DATASYM LIMITED

BUSINESS RELATIONSHIP AGREEMENT

THIS BUSINESS RELATIONSHIP AGREEMENT is made between:

1.   DATASYM LIMITED of
(referred to in this Agreement as "**Datasym Limited** "/ "**We**"); and

2.   _____ of _____ (referred to in this Agreement as
"**Customer**"/"**You**").

By signing this Business Relationship Agreement, both of us agree that the Datasym Limited Terms and Conditions attached will be incorporated in and govern all Contracts between us for our supply to you of software goods and services.

SIGNED by a duly authorised signatory
for and on behalf of **DATASYM LIMITED**

Name: _____

Signature: _____

Title: _____

Date: _____

SIGNED by a duly authorised signatory
for and on behalf of the **CUSTOMER**

Name: _____

Signature: _____

Title: _____

Date: _____

Customer Name: _____

DATASYM LIMITED – TERMS AND CONDITIONS

1   INTRODUCTION

1.1   This document sets out the terms and conditions upon which we, Datasym Limited , supply software, goods and services to you, our Customer.

1.2   All our Quotations and Contracts (as defined below) for the supply of software, goods and services are subject to these terms and conditions, which apply to the exclusion of any terms and conditions contained in any order or other document submitted by you.

1.3   No purported variation of these terms and conditions or of any Contract, and nothing said or written prior to us entering into a Contract, is binding on us unless it is agreed by us and specifically set out in a Quotation or an Addendum (as defined below).

1.4   If there is a conflict or inconsistency between the different parts of a Contract, the order of precedence shall be (i) the Quotation any valid variations to it set out in an Addendum, (ii) these Datasym Limited Terms and Conditions and any valid variations to them set out in an Addendum; and (iii) any other documents incorporated by reference in such documents.

1.5   In order to ensure the flexibility of our business relationship, we may amend and update the Datasym Limited standard terms and conditions set out in this document on giving you not less than 30 days prior

written notice. However, any such change will not be retroactive in respect of an existing Contract and will only apply to new Quotations issued by us and new Contracts entered into on or after the effective date we specify in the notice. Any other variations including variations to existing Contracts shall only be valid if agreed in accordance with clause 1.3 above.

1.6   Our Quotations are invitations to you to order software, goods and services from us, subject to these terms and conditions. A Contract between us will only be created when we issue our order acceptance in respect of a Quotation.

SECTION 1 – GENERAL TERMS AND CONDITIONS

2   Definitions

2.1   In these terms and conditions, unless the context otherwise requires :

(a)   "**Addendum**" means a written document signed by authorised representative(s) of Datasym Limited and the Customer setting out any agreed changes to these terms and conditions or a Contract;

(b)   "**Datasym Limited** " means Datasym Limited and any undertaking which is from time to time, a subsidiary undertaking of Datasym Limited , a parent undertaking of Datasym Limited or a subsidiary undertaking of a parent undertaking of Datasym Limited , as those terms are construed in

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accordance with section 258 of the Companies Act 1985 (as amended);

(c) **"Datasym Limited Software"** means Datasym Limited standard software products supplied by Datasym Limited set out in a Quotation but does not include Third Party Software (and, except for clauses 4 and 5 in Section 2 of these terms and conditions) includes any replacement versions or new releases of such software that we supply to you;

(d) **"Bespoke Software"** means bespoke amendments to Datasym Limited Software that we create specifically for you or bespoke software products developed by us by adapting our standard packaged software or otherwise but does not include Third Party Software;

(e) **"Consumables"** means items designated as consumables by the manufacturer or replaced periodically, such as toner cartridges;

(f) **"Contract"** means the contract that is created between us when we issue our written order acceptance in respect of a Quotation on the terms and conditions set out in this document and any terms and conditions set out in the Quotation and/or Addendum and/or Equipment Lease Agreement relating to that Contract;

(g) **"Equipment Lease Agreement"** means an agreement between Customer and Datasym Limited relating to the hire of Hardware;

(h) **"Functional Specification"** means the detailed description of the facilities and functions of Datasym Limited Software and/or Bespoke Software (as applicable) supplied by us to you referred to in whichever may be relevant of the Quotation and any standard package documentation, modification lists and system specifications that we issue to you;

(i) **"Hardware"** means the hardware and other equipment specified in a Quotation;

(j) **"Hours of Cover"** means (unless otherwise stated in a Quotation) the hours between 0830 and 1730 Monday to Friday, excluding public holidays in England;

(k) **"Quotation"** in relation to any Contract, means our written quotation (which will be valid for the period set out in the Quotation) inviting you to order software, goods and/or services from us which when accepted in writing by Datasym Limited will create a Contract between us;

(l) **"Services"** means the services that we agree to supply to you under a Contract (including implementation, training, consultancy, maintenance and support or other services) as specified in a Quotation;

(m) **"Third Party Software"** means software set out in a Quotation (including operating system software) in which the intellectual property rights are not owned by us and are licensed direct to you by a third party or sub-licensed by Datasym Limited ;

(n) **"Your Premises"** means the premises at which software, goods and/or services ordered by you from us are to be supplied as set out in the Quotation.

2.2 References to any gender includes any other gender, the plural shall include the singular and bodies corporate shall include unincorporated bodies and (in each case) vice versa.

2.3 Reference to any statute, enactment, order, regulation or other similar instrument shall be construed to include a reference to the statute, enactment, order, regulation, or instrument as from time to time amended, extended, re-enacted or consolidated; and all statutory instruments, orders, regulations or instruments made pursuant to it.

3 Terms and Conditions Applicable to Third Party Software

3.1 Third Party Software is supplied by us on and subject to the written terms and conditions of the suppliers to us of such software, copies of which are available on request. You agree to comply with such terms and conditions.

3.2 Other than any liability which we may have to provide you with Software Maintenance Services or Hardware Support Services in relation to it, our liability in respect of Third Party Software is limited to assigning to you (insofar as we are legally permitted to do so) the benefit of the terms and conditions upon which the Third Party Software has been supplied to us.

4 Prices and Payment

4.1 The licence fees in a Quotation for any software (apart from Bespoke Software) are fixed.

4.2 The prices in a Quotation referable to Bespoke Software are "best estimates" at the date of issue of the Quotation and are subject to revision by us when we have agreed your detailed requirements in writing with you.

4.3 The prices in a Quotation referable to Hardware are subject to revision by us to reflect any increase in the cost to us of supplying the Hardware which is due to any factor beyond our control including, without limitation, any foreign exchange fluctuation, changes in duties, significant increase in the cost of labour, materials or other costs of manufacture, and any increases in the prices charged to us by the relevant manufacturer, agent or dealer for the Hardware in question.

4.4 Unless otherwise stated in a Quotation:-

(a) the price of Datasym Limited Software, Bespoke Software and Hardware is payable up to 50% by way of deposit with order and the balance 30 days after date of invoice. Invoices are issued by us in respect of Datasym Limited Software, Bespoke Software and Hardware on its delivery to you;

(b) the price of Services is payable either in advance or in arrears, depending on the nature of the Service;

(c) the price of Consumables is payable 10 days after delivery;

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(d) any other sum due from you to us may be invoiced by us at any time and are payable 30 days after date of invoice.

4.5 We may charge you for all travel and subsistence expenses incurred by our employees, agents or subcontractors in attending your premises at your request (unless such attendance is part of a Service which we have agreed to provide or is made necessary by our default). Travel expenses shall be charged at our then current business mileage rate for travel by car, and at cost plus 10% for travel by public transport. In the event that a planned visit or installation is cancelled with less than seven days notice, Datasym will charge unavoidable costs on to the customer.

4.6 All prices quoted by us are exclusive of value added tax or other similar sales taxes and any export or import duties.

4.7 All our invoices are payable without regard to any equity, set-off or counterclaim and, without prejudice to our other rights and remedies, we may charge interest on amounts not paid when due at the rate of 6% per annum above the base rate (varying) of our bankers from time to time from the due date for payment to the actual date of payment, whether before or after judgment.

4.8 Payment terms in respect of the hire of Hardware under an Equipment Lease Agreement shall be in accordance with the terms and conditions of such Equipment Lease Agreement.

4.9 Datasym reserves the right to apply a 2.5% surcharge on all credit card transactions.

4.10 In circumstances where the customer cancels an installation or site visit with less than seven days notice, Datasym will make reasonable efforts to secure replacement chargeable work, where this is not possible Datasym reserves the right to charge the customer, in full for the cancelled time.

4.11 Where a customer has elected to pay by Direct Debit, licences and services are automatically renewed at the end of the initial term and will continue to be provided until cancelled under the terms outlined in section Clause 13 , Clause 4 .11 and Section 4 Clause 1.2..

4.12 Where a customer has elected to pay by Direct Debit, the customer must provide three months written notice of cancellation of the Direct Debit payment method.

4.13 Datasym will permit one change, free of charge, per licence to the administration schedule relating to, but not limited to, the location of a licence, the payment method for a licence or any other applicable administration process. In circumstances where additional administrative changes are required, Datasym will make a charge of £25 per licence change.

5 Your Obligations

5.1 Throughout the continuance of any Contract between us you will, without charge to us:

(a) be responsible for:

(i) the provision and maintenance of the operational and environmental conditions necessary for the proper functioning of Datasym Limited Software and Third Party Software, and the equipment and operating system software on or in conjunction with which Datasym Limited Software, and Third Party Software are used;

(ii) ensuring day to day maintenance, management and housekeeping of your business systems including, but not limited to ensuring Anti-virus cover, apllying of operating systems updates (i.e. Microsoft windows) and maintaining data and systems back-ups ;

(iii) procuring the maintenance of such equipment in the manner from time to time prescribed by its suppliers (except where we are providing maintenance services in respect of it);

(iv) communication links between the equipment on or in conjunction with which Datasym Limited Software and/or Third Party Software are used and any printer or other computer or terminal, the resolution of any printing difficulties and any wiring and cabling required;

(v) the safe custody of Datasym Limited Software and Third Party Software and our equipment and documents on Your Premises;

(b) ensure that Datasym Limited Software, Third Party Software and the hardware and operating system software on or in conjunction with which they are used are operated in a proper manner by competent trained employees, or by persons under their supervision, and that any hardware (and operating system software) not supplied by us is compatible with the Datasym Limited Software and the Third Party Software used on or in conjunction with it;

(c) in connection with the performance of our obligations, permit our personnel and all others authorised by us to enter and work on Your Premises at all times during the Hours of Cover and, on us giving you not less than 7 days' prior warning, outside the Hours of Cover;

(d) provide us with such facilities at Your Premises (including computer consumables, storage, data preparation and communications facilities) data (including reasonable test data suitable for use on acceptance tests and the results expected to be achieved by processing such test data) information, documentation, personnel (including, where appropriate, a representative with admin rights for installations and upgrades) and time on your computer equipment as we may reasonably request in connection with the creation by us of any Bespoke Software, the writing of any user documentation required for such Bespoke Software, the installation, commissioning and testing of Datasym Limited Software and Third Party Software, the training of your personnel and

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the performance of our hardware and software maintenance services and our warranty obligations;

(e) co-operate fully with our personnel and provide them with such secure storage space, desks, typing and other office facilities at Your Premises as we may reasonably request to enable us to fulfil our obligations to you;

(f) fully comply with and implement our procedures for remote diagnostics of which we advise you from time to time and, upon request, install and maintain in good working order a communications circuit as described in the Quotation between us and the equipment on which Datasym Limited Software and/or Third Party Software is installed and provide us with any valid user passwords necessary to gain access to that equipment and its associated operating system software and the Datasym Limited Software and Third Party Software;

(g) authorise us to have access to other programs on the equipment on which Datasym Limited Software and/or Third Party Software is installed, insofar as you are legally permitted to do so and such access is reasonably required by us in the performance of our obligations to you;

(h) maintain full security copies of all programs (including Datasym Limited Software, Third Party Software and any operating system software) and data used on or in conjunction with the equipment with which Datasym Limited Software and/or Third Party Software is used;

(i) appoint a competent person who will act as your representative and who will be responsible for providing any information, data and facilities which may be required by us for the purposes of any Contract with you;

(j) indemnify us against injury (including death) to any persons and any loss of or damage to any property caused by any negligent or wilful act or omission of you, your employees, agents, contractors or sub-contractors;

(k) comply with all your other obligations under any
Contract with us.

(l) In the event that the customer terminates the a contract and elects to be provided with a perpetual licence, the customer will no longer be eligible for support of the software and ad-hoc support is not provided under any circumstances. In the event that the customer requests to enter into a new support contract, if the product is still supported, Datasym will at its sole discretion, agree to the sale of a new standard licence or the payment of the maintenance charges of support from the date of the termination to the date of the request , plus payment for support and maintenance for the subsequent twelve months.

6   Intellectual Property Rights and Confidentiality

6.1   All Datasym Limited Software and all manuals, specifications and documentation relating to Datasym Limited Software (all of which are together and individually referred to in this clause and the next

clause as "**the Information**") and the copyright and all other intellectual property rights of whatever nature in the Information are and remain vested in us or our third party licensors. You will at all times (notwithstanding the termination of any Contract between us for whatever reason):

(a) take all reasonable steps to maintain the confidentiality of the Information;

(b) ensure that, unless we give our prior written consent, neither you nor any of your personnel from time to time having access to the Information, copies or duplicates the Information or any part of it or divulges or makes any disclosure relating to any part of the Information to any third party (whether during or after their employment by you);

(c) maintain adequate security measures to safeguard the Information from theft, and from access by any person other than your employees in the normal course of their employment;

(d) except as expressly permitted under Section 50B of the Copyright, Designs and Patents Act 1988 not copy, alter, modify or adapt the Information in any way whatsoever, or permit Datasym Limited Software to be combined with or to become incorporated in any other programs unless the combination is carried out by us, or decompile or disassemble the executable code version of any Datasym Limited Software, or attempt to do any of these things;

(e) in particular, not (and you will use your best endeavours to procure that no person other than our personnel will) access, use, copy, alter, modify or adapt any source code version of Datasym Limited Software that we may install on equipment at Your Premises;

(f) promptly bring to our attention any infringement of our rights in, or any unauthorised use of, the Information, of which you become aware.

