

Sage CRM Cloud

Terms and Conditions of Use

INTRODUCTION AND IMPORTANT NOTES

How does this agreement relate to Sage CRM Cloud? You may only register for, access and use Sage CRM Cloud on the condition that you accept all of these terms in this agreement, as may be amended by Sage from time to time.

If you register for a free trial of Sage CRM Cloud this agreement will also govern that free trial period.

In particular please ensure you read and understand all of this introduction and paragraphs 4 (payment), 8 (Data), 11 (Rights Protection), 12 (Intellectual property), 13 (Warranties), 14 (Our liability and responsibility to you if something goes wrong) and 15 (How this agreement may be brought to an end and what happens on termination).

If at any time you do not accept the terms in this agreement, you may not register for, access or use Sage CRM Cloud (as applicable) and, if you have already registered to use Sage CRM Cloud, you should immediately stop using it and terminate this agreement in accordance with paragraph 15.5.

If you have a question about Sage CRM Cloud you may find the answer on the web site (www.sagecrm.com). If not, you can contact a member of the Sage CRM Cloud team by telephone on 0845 111 2453, or using such other details as may be published from time to time.

By entering into this agreement, you and we each agree to be bound by and keep to it. You and we agree as follows:

Who this agreement is between?

This agreement is made in consideration of the obligations entered into (including for you to pay charges and Sage to permit you to use Sage CRM Cloud) and the rights granted by each of the parties and are between Sage (UK) Limited (registered number 1045967, VAT number GB 555909605) whose contact details are set out below and whose registered office is at North Park, Newcastle upon Tyne NE13 9AA, United Kingdom (“**Sage**”, “**we**”, “**our**” or “**us**”) and you, the business entity which on accepting this agreement, will be registered to use Sage CRM Cloud (“**you**” and “**your**”). Unless you are a sole trader, if you are registering to access and use Sage CRM Cloud for the first time in the capacity of an employee or contractor of a separate corporate body, partnership or similar business entity, you must have the authority of that business entity to: (a) use Sage CRM Cloud for that entity’s business and (b) accept this agreement on behalf of that entity. In such circumstances you confirm and warrant to Sage that you are so authorised. If you are unsure about this, you must confirm with an appropriately senior manager/director (or equivalent) that you have such authority, or that such authority has already been given. If you are using Sage CRM Cloud as an employee or contractor of a separate business entity, “you” means that business entity and/or you as an individual, as appropriate.

What do the defined terms in this agreement mean?

In addition to the expressions defined elsewhere in this agreement:

“**Sage business partner**” means a third party consultant, independent of Sage, which is an authorised, accredited member of Sage’s business partner network, having entered into a business partner agreement with Sage;

“**Control**” means possessing, directly or indirectly, the ability to direct or cause the direction of the management, policies or operations of an entity, whether through ownership of voting securities, by contract or otherwise, and “**Controlled**” shall have a corresponding meaning;

“**Documentation**” means the “System Documentation” from time to time available in the “System Help” section of Sage CRM Cloud;

the use of the word “**including**” and similar expressions will be construed as illustrative and not exhaustive;

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references to a “**person**” include an individual, sole trader, partnership, body corporate, an unincorporated association of persons and any other legal entity;

references to “**Sage CRM Cloud**” means either Sage CRM Cloud Professional or Sage CRM Cloud Essentials, whichever is applicable to you, and includes all web site pages accessible at that web site address and their design and layout, the underlying software and the Documentation;

the headings in this agreement are for convenience only and shall not affect its construction or interpretation;

technical expressions shall have the relevant meaning commonly attributed to them in the computer software business sector in the U.K.

1. How you accept this agreement and when this agreement starts

- 1.1. You accept every term of this agreement and this agreement starts from the earliest date that you either (a) tick a box when Sage CRM Cloud asks you to confirm that you agree to all the terms of this agreement; or (b) if you use product.
- 1.2. This agreement will continue until terminated in accordance with paragraph 15.
- 1.3. If you don't accept this agreement, you should contact us or your Sage business partner immediately and you should not use Sage CRM Cloud.

2. Trial period

- 2.1. If you register on our website at www.sagecrm.com for a free trial, we will give you sign-in details and passwords to enable you to use Sage CRM Cloud Essentials or Sage CRM Cloud Professional on a trial basis, free of charge. During the trial period, a maximum of 5 named users may access and use Sage CRM Cloud Essentials or Sage CRM Cloud Professional.
- 2.2. Your use of Sage CRM Cloud Essentials or Sage CRM Cloud Professional during the trial period is governed by this agreement. However, we provide Sage CRM Cloud Essentials or Sage CRM Cloud Professional to you on an “as is” basis during the trial period which means that all warranties in this agreement, including those in paragraph 13, will not apply during the trial period. These warranties will also not apply during any beta testing phases.
- 2.3. Your free trial will expire at the end of 30 days, or on the date that you start a paid subscription for any edition of Sage CRM Cloud (see paragraph 3), whichever occurs first.
- 2.4. If you do not continue to use Sage CRM Cloud following the trial period, you should make sure that you keep copies of all data submitted during your trial, and ensure that all data is exported before the end of your trial.
- 2.5. If you subscribe for Sage CRM Cloud Essentials, then any data you enter or customisations created or made by you during your trial of Sage CRM Cloud Professional cannot be transferred to Sage CRM Cloud Essentials, and will be lost at the expiry of the trial period. You should again ensure that all data is exported before the end of the trial in these circumstances.

