any such new subsequent agreement, by continuing to Use the Product and/or any Replacement Software after the Renewal Date, you indicate your continued acceptance of this Agreement.

2.2 You may:

- 2.2.1 permit up to the specified maximum number of Concurrent Users to access and Use the Software at the same time; this number is normally specified in the Schedule but any subsequent changes to that number may be communicated to you in another way;
- 2.2.2 where your Licence includes the right to Use the Sage HR module of the Software, permit up to the specified maximum number of Concurrent Users to access and Use that module and you acknowledge that this may be different to the number of Concurrent Users permitted to Use the other parts of the Software; this number is specified in the Schedule but any subsequent changes to that number may be communicated to you in another way;
- 2.2.3 where your Licence includes the right to Use the parts of the Software known as (a) Sage Business Intelligence; (b) the Sage HR Self-Service module (where it is Licensed to you on a Named User basis); and (c) any other part of the Software which we may Licence to you on a Named User basis; permit up to the specified number of Named Users to access and Use the relevant part of the Software; the number of Named Users are specified in the Schedule but any subsequent changes to that number may be communicated to you in another way;
- 2.2.4 Use the Product for a single user only on one computer only where you have purchased the applications of the Software known as Production Scheduling, Graphical Planning, Graphical MPS (or any other application which we may licence to you for Use on a single user, one computer basis).

2.3 You must Use the Software in connection with the Environment at the Location. The Environment must be selected from our published list of supported designated Environments, as amended by us from time to time. The Environment must be in full working order with a full operating system.

2.4 If at any time you wish to increase the number of Concurrent Users and/or Named Users Using the Software, you must purchase additional Licence Keys which will then allow the number of your Concurrent Users and/or Named Users to be increased. Decreases in the number of Concurrent Users and/or Named Users may be made at any time but shall not result in the refund of any part of the Annual Licence Fee until the next Renewal Date.

2.5 Where the Software is being deployed on more than one server you must ensure that you have paid any additional licence fees which may be required for the Use of the Software in this way.

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- 2.6** Subject to our prior written consent which we will not unreasonably withhold, you may transfer the Software from the Environment to a replacement Environment. If you do so, you must irretrievably delete the copy of the Software from the replaced Environment.
- 2.7** Subject to payment of the required fees you may use one copy of the Software for disaster recovery purposes and one copy of the Software on a test server. Please contact us for our prevailing pricing and policies on the Use of the Software in this way.
- 2.8** Subject always to our prior written consent, you may from time to time retain third parties to provide information technology services to you and on your behalf in connection with the Sage Software, provided that any such appointment shall not increase or otherwise adversely affect our obligations, liabilities, costs or other burdens in respect of this Agreement. Where any third party provides information technology services to you, you must enter into a written agreement with that third party which must include those provisions which are necessary in order to protect our and our licensors' interests and the Licence granted to you under this Agreement including, but not limited to, our and our licensors' intellectual property rights relating to the Sage Software and any modifications or changes to it. If you become aware of any breach of the provisions this Agreement or your own agreement with the third party, you must notify us immediately in writing of the breach and you must, at your own cost, take any corrective action as directed by us.
- 2.9** At all times the Environment must be under your control. Subject to clause 2.6, if you transfer ownership or otherwise dispose of the Environment, this Agreement and all rights of Use granted in it will be terminated automatically at the time of disposal or transfer, and you must ensure that the Software has been irretrievably deleted from the replaced Environment prior to transfer or disposal and you must return it to us (including any copies you have made of the Product (or any part of it)) and sign a certificate which we shall provide to you confirming compliance with this clause 2.9.
- 2.10** You must inform us in writing of any change in the address of the Location.
- 2.11** You shall follow all reasonable instructions given by us from time to time in connection with the Use of the Product. You also agree that either we or our nominated representatives shall be entitled, upon giving you five (5) days' written notice, to audit your compliance with the terms of this Agreement. You shall allow us to have access to the Locations, the Product, all computer media and any other documentation relevant to the performance of the audit. If required you shall make available to us or our nominated representatives appropriate employees to assist in the performance of the audit. When exercising our rights under this clause, we shall make reasonable endeavours to avoid hindering the provision of your day to day business activities and shall conduct any such audit during normal business hours.
- 2.12** You shall not disclose the Product or any part of it to any third party without our prior written consent, provided that this clause 2.12 shall not extend to information: (a) which was rightfully in your possession prior to commencement of this Agreement, (b) which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Agreement), or (c) information received from another person without that person breaching our confidentiality. You shall make sure that every user, employee or other person to whom you disclose the Product in accordance with this clause 2.12 complies with this restriction.
- 2.13** You understand and acknowledge to us that you are only Licensed to Use the Product in accordance with the express terms of this Agreement and not further or otherwise.
- 2.14** Other than as permitted under this Agreement, you shall not and shall not allow anyone else to:

 - 2.14.1** Use, copy (except that you may make two copies of the Product for back up purposes only), transfer, sell, sub-licence, lease, mortgage, rent, loan, publish, distribute or otherwise make the Product (or any part of it) available to any other person, whether or not for commercial gain;
 - 2.14.2** Use the Product (or any part of it) for the provision of any computer bureau, remote commercial hosting or ASP services or in any other configuration that permits a third party to use the Product, other than under the provisions of a valid licence with us;
 - 2.14.3** disclose the Licence Key or enable others to use it, nor share the media upon which the Software is provided, in each case to any third party;

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- 2.14.4** attempt to make any use of the Licence Key or Software to change or replicate the identity of your server or to increase the number of Concurrent Users and/or Named Users who may use the Software beyond the authorised number;
 - 2.14.5** other than to the extent permitted by law, or with our prior written consent, alter, adapt, merge, modify, translate, reverse engineer, de-compile, disassemble or create derivative works of the whole or any part of the Product;
 - 2.14.6** remove, change or obscure any of our or our licensors proprietary notices, labels or marks associated with the Product;
 - 2.14.7** install more than one copy of the Product on one computer, subject to clauses 2.5, 2.7 and 4.1;
 - 2.14.8** use any technology (such as virtualisation) to either circumvent the licence registration and rights protection measures incorporated in the Product or otherwise enable it to be used other than as permitted by us in writing;
 - 2.14.9** Use or copy (irrespective of the extent of copying) the whole or any part of the Product's user interface, operating logic or underlying database structure and database fields for incorporation into or the development of any software or other product or technology.
- 2.15** The Sage Software incorporates intellectual property rights protection measures designed to prevent unlicensed, unauthorised and/or illegal use of the Sage Software. Any such use of the Sage Software may lock it and stop it functioning so that you will not be able to Use the Sage Software to retrieve your data. The Sage Software automatically accesses the operating system of your server to verify the identity of your server. You agree to the incorporation of these measures in the Sage Software, and authorise this access.
- 2.16** You acknowledge that we and/or our licensors shall retain ownership of the intellectual property rights in and to the Product, including any Replacement Software, copies or any amendments made to it by anyone, regardless of form, including any back up copies that you make, and that you are only entitled to use any such copies or amendments by virtue of your Licence.

3. PROVISION OF SUPPORT AND MAINTENANCE

- 3.1** So long as you have paid the relevant Fees and have accepted this Agreement as described in clause 1.3, we will provide you with Support and Maintenance for a period of one Year commencing on the Commencement Date. Thereafter, we will provide you with Support and Maintenance for further periods of one Year from the anniversary of the Commencement Date subject to payment by you of the appropriate Fees.
- 3.2** We will release Replacement Software from time to time at our sole discretion, which we will provide to you as the Replacement Software becomes generally available. You acknowledge and agree that to install and Use an Upgrade, you may have to have installed the immediately preceding version of the Sage Software as at the date of release of that Upgrade. We shall, at our sole discretion, determine the media on which any Replacement Software is issued including: floppy disk, CD or DVD ROM and electronically via web page downloads or email.
- 3.3** If you receive Replacement Software which replaces all of the Sage Software, from the date you install the Replacement Software, your Licence to use the Software will stop and be replaced with a Licence to use the Replacement Software. However you may continue to Use both the Sage Software and the Replacement Software for three months from that date, for the purpose of ensuring that you wish to continue using the Replacement Software.
- 3.4** We also reserve the right to introduce separate software which is similar to the Sage Software or capable of being integrated with the Sage Software.
- 3.5** You acknowledge and agree with us that we shall provide Support and Maintenance:
- 3.5.1** only in relation to the supported versions of the Software as described in the Customer Services Handbook;
 - 3.5.2** only in relation to the authorised Use by you of the Software.

