



Sage X3 End User License Agreement (Last Updated: May 2018)

IMPORTANT NOTICE! YOUR USE OF THE SOFTWARE IS SUBJECT TO ALL THE TERMS AND CONDITIONS IN THIS AGREEMENT. THEREFORE, PLEASE SCROLL THROUGH AND READ ALL OF THE TERMS AND CONDITIONS IN THIS AGREEMENT CAREFULLY BEFORE USING THE SOFTWARE. THIS IS A LEGALLY BINDING AGREEMENT BETWEEN YOU AND SAGE FOR YOUR USE OF THE SOFTWARE.

YOU WILL INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT BY DOING ONE OR MORE OF THE FOLLOWING OR ALLOWING OR AUTHORIZING A THIRD PARTY TO DO ONE OR MORE OF THE FOLLOWING FOR YOU: (1) CLICKING "I AGREE" OR A SIMILAR AFFIRMATION AS APPLICABLE WHICH APPEARS DURING THE INSTALLATION OF THE PROGRAM, OR (2) ACCESSING OR USING THE PROGRAM, OR (3) SIGNING A COPY OF THIS AGREEMENT.

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

IF YOU DO NOT AGREE TO BE LEGALLY BOUND BY THIS AGREEMENT IN ITS ENTIRETY AND WITHOUT MODIFICATION OR ADDITION, THEN YOU DO NOT HAVE A LICENSE TO USE THE SOFTWARE AND YOU SHOULD CONTACT SAGE.

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control of the subject entity, where "control" is the ownership or control (whether directly or indirectly) of at least 50% of the voting rights in the entity, or otherwise the power to direct the management and policies of the entity. An entity is an Affiliate only so long as such control continues.
- 1.2 "Agreement" means this Sage End User License Agreement including its Exhibits, any Supplemental License Terms, all applicable license fee invoices, and any other documents or addenda, which are incorporated herein by reference and made a part hereof.
- 1.3 "Cloud Solution Services" means a service provided by certain Sage Group plc entities or certain of our Resellers, or which Sage or a Reseller may procure from a third party or a subsidiary thereof, which enables you to remotely access and Use the Software or certain components of the Software via the Internet.
- 1.4 "Commencement Date" means the earliest date Sage either accepts your order for the Program or you do anything consistent with accepting this Agreement such as Using the Program, signing a copy of this Agreement, or ticking a box or clicking on a button (or something similar) when you are asked to confirm that you accept this Agreement during the installation of the Program unless Sage agrees otherwise with you.
- 1.5 "Customer Data" shall mean the data, information or material provided, inputted or submitted by you or on your behalf into the Program, which may include data relating to your customers and/or employees.
- 1.6 "Customer Personal Data" has the meaning set out in **Section 12.2**.
- 1.7 "Customer Support" means, subject to **Section 8**, Software assistance you receive by phone, email, chat, access to on-line information, or by similar means because you purchased support, or which you have acquired with the purchase of a Subscription License that includes support.
- 1.8 "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



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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.

- 1.9** “**Data Processor**” a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Data Controller.
- 1.10** “**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.
- 1.11** “**Documentation**” means the Program specifications that are set forth in the Program help files and any release-related notes, guides or manuals Sage publishes specific to the current version of the Program, but excluding marketing materials and sales publications.
- 1.12** “**Environment**” means the servers, operating systems, databases and other operating software required for Use with the Software.
- 1.13** “**Exhibits**” means the exhibits to this Agreement.
- 1.14** “**GDPR**” means EU General Data Protection Regulation 2016/679.
- 1.15** “**Maintenance Software**” means, **subject to Section 8**, an updated version of the Software that Sage delivers because you have paid for maintenance or which you have acquired with the purchase of a Subscription License that includes support.
- 1.16** “**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.
- 1.17** “**Perpetual License**” means, subject to the termination provisions of this Agreement and where the Sage Group plc entity with which you contracted to Use the Software agrees with you, a perpetual license to Use the Software according to the terms of this Agreement.
- 1.18** “**Privacy Notice**” means Sage’s privacy notice posted on www.sage.com (or such other URL as Sage may notify to you) and which may be amended by Sage from time to time.
- 1.19** “**Processing**” means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction and “**Process**”, “**Processed**” and “**Processes**” shall be construed accordingly.
- 1.20** “**Program**” means the Sage X3 computer program.
- 1.21** “**Reseller**” means an independent third party authorized or accredited by Sage to distribute the Software through Sage’s various authorized partner or other programmes.
- 1.22** “**Sage**” means the Sage Group plc entity with which you are registered for the Use of the Software as indicated in Exhibit B.
- 1.23** “**Software**” means collectively the Program, the Documentation and any part thereof.



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- 1.24** “**Subscription License**” means a license to Use the Software according to this Agreement until your specified license term or subscription period ends or this Agreement terminates as described herein. For clarity, unless the Sage Group plc entity with which you contracted to Use the Software agrees otherwise in writing: (a) where your Use of the Software is via Cloud Solution Services (or via a managed or outsource provider in accordance with **Section 2.1.5**) such Use is only permitted under a Subscription License; and (b) where your Use of the Software is not via Cloud Solution Services (or via a managed or outsource provider accordance **with Section 2.1.5**) you must deploy and Use the Software on your own infrastructure.
- 1.25** “**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.
- 1.26** “**Supplemental License Terms**” means additional terms and restrictions provided to you by the Sage Group plc entity with which you contracted for the Software (either in printed or electronic form including by reference to any URL which Sage may notify to you from time to time) that are specific to the Program you license under this Agreement or third party software you license in connection with this Agreement.
- 1.27** “**Use**” means to install and execute the Program, provided that:
- 1.27.1.** You install the Program only on a computer system that you own or subject to **Sections 2.1.5 and 2.1.6** only on a computer system not owned by you if you will be the only party with access to the installed Program (this includes third party hosting); and
 - 1.27.2** You execute the Program during the term of your license or subscription (i) for its intended purpose solely in connection with the management of the business that you and your Affiliates conduct, and (ii) solely to the extent of any and all applicable limitations (whether as to specific modules or other parts of the Program, or number of production or backup server computers) set forth in this Agreement; and
 - 1.27.3** If you Use the Program with a mobile device, you may need a further software application (commonly referred to as an “app”) to do so, for which you may incur additional fees. You are responsible for obtaining and maintaining any third party software, services and/or hardware to enable you to obtain mobile access as well as charges for data usage and connectivity. When using the Program with a mobile device you must continue to adhere to this Agreement and any additional terms and conditions accompanying the app. If you obtained the app from Sage and it is not accompanied by terms and conditions, this Agreement will also apply to your Use of the app; and
 - 1.27.4** Unless the Sage Group plc entity with which you contracted for the Software notifies you otherwise or applicable law provides otherwise, you may make only a reasonable number of backup copies of the Program solely for the purpose of reinstalling the Program, if reinstallation becomes necessary; and
 - 1.27.5** Unless the Sage Group plc entity with which you contracted for the Software provides otherwise or applicable law provides otherwise, you may make one copy of the Program for Use in a testing environment solely for testing purposes; and
 - 1.27.6** Unless the Sage Group plc entity with which you contracted for the Software provides otherwise or applicable law provides otherwise, you may make and install one copy of the Program at a disaster recovery site for your Use only for so long as a disaster or other emergency prevents you from Using the Program at your original installation site, provided you have paid the additional license fees, if any, for the Use of the Program in this way.
- 1.28** “**you**” or “**your**” means or refers to the company or person that Sage has registered as the licensee for the Software.
- 1.29** In this Agreement: (a) the headings are for convenience only and shall not affect its construction or interpretation; (b) “**including**” and “**includes**” and similar expressions shall, if the context requires, be interpreted as illustrative, not exhaustive; (c) words of a technical nature shall be construed in accordance with the relevant general usage in the computer software industry, (d) references to a person include an individual, a body corporate and an unincorporated association of persons; and (e) use of the singular shall be treated as including the plural and vice versa.