3. Subscribing to Sage CRM Cloud

- 3.1. At the end of your trial, you will have the option to inform us via the “buy now” page on our website (www.sagecrm.com) that you want to continue to use the version of Sage CRM Cloud that you have trialled, or that you want to start using any other version of Sage CRM Cloud.
- 3.2. Except in the circumstances described in paragraph 5 (changing from using Sage CRM Cloud to on premise Sage CRM software), the agreement period will be for an initial fixed period of one year, unless we otherwise agree a longer fixed period with you. At this stage you should ensure you will need to use Sage CRM Cloud for that time. Following the initial fixed period of one year, or any other fixed period that we agree, this agreement will be subject to automatic renewal in accordance with the procedure set out in paragraph 15.1.

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3.3 The “buy now” stage is Sage’s invitation for you to consider taking Sage CRM Cloud for the period described in clause 3.2 when you will be given the option to choose Sage CRM Cloud Professional or Sage CRM Cloud Essentials, and you will also be given various payment options, including spreading the annual cost by making payments by direct debit. We will check the payment details you input and will send you confirmation that (a) we have both entered into an agreement for your use of Sage CRM Cloud (b) we have received your payment and (c) confirming the number of named users who may use Sage CRM Cloud, together with any other relevant information.

3.4 **What should I do if I make an error during the “buy now” process?** Some obvious errors will be identified automatically and you will be prompted to make a correction. If you make an error and are not automatically given the opportunity to correct it, you should contact Sage as described above.

3.5 **Will the completed agreement be accessible?** We will not keep a separate record of our specific agreement with you for Sage CRM Cloud, so we strongly recommend that you print out a copy of this agreement and the “buy now” page, both before and after you submit your payment details, together with the confirmation you receive from us. We will keep general archives of our terms of use and other relevant documentation, in case any queries arise in the future.

PLEASE NOTE THAT ONCE YOU SUBMIT YOUR PAYMENT DETAILS YOU MAY NOT CANCEL YOUR AGREEMENT TO ACCESS AND USE SAGE CRM.

4. Payment of Charges

4.1 Unless we both agree otherwise at the “buy now” stage as described in clause 3.3, you will pay the annual subscription fee directly to us annually in advance, together with any other charges that are set out on our Sage CRM Cloud website (www.sagecrm.com), until either you or we end this agreement in one of the ways set out in paragraph 15.

4.2 You will receive your first invoice for your use of Sage CRM Cloud at the beginning of the month following the end of your free trial (if applicable) and you agree to pay the fees (plus VAT where applicable) to us annually in advance and within 30 days of the date of invoice. If we have agreed that you can pay the annual subscription fee by direct debit instalments, you must pay all the fees irrespective of whether you receive an invoice. Where you have an agreement with a Sage business partner for the payment of the annual subscription fee, then the terms in that agreement in relation to the payment of the annual subscription fee prevail over the terms in this clause 4.2.

4.3 If you fail make any payment due to us by the due date for payment, then, without limiting our other remedies under this agreement, including our right to suspend the services under paragraph 15.9, you shall pay interest on the overdue amount at the rate of 1.5% per month above the Bank of England’s base rate from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount. This paragraph shall not apply to payments that you dispute in good faith. Where you have a history of not paying by the due date, we may impose additional requirements in relation to payment terms in relation to any subsequent contract period, following a renewal.

4.4 Once you have paid any charge to use Sage CRM Cloud, there will be no refund if you subsequently decide that you no longer wish to use it, including if you wish to decrease the number of end users, or if you decide you have paid for too many end users.

4.5 **Additional user subscriptions.** You may, from time to time, purchase additional named users and we will grant access to Sage CRM Cloud and the Documentation to such additional named users in accordance with the provisions of this agreement. Each additional user added during the agreement period will be charged at the same pricing level as existing users and the subscriptions of all such users will end at the end of the contract period. Where subscriptions are made for additional users after the start of any month under this paragraph, these additional subscriptions will be charged for that full monthly period.

4.6 **How are fees increased on renewal of the agreement?** Price increases for a subsequent annual 12 month period will not exceed 8% of the charges for the previous contractual period, unless the original pricing was provided on a one-off or promotional basis.

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5. What happens if I want to change from using Sage CRM Cloud to on premise Sage CRM software?

- 5.1. If you decide to use on premise Sage CRM software product instead of Sage CRM Cloud, you may cancel your annual agreement to use Sage CRM Cloud by notifying us in writing as described in paragraph 17.9.
- 5.2. To permit time for the migration process, your notice will take effect at the end of the month after the month in which you send us your notice, so long as we have received your purchase order. A decrease in the number of named users may be made if you change to using on premise Sage CRM but such a reduction will not result in the credit or refund of any part of the annual subscription fee you have already paid for using Sage CRM Cloud. (However when we calculate your annual subscription fee for using on premise Sage CRM from your next renewal date, any reduction in the number of named users will then be taken into account). If we have not received a purchase order from you by then, your notice will take effect at the end of the month after the month in which that purchase order is received by us.
- 5.3. Also, from that date you may not be able to access and use your data in Sage CRM Cloud, so if you wish to do so, we recommend that you make arrangements with us (or a Sage business partner) for the extraction of your data from Sage CRM Cloud to the replacement software.

