Subscription Agreement

IMPORTANT NOTICE! Thank you for your interest in Sage products and services. PLEASE SCROLL THROUGH AND READ ALL OF THE FOLLOWING SUBSCRIPTION AGREEMENT TERMS AND CONDITIONS (THE "AGREEMENT") CAREFULLY BEFORE CONCLUDING THE ACTIVATION PROCESS. THIS AGREEMENT IS A LEGAL CONTRACT BETWEEN YOU AND SAGE FOR YOUR SUBSCRIPTION.

YOU WILL INDICATE YOURACCEPTANCE OF THIS AGREEMENT AND ALL OF ITS TERMS AND CONDITIONS, AND TERMS AND CONDITIONS IMPOSED BY REQUIRED THIRD PARTY SERVICE PROVIDERS, 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 THAT APPEARS DURING ACTIVATION OF YOUR SUBSCRIPTION, OR (2) USING THE SUBSCRIPTION. IF YOU DO NOT AGREE TO BE LEGALLY BOUND BY THIS AGREEMENT AND THE TERMS AND CONDITIONS APPLICABLE TO REQUIRED THIRD PARTY SERVICES, EACH IN THEIR ENTIRETY AND WITHOUT MODIFICATION OR ADDITION, THEN YOU DO NOT HAVE A LICENSE TO USE THE SUBSCRIPTION.

1. DEFINITIONS.

1.1 “Affiliate” means any entity that controls you, that you control or that is under common control with you, where “control” means the ownership, directly or indirectly, of equity securities or other ownership interests which represent more than 50% of the voting power of such affiliate.

1.2 “Agreement” means the terms and conditions that make up this Subscription Agreement, including any amendments, addenda, or schedules to this Subscription Agreement.

1.3 “Customer Support” means assistance Sage provides or makes available to you on-line or by phone, email, chat or other means.

1.4 “Device” means a computer, workstation terminal, handheld PC, pager, telephone, smart phone, or other electronic or wireless device you use to access any part of your Subscription.

1.5 “Documentation” means the specifications that are set forth in the Service help files and any release-related notes, guides or manuals Sage publishes specific to the version of the Service made available as part thereof.

1.6 “Maintenance” means updates, upgrades, enhanced and new functionality, patches, and fixes for the Service.

1.7 “On-Premise Software” means software that you may download to your on-premise computers or other Device(s) or network to use with the Service.


1.9 “Required Third Party Service” means a required service, software, or Subscription functionality made available by a provider other than Sage that Sage makes a part of your Subscription.

1.10 “Reseller” means an independent third party authorized by Sage to sell Subscriptions.

1.11 “Sage” means Sage Software, Inc.

1.12 “Sage Technology” means images, text, software, music, sound, photographs, video, graphics, applets, documentation, screen shots, displays, graphical user interfaces and software incorporated into the Service and all copyright, trade secret, patent and patent applications, trademark and other intellectual property rights in and to the Service, including, but not limited to, object code, the underlying source code, algorithms, formulae, data structures, scripts, application programming interfaces and protocols, all inventions (whether patentable or not), know-how, ideas, discoveries, compositions, products, schematics, databases, drawings, designs, samples, models, processes, procedures, data, information, manuals, notes, and any item marked “confidential” or “proprietary”.

1.13 “Service” means the service, including related Maintenance, Sage makes available to you through or which utilizes a cloud or wireless environment as part of your Subscription and for which you pay the applicable Subscription Fee.
1.14 “Subscription” means your access to and Use of the Service in a cloud or wireless environment, Use of Supplemental Services and Required Third Party Services that Sage makes available to you as part of this Agreement.

1.15 “Subscription Fee(s)” means the purchase price you owe Sage for access to the various components of your Subscription.

1.16 “Subscription Term” means the period during which Sage enables you to access your Subscription and includes your initial Subscription and each renewal of your Subscription.

1.17 “Supplemental License Terms” means the additional terms and restrictions that are specific to the Service and posted by Sage at http://na.sage.com/sage-ja/eula.

1.18 “Supplemental Services” means optional software or services you may elect to include in your Subscription.

1.19 “Use” means to activate the Subscription, execute the Service, and use Customer Support, provided that: (a) you access the Subscription only from your Devices; and (b) you execute the functionality of the Service during the Subscription Term (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 the number or types of uses or Supplemental Services you purchase).

