

CIVICA



Civica G-Cloud 13

Supplier Terms

March 2022

Copyright Notice:

The content of this document is protected by copyright © Civica UK Limited 2022. All rights reserved.

You may not copy or replicate including extracts of it without Civica's written consent. You must not sell, share, copy or republish this document.

Copying of this document in any form is prohibited.

If you want further copies of this document, please make a request to the author shown on the front page.

Any questions regarding this document should be directed to:	
Address:	Civica UK Limited, Southbank Central, 30 Stamford Street, London, SE1 9LQ
Telephone:	020 77602800
Email:	g-cloud@civica.co.uk

These Civica G-Cloud Supplier Terms (“**Supplier Terms**”) form part of an agreement for the provision of services by Civica UK Limited (“**Civica**”) under a **Call-Off Contract** (and its **Order Form**) as defined in the Crown Commercial Service G-Cloud Framework Agreement (RM1557) between Civica and the Minister for the Cabinet Office (“**Framework Agreement**”). They apply between Civica and each party (“**the Customer**”) entering into a Call-Off Contract.

SERVICES COVERED

These Supplier Terms apply to the following G-Cloud Services (“**Services**” or “**Service**”) being provided by Civica:

Lot 1: Cloud hosting (“**Cloud Hosting**”);

Lot 2: Cloud software (“**Cloud Software**”)

Lot 3: Cloud support (“**Cloud Support**”)

Section 1 General Terms, applies to all Services. Subsequent sections 2, 3, 4 and 5 set out terms (“**Service-Specific Terms**”) which are specific to particular G-Cloud Services lots.

1 GENERAL TERMS

Customer’s Premises means the Customer’s site(s) shown in the Call-Off Order Form under Location.

Service Levels / Service Level Agreement (SLA) means the relevant service level arrangements detailed in the Annexes to these Supplier Terms.

Special Terms means any special, additional or varied terms and conditions including third party terms and conditions, agreed between the parties that are set out in the Order Form or applicable Service Description and form part of the Call-Off Contract.

Supplementary Documentation: Civica’s obligations in respect of provision of Services may be further detailed in documents such as a “Proposal”, “Project Plan”, “Specification” and Special Terms (collectively “**Additional Documents**”) which when referenced in the Order Form will form part of the Call Off Contract between Civica and the Customer.

1.1 Services

1.1.1 In consideration of the Customer paying the Call-Off Contract Charges to subscribe to the relevant Civica G-Cloud Service, Civica grants the Customer a non-exclusive, non-transferable right during the Call-Off Term, to receive and use the specific Service described in the Service Description applicable to that Service.

1.1.2 Unless specified in the Service-Specific Terms set out below the Customer may only use a Service for its internal business purposes and the Service may not be re-sold.

1.1.3 Whilst using the Services the Customer may access software which is located on Civica’s servers (“**Software**”). Except in relation to Cloud Support Services (as set out in the Service-Specific Terms for Cloud Support below) or accordance with the Order Form or the applicable Service Description, the Customer does not have any right to receive a copy of such Software either in source or object code form; and does not receive any title rights or ownership in or to the Software.

1.1.4 The Customer is responsible for ensuring that:

- a) the infrastructure it uses to access the Services is compatible with the interfaces provided within the specific Service;
- b) for taking adequate precautions within the Customer’s own infrastructure to prevent the spread of Malicious Software;
- c) for ensuring that those to whom it grants access rights comply with the provisions of any applicable legislation including Data Protection Legislation;

- d) it complies with the licence terms of any 3rd party Software provided by Civica in the delivery of the Service
 - e) it complies with any further Service-Specific usage restrictions set out in the Service-Specific Terms below.
- 1.1.5 The Customer will comply with all statutory and other legal requirements applicable to its conduct and operations.
- 1.1.6 Civica shall have no liability or obligation with respect to the fitness for purpose, functionality or the performance of third party Software licences supplied.
- 1.1.7 Time shall not be of the essence as to the performance of Civica's obligations (unless agreed otherwise in writing).
- 1.1.8 Unless otherwise specified in the Order Form all ownership, licence, intellectual property and Civica rights and interests in the Software, the Services and any associated documentation remains solely with Civica and or licensors on whose behalf Civica may be providing components of the Services
- 1.1.9 Civica reserves the right to change or update the Services or Software at any time so long as this does not materially affect the overall service. Civica will provide the Customer 15 days' notice of any update which it regards as material, unless such an update is necessitated by security considerations, in which case the update and any associated notice will be immediate.

1.2 Service Restrictions

- 1.2.1 The Customer must not:
- a) Exceed any set usage limits or restrictions set out in the applicable Service Description and / or Order Form
 - b) Save as set out in any Service-Specific Terms, sell, rent or lease the Services in any way, or transfer to any other person any of its rights hereunder
 - c) Create any derivative works based upon the Software or Services, save as otherwise permitted in accordance with the Order Form or applicable Service Description
 - d) Adapt, translate, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Software, nor take any other steps to discover confidential information or trade secrets in the Software of Services, save as permitted under European Law for the purposes of Interoperability.
- 1.2.2 The Customer shall not access, store, reproduce, distribute, transmit or knowingly receive any Malicious Software or any material during the course of its use of the Services that:
- a) is unlawful, harmful, threatening, menacing, abusive, obscene, infringing, harassing or racially or ethnically offensive;
 - b) facilitates illegal activity;
 - c) is indecent or depicts sexually explicit images;
 - d) promotes unlawful violence;
 - e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or
 - f) is defamatory or causes damage or injury to any person or property;
- and Civica reserves the right, without liability to the Customer, to disable the Customer's access to any material that breaches the provisions of this Clause.
- 1.2.3 The Customer shall own all rights, title and interest in the Buyer Data and shall have sole responsibility for the legality, reliability, accuracy and quality of the Buyer Data.

1.3 Third Party Software and Equipment

- 1.3.1 Third party software as listed in the Order Form or applicable Service Description, supplied by Civica to the Customer under the Call-Off Contract shall be subject to the third party software owner's licensing terms and conditions (Special Terms) which accompany the third party

software, or are referenced in the Order Form or applicable Service Description and such third party software owner's licencing terms and conditions shall apply between Customer and the third party software owner.

- 1.3.2 If a fault is discovered to be as a result of an issue with any third party software, Civica undertakes to report the problem to the third party supplier. The Customer agrees to accept the third party supplier's response / resolution of the fault. Any new releases of third party software supplied to Civica free of charge shall be provided to the Customer on the same basis.
- 1.3.3 Unless otherwise specifically stated in the Order Form or applicable Service Description, Civica gives no warranty of the performance of third party equipment or software used in conjunction with the Services.

