6 Mariner Court +44 (0) 1924 669 940
Calder Park | Wakefield info@c365cloud.co.uk
West Yorkshire | WF4 3FL www.c365cloud.co.uk

Standard Terms and Conditions--C365Cloud Subscription

In these terms and conditions: the **"Licensor"** means **Energy and Compliance Technology Limited (trading as C365Cloud)**, a company incorporated in England and Wales (registration number 07311760) whose registered office is at 6 Mariner Court, Calder Park, Wakefield, West Yorkshire, WF4 3FL and the customer utilising the software of the Licensor is referred to as the **"Licensee"**.

The Licensor shall for an agreed duration provide agreed modules of its Compliance Management Software (the **"Software"**) and mobile form digital data capture (together the **"System"**) for use by the Licensee to manage up to an agreed number of properties for an unlimited number of users and shall support, maintain and update the Software in line with the Licensor's usual programme.

In the absence of specific written agreement between the Licensor and the Licensee which contradict these terms and conditions, in which case those specific terms shall prevail, these terms and conditions shall apply to the exclusion of all other terms and conditions otherwise purporting to apply to the Licensee's license of the Software and System from the Licensor.

1. Term

Any licence granted by the Licensor to a Licensee shall, unless terminated earlier in accordance with paragraph 7, be for an initial period of 3 years (the **"Initial Term"**) from the date it comes in to force (the **"Effective Date"**) and shall thereafter be automatically renewed for successive periods of 12 months (each a **"Renewal Period"**). The Initial Term and any Renewal Period shall together be referred to as the **"Term"**).

2. Delivery of Software

2.1   Subject to the Licensee having paid the Charges in respect of the first year of the operation of the licence, the Licensor will activate the Software for the Licensee within 30 Business Days following the Effective Date.

2.2   The Licensor shall not under any circumstances be required to deliver to the Licensee any copies of the source code of the Software, and nothing shall constitute a licence on the part of the Licensee to use the source code of the Software.

3. Invoicing and payment

3.1   The Licensor will issue an invoice for the Charges for the first year of the licence to the Licensee on or after the Effective Date and will invoice for subsequent years annually in advance.

3.2   The Licensee will pay the Charges to the Licensor within 30 days of the date of issue of an invoice issued in accordance with Clause 3.1.

3.3   All Charges are stated exclusive of VAT, unless the context requires otherwise.

3.4   All charges in respect of this licence (the **"Charges"**) shall, unless agreed otherwise in writing by the Licensor, be as per the sales quotation issued by the Licensor to the Licensee.

3.5   For the avoidance of doubt under no circumstances will the Licensor be liable to refund any Charges whether by reason of the Licensee not using the System, using it in respect of less than the maximum number of properties or otherwise.

3.6   If any Charges are not paid by the due date then, without prejudice to any other remedy available to it, the Licensor will be able to recover any costs incurred in recovery of such Charges on an indemnity basis and charge interest at the rate of 4% above the base rate from time to time of Lloyds Bank plc. Such interest shall compound monthly.

3.7   After the Initial Term the Licensor shall be entitled to increase the Charges in respect of any Renewal Period by giving not less than 90 days' prior notice to the Licensee.

4. Licence

4.1   Subject to the limitations set out in Clause 4.2 and the prohibitions set out in Clause 4.3, the Licensee, from the date of delivery of the Software to the Licensee, shall have a non-exclusive, royalty-free, licence for the Term to:

(a)   activate the Software;

(b)   use the Software in accordance with its documentation;

(c)   disseminate logon information to any required third parties;

(d)   use the System or the Software in conjunction with any of its own software

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or any third party software it is validly licensed to use and combine with the Software.

4.2 Save to the extent that the Licensor has given its express written consent, the licence granted by the Licensor to the Licensee under Clause 4.1 is subject to the following limitations:

(a) the Software license may only be used for the compliance modules agreed to by the Licensor and subscribed for by the Licensee;

(b) in respect of upto the maximum number of properties agreed to by the Licensor and subscribed for by the Licensee.

4.3 Except to the extent mandated by applicable law or expressly permitted by the Licensor in writing, the licence granted by the Licensor to the Licensee is subject to the following prohibitions:

(a) the Licensee must not sub-license the use of the System or the Software;

(b) the Licensee must not sell, resell, rent, lease, supply, publish or distribute the Software;

(c) the Licensee must not copy, alter or adapt or edit the Software;

(d) the Licensee is responsible for the provision of all hardware internet browsers;

(e) the Licensee must not disseminate log on information to any third parties or allow anyone other than their own authorised end users (who have entered in to an end user licence with the Licensor in the then current form used by the Licensor) who are using the Software and the System for the purposes of the Licensee's own business, to log on to the System.

4.4 The Licensor (or the Licensor's appointed representative) may (on reasonable notice) audit the Licensee's computer system for the purpose of ascertaining whether the Licensee is complying with the terms of the licence. Such an audit shall be limited to those systems that are reasonably likely to provide evidence of compliance or non-compliance. The Licensee shall provide to the Licensor all reasonable co-

operation in relation to the audit. This paragraph 4.4 shall survive the termination of this agreement and shall continue for a period of 12 months following the date of effective termination.

5. Warranties

5.1 The Licensee warrants to the Licensor that it has the legal right and authority to enter into and perform its obligations in respect of the licence.