6. Your rights to use Sage CRM Cloud and your obligations

- 6.1. If you accept this agreement and pay the relevant fees (where applicable), we give you the right to use Sage CRM Cloud in the way described in this agreement. You may not use Sage CRM Cloud in any other way. You may permit the number of named users to access Sage CRM Cloud as agreed by Sage from time to time and shall ensure those named users comply with this agreement and the Documentation.
- 6.2. An administrative user (which is a user who has the right to give access to the CRM functionality at SageCRM.com to other users), may enable only the agreed number of named users to access and use the CRM functionality at SageCRM.com by issuing them with user names and passwords. You may change the identity of named users at any time so long as the number of named users at any time does not exceed the agreed number of named users.
- 6.3. Sage CRM Cloud is only intended for business use. Non-business use (including, in particular, use by an individual in their own personal capacity) is not permitted. You warrant (i.e. make a contractual promise) that you will not use Sage CRM Cloud for non-business use.
- 6.4. If you have an office in any of the following territories: Austria, Belgium, France, Germany, Poland, Portugal, Spain, Switzerland or otherwise outside of Europe, you should contact the Sage office in your region before purchasing a licence for Sage CRM Cloud.
- 6.5. You agree to ensure that the registration details you give are true and accurate and agree to keep your sign in details and password safe and not disclose them to any other person and to take all other reasonable measures to prevent unauthorised access to the service.
- 6.6. You must comply with all applicable laws and legislation in respect to your use of Sage CRM Cloud.
- 6.7. You are responsible for the legality, reliability, integrity, accuracy and quality of any information you input into Sage CRM Cloud, including all data, and for the means by which you acquired your data.
- 6.8. All rights of ownership of the information you input into Sage CRM Cloud remain yours (or the applicable third party owner's) but your access to this information is dependent upon you paying the monthly subscription fee. We follow good industry practice to prevent data loss; however, you must keep copies of any information inputted into Sage CRM Cloud (or generated by it) as we cannot guarantee that your information will not be lost or damaged.
- 6.9. If you have a Sage business partner you must also comply with your contractual obligations to it.

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- 6.10 You must notify us at any time you become aware: (a) that you have been using Sage CRM Cloud other than in accordance with this agreement and to discuss the situation in order to agree the payment of an appropriate charge in respect of such use and/or other remedial steps; or (b) of any unauthorised use of your user name and / or password or any other security issue with Sage CRM Cloud and to cooperate with us to the extent reasonably necessary to remedy that situation.
- 6.11 You are solely responsible for obtaining and maintaining your internet and network connections to enable you and your users to access Sage CRM Cloud and any third party services accessed via or using Sage CRM Cloud and any inability to access the internet or any associated problems are your responsibility.
- 6.12 We will take reasonable steps to make sure that Sage CRM Cloud is free from viruses but we cannot guarantee this. We recommend that you use your own virus-protection software as we will not be responsible for any loss or damage caused by any viruses or other harmful technology that may infect your computer systems, data or other material owned by you.
- 6.13 The following list gives examples of things you must not do with Sage CRM Cloud:
- 6.13.1 you must not introduce any viruses or harmful technology to Sage CRM Cloud;
 - 6.13.2 you must not try to gain unauthorised access to Sage CRM Cloud or any underlying technology. Any such attempt may disable your ability to access and use Sage CRM Cloud and prevent you from retrieving your data;
 - 6.13.3 you must not try to affect the availability of Sage CRM Cloud to our users (sometimes called 'a denial-of-service attack');
 - 6.13.4 you must not allow anyone else to use your sign-in information;
 - 6.13.5 you must not use any other person's, or false, details to register, nor use any other person's registration details and (unless you are an administrative user) you must not use any other person's name or password;
 - 6.13.6 subject to paragraph 6.2, you cannot transfer your Sage CRM Cloud subscription to any other person or organisation. For example, you cannot sell it if you no longer want to use Sage CRM Cloud, or if you become insolvent an insolvency practitioner may not pass on your Sage CRM Cloud subscription (including your sign-in information) as part of your business's assets.
 - 6.13.7 you may not use Sage CRM Cloud to help you develop your own software. For example, you must not use, copy (irrespective of the extent of the copying) or exploit all or any part of Sage CRM Cloud's 'graphical user interface', 'operating logic' or 'database structure' for it to be part of, or to develop, any software or other product or technology, unless that use or copying is allowed by law. You agree not to (to the extent applicable and except as permitted by applicable law) reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of Sage CRM Cloud or create derivative works from it;
 - 6.13.8 you must not link to or frame Sage CRM Cloud on any other website or do anything similar with other technology without our advance express written consent;
 - 6.13.9 you must not alter, obscure, remove, interfere with or add to any of the text or images, including trademarks, trade names, markings or notices, used on or contained in Sage CRM Cloud from time to time;
 - 6.13.10 you must not use our trademarks (including "Sage CRM Cloud", "SageCRM" or "Sage") in any way, other than as necessary to use Sage CRM Cloud in accordance with this agreement;
 - 6.13.11 you undertake not to use our name or brand in any promotion or marketing or announcement without our prior written consent;
 - 6.13.12 you must not give anyone else any right (of any kind) to use or benefit from Sage CRM, Sage CRM Cloud in any way or provide Sage CRM Cloud to others. For example, you cannot use Sage CRM Cloud with someone else's information to provide a service to them; and
 - 6.13.13 except to the extent expressly permitted by this agreement, you also agree not to disclose any confidential information in Sage CRM Cloud including any part of it to any third party, without the prior written consent of Sage, provided that this paragraph 6.13.13 shall not extend to information: (a) which was rightfully in your possession prior to commencement of this agreement, (b) which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this sub-paragraph), or (c) information received from another person without that person breaching Sage's confidentiality. You shall make sure that every user, employee or other person to whom you have disclosed any confidential information in Sage CRM Cloud, complies with this restriction and then that they use such disclosed information only to the extent consistent with the rights granted you in this agreement.

