SAGE X3 (SALP) AGREEMENT

THIS AGREEMENT DEALS WITH DIRECT (THROUGH SAGE) AND INDIRECT (THROUGH A RESELLER) SALES OF SOFTWARE. PLEASE NOTE CLAUSE 15.16 OF THIS AGREEMENT, WHICH DEALS WITH SPECIFIC PROVISIONS WHEN PURCHASING THROUGH A RESELLER.

Last updated: October 2020

1. Definitions and Interpretation

1.1. Definitions

"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 continue

"Agreement" means these terms and conditions, your Order(s) and any other documentation or terms and conditions referred to within any of them.

"API" means an application programming interface.

"App" means application software designed to run on a mobile device.

"Approved Environment" means servers and/or operating systems that meet Sage's minimum specification for use with the Software, as more particularly set out in the Documentation.

"Commencement Date" " means the date on which you accept and sign the Order or the date you do anything which indicates your acceptance of this Agreement or the date you access and use the Software for the first time, whichever date is earlier.

"Customer Data" means the data, information or material provided, inputted, processed or submitted by you (or by Users on your behalf) into the Software.

"Customer Support" means assistance that we (or your Reseller) may provide or make available to you as more particularly set out in the Documentation.

"Documentation" means the online or written user guides, specifications and manuals regarding the Software, Maintenance and Customer Support made available by us, and any updates thereto, but excluding marketing materials and sales publications.

"Fees" means Licence Fees and/or Maintenance and Customer Support Fees, together with any other fees that may be due or payable under this Agreement as detailed in the applicable Order.

"Force Majeure Event" means an act of God (e.g. a natural disaster, accident or epidemic) or another event outside of a party's reasonable control (e.g. acts of war, terrorism, government or regulatory authority or by another third party outside the party's control).

"Installation Site" means the business premises at which you install the Software.

"Intellectual Property Rights" means rights recognised by any jurisdiction with respect to intellectual work product including, without limitation, patent rights (including priority rights), design rights, copyrights (including moral rights), trade secret rights, trademarks, service marks, know-how and domain name rights.

"Licence Fees" means the licence fees payable by you to us (or your Reseller) for the right to use the Software, as more particularly set out in your Order.

"Maintenance" means updates, upgrades, enhanced and new functionality, patches and fixes for the Software that we (or your Reseller) may provide or make available to you as more particularly set out in the Documentation.

"Maintenance and Customer Support Fees" means the fees payable by you to us (or your Reseller) for the right to receive Maintenance and Customer Support, as more particularly set out in your Order.

"Order" means the document signed by you and Sage or you and the Reseller (in the event of the Software being purchased through a Reseller) containing the details of the Software procured by you as well as the Licence/ Maintenance Fees which together with this Agreement forms a binding contract between you and Sage evidencing your order in respect of the Software, Maintenance and/or Customer Support.

"Privacy Notice" means our Privacy Notice posted on www.sage.com (or such other URL as notified to you) as amended from time to time.

"Reseller" means an independent third party authorised or certified by us to act as a partner or distributor of the Software.

"Restricted Territories" means: (i) Cuba, Sudan, Iran, North Korea, Syria and the territory of Crimea / Sevastopol; and (ii) any other country or territory that is subject to sanctions by the United Kingdom, the European Union, the U.S, United Nations or elsewhere.

"Sage" means The Sage Group PLC or an Affiliate thereof.

"**Sage Data**" means the information on the Order, data about the configuration and use of the Software, the Documentation, and other information provided to you via login to the Software or otherwise by Sage in the course of performance under this Agreement, other than Customer Data.

"Software" means the Sage X3 solution that you procure from Sage (or your Reseller) as more particularly described in the Documentation but excluding any Third-Party Service.

"Third-Party Provider" means the provider of a Third-Party Service.

"Third-Party Service(s)" means any product(s) (e.g. Apps, software, or forms), tool(s) (e.g. integration or development tools) or service(s) (e.g. cloud services, hosting, implementation, configuration, development or accounting services) provided by a party other than Sage or our subcontractors.

"Users means those individuals who are authorised by you to access and use the Software. Users may include your employees, consultants, contractors or agents.

"we" "us" or "our" means the Sage contracting entity that the End-User has placed an Order with either directly or indirectly through a Reseller in Schedule 1 below.

"you" or "your" means the person accepting this Agreement, provided that if such acceptance is on behalf of a company or other legal entity then: (i) the person represents that they have the authority to bind such entity and its Affiliates to the terms of this Agreement; and (ii) "**you**" and "**your**" and "**Customer**" refers to such entity and its Affiliates (to the extent that Users who are employed or who are otherwise engaged as consultants, contractors or agents by Affiliates access and use the Software).

Other capitalised terms shall have the respective meanings given to them elsewhere in this Agreement.

1.2 Interpretation. 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; (e) use of the singular shall be treated as including the plural and vice versa; and (f) a reference to writing or written includes email but not faxes.

2. Usage Rights.
2.1. Licence grant. Subject to the rights and limitations set out in this Agreement and your payment of all Licence Fees when due, we grant you a non-exclusive, non-sublicensable, non-transferable (except as expressly permitted herein) limited licence to use the Software provided that: (i) your use of the Software: (a) is solely for your internal business purposes; (b) is in accordance with the scope of use set out in your Order and the Documentation; and (c) shall be restricted to use in object code form only; and (ii) unless otherwise specified in the Order, you install the Software on an Approved Environment at one Installation Site only.