1.20 “You”, “you”, “Your”, and “your” means or refers to the company or person that Sage has registered as the licensee of the Subscription.

1.21 “Your Content” means the data and other information that you upload to or process through the Service.

1.26 “Your Users” means individuals that access your Subscription through use of your network, Devices or user ID(s) and a password(s).

2. LICENSE GRANT AND RESTRICTIONS.

2.1 License Grant. Subject to your compliance with this Agreement and payment of all applicable Subscription Fees, Sage grants you a limited, non-exclusive, non-transferable, non-sublicensable and revocable license of the scope described in this Agreement to access and Use your Subscription in accordance with instruction and documentation that Sage provides only if you or someone acting on your behalf and at your direction (such as your Reseller) has: (a) placed an order with Sage for an initial Subscription or a Subscription upgrade (such as for more users, Supplemental Services, etc.) and Sage has accepted such order; (b) accepted all of the terms and conditions of this Agreement either before or during activation of your Subscription (as described above); and (c) accepted or agreed to all of the terms and conditions that a third party imposes on your use of a Required Third Party Service.

2.2 Required Third Party Services and On-Premise Software.

(a) Your Subscription may include Required Third Party Services, which are a required component of your Subscription. Your use of a Required Third Party Service is subject to the terms and conditions imposed by the Required Third Party Service provider(s). If you do not accept or agree to the terms and conditions imposed by the Required Third Party Service providers, Sage cannot grant you and you do not have a license to the Subscription.

(b) The Service is hosted on Amazon's AWS platform, an Internet-scale cloud computing and services platform hosted in Amazon data centers. Your use of the Service is subject to the following Amazon terms, conditions and policies: (i) AWS Privacy Policy Statement: http://aws.amazon.com/privacy; (ii) AWS Service terms: http://aws.amazon.com/serviceterms; and (iii) AWS Acceptable Use Policy: http://aws.amazon.com/aup/. Neither you, nor anyone accessing the Service, may use AWS in any way prohibited by the AWS Acceptable Use Policy found at.

(c) In the event you use On-Premise Software that integrates with the Service, your use of such On-Premise Software is subject to the terms and conditions of the end user license agreement, subscription agreement, or other agreement applicable to such On-Premise Software. You must maintain a current Sage Business Care Plan for your On-Premise Software in order to subscribe for and continue use of the Service. Failure to maintain a current Sage Business Care Plan may result in the suspension or termination of your Subscription by Sage.
2.3 License Restrictions.

(a) You are only authorized to access and Use the functionality of the Service through (i) your private Internet or extranet using an Internet connection you provide or (ii) a wireless communication network you own or subscribe to, on Devices you provide.

(b) You may not install any components of the Service on your Devices unless Sage provides express instructions for you to do so.

(c) You shall not: (i) rent, lease, sublicense, loan, sell, reuse, distribute, market, or commercialize any portion of the Subscription or Service or Use the Service as part of a facility management, timesharing, or service bureau arrangement or for software or application development; (ii) duplicate any portion of the Service or Documentation or remove any proprietary notices or labels from the Service, including, but not limited to, the Sage name, Sage logo, Sage product names, or names or logos of Required Third Party Service providers wherever they appear; (iii) transfer or delegate any right granted to you under this Agreement or permit any parent, affiliate, subsidiary or any other third party to use or benefit from any functionality found in the Subscription, either directly or via a facility management, timesharing, service bureau or any other access arrangement, except that you may Use the Subscription and Service to process the data of an Affiliate only if your aggregate Use of the Service is limited to a single dataset; and (iv) conduct any activity prohibited by Section 3.4.

(d) Except to the minimum extent allowed by your local jurisdiction, you shall not rename files of, alter, modify, reconstruct, translate, localize, decompile, disassemble, decrypt, reverse engineer, discover, attempt to derive source code from, remove any proprietary notices from, or create derivative works based upon, the Service, or Required Third Party Services, in whole or in part. If your local jurisdiction allows any of these activities, you shall provide Sage with ten (10) business days’ prior written notice before conducting any of these activities.

3. RULES REGARDING USE OF YOUR SUBSCRIPTION.

3.1 You acknowledge that you have been made aware of and have met all technical requirements for the Product, including, but not limited to, the requirement to have Internet access.