6.2   Each of us will at all times (notwithstanding the termination of any Contract between us for whatever reason) keep confidential all information and data relating to the business affairs of the other obtained under or in connection with any Contract between us and will not divulge such information or data to any third party without the prior written consent of the other.

6.3   Each of us may, however, divulge such confidential information and data to those of our employees who are directly involved in the Contract concerned but will ensure that those employees are aware of and use all reasonable efforts to ensure that they comply with these obligations as to confidentiality.

6.4   For the purposes of these terms and conditions, "confidential information" shall not include information that:

(a) was already known prior to receipt by the recipient;

(b) was in the public domain at the time of receipt by the recipient party or has subsequently entered

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into the public domain other than by reason of a breach of the provisions of this clause or any obligations of confidence owed by the recipient party to the disclosing party;

(c) is required to be disclosed by law, regulation, court order or regulators.

6.5 You agree that we may name you as a customer in our promotional materials with your prior written consent (such consent not to be unreasonably withheld or delayed).

7   Intellectual Property Rights Indemnity

7.1 We will indemnify you against all costs, claims, demands, expenses and liabilities arising out of or in connection with the normal use or possession of the Information infringing any copyright of any third party which is effective in the United Kingdom provided that you promptly give us notice of any infringement claim to which this indemnity may apply, give us immediate and complete control of, and all reasonable assistance in connection with, the defence of the claim and all negotiations for its settlement or compromise and do not prejudice the defence of the claim and provided also that the infringement does not arise as a result of the use of the Information in combination with any equipment or software not supplied or approved in writing by us. We are entitled, at our cost, to replace or change the Information in order to avoid any infringement. This clause 7.1 states our entire liability to you in respect of the infringement of the intellectual property rights (of whatever nature) of any third party.

7.2 You will indemnify us against all costs, claims, demands, expenses and liabilities arising out of or in connection with any claim that our use of any information or material supplied by you to enable us to create Bespoke Software and/or user documentation infringes the intellectual property rights (of whatever nature) of any third party.

8   Time

Whilst we will use reasonable efforts to meet times given or quoted, any times given for delivery of software, goods and services and for performance of our obligations are approximate only and time is not, and shall not be made, of the essence for such delivery or performance.

9   Force Majeure

Neither of us will be under any liability whatsoever for non-performance of our respective obligations (other than payment or indemnity obligations) caused by or resulting from industrial disputes or any other circumstances beyond our respective reasonable control (including in our case, without limitation, power supply failure, telecommunications failure and failure of suppliers to meet delivery requirements). If any of these circumstances prevents due performance of a party's obligations then performance of those obligations is suspended for the duration of the circumstances. If such circumstances make it impossible within a reasonable time for the party claiming relief under this clause wholly or substantially to perform its obligations to the other the Contract may be terminated by the other on giving notice to the party claiming relief under this clause. Neither of us is liable to the other by reason of

such termination save that you shall pay any of our invoices that are outstanding under the Contract and a reasonable sum in respect of any work undertaken by us prior to termination in respect of which we have not already issued an invoice to you.

10   Delay Caused by You

If we are obliged to spend additional time or incur additional expenses in the performance of any of our obligations to you because of any act or omission by you or any of your employees, agents, contractors or sub-contractors (including the supply of any incorrect or inadequate data or information) then, notwithstanding anything else contained in these terms and conditions:

(a) we may invoice you as if any resultant delay in the performance of our obligations had not occurred; and

(b) you will pay us a reasonable sum in respect of any additional time spent by our personnel and expenses incurred by us in the performance of our obligations to you and caused or rendered necessary by such act or omission; and

(c) the time for performance of our obligations is extended by a period equal to the length of the delay.

11   Assignment and Sub-contracting

11.1 You will not sell, assign or otherwise transfer the whole or any part of any Contract with us without our prior written consent.

11.2 We may transfer, assign or sub-licence the benefit of the whole or part of any of our rights and obligations under a Contract to any other member of Datasym Limited or any successor of all or part of our or Datasym Limited 's business.

11.3 We may engage the services of sub-contractors to perform any of our obligations to you. However, no sub-contracting of obligations by us will release us from responsibility for their due performance unless otherwise stated in the Quotation or agreed by you in writing.

12   Employment of Our Personnel

12.1 If you (or your holding company, or any subsidiary of you or your holding company, for the time being) either during, or within one year after the date of termination of, the Contract concerned (and either during, or at any time prior to the expiry of 6 months after the date of termination of, the employment of such person by us) employ or contract for the services of any person who has been engaged as our employee in the provision of services under any Contract between us you agree to pay us a sum equal to twice the annual salary of the person concerned on the date of termination of his employment with us. In this clause "holding company" and "subsidiary" have the meanings respectively ascribed to them by Section 736 Companies Act 1985.

13   Termination and other Remedies

13.1 We may suspend our performance of any Contract (or at our discretion particular software licences or the supply

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to you of particular goods and Services) whilst you are in default of any of your obligations under that, or any other Contract including (without limitation) your payment obligations.

13.2 We may also by notice to you terminate any Contract (or at our discretion particular software licences or the supply to you of particular goods or Services) immediately if you do not pay any sum due to us under that, or any other, Contract and that sum remains unpaid for 14 days after we give you notice that the sum has not been paid and refer expressly to our right to terminate under this clause.

13.3 Either of us is entitled by notice to the other to terminate any Contract between us (or in the case of termination by us, any particular software licence or the supply of particular goods or Services) immediately if the other:-

(a) commits a serious breach of any term of that Contract and (in the case of a breach capable of remedy) fails to remedy the breach within 30 days after having been given notice by the other party of the breach referring to this clause; or

(b) being a company presents a petition or has a petition presented for its winding-up or convenes a meeting to pass a resolution for voluntary winding-up or has a receiver or administrator or administrative receiver appointed of all or any part of its assets or undertaking or calls a meeting of, or enters into any composition or arrangement with, its creditors or ceases to carry on business; or

(c) being an individual dies or being a partnership or firm is dissolved or in either case commits any act of bankruptcy or has a bankruptcy petition issued or receiving order made against it or negotiates for or enters into any composition or arrangement with or assignment for the benefit of its creditors.

13.4 For the purposes of clause 13.3(a) a breach is considered capable of remedy if the party in breach is capable of complying with all requirements of the provision in question with the exception of performance by a specified time.

13.5 The rights set out in this clause are without prejudice to any other rights or remedies which either of us may have against the other and any accrued rights or liabilities. In addition, termination of a Contract does not affect any obligations which expressly or by implication are intended to come into or continue in force on or after that termination.

14 Warranties

14.1 Subject to compliance by the Customer with its obligations under a Contract we warrant to perform any Services using reasonable care and skill.

14.2 The Customer is responsible for assessing its own commercial needs and whether software, goods and services meet their particular requirements.

14.3 We do not warrant the form, content or performance of Third Party Software which is supplied "as is". Third Party Software may be warranted direct under the terms and conditions of the supplier of such software.

14.4 Unless expressly provided in these terms and conditions or a Contract, all other conditions (except as to title), warranties, stipulations and other statements or terms whatsoever whether express or that would otherwise be implied or imposed by statute, at common law or otherwise howsoever are excluded to the fullest extent permitted by law.

15 General Data Protection Regulation Policy and Procedure

Datasym's policies and procedures fully comply with the requirements of The General Data Protection Regulation (GDPR). The full policy document forms part of the Datasym terms and conditions and is the FIFTH Schedule to this Business Relationship Agreement.

15.1 The schedule can be amended to update the name of the Datasym data processing officer and this change will not trigger the need for an addendum to this, Business Relationship Agreement.

15.2 The customer may request a copy of the latest version of the policy document, in writing, on the anniversary date of this agreement and this will be supplied to the customer within 28 days.

Exclusion and Limitation of Liability

16.1 Nothing excludes or limits our liability in respect of:-

(a) death or personal injury caused by our negligence or that of our employees; and

(b) fraudulent misrepresentation;

(c) liability which may not otherwise be limited or excluded under applicable law.

16.2 Subject to clause 15.1, our liability for loss of or damage to tangible property is limited to £1,000,000 in respect of each event or series of connected events.

16.3 Except as provided in clause 15.2 above, in no event are we liable for loss of data or information, loss of profits or contracts or anticipated savings or any indirect or consequential loss, whether arising from negligence, breach of contract or howsoever.

16.4 Except as provided in clauses 15.1 and 15.2, our liability for loss or damage, whether arising in contract, tort (including negligence) or otherwise howsoever is limited to the following:

(a) in respect of the supply of any item of software, Hardware or other goods to an amount equal to the licence fee for that item of software, or the price of the item of Hardware or other goods, (as the case may be), stated in the relevant Quotation, in each case net of any discounts;

(b) in respect of Services or any other liability in any calendar year (i.e. 1 January to 31 December) the lesser of an amount equal to the payments made by you to us for the relevant Services in respect of that calendar year or £500,000.

16.5 The provisions of this clause 15 shall survive the termination of the whole or any part of a Contract.

17 Waiver

No forbearance, delay or indulgence by either of us in enforcing our respective rights prejudices or restricts those rights and no waiver of any such rights or any

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breach of any contractual term is to be treated as a waiver of any other right or of any later breach.

17   Notices

17.1   All notices to be given under   these terms and conditions or any Contract must be in writing in English and left at or sent by first class registered or recorded delivery mail or equivalent to the address of the recipient in the Quotation or such other address as the recipient may have communicated to the sender from time to time for the giving of notices. Any notice is treated as having been given:

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    (a) where it is left at the addressee's address, at the time it is left;

    (b) where it is sent by mail, on the second customary working day in the addressee's country after it has been properly posted or in the case of a notice to an addressee not in the country of the sender, 10 working days after the date of posting.

18   Export Control

18.1   You acknowledge that the export of computer products and/or technology may be subject to UK government export regulations or restrictions. Where you export or re-export any computer hardware and/or software you agree to comply with the relevant export regulations and/or restrictions in force from time to time.

19   Law

19.1   All Contracts are governed by and construed in accordance with English law and you and we agree to submit to the exclusive jurisdiction of the English courts.

19.2   A person who is not a party to a Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms except another member of Datasym Limited shall have the right to enforce any rights or benefits in a Contract. This clause does not affect any right or remedy of a third party which exists or is available apart from that Act.

20   Headings

The headings in this document are for ease of reference only and in no way affect its interpretation or construction.

21   Invalidity

If any provision in a Contract is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of the Contract shall remain in full force and effect.

22   Entire Agreement

The Contract contains the entire agreement between Datasym Limited and the Customer relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between the parties in relation to such matters. The Customer acknowledges and confirms that in agreeing to enter into a Contract, it has not relied on any representation save insofar as the same has been expressly included in a Contract.

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SECTION 2 – SUPPLY OF HARDWARE, CONSUMABLES AND SOFTWARE

1   Title and Risk

1.1   Where we supply you with Hardware and/or Consumables under a Contract, subject to clause 1.4 below, title to each item of Hardware and Consumables passes to you on our receipt of payment in full of all sums payable in respect of such Hardware and Consumables. Until title to any such item passes to you, you will hold it on our behalf (without prejudice to your obligation to pay for it) and permit us to recover possession of it and enter upon any premises occupied by you for that purpose.

1.2   Title to or ownership of Datasym Limited Software, Bespoke Software and Third Party Software does not pass to you.

1.3   Risk in each item of Datasym Limited Software, Bespoke Software, Third Party Software, Hardware and Consumables passes to you on its delivery to you. Accordingly, you are responsible for insuring these items with a reputable insurance company against loss or damage, for the full cost of their replacement, with effect from delivery and until our receipt of payment in full of all sums payable in respect of them.

1.4   Where Customer enters into an Equipment Lease Agreement, title to Hardware and Consumables will be subject to the terms and conditions of the Equipment Lease Agreement.

1.5   Where a business changes its name and ownership of the business remains the same, Datasym will at its discretion, permit the change of registration of the licence provided that details of the new entity are provided on official documentation and must include, company name, address, company registration number and VAT number, if applicable. For the avoidance of doubt, a change of ownership is deemed to have taken place if the original majority shareholder has less than 50% of the new entity shareholding.

2   Installation and Commissioning of Hardware and Operating Software

Installation and commissioning of Hardware and Third Party Software (where applicable) will be carried out by or on behalf of the manufacturer or supplier concerned (or, in the case of Third Party Software, by us) and, except as provided in clause 3 of Section 1, we are not liable to you in respect of any part of that installation and commissioning not performed by us.

3   Alterations to Datasym Limited Software/Bespoke Software Requirements

3.1   It is your responsibility to ensure that the facilities and functions of Datasym Limited Software and/or Bespoke Software set out in the Functional Specification meet your full requirements. Accordingly we are not liable for any failure of Datasym Limited Software and/or Bespoke Software to provide any facility or function not described in the Functional Specification.