2.2. Except as set out in your Order, you may transfer the Software from one Approved Environment and/or Installation Site to another, provided always that the Software is permanently deleted from your previous Approved Environment and/or Installation Site. You shall not: (i) unless you have purchased a separate disaster recovery licence pursuant to clause 2.3, install the Software at any other premises other than your Installation Site; or (ii) permit any other unauthorised access to or use of the Software, and you shall notify us immediately in the event that you become aware of any unauthorised access or use.

2.3. Backups and copies. You may: (i) make backup copies of the Software for the sole purpose of reinstalling the Software; (ii) make one copy of the Software for use in a testing environment solely for internal testing purposes; and (iii) provided that you have paid the additional disaster recovery licence fees, make and install one copy of the Software at a disaster recovery site. In each case you shall record the number and location of all copies of the Software and use all reasonable endeavours to prevent unauthorised copying.

2.4. Affiliate use. You may either (i) process the data of an Affiliate (for the purposes of creating group or non-consolidated reports); or (ii) permit Users who are employed or who are otherwise engaged as consultants, contractors or agents by an Affiliate to access and use the Software on your behalf only if you: (a) have

paid the relevant Licence Fees for such Users; (b) maintain an accurate list of the relevant Affiliates and provide us with a copy of such list, upon request; and (c) promptly notify us of any change to the list of Affiliates specified in clause 2.4(ii) above.

2.5. Limitations. Except with our prior written consent, you shall not access or use all or any part of the Software if you provide, or intend to provide, any service or functionality which competes with the Software, or for any other benchmarking or competitive purposes. Any breach of this clause 2.5, by you, shall amount to a material breach of this Agreement

2.6. Compatibility. You are solely responsible for procuring, maintaining and securing your network connections and telecommunications links from your systems (or those provided by a Third-Party Provider) to the Software, and for all problems, conditions, delays, delivery failures, costs and all other loss or damage arising from or relating to your (or any Third-Party Provider's) network connections, telecommunications links or caused by the internet.

2.7 Users. You undertake that: (i) the maximum number of Users that you permit to access and use the Software shall not exceed the number of Users that you have purchased from us; and (ii) Users shall keep confidential any user ID's and passwords relating to their use of the Software.

2.8 Changing your licence. You may from time to time request changes to your licence, which may include changes to Users or changes to the modules you wish to access and use. If you request additional Users or additional modules, then we shall invoice you for any additional Licence Fees (based on our then current price list) on or around the date such additional Users and/or modules are made available to you. If you request a reduction in the number of Users or a reduction in the number of modules you access and use, then (i) you may only do so with effect from the commencement of your next Renewal Term, at which point your Maintenance and Customer Support Fees will be calculated (as per our then current price list) taking into account the reduction in Users and/or modules; and (ii) you shall not be entitled to any refund and/or credit in respect of any Licence Fees previously paid. You shall pay any Fees due pursuant to this clause 2.8 in accordance with the provisions of clause 5.3.

2.9 Your obligations. You shall: (i) provide us with all necessary co-operation in relation to this Agreement, and all necessary access to such information as we may require in order to fulfill our obligations under this Agreement; (ii) carry out all of your obligations under this Agreement in a timely and efficient manner, failing which we may adjust any agreed timetable or delivery schedule as reasonably necessary; (iii) ensure that the Users use the Software only in accordance with the Documentation and the terms of this Agreement, and be responsible for any User's breach of this Agreement; (iv) obtain and maintain all necessary licenses, consents and permissions necessary to allow us (or our employees, consultants, subcontractors or agents) to perform our respective obligations under this Agreement; (v) ensure that your network and systems comply with any requirements as notified to you from time to time; (vi) comply with all notices, policies and instructions relating to the Software which we (or your Reseller) provide to you, from time to time; (vii) be solely responsible for the accuracy, quality, reliability, integrity and legality of the Customer Data and for obtaining the necessary consents and permissions to allow you to input Customer Data into the Software.

2.10. Restrictions. You shall not: (i) licence, rent, sell, resell, lease, transfer, assign, distribute, display, disclose or otherwise commercially exploit or make the Software available to any third party other than your Users, or include the Software as part of a facility management, timesharing or service bureau arrangement except as expressly authorised in the Agreement; (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer, copy (except as expressly provided for under this Agreement), modify or make derivative works based upon the Software; (iii) remove any proprietary notices or labels from the Software or the Documentation; (iv) use the Software, including through a Third-Party Service, for any purpose other than those for which it was designed and specifically not use it: (a) to send spam or otherwise duplicative or unsolicited messages in violation of applicable laws or regulations; (b) to provide us with fraudulent information; (c) to send or store material which violates the rights of a third party; (d) to send or store material containing viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (e) to interfere with or disrupt the integrity or performance of the Software or other data contained therein or threaten to do the same; or (f) for any other illegal or unlawful purposes. You shall not facilitate or assist a third party in any of the activities described in this clause 2.10.

