

# Supplier Order Terms and Conditions

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, the following definitions apply:

"BusinessDay" means a day (other than Saturday, Sunday or a public holiday) when the banks in London are open for business;

"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;

"ConfidentialInformation" 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;

"Contract" has the meaning given at clause 2.1;

"Data Protection Laws" means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the processing of personal data to which a Party is subject, including the Data Protection Act 1998 ("DPA") and EC Directive 95/46/EC (the "DP Directive") (up to and including 24 May 2018), the Data Protection Act 2018 (subject to royal assent), and the GDPR (on and from 25 May 2018); and (b) any code of practice or guidance published by the ICO and/or European Data Protection Board from time to time;);

"Goods" means any goods (or any part of them) including software, if any, set out in the Order;

"Order" means Sage's written order for the Goods and/or the Services made and accepted in accordance with clause 2;

"Sage" means Sage (UK) Limited (registered in England and Wales) with company number 01045967;

"Sage Group Company" means The Sage Group plc and any company within The Sage Group plc group of companies;

"Services" means any services (or any part of them), if any, as set out in the Order;

"Specification" means any description or specification for the Goods and/or the Services, including 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

"Supplier" means the person or organisation with whom Sage places its Order for the Goods and/or the Services.

1.2 These Conditions shall govern the sale or supply of Goods and/or Services 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 not apply. In the case of conflict, these Conditions shall take precedence over any other terms included or referred to in an Order, unless expressly stated otherwise in the Order.

## 2. PLACING ORDERS

- 2.1 The Order constitutes an offer by Sage to purchase Goods and/or Services from the Supplier in accordance with the Conditions and acceptance of the Order constitutes a contract which incorporates the Conditions (the "Contract").
- 2.2 Sage shall have the right to revoke an Order without liability unless accepted by the Supplier within fourteen (14) days from the date of the Order.
- 2.3 The Order shall be deemed to be accepted on the earlier of the Supplier:
- 2.3.1 issuing a written acceptance of the Order; or
  - 2.3.2 delivering any Goods; or
  - 2.3.3 performing any Services.
- 2.4 Failure to accept the Order in writing or otherwise will not prevent the Supplier's implied acceptance of the Order and these Conditions by conduct.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom practice or course of dealing.

### 3. **SOFTWARE LICENCE**

- 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 to 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. 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 the permitted use of the Goods and/or Services. The Supplier agrees to promptly deliver up a copy of items licensed under this clause to Sage on demand.

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

- 4.1 All intellectual property rights ("IPR") in any materials prepared or supplied by Sage to the Supplier shall remain the property of Sage.
- 4.2 All IPR in pre-existing materials supplied by the Supplier to Sage (except software and materials to which clause 3 applies) shall remain the property of the Supplier and the Supplier hereby grants Sage a perpetual, non-exclusive, transferable, sub-licensable, worldwide, royalty-free license to use and copy such materials to the extent reasonably required to use and enjoy the full benefit of the relevant Goods and/or Services.
- 4.3 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 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 to such high standard of quality as it is reasonable for Sage to expect in all the circumstances;
- 5.1.6 it shall obtain all necessary permits, consents, licences and authorisations 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 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 28 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 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 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 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) 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 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 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 value added tax (VAT), 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 a valid VAT invoice from the Supplier detailing the Order number, pay to the Supplier such additional amounts in respect of VAT 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 invoices within 30 days of the date of receipt of the invoice.
- 8.5 Unless otherwise agreed, a separate invoice must be rendered for each individual consignment of Goods or each distinguishable element of Services.
- 8.6 If a party fails to make any payment due to the other under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above Barclays Bank's base rate for the period from the due date until the date of actual payment. This rate of interest shall apply notwithstanding any higher rate of interest specified in The Late Payments of Commercial Debts (Interests) Act 1998 or any other statute, and the parties acknowledge and agree that this rate of interest represents a substantial remedy for late payment of debts. The defaulting party shall pay the interest together with the overdue amount. This clause 8.6 shall not apply to payments the defaulting party disputes in good faith.

## 9. **CONFIDENTIAL INFORMATION**

- 9.1 Except to the extent set out in this Clause 9 (Confidentiality) or otherwise expressly permitted in the Contract, each party shall:
- 9.1.1 treat the other party's Confidential Information as confidential and, subject to any higher standard imposed by the other provisions of the Contract, protect the other party's Confidential Information as it would its own Confidential Information;
  - 9.1.2 use the other party'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 person the other party'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 the other party'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 the other party'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 the other party's Confidential Information against theft, loss or unauthorised disclosure.
- 9.2 Each party 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 the any Sage Group Company's compliance with) all applicable laws, statutes, regulations, and codes relating to anti-slavery and human trafficking including the Modern Slavery Act 2015;

and

11.1.2 comply with the Sage group's anti-slavery and human trafficking policies (forming part of the Sage group's policies from time to time).

## 12. **DATA PROTECTION**

12.1 For the purpose of this clause 12, "Data Controller", "Data Processor", "Personal Data", "Process", "Processed", "Processing" and "Sensitive Personal Data" (including from 25 May 2018 special categories of Personal Data set out in Article 9(1) of the GDPR) shall have the meanings given to them in the Data Protection Laws.

