

## Terms and Conditions for Purchase of Goods and Services

### 1. DEFINITIONS AND INTERPRETATION

- 1.1. In these Terms and Conditions, the following definitions apply:
- 1.1.1. **Affiliate** means an entity that controls, is controlled by or is under common control with a Party.
  - 1.1.2. **Business Day** means a day that is not a Saturday, Sunday, federal, state, provincial, or local holiday or office closure observed by Sage;
  - 1.1.3. **Confidential Information** means any and all information and data clearly designated by a party as being confidential to it, or which by its nature should be treated as confidential (whether or not marked "confidential"), however conveyed or presented and whether technical or commercial, disclosed by one party to the other or obtained or received by a party as a result of entering into or performing its obligations under the Contract;
  - 1.1.4. **Contract** has the meaning given at clause 2.1;
  - 1.1.5. **Goods** means any goods (or any part of them) including software, if any, set out in an **Order**;
  - 1.1.6. **Order** means Sage's written or electronic order describing the Goods and/or the Services made and accepted in accordance with **clause 2**; it is the intention of the Parties that a Sage Group Company have the right to enter into affiliate agreements adopting the terms and conditions of this Agreement, as applicable.
  - 1.1.7. **Sage Group Company** means either individually or collectively, a company that is controlled by, controls, or under common control of the Sage Group plc.
  - 1.1.8. **Services** means any services (or any part of them), if any described in the Order;
  - 1.1.9. **Specification** means any description or specification for the Goods and/or the Services, including but not limited to any plans and drawings, that is agreed between Sage and the Supplier or (in the absence of such agreement) supplied or made known by the Supplier or (in the absence of such supply or communications) the standard published specification for relevant Goods and/or Services; and,
  - 1.1.10. **Terms and Conditions** means the terms and conditions set out in this document as amended from time to time in accordance with clause 18.3 and any special terms included in the Order.
- 1.2. These Terms and Conditions shall govern Sage's purchase of the Goods and/or Services provided by the Supplier and shall be deemed incorporated in any Contract between Sage and the Supplier for the sale or supply to Sage of Goods and/or Services. Any terms and conditions on any acknowledgement, delivery note, invoice, or other document shall have no force or effect, and shall not in any way be deemed to amend, modify, supersede, alter or supplement these Terms and Conditions, even if exchanged at a later date for the parties' convenience to document additional purchases, unless the Parties expressly modify these Terms and Conditions in an Amendment specific to that purpose. In the case of conflict, these Terms and Conditions shall supersede any other terms included or referred to in an Order, unless expressly stated otherwise in the Order executed by both parties. These Terms and Conditions apply to the Contract (as defined below) to the exclusion of any other terms or conditions that the Supplier seeks to impose or incorporate, or which are implied by trade, custom practice or course of dealing.

### 2. PLACING ORDERS

- 2.1. The Order constitutes an offer by Sage to purchase Goods and/or Services from the Supplier in accordance with these Terms and Conditions and Supplier's acceptance of the Order constitutes a contract which incorporates these Terms and Conditions (the "**Contract**").
- 2.2. Sage shall have the right to revoke an Order without liability if not accepted by the Supplier within fourteen (14) days from the date of the Order.
- 2.3. The Order shall be deemed accepted on the earlier of:
  - 2.3.1. Supplier's issuance of a written acceptance of the Order or Supplier's return of a Supplier-signed Order to Sage or
  - 2.3.2. Supplier's delivery of any of the Goods or performance of any Services described in the Order.

### 3. SOFTWARE LICENSE

- 3.1. The Supplier grants to Sage a non-exclusive, royalty free, perpetual and irrevocable right to use any software supplied (together with any updates or new versions published for that software) and any associated materials for such purposes as Sage and any other Sage Group Company may require and to sub-license any such item to the customers of any Sage Group Company for the

purpose of accessing and using the Goods and/or Services. Sage shall not make any copies or duplicates of any such item (unless reasonably necessary to do so for the above purposes) without the Supplier's prior written consent, save for backup and archival purposes, and to support Sage customers' use of the software, Goods and Services. Sage may permit third parties contracted to provide services to any Sage Group Company to use any such items to the extent reasonably necessary for Sage's permitted use of the Goods and/or Services. The Supplier agrees to promptly deliver a copy of items licensed under this clause to Sage on demand.