3.2 You shall (a) comply with all applicable laws and regulations pertaining to your Use of and access to your Subscription; (b) prevent unauthorized access to your Subscription and promptly notify Sage of any unauthorized access or use; (c) Use the Subscription and Service only in accordance with its documentation and this Agreement; (d) comply with all notices, policies, and instructions Sage provides regarding Your Content; and (e) keep confidential all user ID(s) and passwords Sage provides you to access and activate your Subscription.

3.3 You are solely responsible for (a) Your Users’ compliance with this Agreement, and (b) maintaining the confidentiality of your user ID(s) and password(s), and for all activity that occurs under your user ID(s) and password(s) unless the breach in confidentiality is caused directly by Sage. You shall promptly notify Sage of any unauthorized activity or breach of security that you discover.

3.4 Prohibited Activities. You shall not use the Subscription to and Sage may suspend or terminate your Subscription if you (a) provide Sage with fraudulent information; (b) send spam or other unsolicited or duplicative messages in violation of applicable laws; (c) 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; (d) 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 Subscription, the Service, other accounts, computer systems or networks connected to or supporting the Subscription through hacking, password mining or any other means; (e) post, upload, use framing techniques to use or otherwise distribute copyrighted material without the consent of the copyright holder; (f) Use the Subscription in any way that threatens the integrity, performance or reliability of the Subscription infrastructure (including performance or stress testing), or in any manner that works around any technical limitations in the Subscription; or (g) make or attempt to make a local non-cache copy of any part of the Subscription. You shall not facilitate or aid a third party in any activity described in this Section 3.4.

3.5 Sage may charge you for any costs it incurs in connection with your breach of this Agreement, including costs incurred to enforce your compliance. Sage cannot monitor, has no control over, and is not responsible for your internet connection, network, wireless connection, bandwidth, the content of your device(s) and/or any other equipment you utilize. Sage reserves the right to restrict, change, suspend, or terminate your Subscription by any means if your access, Use, or
connection to the Service impairs or adversely affects Sage’s operations or the Service, including Use of the Service by others.

4. MODIFICATIONS TO YOUR SUBSCRIPTION AND THIS AGREEMENT. If Sage makes modifications to this Agreement that are required by law or do not materially affect Use of your Subscription, the changes take effect immediately. Other modifications (except for those affecting the price of your Subscription – see Section 6.3 below) will take effect two (2) months after Sage sends notice of the modifications if you continue to Use your Subscription after the end of the second month. Your Use of the Subscription after the two (2) month period constitutes your acceptance of and agreement to the modifications.

5. SUBSCRIPTION TERM. This Agreement shall begin when Sage accepts your order for your Subscription and continues until terminated as set forth in this Agreement. Your Subscription will run for the initial term set forth on your order form (the “Initial Term”) and, unless otherwise stated on your order form, thereafter continue for successive twelve (12)-month terms (each, a “Renewal Term”) until one of the following events occurs: (a) you terminate your Subscription as provided herein; (b) Sage terminates your Subscription as provided in herein; or (c) this Agreement terminates pursuant to its terms. The date your Subscription ends is referred to herein as the “Termination Date”.

6. SUBSCRIPTION FEES.

6.1 As part of the Subscription registration process, you will provide Sage with a payment method and payment information that is accurate and current, including your billing address and, if your payment method is a credit, debit or other bankcard, the expiration date of such credit, debit or other bankcard. You shall notify Sage promptly of any changes to your payment information.

6.2 You authorize Sage to collect your payment of Subscription Fees in advance in the applicable currency, using the payment method and payment information you provide and that Sage accepts. Subscription Fees quoted do not include applicable taxes but applicable taxes will be included in the amount Sage charges you. Subscription Fees may include late fees or penalties incurred because your financial institution fails to honor a check or electronic charge, debit or transfer. Late payments will accrue interest at the higher of one and one-half percent (1½%) per month or at the highest rate permitted by law. You are obligated to pay all Subscription Fees irrespective of whether you received an invoice. Failure to meet any of your payment obligations will be a material breach of this Agreement and allow Sage to suspend or terminate your Subscription.

6.3 Sage may increase or decrease your Subscription Fees at any time. Any increase or decrease in Subscription Fees will take effect at the commencement of your next Renewal Term. Sage will not increase your Subscription Fees more than twenty-five percent (25%) in any given year. If you continue to Use your Subscription after the fee change takes effect, you will be deemed to (a) agree to the fee change and (b) authorize Sage to collect the new Fee amount using your payment method.