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2. LICENSE GRANT AND RESTRICTIONS

2.1 License Grant. Sage grants you a limited, non-exclusive, non-transferable, non-sublicensable license of the scope described in this Agreement to Use the Software only upon the following conditions:

2.1.1 You or someone acting on your behalf and at your direction, such as your Reseller, has or will:

2.1.1.1 Place an order with Sage for either an initial license or an upgrade (such as for more users, additional modules, etc.) and Sage has accepted such order; and

2.1.1.2 Accepted all of the terms and conditions of this Agreement either before or during installation of the Program.

2.1.2 **If you purchase a Subscription License**, you may Use the Software only for the license term or subscription period for which Sage has received your Subscription License fee. Your license term or subscription period will normally be stated on your invoice but may be communicated to you in another way.

2.1.3 **If you purchase a Perpetual License**, you may Use the Software only if you pay the required Perpetual License fees when due. Where you have purchased a Perpetual License, this will normally be stated on your invoice but may be communicated to you in another way.

2.1.4 You may Use the Software to process the data of an Affiliate only if:

2.1.4.1 Your aggregate Use of the Software is limited to a single dataset unless you have paid the relevant fees for your Affiliates to access and Use the Software in which case your Affiliates may access and Use the Software in accordance with terms of this Agreement;

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

2.1.4.3 You maintain an accurate list of Affiliates on file with Sage; and

2.1.4.4 You promptly notify Sage if any company is no longer an Affiliate, in which case such Affiliate shall automatically lose any rights of Use relating to the Software.

2.1.5 Subject always to Sage's prior written consent, you may from time to time retain third parties to provide information technology services to you and on your behalf (eg. a managed or outsourced provider) in connection with the Sage Software. If such a third party needs to install the Software in order to provide information technology services to you, then (a) that third party can install your copy of the Software so long as you do not install it as well, (b) the third party must not Use the Software or allow anyone else to Use it; and (c) you must enter into a written agreement with that third party which does not increase or otherwise adversely affect Sages' obligations, liabilities, costs or other burdens in respect of this Agreement and must include those provisions which are necessary in order to protect Sage and its licensors' interests and the relevant license granted to you under this Agreement including, but not limited to, Sage and its licensors' intellectual property rights relating to the 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 Sage immediately in writing of the breach and you must, at your own cost, take any corrective action as directed by Sage. You remain responsible to Sage for your and the third parties' compliance with this Agreement. You should be aware that Sage has not tested the Software for Use other than directly by you in accordance with the Documentation.

2.1.6 You may permit a Reseller to provide you with access to the Software using Cloud Solution Services but prior to Using the Software in this way you are responsible for checking to ensure that the Reseller has the necessary accreditations and authorizations from Sage (as well as from any other relevant third party) before it can provide such Cloud Solution Services to you. If you access and Use the Software using Cloud Solution Services you are responsible for maintaining your own access to the Internet so

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that your users can access the Software. You also understand and agree that due to the nature of Using the Software in this way, there may be times when your users are unable to access and Use the Software (for example due to maintenance or circumstances beyond Sage's control). If you obtain Cloud Solution Services from your Reseller, your Reseller (and not Sage) is fully responsible and liable for the provision of any Cloud Solution Services to you including, without limitation, your access (or inability to access) the Software together with any other related services that it provides to you. If you obtain Cloud Solution Services from your Reseller, you must enter into a written agreement for the Cloud Solution Services which does not increase or otherwise adversely affect Sages' obligations, liabilities, costs or other burdens in respect of this Agreement. If there is any conflict between this Agreement and the agreement you have for the Cloud Solution Services with your Reseller, then the provisions of the separate agreement will apply in relation to the Cloud Solution Services (and any other services provided to you by the Reseller) but you will still remain responsible and liable to Sage for your compliance with this Agreement.

- 2.1.7** You must Use the Software in connection with the Environment and the Environment must be in full working order with a full operating system. The Environment must be selected from Sage's published list of supported designated Environments, as amended by Sage from time to time. The Software may be transferred from the Environment to a replacement Environment and, if it is transferred, the Software must be irretrievably deleted from the replaced Environment.

- 2.2 Limits of License.** The license contained in this Agreement does not include the right to perform, and you shall not perform or allow any third party to perform, any of the following:

- 2.2.1** Except as expressly set forth in **Section 1.27.4 above**, make any copy of the Software.
- 2.2.2** Except as expressly set out in **Sections 2.1.5 and 2.1.6 above**, rent, lease, loan, lend, sell, reuse, distribute, license, sublicense, market or commercialize any part of the Software or Use the Software as part of a facility management, timesharing, or service bureau arrangement or for software or application development.
- 2.2.3** Use the Software for personal, family, household, or other non-business purposes.
- 2.2.4** Other than to the extent permitted by applicable law or with Sage's prior written consent, alter, modify, merge, translate, adapt, decompile, disassemble, reverse-engineer or create any derivative work based upon the Software, either in whole or in part.
- 2.2.5** Remove, change or obscure any copyright or trademark notices in the Software.
- 2.2.6** Share or disclose with any third party any license keys, passwords or system IDs provided to you by either Sage or your Reseller for the Program.
- 2.2.7** You must not Use or copy (irrespective of the extent of copying) the whole or any part of the graphic user interface, operating logic or underlying database structure and database fields of the Program for incorporation into or the development of any software or other product or technology.
- 2.2.8** Use or try to Use the Software in a way which Sage has not specifically allowed. For example you must not try to make the Software work in a particular way if it does not usually work in that way.
- 2.2.9** Use the Software in excess of (i) the limitations set forth in this Agreement, and (ii) the number and types of users, seats or licenses for which you have purchased a license. If you have either a Perpetual License or a Subscription License, the maximum number of users, the types of user, Software components or modules and your license term or subscription period (where relevant) are normally specified on your invoice or order form but may be communicated to you in another way. Use of the Software in excess of the number and type of licenses you purchased (or which you may have downgraded to) constitutes a material breach of this Agreement and (a) you agree to pay to Sage the additional license or subscription fees due for the unpaid use calculated in accordance with the applicable Sage retail price list in effect at the time payment is made; and (b) failure to make the foregoing payment within 30 days of Sage's invoice date is also a material breach of this Agreement and results in the automatic termination of this Agreement without notice.