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- 6.14 It is impossible to provide an exhaustive list of exactly what constitutes acceptable and unacceptable use of Sage CRM Cloud. In general, we will not tolerate any use which damages or is likely to damage our business or reputation, the availability or integrity of Sage CRM Cloud or which causes us or threatens to cause us to incur any legal, tax or regulatory liability.

7. Our rights and obligations

- 7.1. Some features of Sage CRM Cloud rely on or provide access to technology, information or services not provided by us, though they may look as though they belong to us (e.g. because they contain our branding) but from which you will be able to ascertain who the third party is and therefore who you are going to do business with if that is your decision. We do not endorse or approve any third party website or service nor the content of any third party website or service made available via Sage CRM Cloud, even when the service is advertised as certified by us. Except where paragraph 14.3 applies, we are not responsible for any issue with any third-party technology, information and/or services and will not be liable for those issues. It is your responsibility to decide whether or not to access and use such third party technology, information and/or services and if you choose to access or use them you also agree to the applicable terms and conditions of the relevant third party and they will apply to your use of such third party technology, information or services. If there is a conflict between any of the terms of this agreement and the third party terms, the third party terms will apply in relation to the third party technology, information or services in question. We may withdraw access to such third party technology, information or services via Sage CRM Cloud at any time and without notifying you.
- 7.2. We cannot guarantee that Sage CRM Cloud will be compatible with your web browser, computer set-up or other device(s) you use to access Sage CRM Cloud or that your access to Sage CRM Cloud will be uninterrupted (this may be beyond our control).
- 7.3. From time to time we may temporarily suspend access to Sage CRM Cloud for maintenance, repairs or other reasons. We will try to do this outside of normal business hours and provide notice in advance but this might not be always be possible.

8. What we will do with your data

- 8.1. You agree to give us, when asked, the information we need in order to complete your registration to use Sage CRM Cloud. Without this information we cannot give you access to Sage CRM Cloud.
- 8.2. Unless you opt out when you register for Sage CRM Cloud, we will use any information you give us under this agreement to:
- 8.2.1. manage how you use Sage CRM Cloud;
 - 8.2.2. meet our obligations under this agreement or any other agreement we have with anyone who licenses us (our licensors) or our subcontractors;
 - 8.2.3. contact you to see if you would like to take part in our customer research;
 - 8.2.4. contact you to ask for your feedback on our performance or on any of our products or services;
 - 8.2.5. contact you about our other products and services and those of others which we think you will be interested in (if we do contact you in this way, we will try to speak to the relevant person in your organisation, and we may contact you directly, or use other organisations which we have hired to contact you for us).
- 8.3. We may give information to other companies in our group of companies, our licensors and contractors, and other organisations described in relevant documents. For example, we may give information to the following:
- 8.3.1. your accountant (if you have one);
 - 8.3.2. your Sage business partner (if you have one);
 - 8.3.3. our training providers;
 - 8.3.4. companies which we use to help us send you post and other communications;
 - 8.3.5. research companies;
 - 8.3.6. event organisers;
 - 8.3.7. The Sage Group plc (which owns us).

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Except in relation to information that you upload about your own customers when using Sage CRM Cloud, if you give us any other information which could give away the identity of a living person, you are agreeing that we can use it as described above. If at any time you do not want us to use such information in that way, please call us in the UK 0845 111 2453. For more information on how we use information about you, see the privacy policy on our website at www.sagecrm.com.

8.4. In accessing and using Sage CRM Cloud you will provide Sage with information about end users, which may include personal data (which in summary is data which enables a living individual to be identified – see www.ico.gov.uk for more details for the UK. We will process that data in accordance with applicable data protection legislation and our privacy policy (which can be viewed at http://www.sage.co.uk/legal/privacy_policy.aspx or from the link on your Sage CRM Cloud account in the UK. You agree and authorise us to use your data as described in this agreement.