3.2   If at any time prior to our commencement of programming or installation of Datasym Limited

Software and/or Bespoke Software (whichever is earlier) you wish to alter those requirements you must provide us with full written particulars of such alterations and with such further information as we may reasonably require. We will then either:-

(a)   submit to you a revised written Quotation for such alterations specifying what changes (if any) will be required to the prices referable to Datasym Limited Software and/or Bespoke Software its support and maintenance, and the dates for the performance of our obligations and what other adjustments will be required to the Contract between us; or

(b)   advise you that the requested change is either not technically feasible or not reasonably practicable.

3.3   If within seven days of receipt by you of our revised Quotation you accept it in writing, the Contract between us for the supply of Datasym Limited Software and/or Bespoke Software will be amended in accordance with the Quotation. If you do not accept our Quotation within this period (or we advise you in accordance with clause 3.2(b) that the change is not technically feasible or not reasonably practicable), your request for the alteration is treated as having been withdrawn and the Contract continues unchanged.

3.4   Whether or not your request for an alteration is subsequently treated as having been withdrawn:-

(a)   we are not liable for any delay in the performance of our obligations resulting from the request and our reacting to it; and

(b)   we are entitled to charge you in accordance with our standard scale of charges in force from time to time for considering the alteration and preparing the Quotation and for any other time and expenses incurred in relation to your request.

3.5   We are not obliged to consider any alterations to your requirements except in accordance with the above procedure.

3.6   Nothing in this clause applies to any Third Party Software.

4   Acceptance

4.1   You are treated as having accepted all software (apart from Bespoke Software) and Hardware on its delivery to Your Premises or, in the case of Hardware which has standard initial diagnostic checks, on the successful completion of those checks.

4.2   After installation of any Bespoke Software at Your Premises you will, as and when requested by us, and (if so required by us) in the presence of our personnel, carry out acceptance tests, using test data supplied by you to us in accordance with clause 5.1(d) of Section 1 to demonstrate that the Bespoke Software concerned is in accordance with the Functional Specification relating to it. On any Bespoke Software passing the acceptance tests you are treated as having accepted it and you will (if required by us) sign our acceptance certificate which is conclusive evidence that that Bespoke Software complies with the Functional Specification.

Business Relationship

4.3 If any Bespoke Software fails to pass its acceptance tests, the tests will be repeated within a reasonable time. The Bespoke Software will not be considered to have failed acceptance tests by reason of any failure to provide any function or facility not specified in the Functional Specification.

4.4 If:

(a) because of any act or omission on the part of you, your employees, agents, contractors or sub-contractors any Bespoke Software does not pass the acceptance tests relating to it within 7 days of the date on which we request you to carry out those tests but we have proved the Bespoke Software to be substantially in accordance with the Functional Specification; or

(b) you use for the purposes of your business any Bespoke Software otherwise than at our request;

you are treated as having accepted the Bespoke Software concerned.

4.5 If you use any software before acceptance under this clause 4, except for testing purposes in accordance with the acceptance tests referred to in this clause 4, then the software will be deemed to have been accepted on the date of first use.

4.6 If the customer subsequently identifies that the number or type of licences required varies from that originally ordered, Datasym will be under no obligation to provide credits for licences or provide alternative licence, after the date of supply.

5   Datasym Limited Software Warranty

5.1 We warrant that for a period of 90 days following the date of installation of the Datasym Limited Software and/or Bespoke Software that the facilities and functions of the Datasym Limited Software and/or Bespoke Software when properly used shall operate materially in accordance with the Functional Specification. If the Datasym Limited Software and/or Bespoke Software is modified by the Customer otherwise than in accordance with the Functional Specification and without our consent, this warranty shall not apply.

5.2 We will have no liability or obligation under the warranty given in this clause 5 unless we have received written notice from you of any non conformance with the warranty within 90 days of the day of installation of the relevant Datasym Limited Software and/or Bespoke Software. Error correction services shall be provided if a Customer has entered into an agreement with us for Software Maintenance Services (as defined in Section 4 of this document).

5.3 Our obligation and your exclusive remedy under the warranty given in clause 5.1 above is limited at our option either:

(a) to use our reasonable endeavours to rectify any non conformance with the warranty at our own expense by repair (by way of patch, work around, correction or otherwise) within a reasonable period of time; or

(b) to replacement of the Datasym Limited Software and/or Bespoke Software or any part; or

(c) to supplying equivalent Datasym Limited Software and/or Bespoke Software.

5.4 We shall have no liability or obligation other than is referred to above and our obligation under this clause 5 is subject to you having complied with and continuing to comply with all these terms and conditions and further supplying to us upon request your necessary information, data and other materials as we may reasonably require in order to successfully replicate the failure to establish the nature of the defect or error in the Datasym Limited Software and/or Bespoke Software.

5.5 You acknowledge that the Datasym Limited Software has not been prepared to meet your individual requirements and you acknowledge that you have used your own skill and judgement in selecting the Datasym Limited Software for your specific use.

5.6 We do not warrant that the Datasym Limited Software and/or Bespoke Software will operate error free or without interruption or in combination with other software except those provided in the Functional Specification or that all defects, errors or non-conformities in the Datasym Limited Software and/or Bespoke Software will be corrected except for the provision made in clause 5.3(a) above.

5.7 If a failure is found upon investigation by us not to be our responsibility under the provisions of this clause 5, we may charge you for all reasonable costs and expenses incurred by us in the course of or in consequence of such investigation.

6   Hardware Warranty

6.1 We do not provide a warranty in respect of any failure of any item of Hardware. The manufacturer of the Hardware may provide a guarantee or warranty to us or our third party maintenance service provider. You shall only be entitled to such benefits as we may receive under any guarantee or warranty given by the manufacturer of the Hardware and we hereby assign (to the extent that we are able to do so) the benefit of all such guarantees and warranties. We will use reasonable endeavours to repair or replace, or procure the repair or replacement of, defective Hardware under any guarantee or warranty (if any) given to us during the guarantee or warranty period (if any).

6.2 The warranty period for Hardware (if applicable) will be specified in the Quotation and begins either:

(a) on the date of installation; or

(b) if the Hardware is not installed by us, upon delivery; or

(c) if we are prevented from installing the Hardware by any action or default by you for more than 30 days from the delivery date, on the 30th day after delivery.

6.3 Apart from any contractual obligation that we have to provide Hardware Support Services our obligations under this clause 6 constitutes our entire liability,

whether in contract or in tort, for defects in any item of Hardware.

7   Training and Installation Support

7.1   Subject to availability of our staff, the number of days installation and training support stated in the Quotation must (unless otherwise stated in the Quotation) be used by you within the period specified in the Quotation. Subject to staff availability, we will quote for any additional support required by you after this initial period. You will ensure that those of your personnel who are to receive training support from us are already proficient and experienced in the use of computer equipment and software.

Business Relationship

SECTION 3 – SOFTWARE LICENCE

1   Datasym Limited /Bespoke Software Licence

1.1   Where we supply you with Datasym Limited Software and/or Bespoke Software under a Contract we grant to you a non-exclusive non-transferable licence to use the Datasym Limited Software and/or Bespoke Software and the user documentation and other materials (in whatever form) that we supply to you to aid the use of that Datasym Limited Software and/or Bespoke Software (such Datasym Limited Software and/or Bespoke Software and materials being together referred to as the "**Licensed Program Materials**") on and in conjunction with the platform specified in the Quotation.

1.2   This licence is subject to the terms of Section 3 and Section 1 of this document and, subject to payment in full of the licence fee, commences on the date on which Datasym Limited Software and/or Bespoke Software is delivered to Your Premises. (Prior to payment in full of the licence fee you are licensed to use Datasym Limited Software and/or Bespoke Software only for non-live testing and training).

2   Licence Terms

2.1   You may use the Licensed Program Materials for processing your own data for your own internal business purposes only. You will not permit any third party to use the Licensed Program Materials nor use the Licensed Program Materials on behalf of or for the benefit of any third party (in any way whatsoever) unless agreed by us in advance in writing.

2.2   The use of the Licensed Program Materials is non-exclusive and non-transferable and restricted to use at Your Premises (or such other premises as we may approve in writing, which approval will not be unreasonably withheld) and to use on and in conjunction with the platform specified in the Quotation. However if the Licensed Program Materials cannot be used on that platform because it is inoperable for any reason then (if we so consent in writing) this licence is temporarily extended to use with any other equipment until the failure has been remedied provided that the other equipment is under your direct control (except where such change of equipment is under our direct control when carried out as part of Hardware Support Services). You will promptly notify us of the commencement and cessation of any such temporary use. The use of the Licensed Program Materials on and in conjunction with such temporary equipment is at your sole risk and responsibility and you indemnify us against any loss or damage we sustain or incur as a result. Without prejudice to the generality of the foregoing we do not (unless otherwise agreed by us in writing) have any liability under clause 6 of Section 1 in connection with such use.

2.3   You acknowledge that you are licensed to use the Licensed Program Materials only in accordance with the express terms of the licence set out in this Section 3 and not further or otherwise.

2.4   We are entitled to check your use of the Licensed Program Materials at all reasonable times and you irrevocably license us and our employees to enter any premises occupied by you for this purpose.

3   Copying

3.1   You may make such additional copies of the Licensed Program Materials as are reasonably necessary for operational security and use with the platform specified in the Quotation but for no other purpose.

3.2   You will reproduce and include all our copyright notices and other legends both in and on every copy of the Licensed Program Materials in any form which you make.

3.3   You will maintain a full and accurate record of any copying by you of the Licensed Program Materials and will produce this record to us at any time on request.

4   Termination

4.1   In addition to termination under clause 13 of Section 1, if you notify us in writing that you will permanently discontinue the use of any part of the Licensed Program Materials, then without prejudice to any existing rights that we may have, this licence will terminate in relation to that part.

4.2   Immediately upon termination of this licence (or termination of this licence in relation to any part of the Licensed Program Materials) you will return to us the relevant Licensed Program Materials and all copies of the relevant Licensed Program Materials or, if requested by us, destroy them and certify in writing to us that they have been destroyed.

Business Relationship

SECTION 4 – SOFTWARE MAINTENANCE SERVICES

1   Supply of Maintenance Services

1.1   Where we agree to provide any of the software maintenance services referred to in this Section (**"Software Maintenance Services"**) the relevant Software Maintenance Service will be as described below and will be subject to the terms of this Section 4 and Section 1 of this document and are only available during the Hours of Cover.

1.2   Software Maintenance Services for particular software listed in the Quotation commence on the date specified in the Quotation or if not specified on delivery of that software to you and may be terminated by either of us giving not less than 6 months' notice to the other expiring on any anniversary of the date of commencement of the Software Maintenance Services.

1.3   If Customer has entered into an Equipment Lease Agreement, unless otherwise agreed, any Software Maintenance Services relating to the Hardware provided under the Equipment Lease Agreement shall automatically terminate on termination of the Equipment Lease Agreement.

1.4   The supply of Software Maintenance Services is dependent on the availability of the remote diagnostic facilities referred to in clause 5.1(f) of Section 1.

1.5   Any on-site systems work which is required to implement Software Maintenance Services, or any systems work which is required due to equipment configuration changes, will be charged at our standard scale of charges in force from time to time.

1.6   Throughout the continuance of the Software Maintenance Services for any software you will not request, permit or authorise anyone other than us (or a third party with whom we contract on your behalf) to provide any software maintenance services in respect of that software.

1.7   We may make an additional charge in accordance with our standard scale of charges in force from time to time for any service provided by us:-

(a)   at your request but which do not qualify under the Software Maintenance Service concerned; or

(b)   at your request but which we find are unnecessary and were otherwise avoidable.

1.8   We are not obliged to provide Software Maintenance Services in respect of any of the exclusions referred to in clauses 2.2(c) and 1.9 below.

1.9   You must have purchased the appropriate licences from us for the software covered by the applicable Software Maintenance Services.

2   Datasym Limited Software Maintenance Services

2.1   Help Desk

Your personnel are entitled to assistance from us by telephone in:-

(a)   addressing questions relating to the operation of Datasym Limited Software and/or Bespoke Software to the extent that the relevant user documentation or on-line help files do not provide an adequate solution; and

(b)   obtaining existing fixes from us in relation to known errors in Datasym Limited Software (but excluding, for the avoidance of doubt, the reporting of undiagnosed errors in the Datasym Limited Software, which must be reported under the procedure set out in clause 2.2 below).

The hours of cover for the Helpdesk will be 08.30 to 17.30, Monday to Friday excluding Bank Holidays and the service is outlined in the Helpdesk and Hardware Maintenance Service Description Document.

2.2   Error Correction Service

(a)   If you discover that any part of Datasym Limited Software (which for the purposes of this clause 2.2 includes Bespoke Software) fails to fulfil any part of the Functional Specification relating to it and, within 7 days after the date of such discovery, advise us (during the Hours of Cover) of the failure in question and provide us with such information, data and other materials as we may reasonably require in order successfully to replicate the failure, we will use our reasonable endeavours to correct the failure as promptly as practicable and in any event we will start the work necessary to identify the cause of the failure by the same time on the next working day. This correction may include (without limitation) a software update or a reasonable and practical alternative such as a temporary correction or workaround or method of temporarily circumventing the problem or the provision of modified or replacement Datasym Limited Software.

(b)   When we complete the correction we will deliver the corrected version of Datasym Limited Software to you for loading onto the relevant hardware, tell you the nature of the correction and provide you with instructions for the proper use of the corrected version of Datasym Limited Software.