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2.3 Additional Restrictions.

- 2.3.1 Any report-writing software contained within the Program may be subject to a restriction such that its use may be limited to accessing only the data that is created by, or used by, the Program.
- 2.3.2 You may not Use, export, re-export or otherwise transfer the Software in violation of any domestic or foreign laws or regulations in effect from time to time in the jurisdiction in which you are a resident or in which the Software is Used. You represent and warrant that you are not located in, under the control of, or a national or resident of, any restricted country or of any entity or person designated as restricted.
- 2.3.3 Any right to Use, transmit, reproduce, distribute, download, or exploit the Program not expressly licensed to you in this Agreement is strictly prohibited. All rights not expressly set out in this Agreement are reserved by Sage.
- 2.3.4 Where any functionality of the Software is provided by a Sage Group plc entity using Cloud Solution Services you agree not to - and will not facilitate or aid a third party - to Use that functionality to:

- 2.3.4.1 provide Sage with fraudulent information;
- 2.3.4.2 send spam or other unsolicited or duplicative messages in violation of applicable laws;
- 2.3.4.3 store, distribute or transmit material that is (i) obscene, threatening, libelous or otherwise unlawful or tortious (including material harmful to children or in violation of third party privacy or intellectual property rights), or (ii) contains viruses or other harmful or malicious code that may compromise the security or functionality of any website, program, process, business or data;
- 2.3.4.4 use any tool, process, or method to (i) collect or detect email addresses, financial information, or other information from Sage or other Sage customers; or (ii) attempt to gain unauthorized access to the Software, other accounts, computer systems or networks connected to or supporting the Software through hacking, password mining or by any other means;
- 2.3.4.5 post, upload, use framing techniques to use or otherwise distribute copyrighted material without the consent of the copyright holder;
- 2.3.4.6 Use the Software in any way that threatens the integrity, performance or reliability of the Cloud Solution Services infrastructure (including performance or stress testing), or in any manner that works around any technical limitations in either the whole or any part of the Software; or
- 2.3.4.7 make or attempt to make a local non-cache copy of any part of the Software.

You will comply with all policies and other instructions that Sage informs you about in relation to your Use of the Cloud Solution Services.

- 2.3.5 Where any functionality of the Software is provided by a Sage Group plc entity using Cloud Solution Services:
 - 2.3.5.1 Sage will use reasonable commercial efforts to ensure that the relevant functionality will be accessible to connection from the Internet, however, you understand that the functionality may be interrupted by routine maintenance. Sage will use its commercially reasonable efforts to minimize such interruption and to schedule such maintenance at non-peak hours;
 - 2.3.5.2 you acknowledge and agree that it is subject to limitations, security vulnerabilities, delays and other problems inherent to the operation of the Internet and other electronic communications and that Sage and/or its licensors will not be liable or responsible to you for any such delays, interruptions, security problems, delivery failures or other damage resulting from such problems;
 - 2.3.5.3 Sage may suspend access to the Cloud Solution Services without telling you and without liability, but wherever practicable Sage will give you reasonable prior notice:
 - 2.3.5.3.1 if there is an attack on the servers of Sage's hosting provider or other event for which Sage reasonably believes the suspension of the Cloud Solution Services is necessary to protect you, other Sage customers, Sage or our third party hosting provider;
 - 2.3.5.3.2 if required by law or regulation or as compelled by a law enforcement or government authority.



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- 2.3.6 You will be responsible for providing and maintaining your own compatible equipment, software and communications lines which are required to connect you to the Internet and access the Cloud Solution Services and for your compliance with any third party license terms or other third party agreements in relation to your use of your equipment, software and communications lines.
- 2.3.7 Sage reserves the right to introduce any substitute or replacement Software which substantially fulfills the same functions as the Software which it substitutes or replaces.
- 2.3.8 You acknowledge that certain components within the Program may enable or assist you to access the website content of, correspond with, and purchase products and services from third parties via third-party websites and that if you make such purchases you do so solely at your own risk. Sage makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed and any contract entered into by you with any such third party. Any contract entered into and any transaction completed via any third-party website is between you and the relevant third party and not Sage. Sage recommends that you refer to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Sage does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Program.

3. **INTELLECTUAL PROPERTY RIGHTS.** The copyright and all other intellectual property rights of whatever nature in the Software and any modifications or changes to it and all patents, trademarks and copyrights relating to it are and shall always remain the property of Sage and/or its licensors, and any rights in any other work prepared or carried out by Sage and/or its licensors shall vest in Sage and/or its licensors, as the case may be, on creation of it. You shall notify Sage immediately if you become aware of any unauthorized Use of the Software in whole or in part by any third party.

4. **CONFIDENTIALITY.** You acknowledge that the Software contains intellectual property rights and know-how, system design and proprietary information which is the exclusive and valuable property of Sage or its Affiliates ("**Confidential Information**"). You will not, without the prior written consent of Sage, disclose the Confidential Information to any third party. You will take reasonable and customary precautions to prevent disclosure of such Confidential Information to any such third party. You shall be permitted to disclose aspects of the Software to your personnel only to the extent necessary and to those personnel having a legitimate need to know. You are responsible for ensuring that your personnel are made aware, prior to disclosure of any Confidential Information to them, that all Confidential Information is the confidential and proprietary material of Sage or its Affiliates, and that such personnel owe a duty of confidence to Sage. This section shall not apply to Confidential Information if you can demonstrate that: (a) it was in the public domain at the time of Sage's communication thereof to you or it subsequently entered the public domain through no fault of yours; (b) it was in your possession free of any obligation of confidence at the time of Sage's communication of it to you, or it was subsequently rightfully communicated to you free of any obligation of confidentiality; or (c) it has been communicated by Sage to a third party free of any obligation of confidence; or (d) as compelled by relevant law. The obligations contained in this section shall survive any termination of this Agreement, howsoever caused.