8.5. **Storage of Your Data. The paragraph below applies to all data that you submit and store on Sage CRM Cloud, including but not limited to information about your own customers (“Your Data”), and you should ensure that you understand it and have complied with your obligations. Your Data is owned by you (as between us and you) and is your responsibility.**

You warrant to us that (i) you have all necessary rights and consents to use and store Your Data and to input this data onto Sage CRM Cloud; and (ii) Your Data does not include any material which is illegal or immoral in the U.K. or the U.S.A.; and (iii) Your Data does not infringe any other person’s rights; and (iv) Your Data or your use of Sage CRM Cloud will not hinder the performance of Sage CRM Cloud in any way; and (v) that you will comply with all policies and other instructions that we inform you about in relation to Your Data or your use of Sage CRM Cloud or any third party computer systems including our third party hosting provider’s acceptable use policy which can be accessed at <http://www.rackspace.com/information/legal/aup.php>

8.6. Neither Sage nor its third party hosting provider shall access Your Data, other than to the extent necessary to comply with Sage’s obligations in this agreement or as otherwise required by applicable law.

8.7. Sage’s servers on which Your Data may be stored, may be located in Chicago, Illinois in the U.S.A. which is managed by our third party hosting provider which is SAS70 compliant. To comply with UK and EU legislation, particularly so that the transfer of Your Data is in accordance with any relevant data protection legislation (relating to exporting data from the European Economic Area), we have contracted with a third party hosting provider that has signed up to the U.S. Safe Harbour scheme and appears on the Safe Harbour List. We reserve the right to move Your Data to servers located outside of the U.S.A. however if we do this, we shall ensure that we always comply with applicable data protection legislation. You agree to such use, storage and disclosure and shall notify the relevant individuals of it.

8.8. **Limitation on the amount of data.** You may only store the maximum amount of data as may be described from time to time on our website at www.sage.crm.com.

8.9. If at any time you exceed the amount of any specified limit, for so long as you do so, Sage may charge you at its then standard rates for additional storage.

9. Data Migration

9.1. If you are migrating your data as a free trial of the migration software, you may only migrate up to 100 mb of your data.

9.2. Please ensure that you only migrate a copy of your data and that you retain the original data. We will not be liable for any losses that could have been avoided or reduced if you had kept the original data or made a back-up copy of your data before migrating it into Sage CRM Cloud.

9.3. It is your responsibility to ensure that your data is in order once migrated into Sage CRM Cloud. Any reliance you place on the migrated data will be at your own discretion and risk therefore you are responsible for checking the accuracy and completeness of the migration.

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10. Technical support and how we may access your Sage CRM Cloud account

- 10.1 For no extra charge, Sage provides technical support for Sage CRM Cloud as described on our website (www.sagecrm.com). You can contact a member of the Sage CRM Cloud support team by email on sagecrmcloud@sage.com or by calling 01189277255, or by using such other details as may be published by us (including on our website at www.sagecrm.com) from time to time. Where you have an agreement with a Sage business partner for the provision of technical support, then the terms in that agreement in relation to technical support will prevail over the terms in this clause 10.1.
- 10.2 The functionality of Sage CRM Cloud is automatically updated by Sage from time to time, so you do not have to pay any additional charges for updates.
- 10.3 We will not be required to provide any technical support or assistance where errors arise from:
- 10.3.1 use of any third party equipment, hardware or software
 - 10.3.2 incorrect use of Sage CRM Cloud or operator error;
 - 10.3.3 your failure to fulfil your obligations under paragraph 6 of this agreement;
 - 10.3.3 your failure to ensure that your network and systems comply with the relevant specifications provided by us from time to time; or
 - 10.3.4 any other circumstances where we state that we will not provide the technical support as set out in Sage CRM Cloud.
- 10.4 You acknowledge and agree with us that in the event that we provide services in any of the circumstances listed in paragraph 10.3, subject to paragraph 14.3, we exclude all liability for any claim arising out of the provision of any such support services, whether arising from tortious act or omission including negligence, breach of contract or any other cause of action.

11. Does Sage CRM Cloud incorporate rights protection measures?

Sage CRM Cloud may incorporate intellectual property rights protection measures designed to prevent its unauthorised and / or illegal use. You agree to the incorporation of any such measures in Sage CRM Cloud.

12. Who owns the Intellectual Property Rights in Sage CRM Cloud and what happens if Sage CRM Cloud infringes someone else's rights?

- 12.1 Although you have rights to use Sage CRM Cloud as described in paragraph 6, you do not own any of the intellectual property rights in Sage CRM Cloud. We (or the third party from whom we obtain our rights if we are not the owner) continue to own the intellectual property rights in Sage CRM Cloud, including any software we provide to replace all or part of Sage CRM Cloud. The only rights you have to Sage CRM Cloud are as set out in this agreement.
- 12.2 Sage indemnifies you against any and all liability, loss, damage, reasonable costs and expenses (including reasonable legal fees) which you may incur as a result of any claim or action brought against you by a third party alleging that your authorised and proper use of Sage CRM Cloud under this agreement infringes the intellectual property rights of such third party. If that happens, you must take reasonable steps to mitigate any loss which you suffer or incur.
- 12.3 If in Sage's reasonable opinion Sage CRM Cloud is likely to become or does become the subject of a claim of infringement of a third party's intellectual property rights, Sage may elect to either:
- 12.3.1 obtain the right for you to continue using Sage CRM Cloud as permitted under this agreement; or
 - 12.3.2 modify or replace the infringing part of Sage CRM Cloud so as to avoid the infringement or alleged infringement, without materially reducing the functionality or performance of Sage CRM Cloud.