(c)   The error correction service does not include service required because of any failure of Datasym Limited Software resulting from:

(i)   any modification of Datasym Limited Software made by any person other than us or any failure by you to perform your contractual obligations to us; or

(ii)   incorrect use of Datasym Limited Software, operator error or your fault or negligence; or

(iii)   any fault or incorrect use of the equipment or the operating system software or any other programs used by you in conjunction with Datasym Limited Software or the non-compliance of either the equipment or the operating system software with their respective specifications.

(d)   We will use our reasonable endeavours promptly to modify or replace Datasym Limited Software so

that it conforms to any change in legislation or new legal requirements, provided that work required for such changes and the delivery and installation of the modified or replacement Datasym Limited Software will be charged by us in accordance with our standard scale of charges in force from time to time.

(e) Error correction services to recover or reconstruct any computer records or information or any application or operating system software corrupted or lost as a result of any defect or malfunction in any software are not part of the Software Maintenance Services and shall be carried out at rates to be agreed with Customer.

(f) Software Maintenance Services do not include the provision to your personnel of training in the use of the Datasym Limited Software, except for Datasym Limited's standard training provided on the introduction of new modules or versions of the software which is available for a period of 30 days following installation of such new modules and versions.

2.3 New Release Service

(a) We shall make available for download via our website any new release of the Datasym Limited (subject to paragraph (d) below) which, from time to time, we make generally available to our licensees and you shall be responsible for using the new release subject to the provisions of this clause 2.3.

(b) If requested by you, we will provide training for your staff in the use of the new release at a time to be agreed between us at our standard scale of charges from time to time in force.

(c) Within 10 days after the date on which we deliver a new release to you, you will destroy, or return to us, the superseded version together with all copies of it. After that date we are not obliged to provide Help Desk or Error Correction Services in respect of the superseded version.

(d) For the avoidance of doubt, the New Releases service does not necessarily include the provision of additional or enhanced functionality to the Datasym Limited Software.

3   Maintenance Charges

3.1 The initial price payable by you for the Software Maintenance Services is specified in a Quotation, subject to adjustment as set out in this clause 3 (the "**Maintenance Charge**") is as specified in the Quotation and is payable by you to us as specified in the Quotation or if not specified annually in advance.

3.2 We may increase the Maintenance Charge at any time by giving you not less than 3 months' notice of such increase and provided further that the Maintenance Charge may be increased no more frequently than once in any 12 month period and will be subject to an increase at the Retail Price Index rate prevailing at the time of such increase.

3.3 The Maintenance Charge may also be increased, by agreement with you, to reflect any changes that we make to Datasym Limited Software at your request.

3.4 Where new sites and licences are added to the agreement, Datasym will raise an invoice for the support and maintenance charges from the Ist of the moth following installation until next anniversary date of the agreement.

3.5 In respect of each part of Datasym Limited Software and/or Third Party Software the first Maintenance Charge is payable on the date of delivery to Your Premises or as specified in the Quotation.

Business Relationship

SECTION 5 – HARDWARE SUPPORT SERVICES

1 Hardware Support Services

1.1   In this Section 5 "**Estates Schedule**" means the document agreed between us from time to time entitled "Estates Schedule" which lists details of the items of Hardware at each of Your Premises in respect of which we are to provide you with Hardware Support Services under this Agreement.

1.2   In respect of the Hardware referred to in the Estates Schedule we agree to provide you with such support services ("**Hardware Support Services**") as are set out in the Quotation and detailed in the Helpdesk and Hardware Maintenance Service Description Document, all on the terms and conditions set out in this Section 5 and in Section 1 of this document.

2 Corrective Maintenance

2.1   If, during the Hours of Cover, you report a problem via our helpline which relates to the Hardware and you provide all information reasonably available to you relating to the problem and perform the diagnostic tests that we request you to perform then:

(a)   we will allocate a unique log number to the call and will investigate the defect or malfunction in the manner agreed with you and use our reasonable endeavours to resolve the problem. We will ensure that, if necessary, an engineer (who may be a representative of the supplier of the goods or a third party service provider) attends at Your Premises within a reasonable time after you report the problem;

(b)   our engineer will use reasonable endeavours to make such repairs and adjustments to and replace such parts of the Hardware as may be necessary to restore the Hardware to its proper operating condition;

(c)   all defective parts permanently removed by us become our property and their replacements become your property;

(d)   we may, at our sole option, replace the whole or any part of the Hardware (either permanently or temporarily) which we find to be faulty or in need of investigation. We may at our discretion temporarily provide a similar unit rather than an exact replacement in substitution for any part of the Hardware that has failed or is malfunctioning.

3 Your Responsibilities

3.1   You will:

(a)   maintain in good condition the accommodation of the Hardware, the cables and fittings associated with it and the electricity supply to it and advise us in writing of any addition or modification to the Hardware;

(b)   use reasonable endeavours to ensure that the external surfaces of the Hardware are kept clean and in good condition;

(c)   except as referred to above, not attempt to adjust, repair or maintain the Hardware and will not request, permit or authorise anyone other than us to carry out any adjustments, repairs or maintenance of the Hardware;

(d)   use on the Hardware only such Consumables which meet the manufacturer's standard technical specification as advised to you or as are in accordance with good computing practice;

(e)   notify us in writing of any change to the location of the Hardware. You will at all times use standard engineering practice to ensure the safe removal and movement of the Hardware;

(f)   use in conjunction with the Hardware only accessories, attachments and additional hardware that are generally accepted in the trade as being compatible with the Hardware;

(g)   provide us with full safe access to the Hardware for the performance of our obligations together with reasonably adequate working space surrounding the Hardware;

(h)   make available to us such programs including releases and updates, operating manuals and information as may be necessary to enable us to perform our obligations under this Section 5. In addition, if we request, you will provide staff familiar with your programs and operations, who co-operate fully with our personnel in the diagnosis of any malfunction of the Hardware including the performance of such tests as our personnel may reasonably require;

(i)   ensure that the service requested relates to the Hardware covered by Hardware Support Services. If a service call is made relating to hardware not covered by Hardware Support Services or no fault is found with the Hardware, we reserve the right to charge for any such call-out in accordance with our standard scale of charges in force from time to time.

4 Exclusions to Hardware Support Services

4.1   Our obligation to provide Hardware Support Services does not apply where:

(a)   modifications to the Hardware have been made without notification to us;

(b)   the Hardware has been used outside the manufacturer's specifications;

(c)   you have not notified us of any defect within a reasonable time of it coming to your knowledge;

(d)   the fault has occurred through electrical work external to the Hardware.

4.2   For the avoidance of doubt the Hardware Support Services also do not include service required because of any failure, defect or malfunction arising from:

(a)   you failing to comply with any literature, instructions or recommendations supplied or given

Business Relationship

to you by us or failing to perform any of your obligations under your Contract with us, operator error or your fault or negligence;

(b) neglect, misuse or abuse of or wilful or accidental damage to the Hardware by you, your employees, agents, contractors or sub-contractors or customers;

(c) any failure, fluctuation, intermittent operation or inadequacy of electrical power or air conditioning or dust, humidity or other environmental controls not in accordance with the manufacturer's specifications and tolerances;

(d) the repair of damage resulting from transportation or relocation of Hardware not performed by us or on behalf of us;

(e) the operation of any computer program, Datasym Limited Software or Third Party Software that is not the subject of maintenance and/or support services under any other Contract with us. For the avoidance of doubt this includes data corruption as a result of the failure of disk drives unless otherwise stated in the Estates Schedule;

(f) you failing to take all reasonable steps to preserve and protect the Hardware and, in particular, to replenish all cleaning fluids, materials and aids used or provided to keep the Hardware clean and in good working order and to follow good practice in matters of house keeping;

(g) work you request for re-arrangement including without limitation providing additional wiring, moving cabling, relocating Hardware or repairing a previously prepared site to make it operational;

(h) refurbishment or repair of the Hardware casing;

(i) adding or removing accessories, attachments or other devices;

(j) the replacement of CRT tubes for monitors where their failure is not possible to repair;

(k) consumable items or such other items whose serviceable lives are defined by the original manufacturer of the Hardware by reference to the volume or amount of usage and which have exceeded their serviceable life.

4.3   We may make an additional charge in accordance with our standard scale of charges in force from time to time for any service provided by us:-

(a) at your request but which do not qualify under Hardware Support Services; or

(b) at your request but which we find are unnecessary and were otherwise avoidable.

4.4   Except as set out in clause 4.3 above, we have no obligation to provide services in respect of any of the exclusions referred to in clauses 4.1 and 4.2 above or to recover or reconstruct any computer records or information or any application or operating system software corrupted or lost as a result of any defect in or

malfunction of any Hardware or any failure of a computer program or software.

5   Eligibility for Support

5.1   In order for Hardware to be eligible for Hardware Support Services (either before the commencement of such services and before re-commencement following suspension) the Hardware must be unmodified (unless such modifications have been approved by us), properly maintained and operated according to the manufacturer's specification and must be in good operating condition.

5.2   We may, upon the expiry of 6 months' notice from us to you of our intention to do so, withdraw the provision of Hardware Support Services in relation to any item of Hardware:-

(a) where any serviceable part of that item is no longer readily obtainable at a commercially reasonable price from the original manufacturer; or

(b) in respect of which, in our reasonable opinion, the provision of Hardware Maintenance Services is no longer economical.

5.3   Where Customer has entered into an Equipment Lease Agreement, the 6 month notice period referred to in clause 5.2 above shall not commence until after any minimum primary period of hire set out in the Equipment Lease Agreement. We reserve the right to substitute any items of Hardware supplied under an Equipment Lease Agreement that are no longer commercially available at a reasonable price with a suitable alternative.

5.4   If, as a result of its age or the extent to which or manner in which is has been used, any item of Hardware requires a major overhaul in order for it to function properly we may advise you that a major overhaul should be carried out and we may suspend the provision of Hardware Support Services in respect of the item of Hardware concerned until the major overhaul has been carried out at your expense.

6   Charges

6.1   The charges payable by you for the Hardware Support Services, subject to adjustment as set out in this clause 6, are specified in the Quotation.

6.2   Charges contained in the Estates Schedule for Hardware Support Services may be increased by not less than 3 months notice of any such increase and provided also that the charges may be increased no more frequently than once in any 12 month period and will be subject to an increase no greater than the RPI rate prevailing at the time of such increase.

6.3   Charges are invoiced by us as specified in the Quotation or if not specified annually in advance. Any other sums payable by you to us which are not specifically referred to in the Estates Schedule may be invoiced at any time.

6.4   In respect of changes to Hardware Support Services an adjustment charge, as agreed between us and pro rated for the period from the date of the change to the end of the then current payment period, will become due on the date of the change.

Business Relationship

7 **Duration and Termination**

7.1 Hardware Support Services commence on the date specified in the Quotation or if not specified on installation of the Hardware at Your Premises.

7.2 Unless terminated under any other provision of the Contract Hardware Support Services will continue until terminated by at least 3 months' written notice given by either party to the other to expire on any anniversary of the date of commencement of the Hardware Support Services.

7.3 If Customer has entered into an Equipment Lease Agreement, unless otherwise agreed any Hardware Support Services relating to the Equipment Lease Agreement shall automatically terminate on termination of the Equipment Lease Agreement.

Unless the Hardware Support Services are terminated lawfully by you in accordance with clause 13 of Section 1, we are entitled in respect of each Service so terminated to all fees and charges paid or owing for that Service.

Business Relationship

DATASYM LIMITED TERMS AND CONDITIONS

SECTION 6 – DATA MANAGEMENT SERVICES

1   General

1.1   In this section of the terms and conditions, unless the context otherwise requires:

(a)   **"Commencement Date"** means the date specified in the Quotation relating to the relevant DATA MANAGEMENT.   Service or the date of the Contract;

(b)   **"DATA MANAGEMENT Documentation"** means the Datasym Limited service description documentation relating to the DATA MANAGEMENT Services;

(c)   **"DATA MANAGEMENT Services"** means the services provided   by the Head Offices Services Team as detailed in   the DATA MANAGEMENT Services Documentation;

(d)   **"Initial Term"** means the Initial Term for the DATA MANAGEMENT Services as set out in the Quotation or if   not specified 5 years;

(e)   **"Term"** means the Term specified in the
          Quotation.

1.2   DATA MANAGEMENT Services will be subject to the terms of this Section 7 and Section 1 of this document.

2   Term and Termination

4   DATA MANAGEMENT Charges

4.1   The charges payable by you for the DATA MANAGEMENT Services, subject to adjustment as set out in this clause 4, are specified in the Quotation.

4.2   DATA MANAGEMENT Charges may be increased by not less than three months' notice of any such increase and provided also that the charges may be increased no more frequently that once in a twelve month period and will be subject to an increase not greater than the RPI rate prevailing at the time of such increase.

4.3   DATA MANAGEMENT Charges are invoiced by us as specified in the Quotation or if not specified, quarterly in advance. Any other sums payable by you to us which are not   specifically   included   within   the   DATA MANAGEMENT Services may be invoiced at any time.   All sums are payable 30 days after date of invoice.

4.4   In respect of any changes to DATA MANAGEMENT Services an adjustment charge as agreed between us and pro rated for the period from the date of the change to the end of the then current payment period, will become due on the date of the change.

5.   Allergen Data

5.1   Datasym provides data bureau services as outlined in the Data Management document.

5.2   Datasym will employ reasonable endeavors when processing data bureau requests and standard disclaimers are applicable to all data bureau work.

5.3   The client is responsible for ensuring that all data bureau work is accurate prior to utilising data in a live operating environment.

5.4   Allergen data bureau work is undertaken on the basis that the data is being processed as if Datasym is an extension of the client's own resources.