1.4 Invoicing and Payment

- 1.4.1 Invoicing will be according to the payment schedule in the Order Form or Additional Documents. If no payment schedule is given, invoices will be issued monthly in arrears for Services work performed.
- 1.4.2 Unless otherwise specified in the Order Form valid invoices must be paid in full within 30 days of the date of issue
- 1.4.3 If in accordance with the terms of the Call-Off Contract, Civica is entitled to suspend the relevant Service for the Customer's failure to pay undisputed invoices, such suspension will continue until full payment of those invoices has been made, at which point, where relevant to the Service, a re-connection charge equivalent to half a month's charges for the relevant Service will be applied.
- 1.4.4 Invoices remaining unpaid after 60 days will be subject to interest on overdue amounts on a daily basis from the original due date at the rate of 2% per annum above the base lending rate of Royal Bank of Scotland plc.

1.5 Change Control

- 1.5.1 If additional work or expense is incurred by Civica as a result of a changes in the Service requirements or agreed project plan being made by the Customer, or by a failure or delay by the Customer in meeting its obligations in connection with the delivery of the Services, then such additional work or expense will be reasonably charged to the Customer as a Variation to the price set out in the Call-Off Contract.
- 1.5.2 Any Variation proposed by either Civica or the Customer will be negotiated and agreed before the Variation is implemented. Variations involving additional consultancy, design and software programming will be priced using the standard or overtime consultancy rates as set out in the Order Form or applicable Service Description. Civica will be entitled to charge for the work involved in preparing and responding to Customer Variation requests, whether or not the Customer agrees to go ahead with them.

1.6 Liability

- 1.6.1 Except as provided in the Call Off Contract, Order Form or applicable Service Description, no warranty condition, undertaking or term, expressed or implied, statutory or otherwise, as to the condition, quality, performance, merchantability, durability or fitness for purpose of the Services is given or assumed by Civica and all such warranties, conditions, undertaking and terms are hereby excluded.
- 1.6.2 Subject to 1.6.1, the incorporated Framework Agreement clauses 4.2 to 4.7 and any specific financial limits stated in the Order Form, Civica's total liability to the Customer in respect of all losses arising under or in connection with the Call Off Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 125% of the amounts paid or payable by the Customer under the Call-Off Contract.
- 1.6.3 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Call-Off Contract.
- 1.6.4 Customer is liable for all loss or damage arising from the unauthorised access or use of Customer's own networks and systems. Customer is responsible for developing and implementing a security policy to prevent such unauthorised access or use.

- 1.6.5 Customer agrees fully and promptly to indemnify Civica against all costs, claims, demands, damages, losses and expenses incurred by Civica as a result of:
- a) a breach by the Customer of Clause 1.2.2;
 - b) unauthorised access or use under clause 1.6.4;
 - c) any default, negligent or malicious act by Customer its employees, agents or subcontractors;
 - d) any act or omission by Civica acting in reliance upon information provided by the Customer or in accordance with the Customer's instructions.
- 1.6.6 This clause 1.6 shall survive termination of the Call-Off Contract.

1.7 Term and Termination

- 1.7.1 The Call-Off Term shall be for the minimum period stated in the Order Form or, if no such period is stated, for a period of two years.
- 1.7.2 Unless otherwise stated in the Order Form the notice period for termination of this Call-Off Contract shall be 90 days.
- 1.7.3 The supply of Services may be terminated by either party by notice in writing to the other having immediate effect if the other shall commit any breach of these Supplier Terms which breach (if capable of remedy) is not remedied within 30 days of notification or if the other shall have a receiver or administrative receiver appointed of it or over any part of its undertaking or assets or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the other party shall become subject to an administration order or shall enter into voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business.
- 1.7.4 The termination (howsoever arising) shall be without prejudice to the rights and remedies of the parties accrued before such termination and nothing shall prejudice the right of either party to recover any amount of outstanding at the termination howsoever caused.

1.8 Additional Services

- 1.8.1 The parties agree that if Civica provides any Additional Services the Customer shall be charged separately for the provision of such services at Civica's then prevailing rates for such services.
- 1.8.2 Additional Services may be ordered by the Customer:
- a) by extension or issue of a Call-Off Contract
 - b) by electronic request via the Digital Marketplace
 - c) by a request from a Customer representative who Civica reasonably believe to have authority to place such a request.

1.9 Staff

- 1.9.1 In this Clause 1.9, the "Relevant Period" is the period starting on the Call-Off Start Date specified in the Order Form and ending 12 months after the end of the Call-Off Term.
- 1.9.2 Neither the Customer nor Civica during the Relevant Period will employ directly or indirectly, make or seek to make any offer of employment to any of the other's staff directly involved in executing or receiving Services.
- 1.9.3 The Customer and Civica shall each procure that during after the Relevant Period, no related party (such as their own customers or suppliers involved with the execution or provision of the Services), will employ directly or indirectly, or make or seek to make any offer of employment to any of Civica's or Customer's staff (as the case may be) involved in executing or receiving the Services.

1.10 Entire Agreement

- 1.10.1 Save for documents created in the provision of the Services, these Supplier Terms, the applicable Service Description, the Additional Documents, the Order Form, the Call-Off Contract terms, and the Framework Agreement constitute the entire understanding between the

Customer and Civica relating to the subject matter, with the order of precedence as set out in clause 8.3 of the Framework Agreement. It supersedes all previous communications, representations and Contracts either written or oral. The Customer acknowledges that it is not entering into the Contract in reliance upon any representation not set out in the documents referred to above.

- 1.10.2 No amendment to these Supplier Terms shall be binding unless in writing, signed by the parties or their duly authorised representatives and expressed to be for the purpose of such amendment.

2 SERVICE-SPECIFIC TERMS RELATING TO THE SUPPLY OF CLOUD HOSTING SERVICES

This Section 2 sets out specific terms relating to the supply of Cloud Hosting Services provided by Civica as more particularly described in the applicable Cloud Hosting Service Description.

Cloud Hosting Services are cloud platform or infrastructure services that can help buyers:

- a. deploy, manage and run software; and
- b. provision and use processing, storage or networking resources.

Cloud Hosting Services specific definitions:

Core Hours (unless otherwise specified in the Order Form or applicable Service Description) means 7.00 am – 7.00 pm on Working Days.