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- 3.6** Subject to 3.7, you acknowledge and agree with us that we shall not provide Support and Maintenance:
- 3.6.1** in relation to any third party software or any hardware;
 - 3.6.2** if such Support and Maintenance is necessary because you have failed to implement reasonably prudent measures to back-up your data;
 - 3.6.3** if you are in breach of any term of clause 3.9 of this Agreement.
- 3.7** You acknowledge and agree with us that in the event that we provide Support and Maintenance in any of the circumstances listed in clause 3.6, subject to clause 6.1 of this Agreement (Disclaimer and Limitation of Liability), we exclude all liability for any claim arising out of the provision of any such Support and Maintenance, whether arising from tortious act or omission including negligence, breach of contract or any other cause of action.
- 3.8** You may request that we perform additional services, which we may at our discretion agree to do, subject to and on the terms of a separate services agreement.
- 3.9** You shall:
- 3.9.1** install and use the Replacement Software subject to and in accordance with the terms of any relevant licence agreement. If Replacement Software is provided without an accompanying licence agreement, a reference in this Agreement to “the Software” shall be deemed also to be a reference to any Replacement Software;
 - 3.9.2** comply in full with the rest of this clause 3 in respect of any Replacement Software;
 - 3.9.3** ensure that any Replacement Software is suitable for the purpose for which you intend to Use it;
 - 3.9.4** without charge make available to us any information or facilities to enable us to discharge our obligations under this Agreement including computer print-outs and photocopies of documents; and
 - 3.9.5** notify us of any defect or suspected defect in the Software or Replacement Software within thirty days of the date on which it becomes apparent to you.

4. OUR WARRANTIES TO YOU

- 4.1** Subject to clause 4.2, we warrant that for the duration of your Licence:
- 4.1.1** the Sage Software, when used in accordance with our operating instructions, will provide the functions and facilities and will perform substantially as described in the Documentation. Provided you notify us in writing during your Licence Period that the Sage Software does not conform with this warranty and such non-conformance is substantial and material to your Use of the Sage Software, we will attempt to replicate and verify such non-conformance. If we are able to do so, we will in our sole discretion either: issue a fix, patch or update to correct that non-conformance, or (if we do not issue one), refund you the Initial Licence Fee and/or Annual Licence Fee (as appropriate) for the Year in which you first notified us of the non-conformance with this warranty. When we pay you such refund, this Agreement will automatically terminate with immediate effect. If you receive a remedy described in this clause 4.1.1, this will be your sole remedy in relation to the corresponding warranty non-compliance;
 - 4.1.2** under normal conditions of use, the media on which the Sage Software is provided will not be defective. If the media is defective, we will provide you with replacement media as soon as possible; this will be your sole remedy in relation to the Sage Software media being defective;
 - 4.1.3** if we provide additional services to you in accordance with clause 3.8, we both warrant that each of us will perform our obligations relating to the successful delivery of those services in the manner agreed between us in writing, and in any event, each of us will use our reasonable skill and care, and cooperate with the other to ensure the successful delivery of those services. If we do not conform with our warranties in this clause 4.1.3, we will re-perform the service so that it does conform with those warranties. If after a reasonable period of time the additional service still does not conform with those warranties, or we are not able to re-perform it so that it does, we will refund you the charges you have paid to us for our services. Such refund will be your sole remedy in relation to that warranty non-conformance;