12.2 The parties each acknowledge and agree (in their respective capacities as Data Controllers) that they may need to Process Personal Data relating to each party's employees, officers, agents and other representatives in order to (as appropriate): (a) administer and provide the Goods and/or Services; (b) request and receive the Goods and/or Services; (c) compile, dispatch and manage the payment of invoices relating to the Goods and/or Services; (e) manage the Order and resolve any disputes relating to it; (f) respond and/or raise general queries relating to the Goods and/or Services.

12.3 Each party shall Process such Personal Data relating to each party's representatives for the purposes set out in clause 12.2 in accordance with their respective privacy policies. The parties acknowledge that they may be required to share Personal Data with their affiliates, group companies and other relevant parties, within or outside of the EEA, in order to carry out the activities listed in clause 12.2, and in doing so each party will ensure that the sharing and use of this Personal Data complies with applicable Data Protection Laws.

12.4 Where and to the extent that the Supplier may Process Personal Data for and on behalf of Sage as part of the Services, the Supplier shall be deemed the Processor and Sage shall be deemed the Controller.

12.5 The Supplier shall comply with the obligations imposed upon a Processor under the Data Protection Laws and shall co-operate with Sage and take all such actions as are necessary to enable Sage to comply with its obligations under the Data Protection Laws and shall not perform its obligations under the Order in such a way as to cause Sage and/or any Sage Group Company to breach any of its obligations under the Data Protection Laws, expressly and without limitation:

12.5.1 the parties shall agree and document the nature of the Processing in accordance with Article 28(3), and otherwise the Processor shall comply with the obligations set out in Article 28(2), (3), and (4) of the GDPR, and any other duties as set out in the Data Protection Act 2018;

12.5.2 the Supplier shall process the Sage Personal Data for the sole purpose of performing the Contract and only in accordance with instructions received from Sage in respect of the same;

12.5.3 the Supplier shall put in place, maintain and comply with appropriate technical and organisational measures to ensure the security, integrity and confidentiality of the Personal Data and guard against unauthorised or unlawful processing of the Personal Data and against accidental loss, destruction, or damage and such measures shall, at a minimum, meet the requirements of Data Protection Laws;

12.5.4 no Personal Data shall be transferred outside the EEA without the express approval of Sage and such approval is subject to such further conditions or requirements of Sage; and

12.5.5 notification of any security breach, or breach of the Data Protection Laws by the Supplier shall be made promptly and no later than twenty-four hours after the Supplier became aware of such incident.

## 13. **LIABILITY**

13.1 Nothing in the Contract shall exclude or restrict the liability of:

13.1.1 either party for death or personal injury resulting from negligence; for fraud or fraudulent misrepresentation; or for the deliberate default or wilful misconduct of that party, its employees, agents or subcontractors;

13.1.2 the Supplier to Sage for any breach of clauses 9, 10, 12 and clause 18.4; or

13.1.3 the Supplier to Sage under clause 14.

13.2 Subject to the provisions of clauses 13.1 and 13.3, the total aggregate liability of each party to the other, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise for any loss or damage, costs or expenses arising under on in connection with the Contract shall be limited to one hundred and fifty per cent (150%) of the price payable by Sage for the Goods and/or Services set out in the Order.

13.3 Subject to the provisions of clauses 13.1 and 14, neither party shall be liable to the other whether in contract, tort, negligence, breach of statutory duty or otherwise for loss of profit, revenue, business or use (in each case whether direct or indirect) or any indirect or consequential loss or damage, costs or expenses whatsoever or howsoever arising out of or in connection with the Contract.

## 14. **INDEMNITIES**

14.1 The Supplier shall indemnify Sage against all liabilities, costs, expenses, damages, compensation awards, payments made under settlement arrangements and losses (including any direct, indirect or consequential losses and all fines, interest, penalties and legal costs (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, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, contractors, agents or subcontractors;

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;

14.1.3 any claim made against any Sage Group Company by a third party for death, personal injury or 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; and

14.1.4 any claim made against any Sage Group Company arising out of, or in connection with, any breach by the Supplier of its obligations in clause 12 and/or any failure of the Supplier to comply with the Data Protections Laws.

## 15. **INSURANCE COVER**

15.1 During the term of the Contract, the Supplier shall maintain in force with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover such heads of liability as may arise under or in connection with the Contract, and shall, on Sage's request, produce the relevant policy and evidence of payment of the current premium in respect of each insurance.

## 16. **TERMINATION**

- 16.1 Sage may terminate the Contract in whole or in part before delivery 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 loss of anticipated profits or any consequential loss.
- 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:
- 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 section 123 of the Insolvency Act 1986) 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 (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, novate or subcontract the benefit of this Contract or subcontract its obligations under it without Sage's prior written consent (such consent not to be unreasonably withheld or delayed).



- 18.2 This Contract does not create any right or benefit enforceable by any person not a party to it under the United Kingdom's Contract (Rights of Third Parties) Act 1999 or any other 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 Conditions may only be varied or amended in writing, signed by an authorised officer of each of the parties. No variation, amendment or addition to the Order and/or these 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 England and Wales.
- 19.2 The parties irrevocably agree that the courts of England and Wales 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).