Cutover Date means the date shown in the Order Form when it is planned to make available the Cloud Hosting Services to Customer.

Data Centre means the primary data centre location from which Civica provides the Cloud Hosting Services and the secondary data centres for back-up and disaster recovery purposes.

DR Service means the backup services provided to the level specified in the Order Form or applicable Service Description.

Maintenance Hours means 4 hours per calendar month outside of Core Hours, or as otherwise agreed, when Civica may carry out the Scheduled Maintenance.

On-boarding Services means services such as installation, training, consultancy, project management and other similar services associated with the implementation as set out in the Order Form.

2.1 General Terms relating to Cloud Hosting Services

- 2.1.1 The Services are provided for Customer's sole use. Customer is not granted any right, title or interest in the hosted environment used by Civica to provide the Cloud Hosting Services.
- 2.1.2 Some Services or parts thereof may be delivered by a nominated Subcontractor. When this is the case the services delivered by Subcontractors will be set out in the Order Form, along with any Subcontractor terms and conditions which flow-down to the Customer as Special Terms.
- 2.1.3 Civica and its suppliers retain all intellectual property rights, interests and title in and over their own products and systems (including, without limit, the Civica platform) and all trade secrets, copyright, patent rights, ideas and any other intellectual property rights in relation thereto remain the exclusive property of Civica or its suppliers.

2.2 Civica's Obligations

- 2.2.1 Civica's general obligations are to provide the Services as set out in the applicable Cloud Hosting Service Description, the Order Form and the Call-Off Contract.
- 2.2.2 Civica shall:
 - a) grant to Customer a licence to use the Services for the authorised number of users paid for by Customer on the terms and conditions set out in the Call Off Contract and the Supplier Terms;
 - b) provide the remote links between the Data Centre and Customer's Premises in order to provide the Cloud Hosting Services;
 - c) make the remote link between the Data Centre and Customer's Premises available in accordance with the applicable Service Description and the Order Form;
 - d) provide the on-boarding as set out in the Order Form;
 - e) when providing a leased line be responsible for Customer's access and connectivity to the Cloud Hosting Services;
 - f) starting on the Cutover Date (or if no Cutover Date is defined, from when the Cloud Hosting Services are available) provide the Cloud Hosting Services;

- g) provide the Cloud Hosting Services in accordance with the applicable Services Description, the Order Form and the Service Levels;
 - h) follow the procedures in the applicable Service Description and Service Levels with respect to the handling of incidents and service requests, and
 - i) provide any reports specified in the applicable Service Descriptions.
- 2.2.3 When maintaining the infrastructure on which the Customer is likely to be processing data covered by Data Protection Legislation, either when notified of this by the Customer or when reasonably able to deduce this directly, to use reasonable skill and care to ensure that the provisions of any such legislation are adhered to with respect to in the performance of all Services
- 2.2.4 Civica shall, where applicable and shown as being provided in the Order Form provide the network connections. The network connections are optional services and will be only be provided when included in the Order Form.
- 2.2.5 Subject to reasonable notice, Civica will provide information that Customer reasonably requests in order to meet its audit requirements. Civica reserves the right to make a charge if Customer requires Civica to hold and make available information that is not covered by normal accounting practices and would not normally be made available by a commercial organisation.

2.3. Service Conditions

- 2.3.1 Civica shall not be liable for any failure to provide or delay in providing the Services, or for any failure to meet, or delay in meeting the Service Levels, arising out of or in connection with:
- a) any act or omission of Customer or its employees, agents or subcontractors which affects Civica's ability to provide the Services, unless approved in writing by Civica;
 - b) any breach by Customer of its obligations under the Call-Off Contract or the Supplier Terms;
 - c) any inaccurate or incomplete data, information or documentation provided by the Customer;
 - d) any failure by any third party to fulfil its obligations to the Customer;
 - e) any failure of the platform arising beyond Civica's Internet firewall;
 - f) any failure or inadequate performance and/or response of the Data Centre resulting from the acts or omissions of any third party including but not limited to (i) loss of connectivity to the Internet, and (ii) connectivity, network, telecommunications or bandwidth failures, restrictions and/or inadequate performance or response;
 - g) any use by Customer of non-manufacturer recommended media and supplies, or any neglect or improper use, or electrical disturbances, or any unauthorised use, of the Services or modification by persons other than Civica employees.
- 2.3.2 Civica reserves the right to move, change or reconfigure the Cloud Hosting Services for health, safety, security or operational reasons provided any such change or reconfiguration does not significantly reduce the performance of the Services.
- 2.3.3 Civica reserves the right to relocate the Data Centre within the UK at its own expense to accommodate changes in the way Civica operates its business.

2.4 Customer's Obligations

- 2.4.1 In addition to the Customer's obligations set out in the Call-Off Contract, the Customer shall:
- a) carry out Customer's (Buyer's) Responsibilities described in the Order Form;
 - b) use the Services only in accordance with the Call-Off Contract, the Order Form, the applicable Service Description and these Supplier Terms for the permitted number of users;
 - c) where required permit reasonable access by Civica to Customer's Premises and Customer's computer equipment during a Working Day without charge in order for Civica to (i) perform its obligations under this Contract; and (ii) to ensure Customer's compliance with the terms of this Call-Off Contract;
 - d) not resell the connectivity or facilities supplied by Civica;

- e) comply with the terms and conditions of usage mandated by any Subcontract hosting centre, for instance regarding site content;
- f) when handling data covered by UK government legislation to use reasonable skill and care to ensure that the provisions of any such legislation are adhered to.

2.4.2 The Customer acknowledges:

- a) subject to clause 2.4.4 where there is a disaster at the Data Centre, recovery point operations and return to operation times will be dependent on the level of DR Service taken;
- b) that Civica has no control over any data and material being transmitted or uploaded and Civica does not purport to monitor such data and material.

2.4.3 Customer grants to Civica and/or shall ensure that Civica is granted for the duration of this Contract a non-exclusive, world-wide, royalty-free licence to use any intellectual property and/or other proprietary rights of Customer and/or any third party to the extent necessary for the purpose of Civica's performance of its obligations under this Call-Off Contract.

2.4.4 Where Customer has requested DR Services which are back up only Customer shall be responsible for restoring data in the event of any disaster occurring at the Data Centre. Civica's liability in the event the Data Centre is not operational shall be to provide the last backup media to Customer's Premises or other location as agreed. Civica advises that regular backups are carried out by Customer to minimise any data loss.