7. OWNERSHIP RIGHTS.

7.1 Your right to Use the Subscription is licensed and not sold. As between you and Sage (a) you shall own and retain all right, title, and interest in Your Content, including your trade names, service marks, or any other trade insignia; and (b) Sage and its licensors shall own and retain all right, title, and interest in and to (i) their respective trade names, service marks, or any other trade insignia, (ii) the Service and the underlying technology, and (iii) all content, including, without limitation, Sage Technology, but excluding Your Content. Any right to use, transmit, reproduce, distribute, download, or exploit Sage Technology not expressly licensed to you in this Agreement is strictly prohibited. All rights not expressly set forth hereunder are reserved by Sage.

7.2 You agree that Sage may, when necessary to maintain, upgrade, troubleshoot, and/or protect the integrity of Your Subscription, Your Content, and the Service, access and/or download Your Content on a limited basis and for the sole purpose of completing maintenance, upgrades, troubleshooting, and/or protecting the integrity of Your Subscription, Your Content, and the Service.

8. LIMITED WARRANTIES AND DISCLAIMERS.

8.1 Service. Sage warrants that for one hundred and eighty (180) consecutive days after Sage accepts your order for your Subscription (the “Service Warranty Period”), the Service, when properly Used, shall perform substantially in accordance with the Documentation. Sage does not warrant or represent that your Use of the Service will be uninterrupted or error-free. If you report to Sage in writing within the Service Warranty Period any non-conformity between the Documentation and the Service (a “Warranty Claim”), and if Sage is able to replicate and verify that such
non-conformity exists, Sage shall make commercially reasonable efforts to correct such non-conformity and if successful, make such correction available to you at no additional cost. If such efforts are unsuccessful and the non-conformity is material, you may terminate this Agreement, discontinue Use of your Subscription, comply with any termination provisions imposed on you by Sage or a third party provider, and Sage will ensure that you receive a refund of the Subscription Fees you paid in the three (3) months preceding the Warranty Claim.

8.2 Customer Support. If you are entitled to receive Customer Support as part of your Subscription and if you have paid all required Subscription Fees, Sage warrants that during your Subscription Term, Sage will use qualified personnel to provide Customer Support in a professional manner consistent with industry standards.

8.3 Service Level. Sage warrants that during your Subscription Term it will use commercially reasonable efforts to ensure that the Service will meet the service level specified in the Service Level Guidelines posted by Sage at http://sagex3.com/service_level_guidelines.

8.4 Sections 8.1, 8.2 and 8.3 state your SOLE AND EXCLUSIVE REMEDIES for any breach of the warranties contained in those Sections.

8.5 OTHER THAN THE EXPRESS, LIMITED WARRANTIES STATED IN THIS SECTION 8, SAGE AND ITS SUPPLIERS AND LICENSORS 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 AND STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES, CONDITIONS OR GUARANTEES (A) OF MERCHANTABILITY, (B) OF FITNESS FOR A PARTICULAR PURPOSE, (C) OF NON-INFRINGEMENT OF PROPRIETARY OR INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, AND (D) ARISING FROM CUSTOM OR TRADE USAGE OR BY ANY COURSE OF DEALING OR COURSE OF PERFORMANCE. YOU ACKNOWLEDGE THAT: (I) THE UTILITY OF BUSINESS MANAGEMENT SOFTWARE DECREASES AS TECHNOLOGY EVOLVES AND THE BUSINESS ENVIRONMENT CHANGES, AND (II) YOU ARE FREE TO DECIDE AND ARE RESPONSIBLE FOR DECIDING WHEN TO CEASE USING THE SOFTWARE.

8.6 Other Limitations and Requirements.

(a) No employee, agent, or representative of Sage, any reseller (including your Reseller), or any other third party is authorized to make any warranty with respect to the Service or Subscription, except those expressly made part of this Agreement and you may not rely on any such unauthorized warranty. You acknowledge that you have chosen or accepted your Reseller and that such Reseller is an independent party and not an agent of Sage.

(b) YOU ARE RESPONSIBLE FOR ADOPTING REASONABLE MEASURES TO: (I) ENSURE THE ACCURACY OF YOUR CONTENT AND THE PROCESS BY WHICH IT IS PUT INTO THE SERVICE; (II) EXAMINE AND CONFIRM RESULTS OBTAINED FROM THE SERVICE BEFORE YOU RELY ON IT; (III) ADOPT PROCEDURES TO IDENTIFY AND CORRECT ERRORS AND OMISSIONS; AND (IV) RECONSTRUCT YOUR CONTENT.