5.5   Datasym standard testing processes will be employed however both the content and the accuracy is entirely the client's sole responsibility.

5.6   Datasym will not accept any responsibility for allergen data content or accuracy. In the event that the client does not accept this term for all Allergen data or a particular data project, which must be identified by the client before any activity on a tranch of data, the client must undertake this element of data bureau work themselves.

5.6   Data bureau work that includes requests for allergen data will not be scheduled until the |Datasym Allergen Data Bureau Policy document is returned signed by an authorized signatory and is returned to Datasym.

2.1   DATA MANAGEMENT Services shall commence on the Commencement Date for the Term and shall automatically renew annually on the anniversary of the Commencement Date unless terminated by either of us on or after the Initial Term and not giving less that six months' notice to the other to expire on any anniversary of the Commencement Date.

2.2   Immediately upon termination of the DATA MANAGEMENT Services or any part you will return to us all materials relating to the DATA

Business Relationship

MANAGEMENT Services or if requested by us, destroy them and certify in writing to us that they have been destroyed.

3   DATA MANAGEMENT Services

3.1   We shall provide DATA MANAGEMENT Services as detailed in the DATA MANAGEMENT Documentation.

3.2   We shall provide the DATA MANAGEMENT Services during the Hours of Cover.

3.3   You are responsible for providing us with all necessary data and information in accordance with agreed timescales as we may reasonably request in order to provide the DATA MANAGEMENT Services.

Business Relationship

DATASYM LIMITED TERMS AND CONDITIONS

SECTION 7 SAAS SERVICES

All contracts that Datasym may enter into from time to time for the provision of the SAAS Hosted and related services shall be governed by this Section 8 and Section 1 of these Terms and Conditions and Datasym will ask the Customer for the Customer's express written acceptance of these Terms and Conditions before providing any such services to the Customer.

1. **Definitions**

1.1 Except to the extent expressly provided otherwise, in these Terms and Conditions:

"**Account**" means an account enabling a person to access and use the Hosted Services, including both administrator accounts and user accounts;

"**Agreement**" means a contract between the parties incorporating these Terms and Conditions, and any amendments to that contract from time to time;

"**Business Day**" means any weekday other than a bank or public holiday in [England];

"**Business Hours**" means the hours of 09:00 to 17:00 GMT/BST on a Business Day;

"**Charges**" means the following amounts:

(a)   the amounts specified in Section 3 of the Services Order Form;

(b)   such amounts as may be agreed in writing by the parties from time to time; and

(c)   amounts calculated by multiplying Datasym's standard time-based charging rates (as notified by Datasym to the Customer before the date of the Agreement) by the time spent by Datasym's personnel performing activities not included in the supply or support agreement for the service;

"**Customer**" means the person or entity identified as such in Section 1 of the Services Order Form;

"**Customer Confidential Information**" means:

(a)   any information disclosed by or on behalf of]the Customer to Datasym during the Term / at any time before the termination of the Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure:

(i)   was marked as "confidential"; or

(ii)   should have been reasonably understood by Datasym to be confidential;

(b)   Other data specified by the customer as confidential.

"**Customer Data**" means all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to Datasym for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Hosted Services by the Customer;

"**Deposit**" means the initial payment for supply of the SAAS product.

"**Documentation**" means the documentation for the Hosted Services produced by Datasym and delivered or made available by Datasym to the Customer;

"**Effective Date**" means the date upon which the parties execute a hard-copy Services Order Form; or, following the Customer completing and submitting the online Services Order Form published by Datasym on Datasym's website, the date upon which Datasym sends to the Customer an order confirmation;

"**Hardware**"   means all physical equipment provided to the Customer as part of the SAAS product.

"**Hosted Services**" means Datasym's Hosted Services Specification which will be made available by Datasym to the Customer as a service via the internet in accordance with these Terms and Conditions;

"**Hosted Services Defect**" means a defect, error or bug in the Platform having an adverse effect / a material adverse effect on the appearance, operation, functionality or performance of the Hosted Services, but excluding any defect, error or bug caused by or arising as a result of:

(a)   any act or omission of the Customer;

(b)   any use of the Platform or Hosted Services contrary to the Documentation, whether by the Customer or by any person authorised by the Customer;

(c)   a failure of the Customer to perform or observe any of its obligations in the Agreement; and/or

(d)   an incompatibility between the Platform or Hosted Services and any other system, network, application, program, hardware or software not specified as compatible in the Hosted Services Specification;

"**Hosted Services Specification**" means the specification for the Platform and Hosted Services set out in Section 2 of the Services Order Form and in the Documentation;

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"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"**Maintenance Services**" means the general maintenance of the Platform and Hosted Services, and the application of Updates and Upgrades;

"**Mobile App**" means Datasym mobile application that is made available by Datasym through the *Google Play Store* and/or the *Apple App Store*;

"**Permitted Purpose**" means the *purpose or purposes* set out in the product description;

"**Personal Data**" has the meaning given to it in the Data Protection Act 1998;

"**Platform**" means the platform managed by Datasym and used by Datasym to provide the Hosted Services, including the application and database software for the Hosted Services, the system and server software used to provide the Hosted Services, and the computer hardware on which that application, database, system and server software is installed;

"**SAAS**" means "Solution as a Service". The solution may include a combination of Software, Hardware and Maintenance and Support Services.

"**Services**" means any services that Datasym provides to the Customer, or has an obligation to provide to the Customer, under these Terms and Conditions;

"**Services Order Form**" means an online order form published by Datasym and completed and submitted by the Customer, or a hard-copy order form signed or otherwise agreed by or on behalf of each party, in each case incorporating these Terms and Conditions by reference;

"**Support Services**" means support in relation to [the use of, and the identification and resolution of errors in, the Hosted Services, but shall not include the provision of training services;

"**Supported Web Browser**" means the current release from time to time of Microsoft Internet Explorer, Mozilla Firefox, Google Chrome or Apple Safari, or any other web browser that Datasym agrees in writing shall be supported;

"**Term**" means the term of the Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"**Terms and Conditions**" means all the documentation containing the provisions of the Agreement, namely the Services Order Form, the main body of these Terms and Conditions and Schedule 1 (Acceptable Use Policy), including any amendments to that documentation from time to time;

"**Update**" means a hotfix, patch or minor version update to any Platform software; and

"**Upgrade**" means a major version upgrade of any Platform software.

2. **Term**

2.1 The Agreement shall come into force upon the Effective Date.

2.2 The Agreement shall continue in force indefinitely, and is subject to the minimum term set out on the Services order form or other schedule associated with this agreement.

2.3 Unless the parties expressly agree otherwise in writing, each Services Order Form shall create a distinct contract under these Terms and Conditions.

3 **Hosted Services**

3.1 Datasym shall ensure that the Platform will, on the Effective Date, automatically generate an Account for the Customer and provide to the Customer login details for that Account. Datasym shall create an Account for the Customer and shall provide to the Customer login details for that Account on or promptly following the Effective Date.

3.2 Datasym hereby grants to the Customer a [worldwide, non-exclusive] licence to use the Hosted Services[by means of [a Supported Web Browser]][for [the internal business purposes of the Customer]][in accordance with the Documentation] during the Term.

3.3 The licence granted by Datasym to the Customer under Clause 3.2 is subject to the following limitations:

(a) the Hosted Services may only be used by the officers, employees, agents and subcontractors of the Customer;

(b) [the Hosted Services may only be used by the named users identified in [the Services Order Form / [*identify document*]], providing that the Customer may change, add or remove a designated named user in accordance with [the procedure set out therein]; and]

(c) [the Hosted Services must not be used at any point in time by more than the number of concurrent users specified in [the Services Order Form / [*identify document*]], providing that the Customer may add or remove concurrent user licences in accordance with [the procedure set out therein].]

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3.4 Except to the extent expressly permitted in these Terms and Conditions or required by law on a non-excludable basis, the licence granted by Datasym to the Customer under Clause 3.2 is subject to the following prohibitions:

(a) the Customer must not sub-license its right to access and use the Hosted Services;

(b) the Customer must not permit any unauthorised person to access or use the Hosted Services;

(c) the Customer must not use the Hosted Services to provide services to third parties;

(d) the Customer must not republish or redistribute any content or material from the Hosted Services; and

(e) the Customer must not make any alteration to the Platform, except as permitted by the Documentation.

3.5 The Customer shall use reasonable endeavours, including reasonable security measures relating to administrator Account access details, to ensure that no unauthorised person may gain access to the Hosted Services using an[administrator] Account.

3.6 Datasym shall use reasonable endeavours to maintain the availability of the Hosted Services to the Customer at the gateway between the public internet and the network of the hosting services but does not guarantee 100% availability.

3.7 For the avoidance of doubt, downtime caused directly or indirectly by any of the following shall not be considered a breach of the Agreement:

(a) a Force Majeure Event;

(b) a fault or failure of the internet or any public telecommunications network;

(c) a fault or failure of the Customer's computer systems or networks;

(d) any breach by the Customer of the

Agreement; or

(e) scheduled maintenance carried out in accordance with the Agreement.

3.8 The Customer must comply with Schedule 1 (Acceptable Use Policy), and must ensure that all persons using the Hosted Services with the authority of the Customer or by means of an[administrator] Account comply with Schedule 1 (Acceptable Use Policy).

3.9 The Customer must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.

3.10 The Customer must not use the Hosted Services:

(a) in any way that is unlawful, illegal, fraudulent or harmful; or

(b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

3.11 For the avoidance of doubt, the Customer has no right to access the software code including object code, intermediate code and source code of the Platform, either during or after the Term.

3.12 Datasym may suspend the provision of the Hosted Services if any amount due to be paid by the Customer to Datasym under the Agreement is overdue, and Datasym has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Hosted Services on this basis.

4. Maintenance Services

4.1 Datasym shall provide the Maintenance Services to the Customer during the Term.

4.2 Datasym shall where practicable give to the Customer, at least 10 Business Days' prior written notice of scheduled Maintenance Services that are likely to affect the availability of the Hosted Services or are likely to have a material negative impact upon the Hosted Services, without prejudice to Datasym's other notice obligations under this main body of these Terms and Conditions.

4.3 Datasym shall give to the Customer [at least 10 Business Days'] prior written notice of the application of an Upgrade to the Platform.

4.4 Datasym shall give to the Customer written notice of the application of any security Update to the Platform and [at least 10 Business Days] prior written notice of the application of any non-security Update to the Platform.

4.5 Datasym shall provide the Maintenance Services with reasonable skill and care in accordance with the standards of skill and care reasonably expected from a leading service in Datasym's industry.

4.6 Datasym may suspend the provision of the Maintenance Services if any amount due to be paid by the Customer to Datasym under the Agreement is overdue, and Datasym has given to the Customer at least [10 days'] written notice, following the amount becoming overdue, of its intention to suspend the Maintenance Services on this basis.

5   Hardware provided under SAAS

5.1 Where we supply you with Hardware under the SAAS Contract, title to each item of Hardware remains with Datasym. In the event that the schedule of payments under the agreement are not met or in the event of cancellation of the contract, you will hold it on our behalf (without prejudice to your obligation to pay for it) and permit us to recover possession of it and enter upon any premises occupied by you for that purpose, .without notice.

5.2 In the event that Datasym exercises its rights under Clause 5.1, Datasym will provide the customer, not less than 48 hours notice of its intention to recover the Hardware, in the event that access is not provided at the

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notified date and time, Datasym will raise additional charges, at there standard day rates, for the additional time required to recover the hardware.

5.3 Title to or ownership of Datasym Limited Software, Bespoke Software and Third Party Software remains with Datasym.

5.4 Risk in each item of Datasym Limited Software, Bespoke Software, Third Party Software, Hardware and Consumables passes to you on its delivery to you. Accordingly, you are responsible for insuring these items with a reputable insurance company against loss or damage, for the full cost of their replacement, with effect from delivery.

5.5 Where a business changes its name and ownership of the business remains the same, Datasym will at its discretion, permit the change of registration of the licence provided that details of the new entity are provided on official documentation and must include, company name, address, company registration number and VAT number, if applicable. For the avoidance of doubt, a change of ownership is deemed to have taken place if the original majority shareholder has less than 50% of the new entity shareholding.

5.6 You will:

(a) maintain in good condition the accommodation of the Hardware, the cables and fittings associated with it and the electricity supply to it and advise us in writing of any addition or modification to the Hardware;

(b) use reasonable endeavours to ensure that the external surfaces of the Hardware are kept clean and in good condition;

(c) except as referred to above, not attempt to adjust, repair or maintain the Hardware and will not request, permit or authorise anyone other than us to carry out any adjustments, repairs or maintenance of the Hardware;

(d) use on the Hardware only such Consumables which meet the manufacturer's standard technical specification as advised to you or as are in accordance with good computing practice;

(e) notify us in writing of any change to the location of the Hardware. You will at all times use standard engineering practice to ensure the safe removal and movement of the Hardware;

(f) use in conjunction with the Hardware only accessories, attachments and additional hardware that are generally accepted in the trade as being compatible with the Hardware;

(g) provide us with full safe access to the Hardware for the performance of our obligations together with reasonably adequate working space surrounding the Hardware;

(h) make available to us such programs including releases and updates, operating manuals and information as may be necessary to enable us to perform our obligations under this Section 5. In addition, if we request, you will provide staff

familiar with your programs and operations, who co-operate fully with our personnel in the diagnosis of any malfunction of the Hardware including the performance of such tests as our personnel may reasonably require;

(i) ensure that the service requested relates to the Hardware covered by Hardware Support Services. If a service call is made relating to hardware not covered by Hardware Support Services , no fault is found with the Hardware, or where there is malicious damage and/or misuse of the equipment we reserve the right to charge for any such call-out in accordance with our standard scale of charges in force from time to time.