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- 4.2 We do not warrant or make any representation:
 - 4.2.1 that the Product will meet your requirements; or
 - 4.2.2 that the operation of the Product will be uninterrupted or error free; or
 - 4.2.3 regarding the use of and/or output from the Product or the results of such use in terms of content, correctness, accuracy, reliability or otherwise.
- 4.3 The warranties set out in clause 4.1 are instead of all other warranties, representations or conditions, express or implied, statutory or otherwise, including any implied warranties of satisfactory quality and fitness for a particular purpose.
- 4.4 No oral or written communications by or on our behalf shall create a warranty or in any way increase the scope of the warranties we have given.
- 4.5 You assume the entire risk in the Product's performance and the results obtained from its use, and you remain responsible for ensuring that any information, opinions, recommendations, forecasts or other comments submitted to third parties, whether or not produced Using the Product, are accurate and complete.
- 4.6 In respect of Third Party Software, we will only give you the same warranty that we have received from the owner of the Third Party Software.

5. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

- 5.1 We will indemnify you against any and all liability, loss, damage, reasonable costs and expenses (including reasonable legal fees) which you may incur as a result of any claim or action brought against you by another person alleging that your authorised and proper use of the Sage Software under this Agreement infringes the intellectual property rights of such person. If that happens, you must take reasonable steps to mitigate any losses which you suffer or incur.
- 5.2 If in our reasonable opinion the Sage Software is likely to become or does become the subject of a claim of infringement of another person's intellectual property rights, we may elect to either:
 - 5.2.1 obtain the right for you to continue using the Sage Software in the manner permitted under this Agreement; or
 - 5.2.2 modify or replace the infringing part of the Sage Software so as to avoid the infringement or alleged infringement, without materially reducing the functionality or performance of the Software.
- 5.3 If having used all reasonable endeavours we cannot achieve either of the circumstances referred to in clauses 5.2.1 or 5.2.2 on reasonable terms, and you give us a written notice to do so, we will promptly refund to you a pro rata portion of the Initial Licence Fee and/or Annual Licence Fee (as appropriate) based on your Use of the Sage Software during your Licence Period, when this Agreement including your right to use the Product shall automatically terminate.
- 5.4 You shall:
 - 5.4.1 promptly notify us of any claim or threatened claim concerning your use of the Product; and
 - 5.4.2 not independently defend or respond to such claim or threatened claim; and
 - 5.4.3 cooperate with us in the defence of any such claim or threatened claim, subject to payment by us of your reasonable costs incurred in providing such cooperation.
- 5.5 The indemnity in clause 5.1 shall not apply to any claim:
 - 5.5.1 which arises from any development, modification, implementation, configuration or integration of the Sage Software other than by us or approved by us in writing (including in the Documentation); or
 - 5.5.2 which arises as a result of your use of the Sage Software other than as permitted by this Agreement or as described in the Documentation; or
 - 5.5.3 which arises as a result of your continued Use of the Sage Software after you have been

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5.5.4 notified that it infringes the intellectual property rights of a third party; or if, in relation to that claim, you do not comply with clause 5.4.

5.6 The provisions of this clause 5 state your exclusive remedy in connection with any claim or threatened claim in relation to the intellectual property rights of another person by the Sage Software.

6. DISCLAIMER AND LIMITATION OF LIABILITY

6.1 Nothing in this Agreement shall exclude or limit our, or any of our licensors' liability for fraud, death or personal injury arising out of our or our licensors' negligence or any legally binding promise given by law that you can use the Product without interference.

6.2 You acknowledge that the allocation of risk in this Agreement reflects the price paid for the Product and also the fact that it is not within our control how and for what purposes you use the Product. In no event, therefore, will we or any of our Affiliates be liable for (a) any indirect, consequential, incidental or special damage, or (b) any financial or similar loss of any kind, whether caused directly or indirectly, including: loss of profits, business, chargeable time, anticipated savings, goodwill, any business interruption or loss of or corruption to data however caused and whether arising under contract, tort, including negligence, statute or otherwise.

6.3 Subject to clauses 6.1 and 6.2, our maximum aggregate liability shall not exceed the total paid by you for the Initial Licence Fee and the Annual Licence Fee for the Year in which a claim arises.

7. FEES AND PAYMENTS

7.1 You must pay the relevant Fees and any other charges arising under this Agreement within 30 days of the date of our invoice, or as stated otherwise in the Schedule. All invoices to you and payments from you to us shall be in pounds sterling, unless stated otherwise in the Schedule.