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- 12.4 If having used all reasonable endeavours Sage cannot achieve either of the circumstances referred to in paragraphs 12.3.1 or 12.3.2 on reasonable terms, and you give Sage a written notice to do so, Sage will promptly refund to you all charges paid by you for using Sage CRM Cloud from the date of the actual or likely (in Sage's reasonable opinion) infringement of that third party's intellectual property rights, when this agreement including your right to use Sage CRM Cloud shall automatically terminate.
- 12.5 You shall:
- 12.5.1 promptly notify Sage of any claim or threatened claim concerning your use of Sage CRM Cloud; and
 - 12.5.2 not independently defend or respond to such claim or threatened claim; and
 - 12.5.3 cooperate with Sage in the defence of any such claim or threatened claim, subject to payment by Sage of your third party costs incurred in providing such cooperation.
- 12.6 The indemnity in paragraph 12.2 shall not apply to any claim:
- 12.6.1 which arises as a result of your use of Sage CRM Cloud other than as permitted by this agreement or as approved by Sage in writing;
 - 12.6.2 which relates to any third party software, product or service supplied as part of this agreement; or
 - 12.6.3 if, in relation to that claim, you do not comply with paragraph 12.5.
- 12.7 The provisions of this paragraph 12 state your exclusive remedy in connection with any claim or threatened claim in relation to the intellectual property rights of a third party. We own the rights to Sage CRM Cloud and any related logos. Other owners own the rights in any third-party software and their logos. By allowing you to use Sage CRM Cloud, we do not give you ownership of any of those rights or logos, and the rights you have to use Sage CRM Cloud and any third-party software, and any related logos, are as described in this agreement.

13 What warranties are given for Sage CRM Cloud (You should ensure that you understand this paragraph)

- 13.1 Whilst we aim to provide uninterrupted use of Sage CRM Cloud, unfortunately we can't guarantee this. For example, some interruptions may be caused by reasons outside our control. In those circumstances, we will not be responsible for any failure to perform our obligations in this agreement, and we will be excused from that failure for so long as those circumstances continue. Wherever possible, we will provide advance warning on SageCRM.com or by email of any known or planned interruptions and we will try to keep any interruption as brief as possible.
- 13.2 Subject to paragraphs 2.2, 13.3 and 13.4, Sage warrants that:
- 13.2.1 in providing Sage CRM Cloud, Sage shall exercise the reasonable skill and care of a competent provider of a service similar to Sage CRM Cloud; and
 - 13.2.2 Sage CRM Cloud will perform and function substantially as described in the Documentation, when used in accordance with it, and the functionality of the service shall not be materially decreased during any agreement period.
- The warranties in this paragraph 13.2 shall not apply to the extent the defect arose or was made worse by any unauthorised use of, or change to Sage CRM Cloud made other than in accordance with the Documentation.
- 13.3 To the maximum extent permitted by law, the warranties in paragraph 13.2 are exclusive and instead of all other warranties, representations and conditions, express or implied, statutory or otherwise, including any implied warranties of satisfactory quality and fitness for a particular purpose.
- 13.4 If you believe Sage CRM Cloud does not conform with any of the warranties in paragraph 13.2, you should notify Sage in accordance with paragraph 17.9. Sage will then attempt to replicate and verify such non-conformance, and if it is able to do so, Sage in its sole discretion will:

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- 13.4.1 in the case of a breach of the warranty in paragraph 13.2.1 use reasonable commercial efforts to ensure that such breach does not recur; or
- 13.4.2 in the case of a material breach of the warranty in paragraph 13.2.2, either modify Sage CRM Cloud to correct that breach, or modify the relevant documentation or (if Sage is unable to take either of those steps), refund to you the fees we have received for your use of Sage CRM Cloud under this agreement, from the date such breach was first brought to our attention. This agreement will terminate automatically when you receive such refund.

13.5 We do not warrant:

- 13.5.1 that Sage CRM Cloud will meet your own needs;
- 13.5.2 that the operation of Sage CRM Cloud will be uninterrupted or error or bug free;
- 13.5.3 that you will be able to use Sage CRM Cloud in any particular way;
- 13.5.4 that you will get particular outputs from Sage CRM Cloud;
- 13.5.5 the standard of the results you get from using Sage CRM Cloud; or
- 13.5.6 that, where you use our technical support services, we will be able to fix your problem or remedy your issue.

The fact that you have told our representative about how you intend to use Sage CRM Cloud will not affect this paragraph as Sage CRM Cloud has been developed for many different types of users, and you are responsible for setting up Sage CRM Cloud so that you can use it in the way you need, and as best suits your circumstances.