(j) Equipment must be returned, at the end of the contract or following default of payment, in a fully operational condition allowing for reasonable fair wear and tear during normal operation.

6.   Support Services

6.1 Datasym shall provide the Support Services to the Customer during the Term.

6.2 Datasym shall make available to the Customer a helpdesk in accordance with the provisions of this main body of these Terms and Conditions.

6.3 Datasym shall provide the Support Services [with reasonable skill and care / in accordance with the standards of skill and care reasonably expected from a leading service Datasym in Datasym's industry.

6.4 The Customer may use the helpdesk for the purposes of requesting and, where applicable, receiving the Support Services; and the Customer must not use the helpdesk for any other purpose.

6.5 Datasym shall respond promptly to all requests for Support Services made by the Customer through the helpdesk.

6.6 Datasym may suspend the provision of the Support Services if any amount due to be paid by the Customer to Datasym under the Agreement is overdue, and Datasym has given to the Customer at least [30 days'] written notice, following the amount becoming overdue, of its intention to suspend the Support Services on this basis.

7.   Customer Data

7.1 The Customer hereby grants to Datasym a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of Datasym's obligations and the exercise of Datasym's rights under the Agreement[, together with the right to sub-license these rights to its hosting, connectivity and telecommunications service Datasyms to the extent reasonably required for the performance of Datasym's obligations and the exercise of Datasym's rights under the Agreement.

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7.2 The Customer warrants to Datasym that the Customer Data / the use of the Customer Data by Datasym in accordance with the Agreement will not:

(a) breach the provisions of any law, statute or regulation;

(b) infringe the Intellectual Property Rights or other legal rights of any person; or

(c) give rise to any cause of action against Datasym,

in each case in any jurisdiction and under any applicable law.

7.3 Datasym shall create a back-up copy of [the Customer Data], shall ensure that each such copy is sufficient to enable Datasym to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days].

7.4 [Within the period of 1 Business Day following receipt of a written request from the Customer], Datasym shall use reasonable endeavours to restore to the Platform the Customer Data stored in any back-up copy created and stored by Datasym in accordance with Clause 6.3. The Customer acknowledges that this process will overwrite the Customer Data stored on the Platform prior to the restoration.

8. No assignment of Intellectual Property Rights

8.1 Nothing in the Agreement shall operate to assign or transfer any Intellectual Property Rights from Datasym to the Customer, or from the Customer to Datasym.

9. Charges

9.1 The Customer shall pay the Charges to Datasym in accordance with these Terms and Conditions.

9.2 If the Charges are based in whole or part upon the time spent by Datasym performing the Services, Datasym must obtain the Customer's written consent before performing Services that result in any estimate of time-based Charges given to the Customer being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Customer agrees otherwise in writing, the Customer shall not be liable to pay to Datasym any Charges in respect of Services performed in breach of this Clause 9.2.

9.3 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Customer to Datasym.

9.4 Datasym may elect to vary [any element of the Charges] by giving to the Customer not less than [30 days'] written notice of the variation following

the initial term set out in the Service Order Form or alternative Schedule associated with this agreement

10. Payments

10.1 Datasym shall issue invoices for the Charges to the Customer on or after the invoicing dates set out in Section 3 of the Services Order Form.

10.2 The Customer must pay the initial deposit to Datasym within the period of [10 days] following the issue of an invoice in accordance with this Clause 10 providing that the Charges must in all cases be paid before the commencement of the period to which they relate.

10.3 The initial deposit will be an amount equivalent to a total of six months of charges set out in Section 3 of the Services Order Form.

!0.4 The deposit amount may be credited against the final six months of payments due after cancellation of the agreement by the Customer subject to the expiry of the initial term .

10.5 The initial deposit payment must be paid by Bank Transfer, Cheque or Credit or Debit Card.

10.6 The Customer must pay the Scheduled Charges by, direct debit,

10.7 If the Customer does not pay any amount properly due to Datasym under these Terms and Conditions, Datasym may:

(a) charge the Customer interest on the overdue amount at the rate of [8% per annum above the Bank of England base rate from time to time] (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or

(b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

(C) in the event that the customer fails to make payment on the due date, the customer has 10 working days to make payment to Datasym. In the event that the Customer fails to make payment, all product supplied under this agreement must be returned immediately and Datasym will exercise it rights under clause 5.1 of this section 7. In addition, maintenance and support service will be suspended after 10 working days of failure to complete a scheduled payment.

11. Datasym's confidentiality obligations

11.1 Datasym must:

(a) keep the Customer Confidential Information strictly confidential;

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(b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent;

(c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as Datasym uses to protect Datasym's own confidential information of a similar nature, being at least a reasonable degree of care;

(d) act in good faith at all times in relation to the Customer Confidential Information; and

(e) not use any of the Customer Confidential Information for any purpose other than the Permitted Purpose.

11.2 Notwithstanding Clause 11.1, Datasym may disclose the Customer Confidential Information to Datasym's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Customer Confidential Information for the performance of their work with respect to the Permitted Purpose and who are bound by a written agreement or professional obligation to protect the confidentiality of the Customer Confidential Information.

11.3 This Clause 11 imposes no obligations upon Datasym with respect to Customer Confidential Information that:

(a) is known to Datasym before disclosure under these Terms and Conditions and is not subject to any other obligation of confidentiality;

(b) is or becomes publicly known through no act or default of Datasym; or

(c) is obtained by Datasym from a third party in circumstances where Datasym has no reason to believe that there has been a breach of an obligation of confidentiality.

11.4 The restrictions in this Clause 11 do not apply to the extent that any Customer Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of Datasym on any recognised stock exchange.

11.5 The provisions of this Clause 11 shall continue in force for a period of 2 years following the termination of the Agreement, at the end of which period they will cease to have effect.

12. Data protection

12.1 The Customer warrants to Datasym that it has the legal right to disclose all Personal Data that it does in fact disclose to Datasym under or in connection with these Terms and Conditions, and that the processing of that Personal Data by Datasym for the Permitted Purpose in accordance with these Terms and Conditions will not breach any applicable data protection or data privacy laws (including the Data Protection Act 1998).

12.2 To the extent that Datasym processes Personal Data disclosed by the Customer, Datasym warrants that:

(a) it will act only on instructions from the Customer in relation to the processing of that Personal Data;

(b) it has in place appropriate security measures both technical and organisational against unlawful or unauthorised processing of that Personal Data and against loss or corruption of that Personal Data; and

(c) it will not transfer or permit the transfer of that Personal Data outside the EEA without the prior written consent of the Customer.

13. Warranties

13.1 Datasym warrants to the Customer that:

(a) Datasym has the legal right and authority to enter into the Agreement and to perform its obligations under these Terms and Conditions;

(b) Datasym will comply with all applicable legal and regulatory requirements applying to the exercise of Datasym's rights and the fulfilment of Datasym's obligations under these Terms and Conditions; and

(c) Datasym has or has access to all necessary know-how, expertise and experience to perform its obligations under these Terms and Conditions.

13.2 Datasym warrants to the Customer that:

(a) the Platform will be free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs; and

(b) the Platform will incorporate security features reflecting the requirements of good industry practice.

13.3 Datasym warrants to the Customer that the Hosted Services, when used by the Customer in accordance with these Terms and Conditions, will not breach any laws, statutes or regulations applicable under English law.

13.4 Datasym warrants to the Customer that the Hosted Services, when used by the Customer in accordance with these Terms and Conditions, will not infringe the Intellectual Property Rights of any person in any jurisdiction and under any applicable law.

13.5 If Datasym reasonably determines, or any third party alleges, that the use of the Hosted Services by the Customer in accordance with these Terms and Conditions infringes any person's Intellectual

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Property Rights, Datasym may at its own cost and expense:

(a)   modify the Hosted Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or

(b)   procure for the Customer the right to use the Hosted Services in accordance with these Terms and Conditions.

13.6   The Customer warrants to Datasym that it has the legal right and authority to enter into the Agreement and to perform its obligations under the Agreement.

13.7   All of the parties' warranties and representations in respect of the subject matter of the Agreement are expressly set out in these Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.

14.   Acknowledgements and warranty limitations

14.1   The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of these Terms and Conditions, Datasym gives no warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.

14.2   The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of these Terms and Conditions, Datasym gives no warranty or representation that the Hosted Services will be entirely secure.

14.3   The Customer acknowledges that the Hosted Services are designed to be compatible only with that software and those systems specified as compatible in the Hosted Services Specification; and Datasym does not warrant or represent that the Hosted Services will be compatible with any other software or systems.

14.4   The Customer acknowledges that Datasym will not provide any legal, financial, accountancy or taxation advice under these Terms and Conditions or in relation to the Hosted Services; and, except to the extent expressly provided otherwise in these Terms and Conditions, Datasym does not warrant or represent that the Hosted Services or the use of the Hosted Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.

15.   Limitations and exclusions of liability

15.1   Nothing in the Agreement will:

(a)   limit or exclude any liability for death or personal injury resulting from negligence;

(b)   limit or exclude any liability for fraud or fraudulent misrepresentation;

(c)   limit any liabilities in any way that is not permitted under applicable law; or

(d)   exclude any liabilities that may not be excluded under applicable law.

15.2   The limitations and exclusions of liability set out in this Clause 15 and elsewhere in the Agreement:

(a)   are subject to Clause 15.1; and

(b)   govern all liabilities arising under the Agreement or relating to the subject matter of the Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in the Agreement.

15.3   [Neither party shall be liable to the other party / Datasym shall not be liable to the Customer / The Customer shall not be liable to Datasym] in respect of any losses arising out of a Force Majeure Event.

15.4   [Neither party shall be liable to the other party / Datasym shall not be liable to the Customer / The Customer shall not be liable to Datasym] in respect of any loss of profits or anticipated savings.

15.5   [Neither party shall be liable to the other party / Datasym shall not be liable to the Customer / The Customer shall not be liable to Datasym] in respect of any loss of revenue or income.

15.6   [Neither party shall be liable to the other party / Datasym shall not be liable to the Customer / The Customer shall not be liable to Datasym] in respect of any loss of use or production.

15.7   [Neither party shall be liable to the other party / Datasym shall not be liable to the Customer / The Customer shall not be liable to Datasym] in respect of any loss of business, contracts or opportunities.

15.8   [Neither party shall be liable to the other party / Datasym shall not be liable to the Customer / The Customer shall not be liable to Datasym] in respect of any loss or corruption of any data, database or software[; providing that this Clause 15.8 shall not protect Datasym unless Datasym has fully complied with its obligations under Clause 6.3 and Clause 6.4].

15.9   [Neither party shall be liable to the other party / Datasym shall not be liable to the Customer / The Customer shall not be liable to Datasym] in respect of any special, indirect or consequential loss or damage.

15.10   The liability of [each party to the other party / Datasym to the Customer / the Customer to Datasym] under the Agreement in respect of any event or series of related events shall not exceed the greater of:

(a)   [*amount*; and]

(b)   [the total amount paid and payable by the Customer to Datasym under the Agreement in the 12 month period

preceding the commencement of the event or events.]

15.11 The aggregate liability of [each party to the other party / Datasym to the Customer / the Customer to Datasym] under the Agreement shall not exceed the greater of:

(a) [*amount*; and]

(b) [the total amount paid and payable by the Customer to Datasym under the Agreement.]

16. Force Majeure Event

16.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Agreement[(other than any obligation to make a payment)], that obligation will be suspended for the duration of the Force Majeure Event.

16.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Agreement, must:

(a) promptly notify the other; and

(b) inform the other of the period for which it is estimated that such failure or delay will continue.

16.3 A party whose performance of its obligations under the Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

17. Termination

17.1 Either party may terminate the Agreement by giving to the other party [at least 180 days'] written notice of termination, following the initial term identified on the Service Order form or other schedule associated with this agreement.

17.2 Either party may terminate the Agreement immediately by giving written notice of termination to the other party if the other party commits a material breach of these Terms and Conditions.

17.3 Either party may terminate the Agreement immediately by giving written notice of termination to the other party if:

(a) the other party:

(i) is dissolved;

(ii) ceases to conduct all (or substantially all) of its business;

(iii) is or becomes unable to pay its debts as they fall due;

(iv) is or becomes insolvent or is declared insolvent; or

(v) convenes a meeting or makes or proposes to make any

arrangement or composition with its creditors;

(b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up[(other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement)];

(d) [if that other party is an individual:

(i) that other party dies;

(ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or

(iii) that other party is the subject of a bankruptcy petition or order].

18. Effects of termination

18.1 Upon the termination of the Agreement, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 3.11, 7, 10.2, 10.4, 11, 15, 18, 21 and 22.

18.2 The termination of the Agreement shall not affect the accrued rights of either party.

18.3 Within [30 days] following the termination of the Agreement for any reason:

(a) the Customer must pay to Datasym any Charges in respect of Services provided to the Customer before the termination of the Agreement; and

(b) Datasym must refund to the Customer any Charges paid by the Customer to Datasym in respect of Services that were to be provided to the Customer after the termination of the Agreement,

without prejudice to the parties' other legal rights.

19. Notices

19.1 Any notice from one party to the other party under these Terms and Conditions must be given by one of the following methods (using the relevant contact details set out in Section 4 of the Services Order Form and Clause 19.2):

(a) [delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery;]

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(b)   [sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting; or]

(c)   [*add additional list items as necessary*,]

providing that if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

19.2   Datasym's contact details for notices under this Clause 19 are as follows: [*contact details*].

19.3   The addressee and contact details set out in Section 4 of the Services Order Form and Clause 19.2 may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 19.