#### **4. INTELLECTUAL PROPERTY RIGHTS**

- 4.1. All materials prepared for or supplied by Sage to the Supplier and all intellectual property rights therein ("IPR") shall remain the property of Sage and returned to Sage at the conclusion of Services or final delivery of Goods.
- 4.2. All IPR in pre-existing materials delivered to or for Sage by the Supplier as part of Supplier's performance (except software and materials to which clause 4.4 applies) shall remain the property of the Supplier and the Supplier hereby grants Sage a perpetual, non-exclusive, transferable, sub-licensable, worldwide, fee-free and royalty-free license to use and copy such pre-existing materials to the extent reasonably required for Sage to use and enjoy the full benefit of the relevant Goods and/or Services.
- 4.3. Supplier agrees that, without Sage's prior written consent, it shall not incorporate (i) any Third Party Products, or (ii) Supplier Pre-Existing Material or any other item that Supplier owns or has an interest in, into the Goods or Services. If Supplier incorporates any Third Party Products or Supplier Pre-Existing Material in the Goods or Services with or without Sage's consent, and unless alternate provisions are described in the relevant SOW, Supplier hereby grants, and shall cause the applicable third party to grant, to Sage, and its and their agents, consultants and other third parties, a non-exclusive, transferable, royalty-free, perpetual, irrevocable and worldwide license to use, execute, reproduce, modify, display and perform such Third Party Products or Supplier Pre-Existing Material in the Goods or Services or derivative works, or both, with the right to sublicense, assign, transfer, or use all such Third Party Products or Supplier Pre-Existing Material in any manner and for any other purpose, including the right to distribute copies and prepare derivative works based upon such, all without additional payment to or attribution for Supplier. This grant and obligations hereunder shall survive any expiration or termination of this Contract. Nothing herein shall be construed as granting any license or rights under any statutory forms of protection to Supplier, except to the minimum extent that Supplier requires such license or right to perform Services exclusively for Sage.
- 4.4. All IPR in materials prepared by or developed by the Supplier in connection with the provision of the Services shall vest with, and are hereby assigned to, Sage upon creation.

#### **5. WARRANTIES**

- 5.1. The Supplier warrants, represents and undertakes to Sage that (without prejudice to Sage's rights and remedies implied by statute and common law):
  - 5.1.1. Supplier has the corporate power and authority to execute, deliver and perform its obligations under the Contract and has the right to and shall supply all goods and materials free from any charges, liens or other encumbrances;
  - 5.1.2. all Goods shall correspond strictly with description and Specification and shall be in every respect fit for the purpose for which Sage has expressly or by implication made known that it requires and shall be of satisfactory quality (which is also of a standard not less than that of previous supplies (if any) approved by Sage);
  - 5.1.3. all Goods will be merchantable and free from defects in design, material, workmanship and performance and will not contain or introduce to any equipment or system any computer viruses, trojan horses or other destructive, disruptive or nuisance computer programs;
  - 5.1.4. all Goods and the performance of all Services shall comply with, all applicable laws, statutory requirements and regulations;
  - 5.1.5. all Services will be performed by appropriately skilled, competent, qualified and trained personnel, with due care and diligence and consistent with best industry practice;
  - 5.1.6. it shall obtain all necessary permits, consents, licenses and authorizations that are required to fulfil its obligations to Sage under the Contract; and
  - 5.1.7. the Services will be performed in the timeframe outlined in the Order and to the extent that no specific time frame is provided within a time reasonable for the performance of the Services.

#### **6. DELIVERY**

- 6.1. The Supplier shall ensure that:
  - 6.1.1. the Goods are properly packed and secured in such manner as to enable them to reach their

- destination in good condition;
- 6.1.2. each delivery of the Goods is accompanied by a packing slip or similar delivery note which shows the date of the Order, the Order number, the type and quantity of the Goods, special storage instructions (if any); and
- 6.1.3. if the Supplier requires Sage to return any packaging material to the Supplier, that fact is clearly stated on the delivery note and the package is marked as returnable. Any such packaging material shall be returned to the Supplier at the Supplier's cost.
- 6.2. The Supplier shall pay for packaging, insurance and delivery of the Goods and they should be properly packed and secured in such manner as to reach their destination in good condition under normal conditions of transport. Delivery shall be:
  - 6.2.1. on the date specified in the Order, or, if no such date is specified, within 30 days of the date of the Order; and
  - 6.2.2. to Sage's premises as set out in the Order or as instructed by Sage prior to delivery.
- 6.3. The Supplier shall provide Sage in reasonable time before delivery of any goods such written information and assistance as may be reasonably necessary to enable Sage to prepare for receipt and/or installation of those Goods (including any information in respect of necessary environmental and operational conditions for operation of the Goods). The Supplier shall immediately give notice to Sage of any likely delay in delivery of which it becomes aware.
- 6.4. Title and risk in the Goods shall pass to Sage on delivery, unless payment for the Goods is made prior to delivery, in which case, title shall pass to Sage once payment has been made.
- 6.5. The Supplier shall, on demand, provide any reasonable advice, co-operation or assistance in connection with Sage's enjoyment of use of Goods or Services provided under the Contract.