2.11. In the event that you breach any of the provisions of clause 2.10, then we reserve the right, without liability or prejudice to our other rights under this Agreement, to: (i) immediately suspend the provision of Maintenance and/or Customer Support; and/or (ii) request that you uninstall the Software (including, where applicable, all copies of the Software), in which case you shall carry out such uninstallation immediately (and in any event within ten (10) days of receiving our request to do so).

2.12. Using a Sage application together with the Software. We may make available to you an App which will allow you to access the Software. Your access to and use of the App is subject to the terms of this Agreement and any supplemental terms and conditions governing the use of the App. Where there is a conflict between this Agreement and any supplemental terms accompanying the App, those supplemental terms shall prevail in respect of the conflicting subject matter.

2.13. API. If the Software offers integration capabilities via an API, your use of the API may be subject to additional costs or Sage specific policies and terms and conditions (which shall prevail in relation to your use of the API). You may not access or use the API in any way that could cause damage to us or the Software, or in contravention of any applicable laws. We reserve the right in our sole discretion, to: (i) update any API from time to time; (ii) place limitations around your use of any API; and (iii) deny you access to any API in the event of misuse by you or to otherwise protect our legitimate interests.

3.   **Maintenance, Customer Support and Professional Services**

3.1. Maintenance and Customer Support. Either us or your Reseller (in the event of the Software being purchased through a Reseller) will use reasonable endeavours to provide Maintenance and Customer Support to you in accordance with the Documentation. You shall promptly install all Maintenance that we (or your Reseller) make available to you. Neither us nor your Reseller (in the event of the Software being purchased through a Reseller) will not be required to provide Maintenance Customer Support where any errors arise from: (i) your failure to fulfil or comply with your obligations under this Agreement; or (ii) any other circumstance where it is stated in the Documentation that such Maintenance and Customer Support will not be provided. If we or your Reseller (in the event of the Software being purchased through a Reseller) offer enhanced Customer Support, then you may purchase these services separately in accordance with the then current price list.

3.2. Unless otherwise expressly stated in the Order, you will be required to purchase Maintenance and Customer Support from us or your Reseller for a period of 12 months from the Commencement Date ("Initial Term"). Your right to access Maintenance and Customer Support shall automatically renew for successive

periods of 12 months (unless a different period is agreed in writing between the parties) ("Renewal Term") unless either party gives the other party notice of non-renewal at least 60 days before the end of the Initial Term or any Renewal Term.

3.3. If you fail to give us notice of non-renewal within the timescales specified in clause 3.2, then you shall remain liable for the Maintenance and Customer Support Fees for the remainder of the following Renewal Term.

3.4. Please refer to the ONLINE SERVICES SUPPORT GUIDE for additional Support guidance:
 https://www.sage.com/en za/legal/terms-and-conditions/product-and-service-terms-and-conditions/

3.5. Professional Services. We may also provide you with other services, such as consulting, training or development services. Any such services or requirements are outside the scope of this Agreement and shall only be provided by us subject to the terms of a separate written agreement between the parties.

4.   Third-Party Services

4.1. Third-Party Services. You may retain Third-Party Services in connection with the Software. If for the purpose of providing the relevant Third Party Service, the Third-Party Provider needs to install the Software then you acknowledge and agree that: (i) the Third-Party Provider shall have the right to install your copy of the Software provided you don't install a separate copy yourself; (ii) the Third-Party Provider must not, other than for the sole purpose of providing the relevant Third-Party Service use the Software or allow anyone else to use it; (iii) you are solely responsible for ensuring the Third-Party Provider complies with the terms of this Agreement in relation to their access and use of the Software; and (iv) you must enter into an agreement with the Third-Party Provider in relation to the provision of the Third-Party Service, which does not increase or otherwise affect our obligations, liabilities or costs in relation to this Agreement, and must include provisions which protect our proprietary rights in the Software.

4.2. You acknowledge and agree that: (i) we have not tested the Software for use with any particular Third-Party Service; (ii) due to using the Software with a Third-Party Service, there may be times when Users are unable to access and use the Software; (iii) the relevant Third-Party Provider is fully responsible and liable for the provision of any Third-Party Service; and (iv) if there is a conflict between this Agreement and the agreement you have with the Third-Party Provider, then the provisions of the agreement you have with the Third-Party Provider will apply in relation to the Third-Party Service but you will still remain responsible and liable to us for your compliance with this Agreement.

4.3. No Endorsement of Warranty. Sage does not endorse, and does not make any representation, warranty or promise regarding any Third-Party Service or Third-Party Provider and shall have no liability whatsoever for any damage, liabilities or losses caused by any Third-Party Service or Third-Party Provider, regardless of whether it is described as "authorised," "certified", "recommended" or the like and regardless of whether the Third-Party Service is included in your Order. Your use of the Third-Party Services is subject to the terms and conditions imposed by the Third-Party Providers, in addition to any terms relating to the same under this Agreement. If you do not accept or agree to the terms and conditions imposed by the Third-Party Providers, then your access and use of the Software may be affected. You are solely responsible for evaluating Third-Party Providers, and for reviewing all applicable terms and conditions and policies of any such Third-Party Providers. Sage has no obligation to provide any support for Third-Party Services and does not guarantee the initial or continuing interoperability of the Software with any Third-Party Services. If a Third-Party Provider ceases to make the Third-Party Services available for interoperation with the Software features on reasonable terms, Sage may cease providing those Software features without any further responsibility or liability to you.