- 13.6 Please note that we do not give any warranty, promise or assurance about any third party software or third party product or service supplied pursuant to this agreement and you must rely on any warranties given by the third party owner of such software under its own standard terms and conditions in respect of such software, product or service.
- 13.7 You acknowledge and agree that the warranties and exclusions in this paragraph 13 are reasonable because the charges payable to use and access Sage CRM Cloud mean that it is not economically possible for Sage to test Sage CRM Cloud to the degree necessary to give a wider or unlimited warranty. You also acknowledge that subject to paragraph 14.3, no oral or written communications by or on Sage's behalf shall create a warranty or in any way increase the scope of the above warranties.

14 Our liability and responsibility to you if something goes wrong (You should ensure that you understand this paragraph)

- 14.1 Subject to paragraphs 14.2 and 14.3, our maximum aggregate liability (including for negligence) under this agreement shall not exceed the greater of (a) 125% of the amount of charges actually paid by you to use Sage CRM Cloud in the year prior to the date the circumstances causing such liability first arose, or (b) five thousand pounds sterling. Our limitation of liability has been calculated to be proportionate to the charges (if any) paid by you to use Sage CRM Cloud and takes into account the fact that it is not within our control how and for what purposes you use Sage CRM Cloud
- 14.2 We will not be responsible for any of the following, even if we knew or should have known there was a possibility you could experience the problem:
 - 14.2.1 loss of or damage to data/information inputted by you into Sage CRM Cloud;
 - 14.2.2 any interruption to your business or damage to information, however that interruption or damage is caused;
 - 14.2.3 loss or damage which we could not have reasonably known about at the time you entered into this agreement;
 - 14.2.4 losses you suffer as a result of using Sage CRM Cloud other than as described in the Documentation;
 - 14.2.5 lost income, lost profits or lost business, wasted time, anticipated savings, lost goodwill, third party costs and charges, any business interruption or loss of or corruption of data, in each case whether caused directly or indirectly;
 - 14.2.6 any circumstances arising out of or in connection with the availability, performance, non-performance, defective performance, maintenance or otherwise of the Internet, any third party or your telecommunication line, third party or your telecommunication network, third party or your computer system, and/or associated or supporting systems not provided by Sage and used by you to use or otherwise access Sage CRM Cloud; or
 - 14.2.7 any indirect, consequential, incidental or special damage.

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- 14.3 Nothing in this agreement will prevent or limit your or our liability for:
- 14.3.1 fraud;
 - 14.3.2 death of or personal injury to any person as a result of our negligence; or
 - 14.3.3 any other matter we cannot limit or exclude under applicable law.
- 14.4 We shall have no liability for any losses resulting from the acts or omissions of your Sage accountant or your Sage business partner or their products or services supplied in connection with this agreement.
- 14.5 Your and our responsibilities under this paragraph 14 are reasonable because they reflect that:
- 14.5.1 we cannot control how, and for what purposes, you use Sage CRM Cloud;
 - 14.5.2 we have not developed Sage CRM Cloud specifically for you; and
 - 14.5.3 although we follow good industry practice, it is not economically possible for us to carry out all the tests necessary to make sure there are no problems with Sage CRM Cloud.

15 How this agreement may be brought to an end and what happens on termination

- 15.1 This agreement will be automatically renewed at the end of the initial contract period, and at the end of each subsequent contract period, for a further contract period of the same duration as the previous contract period, or for a further period of one year (whichever is shorter). Either party may terminate this agreement at the end of any contract period, by providing us with 30 days' written notice, such notice to expire at the end of the relevant contract period.
- 15.2 This agreement will automatically (i.e. without us having to tell you) and immediately end without refund if you become bankrupt (or something similar happens) or your business is not able to pay its debts, stops trading or becomes insolvent (or something similar happens). In those circumstances we will have no further obligation to you under this agreement and any monies due from you will become immediately due and payable.
- 15.3 Sage may terminate this agreement at any time by written notice, effective immediately, if you:
- 15.3.1 fail to pay when due any charges payable to Sage or your Sage business partner or stop paying to use Sage CRM Cloud; or
 - 15.3.2 if you choose not to pay the fee to continue to use Sage CRM Cloud at the end of any trial period
- and your access to Sage CRM Cloud will immediately end in such circumstances.
- 15.4 Either Sage or you may terminate this agreement at any time by written notice, effective immediately, if the other party materially breaches any term of this agreement and either that breach is incapable of remedy or the party in breach has failed to remedy that breach within thirty days after receiving written notice from the non-breaching party requiring the party in breach to remedy it.
- 15.5 Either Sage or you may terminate this agreement at any time by giving the other party notice of at least one month in accordance with paragraph 17.9. If you give Sage notice to terminate this agreement prior to the expiry of the contract period, you will not be entitled to any refund and must pay all outstanding charges applicable for the contract period, unless termination takes place in accordance with paragraph 5 or as a result of termination for our breach, under paragraph 15.4, in which case you will be entitled to a refund for any prepaid fees relating to services which would have been carried out post-termination. Subject to these exceptions if you wish to avoid paying additional charges, you should notify Sage at least one month before your next invoice date, as if you terminate this agreement after an invoice date, Sage will not issue a credit note or refund any charges and if there are any outstanding charges, you agree to immediately pay the whole amount. If Sage terminates this agreement in accordance with this paragraph 15.5 you will only pay for using Sage CRM Cloud until the date Sage CRM Cloud was no longer available for use.
- 15.6 Upon termination of this agreement however caused, you must immediately stop accessing and using Sage CRM Cloud and irretrievably delete and stop using any passwords, user names and other identifying information provided to you to use Sage CRM Cloud.