## **7. ACCEPTANCE AND SUPPLIER DEFAULT**

- 7.1. If the Goods and/or Services described in an Order are not delivered on the date as set out in the Order or do not comply with the standard required or the terms expressed or implied in the Contract or the relevant Order as to quality, quantity, condition, fitness for purpose, description or otherwise then, without limiting any of its other rights or remedies, Sage shall have the right to any one or more of the following remedies, whether or not it has accepted the Goods and/or the Services:
  - 7.1.1. to terminate the Contract or one or more Orders with immediate effect by giving written notice to the Supplier;
  - 7.1.2. to reject the Goods and/or the Services (in whole or in part) described in one or more Orders and return them to the Supplier at the Supplier's own risk and expense. Unless within a reasonable time of receipt of notice of rejection the Supplier collects the Goods, Sage may dispose of them as Sage shall think fit provided that if Sage sells the Goods Sage shall account to the Supplier for the net proceeds of such sale;
  - 7.1.3. to require the Supplier to repair or replace the rejected Goods and/or Services, or to provide a full refund of the price of the rejected Goods and/or the Services (if paid);
  - 7.1.4. to refuse to accept any subsequent delivery of the Goods or performance of the Services described in one or more Orders which the Supplier attempts to make; and
  - 7.1.5. to recover from the Supplier any costs incurred by Sage in obtaining substitute goods and/or services from a third party.
- 7.2. These Terms and Conditions shall apply to any repaired or replacement Goods and/or Services supplied by the Supplier.

## **8. PAYMENT AND PRICE ACCEPTANCE**

- 8.1. The price of the Goods and/or the Services shall be the price set out in the Order exclusive of sales taxes, but inclusive of the costs of packaging, expenses, insurance and carriage in respect of the Goods and/or performance of the Services. No extra charges shall be effective unless agreed in writing and signed by Sage.
- 8.2. The Supplier may invoice Sage
  - 8.2.1. for the Goods on or at any time after the completion of delivery; and
  - 8.2.2. for the Services upon Sage notifying the Supplier that in its sole discretion it determines the performance of the Services to be complete.
- 8.3. Sage shall, on receipt of an invoice for sales taxes, if applicable, from the Supplier detailing the Order number, pay to the Supplier such additional amounts in respect of sales taxes as are chargeable on the supply of the Goods and/or the Services.
- 8.4. Unless otherwise stated in the Order, Sage shall pay correctly rendered and undisputed invoices within 30 days of the date of receipt of the invoice. Sage and Supplier shall in good faith attempt to resolve their differences as to any disputed amounts and once resolved, Sage shall promptly pay to

Supplier the resolved amount. Sage will under no circumstances pay Contractor more than any Not-To-Exceed-Amount set forth on Order, unless authorized in a subsequent writing by a Sage-authorized representative. No penalties for late payment will be allowed or paid.

**8.5.** Unless otherwise agreed, a separate invoice must be rendered for each Order without set-off.

## **9. CONFIDENTIAL INFORMATION**

**9.1.** Except to the extent set out in this Clause 9 (Confidentiality) or otherwise expressly permitted in the Contract, Supplier shall:

**9.1.1.** treat Sage's Confidential Information as confidential and, subject to any higher standard imposed by the other provisions of the Contract, protect Sage's Confidential Information as it would its own Confidential Information;

**9.1.2.** use Sage's Confidential Information solely for the specific purpose or purposes for which it was disclosed; and

**9.1.3.** not publish or otherwise disclose to any third party Sage's Confidential Information without the owner's prior written consent; and

**9.1.4.** without limiting the generality of this Clause 9.1:

**9.1.4.1.** not disclose Sage's Confidential Information to or in the presence of any person other than a person having a need to know in connection with the Contract;

**9.1.4.2.** advise any person to whom Sage's Confidential Information is to be disclosed of their obligations with respect to the Confidential Information prior to such disclosure and to ensure their compliance with such obligation; and

**9.1.4.3.** take all action reasonably necessary to secure Sage's Confidential Information against theft, loss or unauthorized disclosure.

**9.2.** Supplier may disclose Confidential Information which would otherwise be subject to Clause 9.1 but only if it can demonstrate that:

**9.2.1.** such disclosure is required by applicable law or by order of a court of competent jurisdiction or pursuant to a binding order or direction of a tax or fiscal authority or other regulator; or

**9.2.2.** the Confidential Information is lawfully in the receiving party's possession without an obligation restricting disclosure at the time of receipt from the disclosing party; or

**9.2.3.** on a date prior to disclosure being made, the Confidential Information becomes part of the public domain, other than through a breach of clause 9.1.