9. EXCLUSIONS OF AND LIMITATIONS ON LIABILITY.

9.1 You acknowledge that software and services of this nature are inherently complex and may not be free from errors, and that you have been advised to verify the work produced by the Service. Neither Sage nor its suppliers, or third party providers shall be liable for any special, indirect, incidental, consequential or punitive damages resulting from any defect in the Subscription, even if Sage has been advised of the possibility of such damages. This means Sage is not responsible or liable for damages or costs incurred as a result of lost time, loss of data, loss of anticipated profits, lost opportunity cost, or loss of Use of the Subscription, nor for damages or costs incurred in connection with obtaining substitute subscription services or support, claims made against you by others or similar costs. IN NO EVENT SHALL SAGE’S LIABILITY TO YOU ARISING OUT OF OR IN CONNECTION WITH THE SERVICE, YOUR SUBSCRIPTION OR THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID BY YOU IN THE TWELVE (12) MONTHS PRECEDING YOUR CLAIM. You acknowledge and agree that this Agreement allocates risk between you and Sage as authorized by applicable law, and that the Subscription pricing 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 limitations of liability and exclusion of damages set forth in this Agreement shall remain in full force and effect.

9.2 You acknowledge that unless you and Sage agree in writing for Sage to provide services to implement your Subscription, you are responsible for engaging a qualified party to provide implementation services for you on terms you negotiate. You also acknowledge that 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 an authorized or certified Reseller, consultant, or installer of Sage products or services.

10. INDEMNIFICATION.

10.1 You shall defend, indemnify, and hold Sage and its Affiliates, officers, directors, employees, Resellers, and agents harmless from any third party claim related to or arising from (a) your or a third party’s Use of or access to your Subscription or Your Content; (b) all activities occurring under your user ID and password; (c) any item or service sold or advertised in connection with Your Content or information; and (d) Your Content, if it (i) contains any defamatory, libelous or illegal material; (ii) infringes a third party's patent, copyright, or other intellectual property or trade secret right; or (iii) violates a third party's right of privacy or publicity. Sage reserves the right at its expense to participate in the defense of such claims but shall have no obligation to do so. You shall not settle any such claim or liability without the prior written consent of Sage, which Sage shall not unreasonably withhold.

10.2 If you receive notice of any claim that your Use of the Service infringes any third party's intellectual property right in a patent, copyright, or trade secret (an “Indemnity Claim”), Sage shall defend, indemnify and hold you harmless by paying any resulting costs and damages finally awarded by a court with respect to any such Indemnity Claim provided that you: (a) notify Sage in writing promptly upon becoming aware of the Indemnity Claim; (b) at Sage’s request and expense, give Sage such information and assistance as is reasonable under the circumstances; and (c) give Sage the right to settle the Indemnity Claim in Sage’s sole discretion and at Sage’s expense.

10.3 This indemnification does not extend to any Indemnity Claim arising from a combination of the Service with other elements not under Sage’s sole control, or arising from any part of the Service that you or a third-party modify, that incorporates specifications, designs or formulas that you provide, or information, services, or technical support furnished by a third party. If you are prevented from Using the Service because of an actual or claimed infringement, then at Sage’s option, Sage shall promptly either obtain for you the right to continue using the affected part of the Service, replace or modify the affected part of the Service so that it becomes non-infringing, or if none of the foregoing alternatives are possible after Sage exercises commercially reasonable efforts, you may terminate your Subscription and Sage shall ensure that you receive a refund of or credit for any pre-paid but unused portion of the Subscription Fees you paid.

10.4 THIS SECTION 10 SETS OUT SAGE’S ENTIRE FINANCIAL LIABILITY FOR ANY INDEMNITY CLAIM.

11. PRIVACY. Sage will not actively monitor Your Content but will investigate complaints of violations of a third party right. Sage will cooperate with those attempting to minimize Internet or telecommunication abuse and reserves the right to institute filters or other mechanisms for that purpose. Sage will cooperate with law enforcement authorities and may notify such authorities if it suspects that you are engaged in illegal activities. For more information regarding Sage’s protection of your information, please consult Sage’s Privacy Policy (http://na.sage.com/Sage-NA/privacy-policy). In its sole discretion, Sage may change the Privacy Policy from time to time and will post notice of the changes to the Sage Privacy Policy website. Your use of third party Supplemental Services or Required Third Party Services may be subject to privacy policies of those third party providers.