5. LIMITED WARRANTIES AND DISCLAIMERS

5.1 **Software.** Subject to **Sections 5.2 and 5.4 below**, Sage warrants that, during the 90 day period (the "**Software Warranty Period**") that commences on the Commencement Date, the Program, when properly Used, shall perform substantially in accordance with the Documentation. If you report to Sage in writing within the Software Warranty Period any nonconformity between the Documentation and the Program (a "**Warranty Claim**"), and if Sage is able to replicate and verify that such nonconformity exists, Sage shall make commercially reasonable efforts to correct such nonconformity and, if successful, shall supply you with such correction at no additional cost to you. If such efforts are unsuccessful and the nonconformity is material, your sole remedy for a breach of the warranty described in this section, shall be as follows:

- 5.1.1 If you acquire a Perpetual License then (a) except for Maintenance Software, you may terminate this Agreement, discontinue Use of and return all copies you have of the Software, and Sage will ensure



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that you receive a refund of the license fee you paid for the Software Warranty Period; and (b) for Maintenance Software, you may terminate your maintenance and support, discontinue Use of and return all copies you have of the Maintenance Software to Sage, and Sage will ensure that you receive a refund of or credit for the fee you paid for the purchase of the terminated maintenance and support plan.

5.1.2 If you acquire a Subscription License, you may terminate this Agreement, discontinue Use of and return all copies you have of the Software to Sage, and Sage will ensure that you receive a refund of the Subscription License fees you paid for the Software Warranty Period.

5.2 Sage does not warrant or make any representation:

5.2.1 That the Software will meet your requirements;

5.2.2 That you will be able to Use the Software in a particular way;

5.2.3 That the operation of the Software will be uninterrupted or error free; or

5.2.4 Regarding the Use of and/or output from the Software or the results of such Use in terms of content, correctness, accuracy, reliability or otherwise.

5.3 **Customer Support.** Sage warrants that provided you have paid all required maintenance and support fees and where Sage provides Customer Support directly to you, Sage will use qualified personnel to provide Customer Support in a professional manner consistent with industry standards. Your sole remedy under this subsection is limited to Sage's re-performance of the Customer Support services giving rise to your claim. You may request that Sage performs additional consultancy, implementation or other services, which Sage may at its discretion agree to do, subject to and on the terms of a separate services agreement.

5.4 **DISCLAIMERS.** OTHER THAN THE EXPRESS, LIMITED WARRANTIES STATED IN THIS **SECTION 5**, SAGE, ITS LICENSORS AND ITS SUPPLIERS EXPRESSLY DISCLAIM TO THE FULLEST EXTENT PERMITTED BY LAW ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS AND GUARANTEES OF ANY KIND OR NATURE WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES, CONDITIONS, OR GUARANTEES (I) OF MERCHANTABILITY, (II) SATISFACTORY QUALITY, (III) OF FITNESS FOR A PARTICULAR PURPOSE, (IV) OF NON-INFRINGEMENT OF PROPRIETARY OR INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, AND (V) ARISING FROM CUSTOM OR TRADE USAGE OR BY ANY COURSE OF DEALING OR COURSE OF PERFORMANCE. YOU UNDERSTAND AND AGREE THAT: (1) THE UTILITY OF A BUSINESS MANAGEMENT COMPUTER PROGRAM DECREASES AS TECHNOLOGY EVOLVES AND THE BUSINESS ENVIRONMENT CHANGES, (2) YOU ARE FREE TO DECIDE, AND ARE RESPONSIBLE FOR DECIDING, WHEN TO UPGRADE YOUR SOFTWARE, AND (3) SAGE DISCLAIMS ANY RESPONSIBILITY TO DELIVER LATER-RELEASED SOFTWARE OR OTHERWISE RENDER ANY CUSTOMER SUPPORT SERVICES NOT INCLUDED IN MAINTENANCE AND SUPPORT THAT YOU HAVE NOT PAID FOR IN FULL.

5.5 **Other Limitations.** Sage will have no responsibility under these limited warranties for any Software that has been modified, lost, stolen, or damaged by accident, abuse, or misapplication. No employee, agent, or representative of Sage, nor any reseller (including your Reseller) or any other third party, is authorized to make any warranty with respect to the Software, except those expressly stated in this Agreement, and you may not rely on any such unauthorized warranty. You acknowledge and agree that you have chosen your Reseller and that such Reseller is an independent party and not an agent of Sage.

6. EXCLUSIONS OF AND LIMITATION OF LIABILITY

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

6.1.1 Death or personal injury caused by Sage's negligence;

6.1.2 Fraud or fraudulent misrepresentation; or

6.1.3 Any other matter Sage cannot limit or exclude by applicable law.



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- 6.2 You acknowledge and understand that software is inherently complex and may not be free from errors and that you have been advised to verify the work produced by the Program. Neither Sage, its licensors nor its suppliers shall be liable to you whether in tort (including negligence or breach of statutory duty), delict, contract, misrepresentation, restitution or otherwise (even if Sage knew or should have known there was a possibility you could suffer or incur such loss or damages) for:
- 6.2.1 Any special, indirect, incidental, consequential, or punitive damages resulting from any defect in the Software;
 - 6.2.2 Any loss of time, loss of or corruption to data, loss of anticipated profits, lost opportunity cost, loss of use of the Software, depletion of goodwill, or similar losses however caused; or
 - 6.2.3 Any damages or costs incurred in connection with obtaining substitute software, receiving support services, claims made against you by others, or similar costs.
- 6.3 IN NO EVENT SHALL SAGE'S LIABILITY TO YOU ARISING OUT OF OR IN CONNECTION WITH THE SOFTWARE, MAINTENANCE AND SUPPORT, OR THIS AGREEMENT, WHETHER IN CONTRACT, TORT, DELICT OR OTHERWISE, EXCEED:
- 6.3.1 IF YOU HAVE PAID FOR A PERPETUAL LICENSE, THE FEE ACTUALLY PAID BY YOU TO PURCHASE THE PERPETUAL LICENSE; OR
 - 6.3.2 IF YOU HAVE PAID FOR A SUBSCRIPTION LICENSE, THE FEES ACTUALLY PAID BY YOU FOR THE SUBSCRIPTION LICENSE IN THE 12 MONTHS IMMEDIATELY PRECEDING YOUR CLAIM OR ANY SHORTER PERIOD IF THIS AGREEMENT TERMINATES FOR ANY REASON PRIOR TO THE END OF THE FIRST 12 MONTHS.

You acknowledge and agree that this Agreement allocates risk between you and Sage as authorized by applicable law, and that the pricing of Sage products reflects this allocation of risk and the exclusions and limitations of liability contained in this Agreement. If any remedy hereunder is determined to have failed of its essential purpose, all other limitations of liability and exclusion of damages set forth in this Agreement shall remain in full force and effect.