**9.3.** The Supplier undertakes not to use the Sage name or brand in any marketing, promotion or announcement without the prior written consent of Sage.

## **10. ANTI-BRIBERY**

**10.1.** The Supplier hereby warrants to Sage and agrees that it:

**10.1.1.** shall not (and shall procure that its staff shall not) engage in any acts of bribery or corruption contrary to any applicable laws, rules or regulations;

**10.1.2.** has appropriate policies and procedures in place to ensure that no such acts of bribery or corruption take place and shall immediately notify Sage in writing if any violation or any suspicion of a violation of such policies arises.

## **11. ANTI-SLAVERY**

**11.1. The Supplier shall:**

**11.1.1.** comply with (and take all reasonable measures to ensure and do nothing to prejudice any Sage Group Company's compliance with) all applicable laws, statutes, regulations, and codes relating to anti-slavery and human trafficking; and

**11.1.2.** comply with the Sage group's Supplier Code of Conduct (forming part of the Sage group's policies from time to time).

## **12. DATA PROTECTION**

**12.1.** To the extent that the Supplier processes any personal data (as defined under applicable data protection laws) on Sage's behalf, the Supplier shall:

**12.1.1.** not do, nor cause or permit to be done, anything which may result in a breach by Sage of any applicable laws and regulations relating to the processing of personal data and privacy;

**12.1.2.** process the personal data for the sole purpose of performing the Contract and only in accordance with instructions received from Sage in respect of the same; and

**12.1.3.** take all appropriate technical and organizational measures against unauthorized or unlawful processing, accidental loss or destruction of, or damage to, any personal data which it stores on behalf of Sage.

### **13. LIMITATION OF LIABILITY**

**13.1.** IN NO EVENT WILL SAGE OR ANY SAGE GROUP COMPANY OR ANY OF ITS AND THEIR RESPECTIVE ASSIGNEES, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS BE LIABLE TO SUPPLIER OR ANY STAFF OR ANY OTHER PARTY UNDER THIS AGREEMENT FOR (A) ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING LOST INCOME OR PROFITS, EVEN IF SAGE IS ADVISED OF THE POSSIBILITY OF OR COULD FORESEE THE DAMAGES, OR (B) AMOUNTS IN EXCESS OF THE FEES PAID TO SUPPLIER DURING THE SIX MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY. THE PROVISIONS OF THIS SECTION APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE, CLAIM, LIABILITY, COST, EXPENSE OR LOSS ASSERTED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

### **14. INDEMNITIES**

**14.1.** The Supplier shall defend, hold harmless and indemnify Sage against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses and all interest, penalties and attorneys' fees (calculated on a full indemnity basis)) incurred or suffered by any Sage Group Company arising from or in connection with:

**14.1.1.** any claim made against any Sage Group Company for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the supply or use of the Goods or the performance of the Services.

**14.1.2.** any claim made against any Sage Group Company by a third party arising out of, or in connection with, the supply of the Goods and/or performance of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, contractors, agents or subcontractors; and

**14.1.3.** any claim made against any Sage Group Company by a third party damage to property arising out of, or in connection with, defects in the Goods and/or the Services, to the extent that the defect in the Goods and/or the Services is attributable to the acts or omissions of the Supplier, its employees, contractors, agents or subcontractors.

### **15. INSURANCE COVER**

**15.1.** While providing Goods and/or Services, Supplier shall maintain at its expense a policy or policies of insurance for each type of coverage including the minimum limits stated below per each, or as otherwise approved by Sage. Upon execution of this Agreement and at Sage's request, Supplier shall provide to Sage a certificate of insurance coverage naming Sage Software, Inc. as a named additional insured under the policies in 15.1.1, 15.1.2, 15.1.3 and 15.1.4. All such policies shall be placed with carriers licensed to do business within the jurisdictions in which this Agreement shall apply, and rated at least A IX or higher by A.M. Best.

**15.1.1.** Comprehensive General Liability Insurance: Supplier shall provide comprehensive general liability insurance, including broad form contractual coverage, insuring against liability arising out of or based upon any act or omission of Supplier, its respective officers, directors, and Staff. Such insurance shall provide coverage to a limit of not less than \$1,000,000.00 per occurrence and \$5,000,000.00 aggregate.

**15.1.2.** Workers' Compensation Insurance. Supplier will procure workers' compensation insurance coverage as required by law.