7.2 The Fees and any other charges are exclusive of all taxes (including VAT or other applicable sales tax) and duties which you must pay in addition to the Fees at the then applicable rate.

7.3 All amounts due under this Agreement shall be paid in full without any deduction or withholding other than as required by law and you shall not be entitled to assert any credit, set-off or counter-claim against us in order to justify withholding payment of any such amount in whole or in part.

7.4 If you are required by law to make any withholding or deduction from the Fees, or any other sum due to us under this Agreement, you shall pay the full amount due to us and shall pay the amount of any such withholding or deduction to the appropriate authority. We shall cooperate with each other and use all our reasonable endeavours to obtain any available relief from such withholding or deduction.

7.5 If we have not received payment from you in accordance with clause 7.1 we reserve the right, in addition to any other right we may have, to suspend our contractual obligations to you under this Agreement until you have made payment in full to us.

7.6 If at any time after the Commencement Date you wish to increase the number of users Using the Software either on a local area network or wide area network, you must pay the required additional licence Fees for such Use before permitting any additional user to Use the Software. Decreases in the number of users may be made at any time but shall not result in any refund and any decrease of any part of the Fees will not be made until the next anniversary of the Commencement Date.

7.7 Subject to the rest of this clause 7.7, the Initial Licence Fee for the first Year of this Agreement is as specified in the Schedule. We shall be entitled to vary the Annual Licence Fee for subsequent years provided that:

7.7.1 if at any time the Annual Licence Fee increases because of an increase in the number of users, the Annual Licence Fee shall increase in proportion to that increase with effect from the date of the increase;

7.7.2 if at any time there is a reduction in the number of users, the Annual Licence Fee shall not decrease until the next anniversary of the Commencement Date; and

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7.7.3 if at the anniversary of the Commencement Date, Sage's recommended list price of the Software increases, the Annual Licence Fee shall increase in proportion to that increase.

8. DATA PROTECTION

8.1 For the purposes of this agreement, 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.

8.2 You warrant and represent that:

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

8.2.2 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;

8.2.3 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:

8.2.3.1 you to disclose the Customer Personal Data to us;

8.2.3.2 us to Process the Customer Personal Data for the purposes set out in this agreement; and

8.2.3.3 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.

8.3 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.

8.4 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.

8.5 You agree that we may record, retain and use Customer Data generated and stored during your use of the Sage Software (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:

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

8.5.2 carry out research and development to improve our, and our Affiliates', services, products and applications;

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

8.5.4 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 8.5, please contact us at the email address set out in the Privacy Notice.

9. ANTI-BRIBERY AND CORRUPTION

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

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

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- 9.1.2 not engage in any conduct which would constitute an offence under any of the Relevant Requirements;
- 9.1.3 not do, or omit to do, any act that may lead the other party to be in breach of any Relevant Requirements;
- 9.1.4 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;
- 9.1.5 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.

10. HOW THIS LICENCE CAN BE TERMINATED

10.1 We may terminate the Licence immediately without refund if:

- 10.1.1 you fail to make payment of the relevant part of the Fee, or any other fee which may become due under this Agreement, within 10 working days' written notice of the date any such sum became due under this Agreement or any other contract with us; or
- 10.1.2 we are notified that any finance arrangement you have made with a third party for the payment of all or any part of the Fee has ended for any reason other than it being satisfied in full; or
- 10.1.3 you fail to comply with any term of this Agreement and, if capable or remedy, do not rectify your non-compliance within 10 working days of our written notice to you requiring you to remedy your non-compliance.

10.2 Your Licence to Use the Product will terminate automatically and without refund if you cease to exist, are unable to pay your debts when due, become bankrupt, go into liquidation, suffer or make any winding up petition, make an arrangement with your creditors, have an administrator, administrative receiver or other receiver appointed, papers are presented at court proposing a statutory moratorium of your debts, or if any similar circumstances affect you.