- 6.4 You acknowledge that unless you and Sage agree in writing for Sage to provide software implementation services to implement the Program at your place of business, you are responsible for engaging a qualified party to provide implementation services for you on terms you negotiate. You also acknowledge that Sage does not endorse any reseller (including your Reseller) or other service provider and you are responsible for independently investigating the skills and qualifications of such party to ensure that they provide you with the level of skill and service your business requires. You agree that Sage shall have no liability whatsoever for any failure associated with such implementation services, even if the party you engage is a Reseller, consultant, or installer of Sage products.
- 6.5 In the event that you wish to bring a claim or other civil proceeding arising out of or in connection with this Agreement, you represent and warrant to Sage that the involvement of you and any of your Affiliates in such a claim or proceeding shall not give rise to any increase in or multiplication of any cap placed on Sage's liability.

7. INDEMNIFICATION

- 7.1 If you receive notice of any claim that your use of any part of the Software infringes any third party's intellectual property right in a patent, copyright, or trade secret (an "**Indemnity Claim**"), Sage shall defend and shall indemnify and hold you harmless by paying any resulting costs and damages finally awarded by a court of competent jurisdiction with respect to any such Indemnity Claim provided that you:
- 7.1.1 Notify Sage in writing promptly upon becoming aware of the Indemnity Claim;
 - 7.1.2 At Sage's request and expense, give Sage such information and assistance as is reasonable under the circumstances; and



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- 7.1.3 Do not independently defend or respond to any claim or threatened claim and give Sage the right to settle the Indemnity Claim in Sage's sole discretion and at Sage's expense.
- 7.2 This indemnification does not extend to any Indemnity Claim:
 - 7.2.1 Arising from the combination of the Software with other elements not under Sage's sole control;
 - 7.2.2 Arising from any part of the Software that you or a third-party modify, or that incorporates specifications, designs or formulas that you provide;
 - 7.2.3 Which arises as a result of your continued Use of the Software after you have been notified that it infringes the rights of a third party; or
 - 7.2.4 If in relation to an Indemnity Claim you do not comply with **Section 7.1 above**.
- 7.3 If you are prevented from Using the Software because of an actual or threatened infringement, then at Sage's option, Sage shall promptly either:
 - 7.3.1 Obtain for you the right to continue Using the affected part of the Software; or
 - 7.3.2 Replace or modify the affected part of the Software so that it becomes non-infringing.
- 7.4 If having used all reasonable commercial efforts Sage cannot achieve either of the circumstances in **Sections 7.3.1 or 7.3.2 above**, you may terminate this Agreement, and Sage shall ensure that:
 - 7.4.1 If you acquired a Perpetual License you receive a refund or credit for (i) the maintenance and support fees you incurred to purchase or renew your maintenance and support for the then-current term, and (ii) a pro rata portion of the Perpetual License fees you incurred for the purchase of your initial Perpetual License and all upgrades, which pro rata portion will be determined on the basis of the remaining period of a useful life of 5 years, where the five-year useful life begins on the date you purchase your initial license.
 - 7.4.2 If you acquired a Subscription License, you receive a refund of or credit for any prepaid but unused portion of the Subscription License fees paid by you for the Software.
- 7.5 **THIS SECTION 7 SETS OUT SAGE'S ENTIRE FINANCIAL LIABILITY FOR ANY INDEMNITY CLAIM.**
- 8. **MAINTENANCE AND CUSTOMER SUPPORT**
 - 8.1 If you purchased Maintenance Software and/or Customer Support directly from Sage, information about such Maintenance Software and Customer Support will be provided to you by the Sage Group plc entity with which you contracted for the Software (and which may be either in printed or electronic form including by reference to any customer services handbooks, support guides and any URL which Sage may notify to you from time to time). If you acquired a Subscription License that includes support, your license will also include Maintenance Software and Customer Support.
 - 8.2 If the Sage Group plc entity with which you contracted for the Software allowed you to purchase Maintenance Software and/or Customer Support from a Reseller, such Maintenance Software and/or Customer Support will be provided to you in accordance with the Reseller's own documentation and instructions and the provisions of **Section 8.1 above** will not apply to you. If you acquired a Subscription License that includes support, Sage will provide Maintenance Software and Customer Support to your Reseller and the Reseller will provide the same to you in accordance with the provisions of this **Section 8.2**.
 - 8.3 If you acquired a Perpetual License you may be required to pay for Maintenance Software and Customer Support during the first year of your license. Information about the provisions of such Maintenance Software and Customer Support will be provided to you by the Sage Group plc entity with which you contracted for the Maintenance Software and Customer Support (and which may be either in printed or electronic form including by reference to any customer services handbooks, support guides and any URL which Sage may notify to you



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from time to time), If the Sage Group plc entity with which you contracted for the Software allowed you to purchase Maintenance Software and Customer Support from a Reseller, such Maintenance Software and Customer Support will be provided to you in accordance with the Reseller's own documentation and instructions.

- 8.4** Where Sage provides Maintenance Software and/or Customer Support directly to you, Sage will not be required to provide such Maintenance Software and/or Customer Support where errors arise from:
- 8.4.1** use of any third party equipment, hardware, software or communication lines;
 - 8.4.2** incorrect use of the Software or operator error;
 - 8.4.3** your failure to fulfil or observe your obligations in **Section 2** of this Agreement;
 - 8.4.4** your failure to ensure that your network and systems comply with the relevant specifications provided by Sage from time to time; or
 - 8.4.5** any other circumstances where it is stated in the information provided to you by Sage that such Maintenance Software and/or Customer Support will not be provided.

9. FEES AND PAYMENTS

- 9.1** Sage may increase its license and other fees at any time without notice so fees due for new or additional Software license or subscription purchases may be more than a previous purchase.
- 9.2** You must pay the relevant fees and any other charges arising under this Agreement as stated on Sage's invoice or order form and within 30 days of the date on the invoice or order form, or as otherwise agreed with Sage. All invoices or order forms to you and payments from you to Sage will be in the currency specified on your invoice or order form. Fees quoted do not include applicable sales taxes but all applicable taxes will be included in the amount Sage charges you.
- 9.3** Fees may include late payment fees or penalties incurred because your financial institution fails to honor a check or electronic charge, direct debit or transfer. Late payments will accrue interest at the highest rate permitted by the law of the Sage Group plc entity with which you contracted for the Software or as otherwise agreed with your local Sage entity.
- 9.4** You are obligated to pay all fees irrespective of whether you receive an invoice. If you purchased your Perpetual License or your Subscription License (as the case may be) from a Reseller, the Reseller may be responsible for paying all fees to Sage on your behalf (if the Sage Group plc entity with which you contracted for the Software permits this). If Sage has not received payment of the applicable fees either from you or from your Reseller (as the case may be) or if Sage has received notification from your Reseller of your non-payment of the same, then without prejudice to Sage's other rights and obligations Sage may suspend or terminate either your Perpetual License or your Subscription License (as the case may be).
- 9.5** If at any time during your Perpetual License or Subscription License (as the case may be) you want to increase the number of your users which can access the Program or to access additional components or modules in the Program, you must pay Sage's applicable fees.
- 9.5.1** If you have a Subscription License:
- 9.5.1.1** the additional fees payable will be pro-rated from the date such additional users are added to your license and/or the date access to the additional Program components or modules is made available to you until the commencement of your next renewal date for your Subscription License; and
 - 9.5.1.2** any decrease in the number of users or reduction in access to additional Program components or modules will be made from the next renewal date of your Subscription License.
- 9.5.2** If you have a Perpetual License:



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- 9.5.2.1 the additional fees will be payable from the date such additional users are added to your license and/or the date access to the additional Program components or modules is made available to you; and
- 9.5.2.2 there will be no refund or credit of the license fees which you have previously paid and any decrease in the fees payable for Maintenance Software and/or Customer Support will be reflected in your next invoice for renewal of Maintenance Software and/or Customer Support.

- 9.6 If you purchased a Perpetual License, then unless you agreed otherwise with the Sage Group plc entity from which you purchased your Maintenance Software and Customer Support, payment is required in advance for the full length of your Initial Support Term and each subsequent Support Renewal Term (as described in **Section 10.1.2.1**) and is non-cancellable and non-refundable.
- 9.7 If you purchased a Subscription License, subject to **Section 9.5 above**, Sage may not increase the license fees more than once in any 12-month period following your initial purchase by more than the amount stated by the Sage Group plc entity with which you contracted for the Software. Sage will use its reasonable endeavours to give you (or your Reseller if you purchased the Subscription License from a Reseller) 60 days' written notice prior to your next renewal date of any price increase (unless the Sage Group plc entity from which you purchased your Subscription License has agreed to give you a different number of days written notice of any price increase). If you continue to Use the Software after the fee change takes effect, you will be deemed to (a) agree to the increase in the fees and (b) authorize Sage to collect the new fees amount using the agreed payment method.
- 9.8 You are responsible for providing Sage with your most current contact and billing information. If you purchased a Subscription License you agree that, so long as your license is active, Sage may automatically bill the same credit card or debit the same bank account you provided to Sage on the same periodic basis as previously agreed with you, unless subsequently agreed otherwise.
- 9.9 If the Sage Group plc entity with which you contracted for the Software allowed you to purchase the relevant license through a Reseller, then except for **Section 9.4**, the terms in that agreement in relation to payment of fees for a Perpetual License, a Subscription License, support, maintenance and any other services provided by the Reseller to you will prevail over the payment terms in this **Section 9**.

10. TERM AND TERMINATION

- 10.1 This Agreement is effective from the Commencement Date and continues until terminated in accordance with this section.
 - 10.1.1 If you acquire a Perpetual License you may terminate this Agreement at any time, at which point your license hereunder will terminate; if you do so, there will be no refund or credit or your license fees either in whole or in part. You shall be responsible for retrieving your data from the Software prior to this Agreement terminating and any failure by you to extract your data will not prevent this Agreement from terminating.
 - 10.1.2 Subject to **Section 8.3**:
 - 10.1.2.1 if you have purchased Maintenance Software and Customer Support directly from a Sage Group plc entity, the initial period for such Maintenance Software and Customer Support will be for one (1) year unless you are offered and select a shorter or a longer period in which case the shorter or longer term will be your initial period ("**Initial Support Term**"). Your Initial Support Term will automatically continue to renew thereafter for the same period of time (your "**Support Renewal Term**") unless a different term is agreed otherwise with the Sage Group plc entity from which you purchased your Maintenance Software and Customer Support. You may choose not to renew your Initial Support Term or subsequent Support Renewal Term (as the case may be) by providing at least 90 days' written notice of your non-renewal to the Sage

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Group plc entity from which you purchased your Maintenance Software and Customer Support (unless you agreed a different notice period with such Sage Group plc entity in which case such different notice period will apply) and your non-renewal notice will expire on the last day of your Initial Support Term or Support Renewal Term (as the case may be). If you terminate the provision of your Maintenance Software and Customer Support you will still have the right to continue to Use the Software in accordance with the terms of this Agreement, however, you understand and agree that you will not have the right to receive any further Maintenance Software and Customer Support;

10.1.2.2 if you have purchased Maintenance Software and Customer support from a Reseller, you may terminate your Reseller's provision of Maintenance Software and Customer Support in accordance with the terms of your agreement with your Reseller and, if you do so, you will still have the right to continue to Use the Software in accordance with the terms of this Agreement, however, you understand and agree that you will not have the right to receive any further Maintenance Software and Customer Support.

10.1.2 If you acquire a Subscription License:

10.1.2.1 The “**Initial Term**” will run for one (1) year unless you are offered and select a shorter or a longer period when you acquire your initial Subscription License; in such event, the shorter or longer subscription term will be your Initial Term. Your Initial Term will automatically continue to renew thereafter for the same subscription term (your “**Renewal Term**”) unless a different license term or subscription period is agreed otherwise with Sage. Payment is required in advance for the full length of your Initial Term and each Renewal Term and is non-cancellable and non-refundable (except as described in **Subsections 5.1.2, 7.4.2 and 10.1.2.2**), even if you cancel or choose not to renew your Subscription License.

10.1.2.2 You may choose not to renew your Subscription License, or to reduce the number of your users, or to reduce your access to certain Program components or modules by providing your non-renewal or reduction request in writing to Sage. Your request must include your Sage customer number, your company name, a company contact name, a company phone number and/or email, and be received by Sage within the time period prescribed by the Sage Group plc entity with which you contracted for the Software in order for the request to take effect at the end of that term (the “**Termination Date**”). If no such time period was prescribed by the relevant Sage Group plc entity then the relevant notice period will be 90 days' written notice. If your non-renewal or reduction request is received with less than the required notice you will be required to pay the fees prescribed by the Sage Group plc entity with which you contracted for the Software. Requests received after the Termination Date will be applied to the following Renewal Term.

10.1.2.3 You shall be responsible for all Subscription License fees and processing fees that fall due before or after the Termination Date.