4.4. Data Sharing. If you obtain a Third-Party Service that requires access to or the transfer of Customer Data, you acknowledge that any such access or transfer is between you and the Third-Party Provider pursuant to the Third-Party Provider's own privacy notices and policies, and you authorise us to provide the Customer Data as requested by the Third-Party Service. We are not responsible for any modification, loss, damage or deletion of Customer Data by any Third-Party Service obtained by you.

5.   Fees and Payment

5.1. In consideration of the provision of the Software you shall pay to us, or your Reseller (in the event of the Software being purchased through a Reseller), the License Fees as stipulated in the applicable Order.

5.2. If you purchase additional Users or modules, then either us or your Reseller (in the event of the Software being purchased through a Reseller) will invoice you separately for the relevant Fees in accordance with the provisions of clause 2.8.

5.3. In consideration of the provision of the Maintenance and Customer Support you shall pay to us or your Reseller (in the event of the Software being purchased through a Reseller) an Annual License Fee.

5.4. Either us or your Reseller (in the event of the Software being purchased through a Reseller) will invoice you in accordance with the applicable Order for the Annual License Fee which is payable in respect of the Initial Term and, subject to clause 3.2, at least thirty (30) days prior to the commencement of each Renewal Term for the Annual License Fee in respect of Maintenance and Customer Support in respect of the relevant Renewal Term. We shall be entitled to increase the Fees at the start of each Renewal Term upon giving you reasonable prior written notice by an amount not exceeding the Consumer Price Index plus 2% (two percent).

5.5. You agree to accept receipt of all invoices electronically. You shall pay all invoices within thirty (30) days of the date of the invoice. All Fees stated or referred to under this Agreement: (i) shall be payable in currency stipulated in the Order; and (ii) are non-cancellable and non-refundable.

5.6. Billing and Contact information. You shall on the Commencement Date provide us and your Reseller (in the event of the Software being purchased via a Reseller) with valid, up to date, complete and accurate billing and contact information (including a valid email address) and shall promptly notify us of any change to this information.

5.7. Taxes. All Fees are exclusive of applicable taxes (including value added tax), levies, or duties imposed by taxing authorities, and you are responsible for the payment of all such taxes, levies or duties in addition to the Fees.

5.8. Late Payment. If any Fees are not received by us or the Reseller (in the event the Software is purchased via a Reseller) on the by the due date, then without limiting our or the Resellers rights or remedies (in the event the Software is purchased via a Reseller): those unpaid Fees may accrue interest at the rate of 2% of the outstanding balance per month, or up to the maximum rate permitted by law, whichever is lower; and/or (ii) we or the Reseller (in the event the Software is purchased via a Reseller) may apply shorter payment terms in respect of any future Fees.

5.9. Effect of non-payment. If any License Fees, Fees or any other fees owing by you under this Agreement to us or the Reseller (in the event the Software is purchased via a Reseller) (or any other amount which is owing by you under any other agreement for Sage services) are thirty (30) or more days overdue we may,

without limiting our other rights and remedies under this Agreement: (i) accelerate your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable; (ii) immediately suspend the provision of Maintenance and/or Customer Support until such overdue amounts are paid in full; (iii) request that you uninstall the Software (including, where applicable, all copies of the Software), in which case you shall carry out such uninstallation immediately (and in any event within ten (10) days of receiving our request to do so; and/or (iv) and/or not grant access to a license key to access the Software.

6. Verification of Use

6.1. We (or our designated auditors) shall have the right to audit your use of the Software to verify your compliance with any usage limits and this Agreement. You shall permit us to inspect and have access to: (i) any premises at which the Software is installed (including your Installation Site and, if applicable, any disaster recovery site) or used; and (ii) to the computer equipment located at such premises. We will conduct any such audit at our expense and will use reasonable endeavours to provide you with reasonable prior notice of any such audit. If any such audit reveals that you owe any Fees to us or the Reseller (in the event the Software is purchased via a Reseller) then, without prejudice to any other rights that we may have under this Agreement, we will invoice you for the underpayment or amount due based on our then current price list. You shall pay any such invoice within ten (10) days of the date of the invoice.

7. Proprietary Rights

7.1. Sage Intellectual Property Rights. Subject to the limited rights expressly granted under this Agreement, Sage (and our licensors, where applicable) reserve all rights, title and interest in and to the Software (including any configurations, customisations, modifications, enhancements, updates and revisions thereof), Sage Data and Documentation, including all related Intellectual Property Rights therein. All rights not expressly set out in this Agreement are reserved by us. The Sage name, logo and the product names associated with this Software are trademarks of Sage or third parties and no right or license is granted to use them.

7.2. Ownership of Customer Data. Customer Data is owned by you, and you grant Sage and our subcontractors a worldwide, royalty-free, non-exclusive license to use any Customer Data provided through your use of the Software to the extent necessary to perform our obligations under this Agreement and otherwise use in accordance with this Agreement.

7.3. Feedback. You may, but are not required to, provide Sage or its subcontractors with ideas, suggestions, requests, recommendations or feedback about the Software. If you do so, you grant Sage a non-exclusive, royalty free, worldwide, perpetual, irrevocable license to use, exploit, reproduce, incorporate, distribute, disclose, and sublicense any feedback for any purpose.