20.   Subcontracting

20.1   Datasym must not subcontract any of its obligations under the Agreement without the prior written consent of the Customer[, providing that the Customer must not unreasonably withhold or delay the giving of such consent].

OR

20.1   Datasym may subcontract any of its obligations under the Agreement[, providing that Datasym must give to the Customer, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question].

20.2   Datasym shall remain responsible to the Customer for the performance of any subcontracted obligations.

20.3   Notwithstanding any other provision of these Terms and Conditions, the Customer acknowledges and agrees that Datasym may subcontract [to any reputable third party hosting business the hosting of the Platform and the provision of services in relation to the support and maintenance of elements of the Platform].

21.   General

21.1   No breach of any provision of the Agreement shall be waived except with the express written consent of the party not in breach.

21.2   If any provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

21.3   The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

21.4   The Customer hereby agrees that Datasym may assign Datasym's contractual rights and obligations under the Agreement to [any successor to all or a substantial part of the business of Datasym from time to time / any third party]. The Customer must not without the prior written consent of Datasym assign, transfer or otherwise deal with any of the Customer's contractual rights or obligations under the Agreement.

21.5   The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.

21.6   Subject to Clause 15.1, a Services Order Form, together with these Terms and Conditions and any Schedules, shall constitute the entire agreement between the parties in relation to the subject matter of that Services Order Form, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

21.7   The Agreement shall be governed by and construed in accordance with [English law].

21.8   The courts of [England] shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

22   Site visits during Pandemics

22.1   Datasym will adopt all reasonable endeavors to ensure staff are provided with appropriate Personal Protective Equipment(PPE) when attending a customer site and as far as is practical adopt current Government guidelines for the particular infection disease that is prevalent at the time of the site visit.

22.2   The customer should advise Datasym of any particular controls and procedures that are applicable to the customer site, at least 7 working days in advance of the visit.

22.3   The customer agrees to provide a working environment which complies with the current Government guidelines for working in the customer's industry.

23.   Interpretation

23.1   In these Terms and Conditions, a reference to a statute or statutory provision includes a reference to:

(a)   that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b)   any subordinate legislation made under that statute or statutory provision.

23.2   The Clause headings do not affect the interpretation of these Terms and Conditions.

23.3   In these Terms and Conditions, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

Business Relationship

Schedule 1 (Acceptable Use Policy)

1.   Introduction

1.1   This acceptable use policy (the "**Policy**") sets out the rules governing:

   (a)   the use of the website at [*URL*], any successor website, and the services available on that website or any successor website (the "**Services**"); and

   (b)   the transmission, storage and processing of content by you, or by any person on your behalf, using the Services ("**Content**").

1.2   References in this Policy to "you" are to [any customer for the Services and any individual user of the Services] (and "your" should be construed accordingly); and references in this Policy to "us" are to identify *Datasym* and "we" and "our" should be construed accordingly.

1.3   By using the Services, you agree to the rules set out in this Policy.

1.4   We will ask for your express agreement to the terms of this Policy before you upload or submit any Content or otherwise use the Services.

1.5   You must be at least 18 years of age to use the Services; and by using the Services or by agreeing to this Policy, you warrant and represent to us that you are at least 18years of age.

2.   General usage rules

2.1   You must not use the Services in any way that causes, or may cause, damage to the Services or impairment of the availability or accessibility of the Services.

2.2   You must not use the Services:

   (a)   in any way that is unlawful, illegal, fraudulent or harmful; or

   (b)   in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

2.3   You must ensure that all Content complies with the provisions of this Policy.

3.   Unlawful Content

3.1   Content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person in each case in any jurisdiction and under any applicable law.

3.2   Content, and the use of Content by us in any manner licensed or otherwise authorised by you, must not:

   (a)   be libellous or maliciously false;

   (b)   be obscene or indecent;

   (c)   infringe any copyright, moral right, database right, trade mark right, design right, right in passing off, or other intellectual property right;

   (d)   infringe any right of confidence, right of privacy or right under data protection legislation;

   (e)   constitute negligent advice or contain any negligent statement;

   (f)   constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;

   (g)   be in contempt of any court, or in breach of any court order;

   (h)   constitute a breach of racial or religious hatred or discrimination legislation;

   (i)   be blasphemous;

   (j)   constitute a breach of official secrets legislation; or

   (k)   constitute a breach of any contractual obligation owed to any person.

3.3   You must ensure that Content is not and has never been the subject of any threatened or actual legal proceedings or other similar complaint.

4.   Graphic material

4.1   Content must be appropriate for all persons who have access to or are likely to access the Content in question

4.2   Content must not depict violence in an explicit, graphic or gratuitous manner.

4.3   Content must not be pornographic or sexually explicit.

5.   Factual accuracy

5.1   Content must not be untrue, false, inaccurate or misleading.

5.2   Statements of fact contained in Content and relating to persons legal or natural must be true; and statements of opinion contained in Content and relating to persons (legal or natural) must be reasonable, be honestly held and indicate the basis of the opinion.

6.   Negligent advice

6.1   Content must not consist of or contain any legal, financial, investment, taxation, accountancy, medical or other professional advice, and you must not use the Services to provide any legal, financial, investment, taxation, accountancy, medical or other professional advisory services.

6.2   Content must not consist of or contain any advice, instructions or other information that may be acted upon and could, if acted upon, cause death, illness

Business Relationship

or personal injury, damage to property, or any other loss or damage.

7. Etiquette

7.1 Content must be appropriate, civil and tasteful, and accord with generally accepted standards of etiquette and behaviour on the internet.

7.2 Content must not be offensive, deceptive, threatening, abusive, harassing, menacing, hateful, discriminatory or inflammatory.

7.3 Content must not be liable to cause annoyance, inconvenience or needless anxiety.

7.4 You must not use the Services to send any hostile communication or any communication intended to insult, including such communications directed at a particular person or group of people.

7.5 You must not use the Services for the purpose of deliberately upsetting or offending others.

7.6 You must not unnecessarily flood the Services with material relating to a particular subject or subject area, whether alone or in conjunction with others.

7.7 You must ensure that Content does not duplicate other content available through the Services.

7.8 You must ensure that Content is appropriately categorised.

7.9 You should use appropriate and informative titles for all Content.

7.10 You must at all times be courteous and polite to other users of the Services.

8. Marketing and spam

8.1 You must not, without our written permission, use the Services for any purpose relating to the marketing, advertising, promotion, sale or supply of any product, service or commercial offering.

8.2 Content must not constitute or contain spam, and you must not use the Services to store or transmit spam - which for these purposes shall include all unlawful marketing communications and unsolicited commercial communications.

8.3 You must not send any spam or other marketing communications to any person using any email address, or other contact details, made available through the Services or that you find using the Services.

8.4 You must not use the Services to promote or operate any chain letters, Ponzi schemes, pyramid schemes, matrix programs, "get rich quick" schemes or similar letters, schemes or programs.

9. Gambling

9.1 You must not use the Services for any purpose relating to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.

10. Monitoring

10.1 You acknowledge that we may actively monitor the Content and the use of the Services.

11. Data mining

11.1 You must not conduct any systematic or automated data scraping, data mining, data extraction or data harvesting, or other systematic or automated data collection activity, by means of or in relation to the Services.

12. Hyperlinks

12.1 You must not link to any material using or by means of the Services that would, if it were made available through the Services, breach the provisions of this Policy.

13. Harmful software

13.1 The Content must not contain or consist of, and you must not promote or distribute by means of the Services, any viruses, worms, spyware, adware or other harmful or malicious software, programs, routines, applications or technologies.

13.2 The Content must not contain or consist of, and you must not promote or distribute by means of the Services, any software, programs, routines, applications or technologies that will or may have a material negative effect upon the performance of a computer or introduce material security risks to a computer.

DATASYM TERMS AND CONDITIONS

SECTION 8 – SOFTWARE DISTRIBUTION

Business Relationship

GENERAL

A.   Datasym is engaged in creating, developing and/or marketing the software identified in Schedule 2, including any documentation and manuals (the "Software").

B.   The Customer is engaged in the business of selling, marketing, distributing and supporting software and hardware as specified in Schedule 2 (the "Equipment") and wishes to acquire from Datasym the right to license or sub-license the Software as part of or incorporated into the Equipment.

C.   Datasym proposes extending the market for the Software by granting to The Customer the right for The Customer to license, sub-license, market, distribute and support the same in the "Territory" (as set out in Schedule 2) in accordance with the terms and subject to the conditions herein contained.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1.   Grant

Datasym hereby grants to The Customer and The Customer hereby accepts a non-exclusive right to sub-license the Software in the Territory and generally to license, sub-license, market, distribute and support the Software in the Territory for use as part of or integrated into the Equipment during the continuance of this Agreement.

2.   Term

This Agreement shall take effect on "the Commencement Date" set out in Schedule 2

notwithstanding the date hereof and shall continue for the "Term", set out in Schedule 2 and from year to year thereafter. The Agreement may only be terminated at the end of the Term or any subsequent anniversary, by either party giving to the other not less than 6 months prior written notice that the Agreement shall expire at the end of the Term, subject always to prior termination as hereinafter specified.

3.   Technical Information

3.1   Datasym shall allow The Customer to access the Software and produce reproducible copies which will include all the information Datasym deems necessary for The Customer to use in marketing, distributing, licensing, sub-licensing and supporting the Software within the Territory.

3.2   Datasym shall keep The Customer informed of any changes, additions or modifications to such information that has an effect on operation, cost or performance of the Software.

3.3   The Customer shall, on all copies made of such information, faithfully reproduce a copyright symbol, legend or clause or as otherwise agreed.

4.   Training

4.1   Datasym will provide the "Initial Training", which will include training and other facilities as set out in Schedule 2 at a place to be agreed by both parties.

4.2   Datasym shall permit a maximum of two persons (unless otherwise agreed by

Datasym) from each category of key demonstrator, technical and sales personnel of The Customer to engage in the Initial Training.

4.3   Datasym shall provide reasonable web based training to The Customer for all enhancements or updates to the Software brought out by Datasym and included in this Agreement.

4.4   The Customer may request Datasym to make available additional training facilities and other facilities at The Customer's expense (the "Additional Training") at the rate set out in Schedule 2.

5.   Commercial and Technical Assistance

In addition to training provided for in Clause 4 above, Datasym undertakes from time to time during the continuance of this Agreement, at the request of The Customer, to render to The Customer adequate commercial and technical assistance in connection with distribution and marketing of the Software. The cost of such assistance will be agreed in advance between the parties.

6.   Ordering of Software

6.1   The Customer agrees to order licence keys from Datasym a licence to activate the software as specified in Schedule 2.

6.2   The Customer may order additional licence keys at any stage.

6.3   Orders shall not be binding on Datasym unless and until accepted by Datasym in writing.

6.4   Datasym will use all reasonable endeavours to fulfil accepted orders for Software but shall not be liable in any way for any loss of trade or profit or any other loss occurring to The Customer in the event of delivery being frustrated or delayed.

7.   Delivery of Software

7.1   Datasym shall supplied a copy of the software which the customer is permitted to reproduce as part of the installation process of the software solution. Following receipt of an order for licence key(s) as outlined in clause 6 of this Section, the application of this licence key will permit the full use of the software.

7.2   In the case of failure of the Back Office Software currently named "Stockade" or the hardware on which it resides, a seven day licence is provided on re-installation to permit minimum disturbance to business. The customer must then request from Datasym a new licence which will, in most circumstances, be provided free of charge.

7.3   If at any time The Customer is in default in the performance or observance of any of its obligations under this Agreement Datasym shall be entitled, for so long as such default continues (but without prejudice to any of its other rights under this Agreement), to withhold delivery of Licence

notwithstanding that orders for Software have been accepted by Datasym.

8. Payment/Pricing

8.1 The Customer shall pay Datasym the Licence Fees as set out in Schedule 2 on the Commencement Date.

8.2 The Customer shall pay Datasym the On-going Support Licence Fee from the Commencement date or the date additional licences are added to the schedule until the next anniversary date.

8.3 The Initial Licence Fee and the On-going Support Licence Fee shall be paid by Bank Transfer by The Customer to the nominated Bank of Datasym.

8.4 The Customer shall bear all costs and expenses of any form of electronic funds transfer or other electronic payment and reporting.

8.5 All payments to be made under this Agreement will be paid in British Pounds Sterling. Where amounts are stated in this Agreement in any other currency such amounts shall be converted into British Pounds Sterling in accordance with the Approved Exchange Rate on the date of payment as set out in this clause.

8.6 The Customer agrees to bear all costs and expenses of currency conversion applicable to all amounts payable to Datasym under this Agreement as will ensure that Datasym receive a net amount free and clear of any such fees or commission or other deductions or withholdings and equal to the full amount which Datasym would otherwise have received as if no such deductions or

withholdings had been required.

8.7 The "Approved Exchange Rate" is the local currency rate quoted for the business day immediately preceding the date of payment as published in the Financial Times on that date. If the Financial Times is not published on that date, then the Approved Exchange Rate shall be the rate quoted in that edition of the Financial Times last published prior to the date of payment.

8.8 If The Customer is required by any relevant laws to make any deduction or withholding on account of taxes or otherwise from any payment payable to Datasym under this Agreement, The Customer shall, together with such payment, pay such additional amount as will ensure that Datasym receive a net amount (free from any deduction or withholding in respect of such additional amount itself) free and clear of any such taxes or other deductions or withholdings and equal to the full amount which Datasym would otherwise have received as if no such taxes or other deductions or withholdings had been required. Datasym may, where appropriate, provide an invoice to The Customer for value added tax or any other taxes, deductions or withholdings that were

deducted or withheld from any payment made to Datasym under this Agreement, which invoice The Customer must promptly pay.