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

10.1.3 Notwithstanding the foregoing, this Agreement and the license granted to you will terminate automatically and without notice if:

10.1.3.1 You fail to pay any fees when due and Sage gives you 10 working days' written notice of such late payment and after 10 working days you still have not paid the amount due (unless the Sage Group plc entity from which you purchased the relevant license has agreed a different notice period within which you must pay your fees);

10.1.3.2 You fail to comply with any term of this Agreement and, if capable of remedy, do not rectify your non-compliance within 30 days of Sage's written notice requiring you to remedy your non-



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compliance. Where a breach is a material breach or a breach not capable of remedy, Sage may in its sole discretion terminate this Agreement on written to you with immediate effect; or

- 10.1.3.3 Sage is notified that any finance arrangement you may have made with a third party for the payment of any license fees has ended for any reason other than it being satisfied in full; or
- 10.1.3.4 To the extent applicable in your local jurisdiction, if you cease to exist, cease to trade, become bankrupt, go into liquidation, suffer or make any winding up petition, make an appointment with your creditors, have an administrator, administrative receiver or other receiver appointed, benefit from a statutory moratorium of your debts, or if you are affected by any similar circumstances.

- 10.2 Either party may terminate this Agreement in accordance with any other section which by its express provisions allows a party to terminate this Agreement.
- 10.3 Within 10 days after the termination or expiration of your Perpetual License or your Subscription License, or this Agreement, you shall uninstall the Software and certify in writing to Sage that you have done so.
- 10.4 Any provision in this Agreement which when reasonably read as intended to survive the termination of this Agreement shall survive, including without limitation, the disclaimer of warranties and limitations of liability.

11. ANTI-BRIBERY AND CORRUPTION

- 11.1 Each party will and will procure that persons associated with them:
 - 11.1.1 Comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption (the “**Relevant Requirements**”);
 - 11.1.2 Not engage in any conduct which would constitute an offence under any of the Relevant Requirements;
 - 11.1.3 Not do, or omit to do, any act that may lead the other party to be in breach of any of the Relevant Requirements;
 - 11.1.4 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; and
 - 11.1.5 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.

12. DATA PROTECTION

- 12.1 This **Section 12** applies to the extent the GDPR governs Sage’s Processing of your data (including Customer Data).
- 12.2 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.
- 12.3 You warrant and represent that:
 - 12.3.1 you will comply with and will ensure that your instructions for the Processing of Customer Personal Data will comply the Data Protection Laws;
 - 12.3.2 you are authorized pursuant to the Data Protection Laws to disclose any Customer Personal Data which you disclose or otherwise provide to Sage regarding persons other than yourself;
 - 12.3.3 you will where necessary, and in accordance with the Data Protection Laws, obtain all necessary consents and rights and provide all necessary information and notices to Data Subjects in order for:
 - 12.3.3.1 you to disclose the Customer Personal Data to Sage;



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- 12.3.3.2 Sage to Process the Customer Personal Data for the purposes set out in this Agreement; and
- 12.3.3.3 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.

- 12.4 To the extent the GDPR governs Sage's Processing of any Customer Personal Data, the terms of Exhibit A shall apply and the parties agree to comply with such terms.
- 12.5 Where, and to the extent Sage Processes your 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.
- 12.6 You agree that Sage may record, retain and use Customer Data generated and stored during your use of the Program (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:
 - 12.6.1 deliver advertising, marketing (including in-product messaging) or information to you which may be useful to you, based on your use of the Program;
 - 12.6.2 carry out research and development to improve Sage, and its Affiliates', services, products and applications;
 - 12.6.3 develop and provide new and existing functionality and services (including statistical analysis, benchmarking and forecasting services) to you and other Sage customers;
 - 12.6.3 provide you with location based services (for example location relevant content) where Sage collects geo-location data to provide a relevant experience,

provided that Sage shall only record, retain and use the Customer Data and/or Process Customer Personal Data on a pseudonymized basis, displayed at aggregated levels, which will not be linked back to you or to any living individual. If at any time you do not want Sage to use Customer Data in the manner described in this **Section 12.6**, please contact Sage at the email address set out in the Privacy Notice.

13. GENERAL

- 13.1 **Independent Contractors.** Each party is an independent contractor and neither party will represent itself as agent, servant, franchisee, joint venture or legal partner of the other.
- 13.2 **Export.** The Software may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any United States government denied-party list. You shall not permit your users of the Software to access or use the Software in a United States embargoed country or in violation of any United States export law or regulation.
- 13.3 **Transfer and Assignment.** You shall not transfer, delegate, or assign this Agreement in whole or in part, directly or indirectly, by operation of law, merger, acquisition, or otherwise without Sage's prior written consent. This Agreement is assignable by Sage and Sage is entitled to sub-contract any of its obligations under this Agreement provided that any such sub-contracting will not relieve Sage of its obligations to you.
- 13.4 **U.S. Government Restricted Rights.** If the Sage Group plc entity with which you contracted for the Software is Sage Software, Inc., the Software is made available with RESTRICTED RIGHTS. Use, duplication, or disclosure by the U.S. Government (including its agencies and instrumentalities) is subject to restrictions set forth in 48 CFR 52.227-19 or DFARS 252.227-7014, as applicable. Sage Software, Inc. is the distributor in North America. Sage Software, Inc.'s address in the United States is 271 17th Street, Suite 1100, Atlanta, Georgia



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30363; Sage Software, Inc.'s address in Canada is 13888 Wireless Way, Suite 120, Richmond, British Columbia, V6V 0A3, Canada.

- 13.5 Jurisdictional Rights.** This Agreement gives you specific legal rights and you may also have other rights which vary from jurisdiction to jurisdiction. Some jurisdictions do not allow the exclusion or limitation of implied warranties or of liability for incidental or consequential damages, so some of the provisions in this Agreement may not apply to you in which case the provisions of **Section 13.14** will be applicable.
- 13.6 Waiver.** No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver or continuing waiver of such rights. Such rights may only be waived in writing signed by both parties.
- 13.7 Audit Rights.** With or without prior notice, Sage may audit your Use of the Software to ensure that you comply with the terms and conditions of this Agreement. If an audit reveals that you have underpaid fees or owe fees to Sage, Sage will invoice you for the underpayment or amount due based on the Sage price list in effect at the time the audit is completed.
- 13.8 Force Majeure.** Sage will have no liability to you under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control.
- 13.9 No Third Party Beneficiaries.** Except as expressly set out in this Agreement, a person who is not a party to this Agreement will have no rights to enforce any terms in this Agreement.
- 13.10 Notices and Electronic Communications.** Your day to day communication with Sage must be via the contact details given in Sage's relevant documentation and Sage's communication to you will be via those details given to Sage when you accepted this Agreement (or any new details which you subsequently notify to Sage). Each party will use the appropriate communication medium, including e-mail, and in the case of Sage communicating with you, by publishing notices on its website. Any formal notice required to be given under this Agreement will be in writing and will be sent by pre-paid mail or recorded delivery or by email to the party required to receive the notice at the address given for that party. Any notice will be deemed to have been duly received if sent by: (a) pre-paid mail, 48 hours after posting; or (b) recorded delivery on the next business day; or (c) email at 0900 on the next business day after the email is sent, or earlier if the intended recipient has confirmed receipt (either specifically or by conduct).
- 13.11 Reference Program.** Unless you send us a notice in accordance with **Section 13.10**, Sage (or any company within the Sage Group Plc group of companies) may reference the relationship established by this Agreement by including your company name, and/or trade mark(s) and/or logo(s):
- 13.11.1** in its list of customers on Sage corporate websites or printed materials;
 - 13.11.2** in communications presenting Sage and its product and services to existing and prospective clients;
 - 13.11.3** in press releases (including in a 'customer win' release which is an announcement about Sage new clients and in Sage case studies (written or video) which may include a mutually agreeable quote or testimonial from one of your executives. Sage press releases and case studies may be published on Sage corporate websites.