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- 15.7 No matter how this agreement ends, the information you store in Sage CRM Cloud remains your information and you can access it in a format provided by Sage CRM Cloud before the end of the agreement. If you don't, this will not prevent this agreement from ending and your information will no longer be accessible.
- 15.8 Upon termination of this agreement for whatever reason, if you notify Sage within 30 days following the date of termination that you require a copy of your data and pay Sage's then standard applicable fee, Sage shall use its reasonable endeavours to provide you with a copy of your data in a reasonable time, and in a format and on media reasonably determined by Sage.
- 15.9 In addition to our rights to end this agreement, we may also suspend the provision of services to you at any time if we do not receive payment in full when due or if we suspect that you or your Sage business partner has breached any part of this agreement.
- 15.10 Where we suspend or terminate the services under paragraph 15, we may at our discretion agree to reactivate your account subject to you paying to us a reactivation fee.
- 15.11 Any termination of this agreement shall not affect any accrued rights or liabilities of either party, nor shall it affect the coming into force, or the continuance in force, of any provision of this agreement which is expressly or by implication intended to come into force or continue in force on or after termination.

16 To what extent are you liable for using Sage CRM Cloud?

You agree to indemnify Sage and keep it indemnified against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of data, loss of business, depletion of goodwill and loss similar to all the preceding types of loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which Sage incurs or suffers arising out of or in any way connected with any breach by you of paragraphs 2, 6 and the warranties you provide at paragraph 8.5.

17 General Terms: What else do you need to know?

- 17.1 If a court or similar body decides that any wording in this agreement cannot be enforced, that decision will not affect the rest of this agreement, which will remain binding on both parties. However, if the wording that cannot be enforced could be enforced if part of it is deleted, we will both treat the relevant part of the wording as if it is deleted.
- 17.2 If you or we fail to, or delay in, exercising any rights under this agreement, that will not mean that those rights cannot be exercised in the future.
- 17.3 This agreement and the documents we refer to above constitute the entire agreement between you and us for your access and use of Sage CRM Cloud, and replace all documents, information and other communications (whether spoken or written) between us for such access and use. Each of us acknowledge that in entering into this agreement, we have not relied on and will have no right or remedy in respect of any statement, representation, assurance or warranty (whether negligently or innocently made) other than as expressly set out in this agreement. Nothing in this clause shall limit or exclude any liability for fraudulent misrepresentation.
- 17.4 We may transfer this agreement to another organisation which is part of our group of companies at any time.
- 17.5 A person who is not a party to this agreement has no right to enforce any term of it.
- 17.6 From time to time Sage may modify this agreement by notifying you in accordance with paragraph 17.9 that the terms have changed. You agree to immediately read such modified terms and, if you agree to them, you will indicate your acceptance of them by continuing to use Sage CRM Cloud. If you do not accept such modified terms, you should contact Sage in accordance with paragraph 17.9, so that you and Sage can make arrangements for you to stop using Sage CRM Cloud. Only a director of Sage (or their nominee notified to you) is authorised to make any additional representations, commitments, or warranties binding on Sage. You agree to immediately read such changed terms and take any appropriate action.

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- 17.7 Sage does not recommend or endorse any other person including any Sage business partner so, if you wish to engage with one, you should investigate their experience, skills and qualifications. Any Sage business partner is expressly not appointed or authorised by Sage as its servant or agent. No Sage business partner has any authority, either express or implied, to amend any of the terms of this agreement, or to enter into any contract, provide any representation, warranty or guarantee with or to you on Sage's behalf, or otherwise to bind Sage in any way whatsoever. Subject to paragraph 14.3, you agree that Sage shall not be responsible for any act or omission of any Sage business partner including any services provided by it in relation to Sage CRM Cloud, including any configuration or integration of Sage CRM Cloud.
- 17.8 Subject to paragraph 14.3 Sage shall not be liable for and shall be excused from any failure to perform its obligations in this agreement due to causes beyond its reasonable control.
- 17.9 All notices given under this agreement shall be by email, and if given by Sage, also by publishing a notice on www.sagecrm.com. Notices shall be sent (a) if to Sage at the following email address: ukmmdcontracts@sage.com and (b) if to you, to the email address you gave when you registered to use Sage CRM Cloud.
- 17.10 Where either party is required to notify the other party by email, the party shall be deemed to have received the email on the first business day following transmission.

18 Which laws govern this agreement?

This agreement (including non-contractual disputes or claims) is governed by the laws of England and you and we both agree that the courts of England will be the only courts that can decide on legal disputes or claims about this agreement.

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