10.3 You may terminate this Licence by giving us written notice of termination three months in advance of the date you want to end it. If you do so, there will be no refund of any of the Fees either in whole or in part and if you are making payments by direct debit, the whole sum outstanding will become immediately due and payable. Therefore if you do not want to renew your Licence please ensure you provide us with written notice at least three months before the Renewal Date. However if your three months' notice ends at any time up to one month after the date your Licence was due to be renewed, you can still end it and need only pay a pro rata amount of the prior Year's Initial Licence Fee or Annual Licence Fee (as appropriate) for any period of your notice that falls after the Renewal Date. If your notice ends more than a month after your Renewal Date, the full Annual Licence Fee is payable.

10.4 Within ten working days of the termination of the Licence for any reason, you must uninstall the Product and return it to us (including any copies you have made of the Product (or any part of it) and provide a certificate signed by your duly authorised representative to confirm compliance with this clause 10.4.

10.5 If this Agreement terminates for any reason, the data you store in the Software remains your data and you are entitled to extract it from the Software before the end of this Agreement. However your failure to extract your data will not prevent this Agreement from ending.

11. GENERAL

11.1 We do not recommend or endorse any distributor, reseller or dealer (including any Sage business partner) so you should investigate their experience, skills and qualifications. Any such persons from which you have purchased the Licence or any services is an independent contractor and is expressly not appointed or authorised by us as our 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 our behalf, or otherwise to bind us in any way whatsoever. We will not be responsible for any modifications or mergers made to the Product by such persons, nor for any of their acts or omissions.

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- 11.2 We shall not be liable to you for any circumstances arising outside our reasonable control.
- 11.3 No failure or delay by us or you to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 11.4 If any part of this Agreement is held by a court of competent jurisdiction to be unreasonable for any reason whatsoever, the validity of the remainder of the terms will not be affected.
- 11.5 This Agreement constitutes the whole agreement between us and you and supersedes all previous agreements between us and you relating to its subject matter. You and we each acknowledge that in entering into this Agreement, neither you nor we have relied on and shall 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 clause shall limit or exclude either your or our liability for fraudulent misrepresentation.
- 11.6 Nothing in this Agreement shall confer on any third party any right or benefit under the Contracts (Rights of Third Parties) Act 1999 except that the benefit of clause 6 may be exercised by the relevant third parties, provided that the terms of this Agreement may be varied without their consent.
- 11.7 Your day to day communication with us must be via the contact details given in our relevant documentation and ours to you must be via those details given to us when you signed this Agreement (or any new details which you subsequently notify to us). We will each use the appropriate communication medium, including e-mail, and in the case of us communicating with you, by publishing notices on our website. Communication of formal notices made under this Agreement will be effective on actual receipt by the intended recipient.
- 11.8 This Agreement may only be varied or amended in writing, signed by an authorised officer of each of us.
- 11.9 You may not assign, transfer or otherwise dispose of your rights and obligations under this Agreement. This Agreement is assignable by us, either in whole or in part.
- 11.10 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law. The parties hereby submit to the exclusive jurisdiction of the English courts unless otherwise agreed in writing.

SCHEDULE

- 1. **Software:**
- 2. **Number of Concurrent Users:**
- 3. **Number of Named Users:**
- 4. **Fees:**

APPENDIX 1 – DATA PROTECTION

1. Interpretation

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

2. Processing of Personal Data

- 2.1. During the term of this agreement 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 Sage Software under this agreement and the performance of our obligations under this agreement; or
 - 2.1.2.2. otherwise on your documented instructions.

3. Our Obligations

- 3.1. We shall:
- 3.1.1. 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
 - 3.1.2. 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:
 - 3.1.2.1. 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. We 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 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

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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 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;
- 5.3.14 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 Sage Software 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 this agreement 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 sub-processor.

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- 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 Sub-Processor directly under the terms of this agreement.

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PLEASE SIGN BELOW

Signed by your duly authorised representative:

PLEASE USE CAPITAL LETTERS TO COMPLETE THE FOLLOWING DETAILS:

Signatory name:

Job title:

Full company/business name:

Company registered number (if applicable):

Company/business address:

Business Partner Name (where applicable):

Date:

(Direct SALP)
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