12. CONFIDENTIALITY.

12.1 Sage shall implement commercially reasonable security measures designed to prevent the disclosure or dissemination of Your Content and information regarding your Subscription to any third party without your written consent and shall not use Your Content for Sage’s own benefit or for the benefit of any third party, except to the extent permitted by this Agreement. Notwithstanding the foregoing, you agree that Sage may provide Your Content to those third parties that Sage engages to provide services of and support for the Subscription, Required Third Party Services, and your Supplemental Services.

12.2 You shall implement commercially reasonable security measures designed to prevent the disclosure or dissemination of the Service, Sage Technology, and information about your Subscription to any third party without Sage's written consent, and shall not Use the Service, Sage Technology, or information about your Subscription for your own benefit or the benefit of any third party, except to the extent permitted by this Agreement.

12.3 If you are or Sage is requested pursuant to, or required by, applicable law, regulation or legal process to make disclosures of information ("Protected Information") otherwise prohibited by Sections 12.1 or 12.2, above, each of us will promptly notify the other (if not prohibited by law or legal or regulatory process) so that the other may seek a protective order or other appropriate remedy or, in the other’s sole discretion, waive compliance with the terms of this Agreement. In the event that no such protective order or other remedy is obtained, or that the other party does not waive
compliance with the terms of this Agreement, then each of us shall furnish only that portion of the Protected Information which it believes in good faith, after consulting with counsel, it is legally required to disclose and will exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Protected Information.

13. TERMINATION.

13.1 This Agreement and the license granted to you will terminate automatically and without notice if you fail to comply with any term or condition of this Agreement, including but not limited to the payment of all Subscription Fees when due. THE SUBSCRIPTION OR SERVICE MAY CONTAIN TECHNOLOGY THAT ALLOWS SAGE TO TERMINATE YOUR USE OF THE SUBSCRIPTION OR SERVICE OR CONVERT YOUR ACCESS TO READ-ONLY STATUS IN THE EVENT YOU MATERIALLY BREACH THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, YOUR FAILURE TO PAY SUBSCRIPTION FEES WHEN DUE. IF SAGE CONVERTS YOUR ACCESS TO READ-ONLY, YOU WILL NOT BE ABLE TO ENTER NEW DATA. Upon termination or expiration of this Agreement, you shall comply with any termination provisions imposed on you by a third party provider.

13.2 You may terminate this Agreement if Sage does not cure a material breach within thirty (30) days after you provide Sage written notice of the breach. In such event, Sage will refund prepaid Subscription Fees for Services Sage has not provided.

13.3 You may terminate this Agreement at the end of your Subscription Term by providing Sage with your termination request, your Sage customer number, your company name, a company contact name and company phone number or email (your “Notice”) at least thirty (30) days prior to the end of the Initial Term or the current Renewal Term, in which case your Subscription will end upon the expiration of the Initial Term or the current Renewal Term, as the case may be. You are responsible for paying all Subscription Fees incurred prior to the Termination Date. **You will have access to your Content for a fee for a period of thirty (30) days after the Termination Date. You must retrieve Your Content from the Service before, and Sage is not required to retain Your Content after, the expiration of such thirty (30)-day period.**

13.4 Sage may terminate this Agreement for convenience on sixty (60) days’ written notice.

13.5 Sage shall not be liable to you or to any third party for termination of your Subscription in accordance with this Agreement.

13.6 When this Agreement terminates your access to your Subscription will end.

13.7 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, limitations of liability, and indemnification.

14. GENERAL TERMS.

14.1 Independent Contractors. This Agreement is not intended to nor will it be construed as creating a joint venture, partnership or other form of business association between the parties.

14.2 Export. You shall not violate any U.S. Export Administration Regulations or end-user, end-use, and destination restrictions issued by the United States and other governments applicable to the Service or your Subscription. You warrant that you are not located in, not under the control of, or not a national or resident of, any country, entity, or person designated as restricted.

14.3 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.