**15.1.3.** Employment Practices Liability. If Supplier uses employees to provide Goods and/or Services, Supplier shall procure employment practices liability insurance coverage to a limit of not less than \$1,000,000.00.

**15.1.4.** Errors and Omissions/Professional Liability Insurance. Supplier shall maintain errors and omissions/professional liability insurance coverage, insuring against liability arising out of or based upon any act or omission of Supplier, its respective officers, directors, and Staff. Such insurance shall provide coverage to a limit of not less than \$1,000,000.00 per occurrence or claim and \$5,000,000.00 aggregate.

### **16. TERMINATION**

**16.1.** Sage may terminate the Contract in whole or in part before delivery is complete and with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all supplies and/or work on the Contract. Sage shall pay the Supplier fair and reasonable compensation for work-

- in-progress at the time of termination, but such compensation shall not include early termination fees, liquidated damages, penalties of any kind, loss of anticipated profits or any consequential damages.
- 16.2.** Sage may terminate the Contract with immediate effect by giving written notice to the Supplier if the Supplier becomes subject to any of the following events; termination of the Contract also terminates all unfulfilled Orders:
- 16.2.1.** the Supplier commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within five (5) Business Days of notice being given requiring it to be remedied;
  - 16.2.2.** the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
  - 16.2.3.** if the Supplier is unable to pay its debts (within the meaning of the U.S. Bankruptcy Code) or becomes insolvent or an order is made or a resolution passed for the administration, winding-up or dissolution of the Supplier (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed over all or any substantial part of the assets of the Supplier or the Supplier enters into or proposes any composition or arrangement with its creditors generally;
  - 16.2.4.** the Supplier suffers or is subject to any equivalent event, circumstance or procedure to those set out above in clause 16.2.3 in any other jurisdiction;
  - 16.2.5.** there is a change of control of the Supplier (where, for the purpose of this clause, "control" means the ability to direct the affairs of another whether by virtue of the ownership of shares, contract or otherwise); or
  - 16.2.6.** the Supplier purports to assign or transfer its rights or obligations under the Contract.
- 16.3.** Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination and any provisions of this Contract which expressly or by implication survive termination of the Contract including clauses: 1 (Definitions and Interpretation), 4 (Intellectual Property Rights), 9 (Confidential Information), 10 (Anti-Bribery), 12 (Data Protection), 13 (Limitation of Liability), 14 (Indemnities), 16.2 (Termination), 18 (General) and 19 (Governing Law and Jurisdiction).

## **17. FORCE MAJEURE**

- 17.1.** Neither party shall be liable to the other for any delay or failure in performing its obligations under the Contract to the extent that such delay or failure is caused by acts, events, omissions or non-events beyond its reasonable control, including, without limitation, acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Supplier, the Supplier and any subcontractor's personnel or any other failure in the Supplier's supply chain. If any events or circumstances prevent the Supplier from carrying out its obligations under the Contract for a continuous period of more than 10 Business Days, Sage may terminate this Contract immediately by giving written notice to the Supplier.

## **18. GENERAL**

- 18.1.** The Supplier shall not assign, transfer, or novate its obligations or the benefit of this Contract or subcontract its obligations without Sage's prior written consent.
- 18.2.** This Contract does not create any right or benefit enforceable by any person not a party to it notwithstanding any applicable law granting rights to a person who is not a party to a contract.
- 18.3.** Save as set out in the Contract, the Order and/or these Terms and Conditions may only be varied or amended in writing, signed by an authorized officer of each of the Parties. No variation, amendment or addition to an Order and/or these Terms and Conditions by the Supplier shall form part of the Contract unless expressly accepted by Sage in writing.
- 18.4.** In fulfilling its obligations under this Contract the Supplier shall comply with all applicable regulations and legal requirements.
- 18.5.** A waiver (whether express or implied) by either of the Parties of any of the provisions of the Contract shall not constitute a continuing waiver and that waiver shall not prevent either Party from enforcing any of the other provisions of the Contract.

## **19. GOVERNING LAW AND JURISDICTION**

- 19.1.** This Contract 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 the State of Georgia without regard to conflict of laws principles.

- 19.2.** The parties irrevocably agree that the state and federal courts located within the State of Georgia shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims). Venue shall be proper in Fulton County, Georgia.

**20. EQUAL OPPORTUNITY EMPLOYER**

- 20.1.** Sage is an Equal Opportunity Employer and thereby is subject to the Equal Employment Opportunity clause in Section 202 of the Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and Section 4212 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, and the implementing rules and regulations of the Department of Labor's Office of Federal Contract Compliance Programs are incorporated herein by specific reference.

- 20.2.** Sage and Supplier shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.