8. Confidentiality

8.1. Definition of Confidential Information. Subject to clause 8.2, "**Confidential Information**" means all information of a party ("**Disclosing Party**") disclosed to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms of this Agreement, the business and marketing plans, pricing and payment information, technology and technical information, product designs, and business processes. The Software and Sage Data are our Confidential Information.

8.2. Exceptions. Confidential Information excludes: (i) information that was known to the Receiving Party without a confidentiality restriction prior to its disclosure by the Disclosing

8.3. Party; (ii) information that was or becomes publicly known through no wrongful act of the Receiving Party; (iii) information that was rightfully received from a third party authorised to make such disclosure without restriction; (iv) information that has been independently developed by the Receiving Party without use of, or reference to, the Disclosing Party's Confidential Information; and (v) information that was authorised for release (in writing) by the Disclosing Party.

8.4. Confidentiality Obligations. The Receiving Party will use the same degree of care as it uses for its own confidential information of like nature, but no less than commercially reasonable care, to protect the Disclosing Party's Confidential Information from any use or disclosure not permitted by this Agreement or authorised by the Disclosing Party. The Receiving Party may disclose the Disclosing Party's Confidential Information to its employees, Affiliates and service providers who need access to such Confidential Information in order to effect the intent of this Agreement, provided that they are bound by confidentiality obligations no less restrictive than those in the Agreement.

8.5. Disclosure required by Law. The Receiving Party may disclose Confidential Information to the extent required by court or administrative order or law, provided that the Receiving Party provides advance notice thereof (to the extent practicable) and reasonable assistance, at the Disclosing Party's cost, to enable the Disclosing Party to seek a protective order or otherwise prevent or limit such disclosure.

8.6. Injunctive Relief. A breach of this clause 8 may cause irreparable damage, which money cannot satisfactorily remedy, and therefore, in addition to any other available remedies the Disclosing Party may seek injunctive relief for any threatened or actual breach of this clause 8 without the need to prove damages or post a bond or other surety.

9. Term

9.1. This Agreement shall commence on the Commencement Date and shall continue unless and until it is and terminated in accordance with the provisions of this Agreement.

10. Termination

10.1. Termination for Cause. Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if: (i) the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if remediable) fails to remedy that breach within [thirty (30)] days of being notified in writing to do so; (ii) to the extent permitted by applicable law, the other party becomes the subject of a petition in bankruptcy or other proceedings relating to insolvency or makes an assignment for the benefit of creditors; (iii) if the other party suspends or ceases, or threatens to suspend or cease, to trade.

10.2. <u>Termination for Non-Payment</u>. We may terminate this Agreement with immediate effect by giving written notice to you if you fail to pay any amount due under this Agreement on the due date for payment and remain in default not less than thirty (30)] business days after being notified in writing to make such payment.

10.3. <u>Effect of Termination</u>. On expiration or termination of this Agreement for any reason: (i) all rights granted to you under this Agreement (including, without limitation, your licence to use the Software and your right to receive Maintenance and Customer Support) shall immediately terminate; (ii) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before termination shall not be affected or prejudiced; (iii) each party shall, at the request of the other party, destroy all materials that may contain the other party's Confidential Information and/or (to the extent legally and technically practicable) erase the other party's Confidential Information from all computer and communication devices used by it; and (iv) you shall, within ten (10) days uninstall the Software (including, where applicable, all copies of the Software) and, upon our request, provide written confirmation to Sage that you have done so. Notwithstanding the foregoing, each party may retain the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority. Save as expressly set out in this Agreement, in the event of termination or expiry of this Agreement you shall not be entitled to any refund and/or credit in respect of any Fees previously paid which relate to the period following the date of termination and/or expiry.

10.4. <u>Survival</u>. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect including clause 1 (Definitions and Interpretation), clause (Fees and Payment), clause 7 (Proprietary Rights), clause 8 (Confidentiality), clause 10 (Termination), clause 12 (Indemnification), clause 13 (Limitation of Liability), clause 14 (Customer Data and Data Privacy), clause 15 (General Provisions).

11. Warranties

11.1. <u>Authority</u>. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

11.2. <u>Sage Warranty</u>. We warrant that the Software will perform materially in accordance with the Documentation for a period of ninety (90) days from the Commencement Date ("**Software Warranty Period**"). The warranty in this clause 11.2 shall only apply provided you use the Software in accordance with our operating instructions (including any instructions set out in the Documentation) and provided that the Software has not been modified or altered by anyone other than us, or our duly authorised consultants, subcontractors or agents acting under our explicit instruction.

11.3. <u>Remedies</u>. If you notify us in writing within the Software Warranty Period that the Software does not conform with the warranty in clause 11.2, we will use reasonable endeavours to promptly correct any such non-conformance. You will provide us with all the information that may be necessary to assist us in resolving the non-conformance, including a documented example of any defect or fault, or sufficient information to enable us to re-create the defect or fault. You will take reasonable steps to mitigate any loss, damage or liability you may incur as a result of such non-conformance. Subject to your existing rights to terminate the Agreement, this clause 11.3 constitutes your sole and exclusive remedy for any breach of the warranty set out in clause 11.2.