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



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- 13.12 Entire Agreement.** This Agreement represents the complete and exclusive understanding between you and Sage regarding the Program, including maintenance and support, and supersedes any prior purchase order terms, confirmation, advertising, representation, or other communication. For clarity, if you are also required to indicate your acceptance by clicking on an “I Accept” or similar button during the installation process as well as sign a paper copy of this Agreement, the parties agree that the terms in the physical signed document shall prevail over the terms of the agreement to which you indicate your electronic acceptance during the installation process. The parties agree that notwithstanding the fact you may be required to click on the “I Accept” or similar button during the installation process, such action does not indicate your acceptance of such terms and that the terms of such agreement shall have no effect. The parties acknowledge that in entering into this Agreement they have not relied on and will have no rights or remedies in respect of any statement, representation, assurance or warranty other than as expressly set out in this Agreement. Nothing in this section shall limited or exclude the parties’ liability for fraudulent misrepresentation.
- 13.13 Modification.** This Agreement may not be modified except by a written agreement signed by you and an authorized Sage representative.
- 13.14 Severability.** If any provision of this Agreement is found to be void, invalid, or unenforceable, it shall be severed from and shall not affect the remainder of this Agreement, which shall remain valid and enforceable. Any such severed provision shall be replaced with a similar provision which conforms to applicable law of the Sage entity from which you purchased a license for the Software and embodies as closely as possible the original intent of the parties.
- 13.15 Dispute Resolution.** If a dispute or other disagreement arises between the parties, then:
- 13.15.1** Each party agrees to promptly raise the matter internally to the relevant account managers for resolution and if the account managers are unable to rectify the matter within 30 days of being requested to do so, the parties will each escalate the matter to senior managers for resolution who will attempt to resolve the dispute within a further period of 30 days;
- 13.15.2** If the senior managers are unable to resolve the matter within 30 days of being requested to do so, the parties will each escalate the matter to a director or vice president. The director or vice president will then in good faith attempt to resolve the matter within a further period of 30 days;
- 13.15.3** Where the matter has not been resolved following the procedure in **Sub-sections 13.15.1 and 13.15.2**, then either:
- 13.15.3.1** where you Use the Program primarily in North America, Argentina, Caribbean (except French Caribbean), Chile, Columbia, Ecuador, Guatemala, Mexico, Panama, Peru, Puerto Rico or Uruguay, then any cause of action or claim arising out of or relating to this Agreement or the breach thereof, including without limitation, the validity, enforceability or scope of this Agreement, shall be settled by binding arbitration conducted in Atlanta, Georgia. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In addition, you agree that any cause of action or claim will be arbitrated individually and that you will not consolidate or seek class treatment for any claims, unless previously agreed to in writing by you and Sage; or
- 13.15.3.2** otherwise either party is free to pursue alternative remedies in accordance with **Section 13.16**.
- Neither party can commence any litigation or court proceedings in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute in accordance with this **Section 13.15** except where a party seeks interim injunctive relief or to issue a claim within an applicable limitation period.
- 13.16 Governing Law and Jurisdiction.** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the laws of the Sage Group plc entity that you are contracting with as set out in the column entitled “Governing Law” in the table set out in Exhibit B.



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



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EXHIBIT A – DATA PROTECTION

1. Interpretation

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

2. Processing of Customer Personal Data

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

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

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

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

2.1.2.2 otherwise on your documented instructions.

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

3. Obligations of Sage

- 3.1 Sage shall:

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

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

3.1.2.1 notifications to Supervisory Authorities;

3.1.2.2 prior consultations with Supervisory Authorities;

3.1.2.3 communication of any breach to Data Subjects; and

3.1.2.4 privacy impact assessments.

4. Personnel

- 4.1 Sage shall:

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

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

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

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

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5. Security and Audit

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

6. Data Breach

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

7. Transfer of Personal Data outside the EEA

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



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8. Return and deletion

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

9. Use of Sub-Processors

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



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EXHIBIT B

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

	Sage Entity and Address	Governing Law	Court of Jurisdiction
If you contracted with Sage in the United Kingdom (including where your company, business or organization is based in the Republic of Ireland) for the Use of the Program, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage (UK) Limited, registered company number 1045967, with a registered office address at North Park, Newcastle upon Tyne, NE13 9AA.	English law	English.
If you contracted with Sage in the United States or your company, business or organization is based in Argentina, Caribbean (except French Caribbean), Chile, Columbia, Ecuador, Guatemala, Mexico, Panama, Peru, Puerto Rico or Uruguay, for the Use of the Program, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Software, Inc., a Virginia corporation located at 271 17 th Street, Suite 1100, Atlanta, Georgia 30363.	The laws of the State of Georgia (without reference to its conflicts of law principles) and controlling United States federal laws.	The exclusive court will be located in Gwinnett County, Georgia for state subject matter and Fulton County, Georgia for federal subject matter.
If you contracted with Sage in Canada for the Use of the Program, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Software Canada Limited, an Ontario corporation located at 120 Bremner Blvd., Suite 1500, Toronto, Ontario M5J 0A1, Canada.	The laws of the Province of British Columbia.	The exclusive court will be located in Vancouver.
If you contracted with Sage in France for the Use of the Program, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage SAS, with a share capital of 6,750,000€ and registered in Paris under number 313 966 129, located at 10, rue Fructidor-75834 Paris cedex 17 Paris.	French law.	Court of Paris.
If you contracted with Sage in Germany for the Use of the Program, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage GmbH Franklinstraße 61-63, 60486 Frankfurt am Main.	German law (without reference to its conflicts of law principles and without the UNICTRAL).	Frankfurt am Main.
If you contracted with Sage in Spain for the Use of the Program, the Sage contracting entity, governing law and court of jurisdiction will be:	Sage Spain, S.L., with registered office at Madrid, Avenida Europa, 19, 1 st floor, (28108) Alcobendas (Madrid).	Spanish law.	Madrid courts.



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