5.2 The Licensor warrants to the Licensee:

(a) that it has the legal right and authority to enter into and perform its obligations under the licence;

(b) that the Software supplied by the Licensor will at the date of delivery perform substantially in accordance with the documentation accompanying the Software.

6. Indemnities and Limitations/exclusions of liability

6.1 The Licensor excludes any liability relating to the Licensee's hardware, network connectivity, browser specification and content filtering and under no circumstances shall the Licensor be liable for any special, indirect or consequential loss.

6.2 The Licensor will indemnify and keep indemnified the Licensee against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever to the extent that any such loss or claim is due to the System or Software itself being in breach of any third-party intellectual property.

6.3 Notwithstanding any other provision, the Licensor's liability to the Licensee for death or injury resulting from its own negligence or that of its employees, agents or sub-contractors shall not be limited.

6.4 The Software and the System is sold on an "as is" basis and the Licensee accepts sole responsibility for it being suitable for its purposes and the results it delivers.

6.5 The Licensor's total aggregate liability to the Licensee in respect of the licence, whether in tort, contract or otherwise, shall be limited to the Charges paid to the Licensor by the Licensee in the 12 months immediately preceding the date upon which the claim arose.

C365 Cloud is the trading name of Energy & Compliance Technology Limited.
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7. Termination

7.1   Either party may terminate the licence subject to the terms below and of paragraph 8 upon

(a)   completion of the Initial Term; or

(b)   completion of a Renewal Period.

7.2   The Licensee may terminate the Licence if, following 3 written escalations to the Licensor's senior management team identifying in reasonable detail what performance issues the Licensee believes there to be and after attempts on both sides to resolve those performance issues, the same (or substantially the same) performance issues remain unresolved.

7.3   The Licensor may terminate this agreement immediately upon any breach by the Licensee of any of its obligations under the licence or these terms and conditions or in the event of the Licensee becoming or threatening to become insolvent.

8. Notice Period

The Licensee must give the Licensor a minimum of three months' notice of termination of the licence.

9. Effects of termination and termination assistance

9.1   Upon termination of the licence the Licensor will return to the Licensee all data / compliance data stored on the System. The Licensor will return data to the Licensee in either Microsoft Excel (tabular data) or Adobe PDF (document data).

9.2   Any specific data set requirements requested by the Licensee will be chargeable at the agreed date

9.3   Termination assistance will be given to the Licensee for a maximum of 90 days following the expiration or termination of the licence (the **"Termination Assistance Period"**).

9.4   Termination assistance includes the Licensor performing the following activities:

9.4.1   turning to the Licensee (or, at the Licensee's discretion, destroying) the Licensee's data and the confidential information of the Licensee;

9.4.2   answering all reasonable questions from the Licensee in a timely manner to enable migration or smooth transition of the Licensee's data from the System to an alternative system;

9.4.3   if and to the extent the Licensor has provided any services on site at the Licensee's premises, vacating the Licensee's premises at the end of the Termination Assistance Period (or promptly upon request if earlier) and indemnifying the Licensee for any costs reasonably incurred in restoring the Licensee's premises to the state and condition in which they were prior to their occupation by the Licensor except to the extent of normal wear and tear;

however the Licensor reserves the right to charge for the administration associated with data migration and support during the Termination Assistance Period over and above that referred to above.

9.5   Any potential charges must be agreed in writing by the Licensee prior to works taking place.

10. GDPR

10.1   The Licensor shall and shall procure that any of its staff and agents shall comply with their obligations under the General Data Protection Regulation (EU) 2016/679 ("GDPR") and the Data Protection Act 2018 ("DPA 2018") (together defined as "DPL").

10.2   The Licensee is and will remain the Data Controller (as defined in the DPL) in relation to the personal information processed under this agreement, and the Licensor will act as Data Processor (as defined in the DPL) with respect to such personal information. As such, the Licensor must follow the direction of the Licensee as to how Personal Data (as defined in the DPL) is processed.

10.3   All Personal Data acquired by the Licensor from the Licensee shall only be used for the purposes of this licence and shall not be further processed or disclosed without the prior written consent of the Licensee.

10.4   The Licensor shall be responsible for taking regular back-ups of data processed and retained on the Software.

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10.5   The Licensor shall assist the Licensee in safeguarding the legal rights of the Data Subject (as defined in the DPL).

10.6   The Licensor shall return to the Licensee or securely destroy all Personal Data within 14 days of the expiry or termination of the licence.

10.7   The Licensor agrees, subject to paragraph 6.5, to indemnify fully and keep indemnified and defend at its own expense the Licensee against all costs, claims, damages or expenses incurred as a result of the failure of the Licensor or its employees, agents or sub-contractors to comply with their obligations under this paragraph 10.

10.8   The provisions of this clause shall continue to apply indefinitely after the expiry or termination of the licence.

11. Proprietary Rights

The Licensee acknowledges that the Licensor (and/or its licensors) own all intellectual property in the System and Software and that, other than as expressly stated in these terms and conditions, the Licensee is not granted any rights to under or in any intellectual property relating to the System or Software.

12 Assignment

This agreement is personal to the Licensee who shall not assign the same without the consent of the Licensor.

13. Law and Jurisdiction

The licence and any issues, disputes or claims arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the courts of England and Wales.

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