11.4. <u>DISCLAIMER OF ALL OTHER WARRANTIES</u>. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW WE DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS AND GUARANTEES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES, CONDITIONS OR GUARANTEES: (I) OF MERCHANTABILITY OR SATISFACTORY QUALITY; (II) OF FITNESS FOR A PARTICULAR PURPOSE; (III) OF NON-INFRINGEMENT; OR (IV) ARISING FROM CUSTOM OR TRADE USAGE OR BY ANY COURSE OF PRIOR DEALING OR COURSE OF PERFORMANCE. EXCEPT AS EXPRESSLY PROVIDED HEREIN, WE DO NOT WARRANT THAT YOUR USE OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SOFTWARE, DOCUMENTATION AND/OR THE INFORMATION OBTAINED BY YOU THROUGH THE SOFTWARE WILL MEET YOUR REQUIREMENTS OR PRODUCE PARTICULAR OUTCOMES OR RESULTS. WE ARE NOT RESPONSIBLE OR LIABLE FOR ANY ISSUES WITH THE SOFTWARE THAT ARISE FROM CUSTOMER DATA, THIRD-PARTY SERVICES OR THIRD-PARTY PROVIDERS. YOU ACKNOWLEDGE THAT WE DO NOT PROVIDE ANY ACCOUNTING, TAXATION, FINANCIAL, INVESTMENT, LEGAL OR OTHER ADVICE TO YOU, USERS, OR ANY THIRD PARTY. YOU ARE SOLELY RESPONSIBLE FOR THE TIMELY INSTALLATION OF MAINTENANCE AND WE SHALL HAVE NO LIABILTY FOR ANY ISSUES WITH THE SOFTWARE, OR FOR ANY CLAIMS, COSTS, DAMAGES, LOSSES, LIABILITIES AND EXPENSES WHICH YOU INCUR AS A RESULT OF YOUR FAILURE TO DO SO.

12. Indemnification

12.1. <u>Sage Indemnification</u>. Subject to clause 12.4, we shall indemnify and hold you and your Affiliates harmless from and against any and all claims, costs, damages, losses, liabilities and expenses arising out of or in connection with a claim alleging that the Software infringes the Intellectual Property Rights of a third party. In no event shall we, our employees, consultants, agents and subcontractors be liable to you to the extent that the alleged infringement is based on: (i) a modification of the Software by anyone other than us; (ii) your use of the Software in a manner contrary to the instructions given to you by us, including such instructions given in any Documentation; (iii) your use of the Software in combination with any Third-Party Service, if the alleged infringement relates to such combination; or (iv) your use of the Software after notice of the alleged or actual infringement from us or any appropriate authority.

12.2. If the Software infringes, or we reasonably believe it may infringe, third party rights, we may, at our own expense and sole discretion: (i) procure the right for you to continue use of such Software; (ii) modify such Software so that it becomes non-infringing; or (iii) if (i) or (ii) are not feasible, terminate the Agreement and refund you a pro-rata refund of any prepaid fees covering the remainder of the term after the effective date of termination.

12.3. <u>Indemnification by you</u>. Subject to clause 12.4, you shall indemnify and hold Sage and our officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that your collection, retention or use of the Customer Data infringes the rights of, or has caused harm to, a third party; or (ii) a claim alleging that your use of the Software in breach of this Agreement infringes the rights of, or has caused harm to, a third party.

12.4. <u>Indemnification Procedure</u>. In the event of a potential indemnity obligation under this clause 12, the indemnified party shall: (i) give the indemnifying party prompt written notice of the claim; (ii) give the indemnifying party sole control of the defence and settlement of the claim (provided that the indemnifying party

may not settle or defend any claim unless it unconditionally releases the indemnified party of all liability and such settlement does not affect our business or Software); and (iii) provide to the indemnifying party all reasonable assistance, at the indemnifying party's expense.

12.5. Exclusive Remedy. The indemnification obligations set forth above represent the sole and exclusive liability of the indemnifying party and the exclusive remedy of the indemnified party for any third-party claim described in this clause.

13. Limitation of Liability

13.1. EXCEPT FOR INDEMNIFICATION OBLIGATIONS UNDER CLAUSE 12, THE PARTIES AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES. EXCEPT FOR YOUR OBLIGATIONS TO PAY FEES UNDER THIS AGREEMENT AND FOR INDEMNIFICATION OBLIGATIONS UNDER CLAUSE 12 EACH PARTY'S AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE VALUE OF THE FEES ACTUALLY PAID BY YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

13.2. Scope. The exclusions and limitations set out in this clause 13 apply to all causes of action whether arising from any breach of contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise, even if such loss was reasonably foreseeable or if one party had advised the other of the possibility of such loss. No party may circumvent the limitations of liability herein or receive multiple recovery under this Agreement by bringing claims on behalf of its Affiliates.

13.3. Unlimited Liability. Nothing in this Agreement shall be construed so as to limit or exclude any liability which cannot be legally limited, including but not limited to liability for: (i) death or personal injury caused by a party's own negligence; or (ii) a party's fraud or fraudulent misrepresentation.

13.4. Claims against Sage. You agree that you shall only be entitled to bring a claim, whether in contract, tort (including negligence), breach of statutory duty or otherwise against us in respect of any issues related to the Software and not against any other Sage company.