14.4 U.S. Government Restricted Rights. The Subscription and Service are 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 is the distributor. Sage’s address in the United States is 6561 Irvine Center Drive, Irvine, California 92618; Sage’s address in Canada is 13888 Wireless Way, Suite 120, Richmond, British Columbia, V6V 0A3, Canada.

14.5 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 or all of those provisions of this Agreement may not apply to you.

14.6 Dispute Resolution, Waiver of Collective or Class Action, Choice of Law, Statute of Limitations and Language. 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 pursuant to this Section 15.6 and the applicable rules of either J.A.M.S/Endispute or the National Arbitration Forum in effect at the time the claim is filed. 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. This Agreement shall be governed by the laws of (i) the State of California if primary Use of the Service occurs in any jurisdiction other than Canada, or (ii) the Province of British Columbia if primary Use of the Service occurs in Canada, each without regard to the conflict of laws provisions thereof or to the United Nations 1980 conventions on the International Sale of Goods. The parties have expressly requested and required that this Agreement and all other related documents be drawn up in the English language. Les Parties conviennent et exigent expressément que ce Contrat et tous les documents qui s’y rapportent soient rédigés en anglais. ANY CLAIM OR CAUSE OF ACTION REGARDLESS OF FORM MUST BE BROUGHT NO MORE THAN ONE (1) YEAR AFTER IT AROSE, OTHERWISE THE CLAIM OR CAUSE OF ACTION SHALL BE BARRED, EXCEPT THAT THE FOREGOING LIMITATION AND THE ARBITRATION PROVISION SHALL NOT APPLY TO THE ENFORCEMENT BY SAGE OF YOUR PAYMENT OBLIGATIONS AND ANY OF SAGE’S INTELLECTUAL PROPERTY RIGHTS. THIS PROVISION SHALL SURVIVE TERMINATION AND EXPIRATION OF THIS AGREEMENT.

14.7 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 a writing signed by both parties.

14.8 Audit Rights. With or without prior notice, Sage may audit your Use of the Subscription and Service 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 Sage’s price list in effect at the time the audit is completed.

14.9 Sage Advisor. If you have not previously opted out of participating in Sage’s product enhancement program ("PEP"), you may automatically be enrolled in PEP when you activate your Subscription. Through PEP, Sage collects information on your hardware environment and how and when you Use your Subscription and its in-product help and services. This information helps Sage identify trends and usage patterns to improve the quality of the products and services Sage offers.

14.10 Auto updates. Your Subscription may contain auto update technology, a feature used to provide Maintenance as part of your Subscription. This feature cannot be disabled. This feature will: (a) connect to Sage or service provider computer systems over the Internet; (b) use Internet protocols to recover standard computer information in order to determine whether Maintenance is required; and (c) automatically download and install, or prompt you to download and/or install, current Maintenance. By Using the Service initially, you consent to the transmission of standard computer information and the automatic downloading and installation of Maintenance.

14.11 Force Majeure. Neither party will be in default of this Agreement if the party's performance is delayed or prevented for any delay, nonperformance or related damages if such delay or nonperformance is due to causes beyond its reasonable control, including, but not limited to acts of God, electrical power failure, loss of communications, fire, explosion, war, action of any governmental authority or the delay of third parties.

14.12 No Third Party Beneficiaries. This Agreement is solely for the parties’ benefit and not for the benefit of any other person or entity, except for permitted successors and assigns.

14.13 Notices and Electronic Communications. Sage may send any notices permitted or required under this Agreement by e-mail, express mail or by a nationally recognized courier to your last known address, effective upon transmission (if by email or express mail) or on receipt (if by courier). Evidence of successful transmission shall be retained. You shall send legal notices to Sage at Sage Software, Inc., Attn: General Counsel, 1715 North Brown Road, Lawrenceville, GA 30043, Fax: 770-717-6481. If you have any questions concerning your Subscription or this Agreement, please call 866-996-7243 or write to Sage at Sage, 6561 Irvine Center Drive, Irvine, CA 92618-2301, Attention: Sales.

14.14 Publicity. You acknowledge that Sage may use your name in press releases or product brochures indicating that you are a customer of Sage, and you agree that Sage may use you name in such a manner.
14.15 Entire Agreement and Severability. This Agreement represents the complete and exclusive understanding between you and Sage regarding your Subscription, and supersedes any prior purchase order, confirmation, advertising, representation, or other communication. 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 that conforms to applicable law and embodies as closely as possible the original intent of the parties.