2.4.5 Unless Civica is providing a leased line Customer shall provide a working network connection and be responsible for the availability and connection of it. Civica recommends that Customer procures a 24/7 backup service (with a maximum fix time of 20 clock hours) with its network connection provider.

2.4.6 Where Civica is not providing network connections Customer is responsible for its connectivity to the Internet.

2.4.7 Customer shall remain responsible for the acts or omissions of any employees, agents, sub-contractors or third party, including its users and system administrators, it allows to use the Services under this Contract.

2.5 On-boarding

2.5.1 On-boarding services will be provided by Civica on Working Days.

2.5.2 Customer will give to Civica promptly on request such information and facilities as Civica reasonably requires for the provision of the on-boarding Services.

2.5.3 If the dates scheduled for delivery of on-boarding Services are postponed or cancelled by Customer, Civica may revise any scheduled date for completion of any part of the on-boarding Services and/or by giving seven days' written notice suspend the on-boarding Services.

2.5.4 If the provision of the on-boarding Services is suspended under clause 2.5.3 for 2 weeks or longer Civica will be entitled to payment by Customer for all work done up to such suspension and in respect of allocated staff and resources that Civica is unable to redeploy.

2.5.5 Where Civica is providing network connections:

- a) network connection will only be provided on completion by Customer of technical survey information and on acceptance by the relevant telecommunications supplier;
- b) Civica shall use all reasonable endeavours to obtain such acceptance but shall not be liable for any rejection by a telecommunications supplier;
- c) in the event the telecommunications supplier requires additional resource or work to carry out the install, Civica shall notify Customer of the additional charges and Customer shall have the option to cancel the circuit install if it does not accept the additional charges.

2.5.6 Acceptance of the Cloud Hosting Services shall occur when the Services have passed tests previously agreed between the parties. In the event that acceptance tests are delayed due to the acts or omissions of Customer, then Civica shall give 14 days' notice of its requirement that the tests shall be carried out. If such tests are not then carried out within the 14 day period due

to the continuing acts or omissions of Customer, the Cloud Hosting Services shall be deemed to have been accepted on the expiry of the 14 days period.

- 2.5.7 If Customer uses the Cloud Hosting Services before acceptance, except for testing purposes, then the on-boarding Services and Cloud Hosting Services shall be deemed to have been accepted on the date of first use by Customer.

2.6 Performance and Throughput

- 2.6.1 The Customer accepts that Civica's design of the Services and Civica's selection, sizing and configuration of the hosted environment is based on information provided to it by Customer including, but not limited to, data volumes and throughput provided to Civica by Customer before commencement of the Services under this Call-Off Contract.
- 2.6.2 The parties acknowledge that Customer's satisfactory use of the Services and the performance of the Services is a complex matter which depends upon, among other things, the total workload, work mix which Customer operates, the number of on-line users, other software operating on the hosted environment; the speed of network connections (including as appropriate Customer's connection) and the peak transaction loads.
- 2.6.3 Any changes to the Services aimed at improving poor performance that have resulted from incorrect or incomplete information provided to Civica by Customer will be handled as a Variation to the Call-Off Contract.

2.7 Security

- 2.7.1 In relation to the Data Centre and equipment and software in it under Civica's control Civica shall comply with the security requirements of ISO 27001.
- 2.7.2 Customer shall comply with Civica's Acceptable Use Policy which has been provided and is available on request from Civica's service manager.
- 2.7.3 Physical access to the Data Centre is restricted. Customer has no right of access to the Data Centre and Customer's personnel will only be allowed access if accompanied by an authorised Civica representative, at Civica's discretion.
- 2.7.4 Save for any security specifically set out in ISO 27001 Civica accepts no liability whatsoever for, but not limited to, network security and unauthorised access.

2.8. Suspension of Service

- 2.8.1 Civica reserves the right (at its option) to suspend remote access to and withdraw access to the Cloud Hosting Services where it has reason to believe that any data and/or material are or may be associated with any unauthorised act.
- 2.8.2 Without prejudice to Civica's termination rights Civica may in its sole discretion suspend Customer's access to the Cloud Hosting Services in the event that:
- a) Civica is exercising its right under Clause 2.8.1;
 - b) Civica becomes aware of or suspects such unauthorised access or use under Clause 1.6.6;
 - c) Customer is in material breach of this Call-Off Contract;
 - d) Customer fails to pay any fees or Service Charges due under this Call-Off Contract for 30 days after the due date for payment provided Civica has given written notice to the Customer of such non-payment;
 - e) Civica is required to do so by a court, any law or administrative or governmental authority.
- 2.8.3 Civica reserves the right to suspend provision of the Cloud Hosting Services for the purposes of repair, maintenance and improvement of the Cloud Hosting Services. Under normal circumstances all such suspensions shall be during Maintenance Hours.
- 2.8.4 If suspension is required outside of Maintenance Hours i.e. in the event of unplanned incidents or emergencies, Civica may suspend the Services at any time and shall use reasonable endeavours to notify Customer in advance (where able) of the suspension and to cause minimum disruption to the Services.
- 2.8.5 Civica will where able only carry out Scheduled Maintenance with prior agreement of Customer.

3 SERVICE-SPECIFIC TERMS RELATING TO THE SUPPLY OF CLOUD SOFTWARE SERVICES

This Section 3 sets out specific terms relating to the supply of software applications (“**Software**”) and documentation (“**Documentation**”) provided online by Civica as subscription service more particularly described in the applicable Cloud Software Service Description.

Cloud Software Services are applications accessed over the internet and hosted in the cloud.

3.1 Subject to the Customer purchasing the subscriptions (“**User Subscriptions**”) for the individuals the Customer authorises to use Civica’s Cloud Software Services (“**Authorised Users**”) in accordance with the Call-Off Contract, the Order Form, the Supplier Terms and the terms and restrictions set out in this clause 3, Civica hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Services and the Documentation during the term of the subscription as set out in the Call-Off Contract (“**Subscription Term**”) solely for the Customer’s internal business operations.

3.2 Cloud Software Services

3.2.1 Subject to payment of the applicable Call-Off Contract Charges, Civica shall, during the Subscription Term, provide the Cloud Software Service and make available the Documentation to the Customer subject to the terms of the Call-Off Contract, the Order Form and Supplier Terms.

3.2.2 Civica shall use commercially reasonable endeavours to provide the service availability set out in the relevant Service Description and the applicable Service Level.