14. Customer Data and Data Privacy

14.1. We will process all Customer Data, including your personal data in accordance with applicable law.

14.2. Access to Customer Data. You agree that we may, for the purposes of providing Maintenance and Customer Support and/or for the purpose of otherwise protecting the integrity of the Software, access and/or download your Customer Data on a limited basis.

15. General provisions

15.1. Compliance with Laws. You shall: (i) comply with all applicable laws and/or regulations in connection with your use of the Software and this Agreement, including but not limited to applicable laws relating to anti-bribery, anti-corruption and tax evasion ("**Relevant Requirements**"); (ii) not engage in any conduct which could constitute an offence under the Relevant Requirements; (iii) not do, or omit to do, any act that may lead to us being in breach of the Relevant Requirements; and (iv) have and maintain in place for the duration of this Agreement your own policies and procedures to ensure compliance with the Relevant Requirements.

15.2. Sanctions. You hereby confirm that: (i) you shall, at all times for the duration of this Agreement , conduct your business in compliance with all sanctions laws, regulations and regimes imposed by relevant authorities including but not limited to the Office of Foreign Assets Control (OFAC), the UN, the UK and EU; (ii) neither you nor any of your Affiliates is named on any "denied persons list" (or equivalent targeted sanctions list) in violation of any such sanctions restrictions, laws, regulations or regimes, nor are you or any of your Affiliates owned or controlled by a politically exposed person; and (iii) you have and shall maintain throughout the duration of this Agreement appropriate procedures and controls to ensure and be able to demonstrate your compliance with this clause 15.2. You shall not permit Users to access and/or use the Software in violation of any export restrictions in any jurisdiction or any sanctions law or regulation or in any Restricted Territories. Such access and/or use is not permitted by us and shall constitute a material breach of this Agreement, and where we are aware of or suspect you (or any of your Users) to be accessing, using, permitting or otherwise facilitating such access and/or use in any Restricted Territory in breach of such laws or regulations, we may immediately suspend the provision of Maintenance and Customer Support and investigate any potential breach. You will promptly notify us if either you or any of your Affiliates has violated, or if a third party has a reasonable basis for alleging that you or any of your Affiliates has violated, this clause 15.2. In the event that we have grounds to suspect that you are accessing and/or using the Software in violation of this clause 15.2, you shall provide us with your full cooperation and assistance in respect of your access and/or use of the Software and in respect of your compliance with this clause 15.2. You shall indemnify (and keep indemnified) Sage and our officers, directors, employees, attorneys and agents against any claims, costs, damages, losses, liabilities and expenses (including attorneys fees and costs) arising out of or in connection with your (or your Users) breach of this clause 15.2.

15.3. Assignment and other dealings. You may not assign, transfer, novate, charge, subcontract or deal in any other manner with any of your rights or obligations under this Agreement, whether in whole or in part, directly or indirectly, by operation of law, merger, acquisition or otherwise without our prior written consent. We may assign this Agreement in its entirety without your consent to any Affiliate or in connection with a merger, acquisition, corporate reorganisation or sale of substantially all of our assets.

15.4. Third Party Rights. Except as expressly set out in this Agreement, a person who is not party to this Agreement will have no rights to enforce any terms of this Agreement.

15.5. Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding the use of the Software and supersedes all prior or contemporaneous agreements, negotiations and discussions (whether written or oral) between the parties regarding the subject matter herein. The parties acknowledge that in entering onto 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 shall limit or exclude either party's liability for fraud.

15.6. <u>Severability</u>. If any provision or part-provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable then such provision(s) shall be deleted, or shall be construed, as far as possible, to reflect the original intentions of the invalid, illegal or unenforceable provision(s) with all other provisions in this Agreement remaining in full force and effect.

15.7. <u>No Partnership or Agency</u>. Each party is an independent contractor and neither party has any authority to act on behalf of the other. Neither party will represent itself as agent, servant, franchisee, joint venture or legal partner of the other. We are entering into this Agreement as principal and not as agent for any other Sage company. Subject to any permitted assignment under clause 15.3, the obligations owed by us under this Agreement shall be owed to you solely by us and the obligations owed by you under this Agreement shall be owed solely to us.

15.8. <u>Waiver</u>. No failure or delay by either party to exercise or enforce any of its rights under this Agreement will act as a waiver or continuing waiver of such rights. Such rights may only be waived in writing, signed by both parties.

15.9. <u>Force Majeure</u>. Notwithstanding any provision contained in the Agreement, neither party will be liable to the other to the extent fulfilment or performance of any terms or provisions of the Agreement are delayed or prevented by a Force Majeure Event.

15.10. <u>Order of Precedence</u>. In the event of any conflict or inconsistency between the following documents, the order of precedence shall be: (i) these terms and conditions; (ii) your Order; and (iv) the Documentation.

15.11. <u>Variations.</u> From time to time, we may amend the terms of this Agreement in our sole discretion. We will notify you of any material changes to the terms of this Agreement. By continuing to access or use Software after we have provided you with such notice of a change, you are indicating that you agree to be bound by the modified terms. If the changes have a material adverse impact on and are not acceptable to you, then you must notify us within [thirty (30)] days after receiving notice of the change. If we cannot accommodate your objection, then the prior terms shall remain in force for the duration of this Agreement.