3.2.3 Civica will provide the Customer with Civica’s standard customer support services as set out in Annex 2 (Lot 2 Cloud Software Service Level Agreement) and in accordance with the applicable Service Description in effect at the time that the Services are provided. Civica may amend the support services in its sole and absolute discretion from time to time.

3.3 Customer’s Usage of the Cloud Software Services

The Customer undertakes that:

3.3.1 it will not allow the number of Authorised Users to exceed the permitted number of User Subscriptions paid for;

3.3.2 it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Cloud Software Service and/or Documentation;

3.3.3 if the number of User Subscriptions shown in the Order Form are exceeded and/or where any other limitations shown in the Order Form are exceeded, it will purchase the necessary additional subscriptions and/or upgrades to accommodate the higher volumes;

3.3.4 that the Cloud Software Service may incorporate technical means of enforcing or monitoring these terms which may result in it being unable to access the Service beyond the Subscription Term or where it is in breach of this Call Off Contract or the Supplier Terms;

3.3.5 it will ensure that each Authorised User shall keep a secure password for his use of the Services and will on request provide Civica with a list of current Authorised Users;

3.3.6 it shall be responsible for the Authorised Users using the Services and Documentation in accordance with the terms of the Call Off Contract, the Order Form and the Supplier Terms including any breach by an Authorised User;

3.3.7 it will use all reasonable endeavours to prevent unauthorised access to, or use of, the Services and/or the Documentation and in the event of any such unauthorised access or use promptly notify Civica;

3.3.8 it shall be responsible for procuring and maintaining its network connections and telecommunications links from its systems to Supplier’s data centres and for all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer’s network connections or telecommunications links or caused by the internet;

3.3.9 it shall ensure that its network and systems comply with the relevant specifications provided by Civica from time to time;

- 3.3.10 it shall obtain and maintain all necessary licences, consents, and permissions necessary for Civica, its contractors and agents to perform their obligations under this agreement, including without limitation use of the Services.
- 3.4 The Customer may purchase additional User Subscriptions or upgrades or enhanced support services in accordance with the price list associated with the relevant Service Description.
- 3.5 The Customer shall not:
- 3.5.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties, and
- 3.5.2 except to the extent expressly permitted under this Call-Off Contract, Order Form and applicable Service Description, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
- 3.5.3 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- 3.5.4 access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
- 3.5.5 use the Services and/or Documentation to provide services to third parties; or
- 3.5.6 licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
- 3.5.7 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this Clause 3.
- 3.6 The Customer shall carry out all other Customer (Buyer's) Responsibilities set out in the Order Form and the applicable Service Description in a timely and efficient manner. In the event of any delays in the Customer's provision of such responsibilities as agreed by the parties, Civica may adjust any agreed timetable or delivery schedule as reasonably necessary.
- 3.7 The Customer shall (and ensure Authorised Users do) comply with Civica's Acceptable Use Policy which has been provided and is available on request from Civica's service manager.
- 3.8 Customer (Buyer) Data**
- 3.8.1 Civica shall follow its archiving procedures for Buyer Data as set out in its back-up policy in the Documentation as amended from time to time. In the event of any loss or damage to Buyer Data, the Customer's sole and exclusive remedy shall be for Civica to use reasonable commercial endeavours to restore the lost or damaged Buyer Data from the latest back-up of such data maintained by Civica in accordance with its back-up policy.
- 3.8.3 Civica shall not be responsible for any loss, destruction, alteration or disclosure of Buyer Data caused by any third party.
- 3.9 Copyright**
- 3.9.1 The Copyright and all other intellectual property rights in the Services, Software, Documentation and all materials and information which has, or will come into the possession or knowledge of the Customer in connection with this Call-Off Contract, or performance thereof, remains the property of Civica or its third party licensors or suppliers.
- 3.9.2 Where any source code (other than Open Source Software) is included in the Software it is for the use of Civica only and the Customer shall have no right of access to it and shall not allow any party other than Civica to have access to, or copy, or reproduce it in any form.
- 3.9.3 The Software and Documentation is the confidential proprietary information of Civica or its licensor whose disclosure to or use by third parties may be damaging. The Customer shall treat the Software and Documentation as confidential information of Civica and its licensors.

4 SERVICE-SPECIFIC TERMS RELATING TO THE SUPPLY OF CLOUD SUPPORT SERVICES

This Section 4 sets out specific terms relating to the supply of Cloud Support Services provided by Civica by as more particularly described in the applicable Cloud Support Service Description.

Cloud Support Services help buyers set up and maintain their cloud hosting or software services.

4.1 Provision of Cloud Support Services

- 4.2.1 Cloud Support Services will be provided by Civica on Working Days at the locations set out in the Order Form.
- 4.2.2 Normal working hours are seven and a half hours on a Working Day. This may be subject to alteration by mutual agreement for work carried out on the Customer's Premises.
- 4.2.3 Overtime is charged at time and a third and work necessarily carried out during week-ends, or public holidays is charged at double time. Where the required working period is substantially outside the normal working day the charge rate premium will be subject to negotiation.
- 4.2.4 If the Customer requires more days than originally agreed it will provide at least 7 days' notice to Civica of the additional days required.
- 4.2.5 If the dates scheduled for delivery of the Cloud Support are deferred or cancelled by Customer, Civica may revise any scheduled dates for the provision of the Cloud Support Services.
- 4.2.6 If the Cloud Support Services are cancelled, suspended or deferred by the Customer, Civica will:
 - a) be entitled to payment by Customer for all work done up to such deferment, cancellation or suspension; and
 - b) where able redeploy such staff but in the event the days cannot be re-assigned Civica may charge for these. The rates chargeable for cancellation or deferment where there is: (i) less than 48 hours' notice is 100% per day; (ii) less than 7 days' notice is 75% per day; and (iii) more than 7 days' notice is 50% per day; together with any expenses already incurred or non-refundable e.g. train or hotel costs.

4.2 Charges

- 4.2.1 The Customer is charged on a daily basis at the rates quoted in the Order Form or the applicable Service Description. Fractions of a day are charged on an hourly pro rata basis.
- 4.2.2 Civica's charges exclude reasonable travel or hotel expenses and the costs of materials and services not provided directly by Civica, unless these have been explicitly included in the applicable Service Description or Order Form. Any additional expenses necessarily incurred with relation to the provision of Cloud Support will be charged at cost.
- 4.2.3 Unless stated in the Call-Off Contract, for work on the Customer's Premises ("Site Work"), travelling time in excess of the employee's normal travel to work time will be chargeable.
- 4.2.4 For travel required by Site Work, costs of air travel, rail travel or a car mileage allowance at the prevailing company rate will be charged (as appropriate). For Site Work involving overnight stays the cost of bed, breakfast and evening meal and the cost of Civica's standard employee allowance, and (only for Site Work outside the UK) any incidental expenses such as travel and medical insurance will be charged.
- 4.2.5 An estimate of chargeable expenses will be provided by Civica on request in advance.
- 4.2.6 Until the full amount specified for any Deliverable under the Call-Off Contract is paid by the Customer title to and property in such Deliverable will not pass to the Customer.

4.3 Invoicing

- 4.3.1 Unless specified otherwise in the Call-Off Contract, invoices are submitted at the end of each calendar month. These are based on time logs filled in by staff on the project. These are included with the invoice. Civica reserves the right to submit time sheets which have not been countersigned if the Customer unreasonably withholds authorisation.

4.4 Duties of Civica

- 4.4.1 Civica shall assign Supplier Staff in accordance with Clause 4 of the Call-Off Contract.
- 4.4.2 Civica shall use all reasonable efforts to avoid changes to the personnel named in the Order Form to perform the Cloud Support. In the event of any such named personnel being unavailable to perform the Cloud Support, Civica shall make all reasonable efforts to promptly replace any such individual with another person of equivalent competence and experience.
- 4.4.3 Civica shall comply with the reasonable requests and directions of the Customer including complying with reasonable health, safety and security policies advised to Civica by the Customer while working on the Customer's Premises.

4.5 Duties of the Customer

- 4.5.1 The Customer shall, at its own expense, supply Civica with all documents, software, inventions, data or other materials and instructions necessary to perform the Cloud Support in accordance with the Contract and shall retain copies of any such documents, software, data or other materials so supplied.
- 4.5.2 The Customer shall provide Civica with access to all Customer personnel and to its systems and software and, where Civica is required to work on the Customer's Premises, accommodation and other assistance, all as may be reasonably necessary for performing the Cloud Support.
- 4.5.3 The Customer shall arrange all interviews and meetings with its own personnel that may have been agreed in any project plan forming part of the Cloud Support.

4.6 End of Cloud Support Services

- 4.6.1 The Cloud Support Services shall end on the date set out in the Order Form.
- 4.6.2 Unless otherwise stated in the Order Form should either the Customer or Civica wish to terminate provision of Cloud Support prematurely, the terminating party shall give thirty (30) days' written notice to the other.

4A SERVICE-SPECIFIC TERMS RELATING TO APPLICATION SUPPORT PROVIDED UNDER CLOUD SUPPORT

- 4A.1 The provisions of this Clause 4A apply where Civica is providing the Applications Support Management service, as described in Applications Support Management Service Description ("Applications Support").
- 4A.2 The appendices to the Applications Support Management Service Description Service will apply. These are set out in the Service Level Agreement.

Customer Obligations

- 4A.3 The Customer will:
 - a) provide a first line support helpdesk via which requests will be received and responses given, and to filter queries and provide desktop support when this is needed;
 - b) provide helpdesk and other authorisation contacts prior to the start of the contract;
 - c) (where the application is not hosted by Civica) provide a suitable hosting environment, operational support and remote access for diagnostic and software update purposes;
 - d) (where the application is not hosted by Civica) provide a user contact and a deputy, who will be available to provide 'hands on' assistance to Civica's support staff on site by running Civica directed tests, reporting results, etc.

General exclusions

- 4A.4 There are a number of general exclusions to the work covered by fixed price elements of any Call-Off Contract unless they have been specifically included in the applicable Service Description or Order Form. These are:
 - a) any work which is carried out on site due to remote access restrictions, over and above any site visit allowance set out in the Service Description or Order Form.
 - b) any development work e.g. change controls, unless covered under a pre-defined 'call-off' allowance, as part of on-boarding or as otherwise specifically agreed in writing

- c) remedial work arising as a result of changes made to the configuration of the system, data or software by the Customer that have not been assessed and agreed with Civica beforehand.
- d) restoration of systems and data after a failure caused by:
 - i. malicious attack on the computer infrastructure
 - ii. modification or corruption of the system by the Customer
 - iii. any fatal applications error which corrupts the system or its data, unless this is covered by Civica's Applications Support Service
 - iv. a major disaster, unless this is covered by other services being supplied by Civica
 - v. invalid operator or user action (such as data deletion), to the extent that it exceeds any thresholds set in the Order Form or applicable Service Description;
- e) any additional work requested by the Customer over and above Civica's standard processes and procedures required to conform with the Customer's internal procedures.

Provided that Civica may optionally perform excluded tasks on customer request, as a Variation to the Call-Off Contract.

4B SERVICE-SPECIFIC TERMS RELATING TO FIXED PRICE APPLICATIONS SOFTWARE DELIVERY UNDER CLOUD SUPPORT

In this clause 4B, "Applications Software" means software systems authored by Civica. It excludes any other software.

4B.2 Acceptance

- a) After the has been delivered, Civica shall, if so specified in the Project Plan, submit it to tests to ensure that the Applications Software created is in accordance with the Specification. If required by Civica, such tests shall be carried out in the presence of the Customer's representative and for this purpose the Customer shall provide its representative when required so to do by Civica.
- b) Once the Applications Software has successfully passed the tests, it shall be accepted by the Customer ("Acceptance") and the Customer shall, if requested to do so, provide an Acceptance Certificate. Where no acceptance tests have been specified then Acceptance will be on delivery. Should the Customer fail to carry out the Acceptance tests specified set out in the Additional Documentation, then Acceptance will take place 14 days after the scheduled date of the tests, or on live usage of the system, whichever is the sooner.