15.12. <u>Publicity</u>. With your prior written consent, we may display your name and logo(s) on our website or issue a press release identifying you as a Sage customer. If at any time you do not want us to use your name or logo(s) in the ways described above please let us know by sending an email to ipfilings@sage.com or by contacting your usual Sage representative. We will remove any reference to your name and 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 name and logo(s) may still be publicly available. For more information about how we use information about you please refer to our Privacy Notice.

15.13. <u>Governing law and jurisdiction</u>. 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) shall be governed by and construed in accordance with the laws of South Africa. Each party irrevocably agrees that the South Gauteng High Court, Johannesburg shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

15.14. <u>Notices</u>. Except as otherwise specified in this Agreement, 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: (i) official mail, seventy-two(72) hours after posting; or (ii) courier on the next business day; or (iii) email at 09:00. a.m. on the next business day after the email is sent, or earlier if the intended recipient has confirmed receipt (either specifically or by conduct).

15.15. <u>Dispute Resolution</u>. If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it ("**Dispute**") then except as expressly provided in this Agreement, the parties shall follow the procedure set out in this clause 15.15: (i) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("**Dispute Notice**"), together with relevant supporting documents. On service of the Dispute Notice, the [account managers] of both parties shall attempt in good faith to resolve the Dispute; (ii) if the [account managers] are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to [senior managers] of both parties who shall attempt in good faith to resolve it; (iii) if the [senior managers] of both parties are for any reason unable to resolve the Dispute within [thirty (30)] days of it being referred to them, then either party may pursue alternative dispute resolution remedies.

15.16. <u>Purchasing through a Reseller.</u> The following supplemental terms apply if you purchase the Software, Maintenance or Customer Support through a Reseller: If you place an order for the Software, Maintenance or Customer Support with a Reseller: (i) such document shall constitute an Order; and (ii) your acceptance of such Order shall be an acceptance of this Agreement provided that any transactions solely between you and the Reseller shall not form part of this Agreement. First line technical support for the Software will be provided by the Reseller, unless otherwise expressly stated in your Order or your agreement with the Reseller. Any non-payment of fees owed to a Reseller under an Order shall amount to a material breach of this Agreement. If you grant a Reseller access to your Customer Data or to your Software account, such access shall constitute consent to the disclosure of your Customer Data to the Reseller pursuant to clause 4.4, and you will be responsible for terminating such access. If you have purchased the Software, Maintenance or Customer Support from a Reseller you should investigate and satisfy yourself regarding the experience, skills and qualifications of that Reseller. Any Reseller is an independent contractor and is neither appointed nor authorised by us as our consultant, subcontractor or agent. We do not endorse, and do not make any representation, warranty or promise regarding any Reseller and shall have no liability whatsoever for any damage, liabilities or losses caused by any Reseller.

Schedule 1 – Sage Contracting Entities, Governing Law and Jurisdiction

Sage South Africa (Pty) Ltd; 6th Floor, Gateway West, 22 Magwa Crescent, Waterfall, Midrand 2066,	South Africa Law	Johannesburg, High Court
Sage Software Middle East FZ-LLC; Building No 11, Dubai Internet City, Dubai.	English law	Except for the right of either Party to apply to a court of competent jurisdiction for injunctive, or other equitable relief, any dispute or claim arising out of or relating to this Agreement, shall be settled by arbitration in Dubai International Financial Centre in United Arab Emirates in accordance with the laws of England and rules of arbitration of the London Court of International Arbitration (LCIA). The language to be used in the arbitration shall be English. In the case of arbitration, the arbitration shall be conducted in the English language. One or more arbitrators appointed in accordance with the following: (i) Arbitration by One Arbitrator: If the Parties agree to a one-arbitrator, the parties shall agree upon and appoint an arbitrator, after first ascertaining that the appointee consents to act, within thirty (30) days from the date on which written notice of referral to arbitration by one arty is received by the other party (the "Notice Date") or (ii) Arbitration by Three Arbitrators: If the Parties are unable to agree on a one arbitrator, or, having so agreed, are unable to agree on the arbitrator within thirty (30) days from the Notice Date, then the arbitration shall be conducted by and before three (3) arbitrators, who shall be appointed as follows. Each Party shall appoint one arbitrator, after first ascertaining that the appointee consents to act, and notify the other Party in writing of the appointment within sixty (60) days from the Notice Date. The appointed arbitrators shall agree upon and appoint the third arbitrator, who shall be the chairman, after first ascertaining that the appointee consents to act, and notify the Parties in writing of the appointment within ninety (90) days from the Notice Date.The chairman shall be a qualified lawyer, and the other arbitrators shall have a background or training in computer law, computer science, or marketing of computer products. The arbitrators shall have the authority to grant injunctive relief, in a form substantially similar to that which would otherwise be granted by a court of law. The Parties irrevocably agree to submit to arbitration and the Parties each agree that any award made by the arbitrators shall be enforceable in any country, without further inquiry into the disputed matters which are the subject of the award. The provisions of this clause shall survive termination of this Agreement.
Sage Software Nigeria Limited; 1st Floor Plot 6 Southgate House Udi Street Osborne Foreshore Estate Ikoyi Lagos State Nigeria	South African Law	Johannesburg, High Court, South Africa
Sage Software East Africa Limited; 4th Floor Nivinia Towers Westlands Road Nairobi Kenya	South African Law	Johannesburg, High Court, South Africa