4B.3 Applications Software Warranty

- a) Civica warrants that the Applications Software will provide in all material respects the facilities and functions set out in the Additional Documentation for a period of 3 months from Acceptance or (if there is no such acceptance in the Project Plan) from the date of delivery.
- b) If Civica receives written notice from the Customer of any non-conformance with the foregoing warranty, Civica shall (subject to paragraph c) below) at its own expense and within a reasonable time after receiving such notice remedy the defect or error in question, but shall not be under any other liability in respect of such non-conformance whatsoever.
- c) Civica shall have no liability or obligation under the warranty:
 - i. unless Civica receives written notice of the defect or error in question not later than the expiry of the 3 months referred to in paragraph a) of this clause;
 - ii. in respect of the defects or errors resulting from any modification of the Applications Software made by any person other than Civica;
 - iii. in respect of defects or errors caused by the use of the Applications Software on Customer's hardware other than that specified in the Additional Documentation, or other computer programs not supplied by or approved in writing by Civica;

- iv. if the Customer shall not have in place the software licences or other third party agreements required for use of the Applications Software or the Customer's hardware in the manner intended by the Customer; or
 - v. if the terms of payment set out in the Order Form and these Supplier Terms have not been complied with.
- d) Civica may charge for any false call-outs or for modifications or enhancements to the Applications Software which are outside the Specification at the rates set out in the Call-Off Contract, or if absent, the Service Description.

Annex 1: Lot 1 Cloud Hosting Service Level Agreement

[TO BE ADDED OR STATE NOT APPLICABLE]

Annex 2: Lot 2 Cloud Software Service Level Agreement

Service Management

Service Management arrangements are operated in accordance with the Civica Operations Policy, complying with defined standard service levels including support response times, defect resolution, maintenance updates, system upgrades, and change controls.

Standard support services are available 9am to 5pm for functional issues, with the exception of public holidays. Optional extended support on the cloud platform (no application feature support) is available. Support is provided by a dedicated Service Desk during standard support hours (extended hours can be arranged on a short or long-term basis at additional charge). The Service Desk provides access to first, second and third line support. Incidents can be logged by:

- Contacting the Service Desk telephone number
- Submitting a request via the web-based Customer Support System
- Submitting a request via email.

All support incidents will be prioritised according to impact and urgency. Civica will respond to incidents in the times set out below (target first response time) and will take all reasonable steps to achieve the target resolution time according to the customer’s SLA. The client has the right to escalate calls of particular urgency; escalation procedures exist to ensure that all required resources are assigned to a critical problem.

Planned maintenance windows, when the service will be unavailable, will be agreed with the customer, with updates usually being within standard working hours. Customers can agree out of hours updates at an additional charge. Civica will agree with customers a notice period where possible of scheduled maintenance tasks.

Service Levels

Availability

Civica’s standard core hours are 7am-7pm, Monday to Friday (excluding UK Bank holidays). Access to the cloud service (remote access to data centre, domain names, network connections, IP addresses, hosted software and equipment) during core hours will have an uptime availability of 99.99%:

	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
Monday																								
Tuesday																								
Wednesday																								
Thursday																								
Friday																								
Saturday																								
Sunday																								

Outside of core hours, uptime availability of the cloud service will be agreed with the customer and the solution architected appropriately.

Support Service

A full help desk service will be provided during business hours. All calls or queries, through whichever channel are handled by the central help desk on the computerised logging system. Each call is allocated a Severity Level priority as follows:

1. Business Critical impact
2. Major Operational impact

3. Minor Operational impact
4. Minor Operational inconvenience
5. System Operation not impeded

The primary means of logging all incidents and queries is via the Civica Help Desk Support Portal with secondary means via the telephone. Civica will respond to incidents relating to the application in the times set out below and will take all reasonable steps to achieve a resolution within the target resolution timescale.

Severity	Target Response Time	Target Fix Time
Level 1	2 working hours	1 working day
Level 2	2 working hours	5 working days
Level 3	2 working hours	30 working days
Level 4	2 working hours	60 working days
Level 5	40 working hours	To be mutually agreed.

Civica will respond to incidents relating to availability of the cloud service (e.g. connectivity to data centre, etc.) in an accelerated timeframe as below:

Severity	Response Time During Support Hours	Target Resolution Time During Support Hours
Level 1	Within 30 minutes of call logged with Civica	4 working hours (unless with external service provider)
Level 2	Within 30 minutes	8 hours
Level 3	Within 1 hour	2 working days
Level 4	Within 1 hour	5 working days
Level 5	Within 2 hours	To be mutually agreed.

Severity level 1 calls must always be made by telephone to Civica's Service Desk or other telephone numbers that might be supplied to the Customer from time to time. Other calls may be made by email, internet, facsimile or other agreed electronic means.

Annex 3: Lot 3 Cloud Support Service Level Agreement

[TO BE ADDED OR STATE NOT APPLICABLE]

5 SERVICE-SPECIFIC STANDARD SOFTWARE LICENCE TERMS

Licence Details	Details
Customer	[name] a company registered in England under company number [number] with its registered office at [address]
Authorised Usage	Customer department(s) and number of Users [list user numbers add any other relevant usage restrictions] authorised to use and access the Software as set out here or in the Contract [add reference].
Software	The software modules being licensed to the Customer as set out [list] here or in the Contract.

5. Definitions

5.1 The following definitions apply to this Software Licence:

Annual Fees means recurring fees payable by Customer each year in order to continue to use the Software.

Authorised Usage means the Customer department(s) and number of Users paid for and authorised to use and access the Software as set out above.

Contract means the core contract terms and conditions between the Customer and Civica relating to the provision of the Software and which this licence is part of.

Initial Licence Fees means one off licence fees payable by Customer on delivery of the Software.

Licence Fees means the Initial Licence Fees and the Annual Fees.

Software means Civica's proprietary software modules and all programs, media and associated documentation, licensed to, or made available to Customer under the Contract together with any updates or maintenance releases (but excluding new versions) that are properly provided to Customer under support arrangements.

Software Licence means this licence granted by Civica to Customer to use the Software in accordance with Clause 5.3.

Start Date means the date when the Software is made available to the Customer.

User means each individual [person (end user) at Customer sites] / [logon (as opposed to a natural person)] using and/or accessing the Software [calculated on a concurrent basis].

5.2 Obligations of Civica

5.2.1 The Software Licence shall be provided by Civica from the Start Date, subject to Customer paying the Licence Fees. No refund will be given for Licence Fees paid in advance on termination.

5.2.2 Civica shall deliver to Customer (either by a physical delivery on media, or remotely by electronic means) the Software.

5.3 Software Licence

5.3.1 Civica grants to Customer upon payment of the applicable Licence Fees and subject to the terms and conditions in the Contract, a non-exclusive, non-transferable, term licence in object code only to use the Software.

5.3.2 Without prejudice to the other provisions of the Contract the licence granted in Clause 5.3.1 is subject to the following conditions:

- 5.3.3 The licence is personal to Customer and the Software may only be used by Customer: for its internal business purposes and in accordance with the Authorised Usage only.
- 5.3.4 Except to the extent permitted by law, Customer shall not, nor permit any third party to, adapt or modify the Software, or decompile, reverse engineer, disassemble or otherwise derive the source code of the Software.
- 5.3.5 Server elements of the Software are only licensed for use on a single live database and no more than two additional databases may be used for the purposes of testing and training only.
- 5.3.6 Customer may, subject to the Copyright (Computer Program) Regulations 1992, only make so many copies of the Software as are reasonably necessary for operational security, including back-up purposes, and lawful use. Such copies and the media on which they are stored shall be the property of Civica. Customer shall make full and accurate records of such copying and location of the copies and make these available to Civica on request.
- 5.3.7 The Software is the confidential proprietary information of Civica or its licensor and as such Customer shall not modify or remove any copyright or proprietary notices on the Software and shall reproduce such notices on any copies of the Software and shall treat such Software as confidential.
- 5.3.8 Customer shall not permit any third party to use, access or possess the Software nor use the Software on behalf of or for the benefit of any third party, including any consulting, service-bureau, time-sharing, rental or services of any other kind.
- 5.3.9 If the Software fails to operate owing to Customer linking to, accessing or otherwise using the Software or causing the Software to be used in conjunction with, any third party software, database or other application without the prior written consent of Civica then Civica shall not be liable. Customer is not allowed to use third party software which is designed to replicate, run or operate in conjunction with the Software without Civica's written consent.
- 5.4 Customer acknowledges that the Software may incorporate technical means of enforcing or monitoring the licence terms of the Software which may result in Customer being unable to utilise the Software beyond the Contract terms.
- 5.5 Customer shall remain responsible for the acts or omissions of any employees, agents, sub-contractors or third parties and the Users it allows to use the Software.
- 5.6 Obligations of Customer
- 5.6.1 Customer agrees it will:
- 5.6.2 only use the Software in accordance with the Authorised Usage and only for its own internal business purposes;
- 5.6.3 use the Software in accordance with the licence terms set out in Clause 5.3;
- 5.6.4 permit reasonable access by Civica to its sites in order for Civica to (i) perform its obligations under the Contract; and (ii) ensure compliance with the terms of the Software Licence;
- 5.6.5 when notified by Civica implement promptly any maintenance releases or other fixes or upgrades of any system software necessary for the successful operation of the Software.
- 5.7 Customer agrees that it is the best judge of the value and importance of the data held on the hardware running the Software and will be solely responsible for instituting and operating all necessary daily backup procedures to minimise the risk of loss of data.
- 5.8 Customer shall indemnify Civica, keep Civica indemnified and hold Civica harmless from and against all claims, liabilities, proceedings, costs, damages, losses, or expenses incurred by Civica caused by, or in any way connected with unauthorised use of the Software by any third party whether through breach of this Software Licence or any other negligent or wrongful act.

5.9 Warranties

5.9.1 Civica warrants in respect of the Software:

5.9.2 that it will during normal use provide the facilities and functions described in the accompanying software manuals. Such warranty will start upon the Start Date and continue for so long as the Software is supported by Civica and Customer continues to pay the Annual Fees; and

5.9.3 it has tested for viruses in the Software using commercially available virus checking software consistent with current industry practice.

5.10 If the Software fails to comply with the warranty in Clause 5.9 and Customer gives Civica written notice of such breach together with such information as may be reasonably necessary to assist Civica in resolving the breach, Civica shall at its own expense and within a reasonable time:

5.10.1 Remedy the breach by repairing or replacing the Software or any part: or

5.10.2 advise how to achieve substantially the same functionality as described in the software manuals through a different procedure from that set out in the software manuals; or

5.10.3 Refund the appropriate portion of the Licence Fees paid for the Software or module provided Customer deletes and returns all copies of the Software or module to Civica.

5.11 The warranties in Clause 5.9 shall not apply if the Software is:

5.11.1 not being used in accordance with Clause 5.3;

5.11.2 not used in accordance with the software manuals;

5.11.3 used in a manner for which it was not intended or other than as permitted by the Contract.

5.12 Customer acknowledges that:

5.12.1 software in general is not error free and that the existence of such errors in the Software shall not by themselves constitute a breach of this Software Licence or the Contract;

5.12.2 the Software is not bespoke and has not been prepared to meet Customer's individual requirements and that it is therefore the responsibility of Customer to ensure that the facilities and functions in the Software meet its requirements.

5.13 Intellectual Property Rights

5.13.1 All intellectual property rights in the Software, including all trade secrets, copyright, patent rights, ideas and any other intellectual property rights in relation thereto, shall belong to Civica or its suppliers or a third party licensor.

5.13.2 Civica shall defend or, at its option, settle any claim brought against Customer that its normal use or possession of the Software in the UK and in accordance with the Contract infringes any intellectual property rights of any third party and shall indemnify Customer against any damages finally awarded against Customer in respect of such claim and any reasonable costs and expenses incurred by Customer provided that:

5.13.3 It notifies Civica immediately and shall not make any comment or admission to any third party in respect thereof;

5.13.4 Civica is given complete control of such claim, all information and assistance as Civica reasonably requires at Civica's cost, and Customer does not prejudice the defence of such claim; and

- 5.13.5 The claim does not arise as a result of (i) any circumstances set out at Clause 5.11; and/or (ii) breach of Clause 5.3.
- 5.13.6 In the event that a claim as contemplated by Clause 5.13.2 is made or in Civica's opinion is likely to be made, Civica may at its option and subject to the Contract terms: procure the right for Customer to continue to use the Software affected; or change or replace all or any part of the Software; or terminate this licence immediately on written notice in respect of the affected Software.
- 5.13.7 Clauses 5.13.2 and 5.13.6 state the entire liability of Civica to Customer in respect of any claim as contemplated by Clause 5.13.2.
- 5.13.8 The copyright and all other intellectual property rights in the Software, the on-line manuals, all documentation relating to the Software and all materials and information which has, or will come into the possession or knowledge of the Customer in connection with this Software Licence remains the property of Civica or its suppliers and consists of confidential and proprietary material.
- 5.14 Termination of Software Licence
- 5.14.1 Civica may suspend or terminate the Software Licence at any time upon written notice to Customer, if Customer fails to pay any Licence Fees for 28 days after the due date for payment or is in breach of Clause 5.3.
- 5.14.2 Upon termination of this Contract, Customer shall immediately cease using the Software, deleting all relevant Software and data from both Customer's machines and backup media and upon request provide Civica with written confirmation of deletion.