8.9 Datasym reserves the right to charge interest at the rate of 4% above HSBC Bank base rate on any outstanding sums until such sums have been paid.

8.10 In the event of non-payment, Datasym shall have the right to revoke The Customer's Licence and its authority to license and sub-license. If requested, The Customer will provide confirmation that The Customer has deactivated the Software of all end users to whom the Software has been sub-licensed ("the End Users") and provide details of those End Users to Datasym.

8.11 Datasym may repossess any copies of the Software for which payment has not been received by Datasym and any documentation, data, records or information relating thereto. For such purpose Datasym or any one or more of its agents or authorised representatives shall be entitled at any time and without notice to enter upon any premises in which the same are or are reasonably believed by Datasym, to be kept, stored or used and The Customer hereby appoints Datasym (or Datasym's representative at Datasyms election) as its authorised representative for such purpose in relation to any End User.

8.12 Notwithstanding the foregoing, Datasym may, in its sole discretion, invoice any End-User directly for any Licence Fee or any On-going Support Licence Fee payable in respect of Software supplied by or on behalf of The Customer if The Customer has failed to collect such monies from the End-User or is otherwise in default of this Agreement.

9. Licence to End-Users

The Customer shall ensure that prior to delivery of the Software to an End-User, such End-User enters into the software licence agreement accompanying each copy of the Software, which incorporates the terms and conditions contained in Schedule 4 hereto as the same may be amended from time to time by or with the prior written consent of Datasym.

10. Licence to Distributor

10.1 This Agreement shall operate as a licence for The Customer to use the Software on the Equipment for demonstration, testing, support and such other purposes directly connected with this Agreement. This right shall subsist for so long as this Agreement remains in effect or until or unless otherwise revoked.

10.2 The Customer shall not modify, amend, add to or in any way alter any Software, with the exception of Product Branding of the software, supplied to it under this Agreement without Datasym's prior written consent.

10.3 The Customer is supplied with the software and is permitted to market the product with

Business Relationship

its own branding (White Labelled) or use Datasym Branding.

10.4 The Customer must not alter Datasym Branding or logos in any way, without the written permission of Datasym.

11. Enhancements and Modifications

Datasym will notify The Customer of any enhancement or modification to the Software which affects its operation, performance or cost. Datasym reserves the right to introduce any substitute software which will fulfil the same function as that which it replaces.

12. Software Support

12.1 Datasym shall provide The Customer with the following support service:-

12.1.1 A designated support service which will use its reasonable efforts to answer questions or assist The Customer in correcting repeated errors that are reproducible; and

12.1.2 A technical support service which will use its reasonable efforts to correct errors in the Software within a commercially reasonable time after notification.

12.2 During the continuance of the agreement Datasym shall maintain an efficient and effective call control facility to deal with fault calls relating to the Software and an efficient and effective support staff, to respond properly to such calls. This facility shall apply to The Customer only.

12.3 Datasym shall provide additional back-up support for The Customer when reasonably required and upon the terms agreed in advance by the parties.

12.4 Without prejudice to the generality of The Customer's obligations as expressed in (a) above The Customer shall provide all such End Users with the following support services:

12.4.1 proper training for the End Users' operators in the use of the Software;

12.4.2 prompt receipt, analysis and reporting of reported faults in the operation of the Software;

12.4.3 Technical information and advice on the use of the Software.

13. Undertakings by The Customer

The Customer undertakes and agrees with Datasym that it will at all times during the continuance in force of this Agreement and where applicable, following termination hereof observe and perform the terms and conditions set out in this Agreement and in particular:

13.1 shall use at all times its reasonable endeavours to promote and extend the market for the Software to all potential licensees in the Territory and work diligently to obtain orders therefore;

13.2 shall at its own expense provide advertising and publicity for the Software as extensive as the advertising and publicity provided by The Customer for other goods of similar type to the Software which it distributes;

13.3 shall not incur any liability on behalf of Datasym or in any way pledge or purport to pledge Datasym's credit or purport to make any contract binding upon Datasym;

13.4 shall not alter, obscure, remove, conceal or otherwise interfere with any eye-readable or machine-readable marking on the Software or its packaging which refers to Datasym as author or developer of the Software or otherwise refers to Datasym's copyright or other intellectual property rights in the Software except as provided for in Clause 10 of the Section;

13.5 shall permit any duly authorised representative of Datasym upon reasonable prior notice to enter into any of its premises where any Software or any materials relating thereto are stored for the purpose of ascertaining that the provisions of this Agreement are being complied with by The Customer;

13.6 shall immediately bring to the attention of Datasym any improper or wrongful use of Datasym's trade marks, emblems, designs, models or other similar industrial, intellectual or commercial property rights which come to the notice of The Customer and will in the performance of its duties under this Agreement use every effort to safeguard the property rights and interests of Datasym and will at the request and cost of Datasym take all steps required by Datasym to defend such rights;

13.7 shall promptly bring to the attention of Datasym any information received by The Customer which is likely to be of interest, use or benefit to Datasym in relation to the marketing and/or support of the Software;

13.8 shall keep full, proper and up to date records showing clearly all enquiries, transactions, proceedings and fault calls relating to the Software and its distributorship generally and will allow a duly authorised representative of Datasym to have access to the said records and take such copies thereof as such representative may require;

13.9 shall from time to time on request by Datasym, supply to Datasym reports, returns and other information relating to The Distribution of the software.

13.10 shall under no circumstances permit the Software to be sub-licensed independently or as stand alone Software and shall in all circumstances only sub-licences the Software as part of or integrated into the Equipment supplied or otherwise licensed by The Customer.

14. Warranty

14.1 Datasym does not warrant or represent that the Software will be error-free but if any

Business Relationship

copy of the Software is demonstrated to Datasym within ninety (90) days from the date of delivery to The Customer to contain an error or malfunction, or is otherwise substantially inconsistent with the documentation accompanying the Software, Datasym will use all reasonable endeavours to correct such error or malfunction or (at its option) replace such copy of the Software free of charge PROVIDED THAT:

14.1.1 the Software has been used at all times properly and in accordance with instructions for use; and

14.1.2 no alteration, modification or addition has been made to the Software without Datasym's prior written consent; and

14.1.3 the alleged error, malfunction or inconsistency has been notified to Datasym within the warranty period specified above.

14.2 Each claim of The Customer under this warranty shall be sent in writing, by post or by fax, to Datasym specifying the nature of the alleged error or malfunction. Upon receipt of such written claim, Datasym or its agent or representative shall have the right to test or to inspect the Software at its then location or to have the Software despatched to a point designated by Datasym (if applicable) or returned to Datasym. Software replaced or corrected under warranty shall be sent by Datasym to The Customer carriage pre-paid or via any other method agreed by the parties in advance.

14.3 Except as otherwise provided in this Clause, Datasym makes no other representations or warranties with respect to the Software.

14.4 Although Datasym does not warrant that the Software supplied hereunder shall be free from all known viruses it has used commercially reasonable efforts to check for the most commonly known viruses but The Customer is solely responsible for virus scanning the Software.

14.5 Datasym warrants that any disabling devices in the Software will only be used in relation to The Customer in the event that The Customer is in breach of this Agreement in accordance with the provisions of Clause 18 below; and in relation to any End User, in accordance with the terms of the software licence agreement between The Customer and the End User contained in Schedule 4 of this Agreement.

15. **Liability**

15.1 Except to the extent that by statute liability may not lawfully be excluded in an Agreement of this nature and between the respective parties hereto, any statement, representation, condition, warranty or other term express or implied, statutory or otherwise, as to the quality, merchantability, suitability or fitness for any particular purpose of the Software is hereby excluded and Datasym shall not be liable to The Customer or to any other persons by reason thereof or any duty, statutory or otherwise, for any loss or damage (whether direct or consequential) arising directly or indirectly in connection with the Software or any modification, variation or enhancement thereof, or any documentation, manual or training relating thereto.

15.2 The Customer hereby undertakes to take out and maintain adequate insurance cover with a reputable insurance company approved by Datasym against any liability which The Customer or Datasym may incur to an End User or to any other person in connection with the Software or support thereof. The Customer shall upon request produce to Datasym the policy of such insurance, the premium receipt and insurance certificate.

16. **Copyright, Patents, Trade Marks and Other Intellectual Property Rights**

16.1 The Customer acknowledges that any and all of the copyright, trade marks and other intellectual property rights subsisting in or used in connection with the Software including all documentation and manuals relating thereto are and shall remain the property of Datasym and The Customer shall not during or at any time after the expiry or termination of this Agreement in any way question or dispute the ownership thereof by Datasym.

16.2 The Customer also acknowledges that such copyright, trade marks and other rights belonging to Datasym or the Licensor may only be used by The Customer with the consent of Datasym and during this Agreement. Upon expiry or termination hereof The Customer shall forthwith discontinue such use, without any right of compensation for such discontinuation, provided however that The Customer may continue to use any trade marks relating to the Software and support for a period following expiry or termination hereof for the purpose and to the extent only of continuing the support of the Software required to be provided by The Customer hereunder unless Datasym shall advise The Customer that such right has been revoked.

16.3 The Customer shall not during or after the expiry or termination of this Agreement, without the prior written consent of Datasym, use or adopt any name, trade name, trading style or commercial designation that includes or is similar to or may be mistaken for the whole or any part of any trade mark, trade name, trading style or commercial designation used by Datasym or Licensor.

17. **Confidential Information**

Datasym has imparted and may from time to time impart to The Customer certain confidential information relating to the Software, successor or enhanced software or other Supplier software or marketing or support thereof (including specifications therefore) and The Customer may otherwise obtain confidential information concerning the business and affairs of Datasym pursuant to this Agreement. The Customer hereby agrees that it will use such

Business Relationship

confidential information solely for the purposes of this Agreement and that it shall not disclose, whether directly or indirectly, to any third-party such information other than as required to carry out the purposes of this Agreement. In the event of and prior to such disclosure, The Customer will obtain from such third parties duly binding agreements to maintain in confidence the information to be disclosed to the same extent at least as The Customer is so bound hereunder.

The Customer further agrees that upon expiry or termination of this Agreement it shall not itself or through any subsidiary or agent or otherwise, sell, license, sub-license, market, distribute or otherwise deal with any of the Software (in whole or in part) except to the extent permitted by the applicable law or develop any software or have any software developed through use of any confidential information supplied to it by Datasym, or in any other way obtained by The Customer pursuant to this Agreement.

The foregoing provisions shall not prevent the disclosure or use by The Customer of any information which is or hereafter, through no fault of The Customer, becomes public knowledge or to the extent permitted by law.

18. Termination or Expiry

18.1 Notwithstanding any provisions herein contained this Agreement may be terminated forthwith by either party by notice in writing from the party not at fault if any of the following events shall occur,

18.1.1 if the other party shall at any time be in default under this Agreement and shall fail to remedy such default (if capable of remedy) within thirty (30) days from receipt of notice in writing from the first party specifying such default;

18.1.2 if the other party shall commit any act of bankruptcy, shall have a receiving order made against it, shall make or negotiate for any composition or arrangement with or assignment for the benefit of its creditors or if the other party being a body corporate, shall present a petition or have a petition presented by a creditor for its winding up or shall enter into any liquidation (other than for the purpose of reconstruction or amalgamation), shall call any meeting of its creditors, shall have a receiver of all or any of its undertakings or assets appointed, shall be deemed by virtue of the relevant statutory provisions under the applicable law to be unable to pay its debts, or shall cease to carry on business;

18.1.3 if either party is by any cause (other than a cause directly attributable to the other party) prevented from performing its obligations hereunder for a period of three (3) consecutive months or for a total period of six (6) months in any period of twelve (12) consecutive months.

If any such event referred to in this sub-clause shall occur, termination shall become effective forthwith or on the date set forth in such notice.

18.2 The expiry or termination of this Agreement shall be without prejudice to the rights of the parties accrued up to the date of such expiry or termination.

18.3 Upon expiry or termination (for whatever reason) of this Agreement, access to the Portal will be withdrawn and The Customer shall return or destroy or deactivate (as Datasym shall instruct) no later than fourteen (14) days thereafter, all Software, documentation, technical information and any other data supplied to The Customer during the continuance of this Agreement and all and any copies made of the whole or any part of the same and The Customer shall furnish Datasym with a certificate, certifying that the same has been done, except with respect to supporting software, information and data which Datasym deems is necessary to enable The Customer to continue to support the Software beyond the date of expiry or termination where Datasym permits/requires The Customer so to do.

19. Force Majeure

Datasym shall not be under any liability to The Customer or to any other party in any way whatsoever for destruction, damage, delay or any other matters of any nature whatsoever arising out of war, rebellion, civil commotion, strikes, lock-outs or industrial disputes; fire, explosion, earthquake, acts of God, flood, drought or bad weather; the unavailability of deliveries, supplies, software, disks or other media or the requisitioning or other act or order by any government department, council or other constituted body.

20. Changes in The Customer

Unless otherwise agreed between the parties, The Customer shall not, without first advising Datasym, permit or suffer:

20.1 where The Customer is a body corporate:

20.1.1 a controlling interest in The Customer to pass to any person(s) other than those having a controlling interest at the date hereof whether by reason of purchase of shares or otherwise;

20.1.2 a change to take place in the Board of Directors;

20.1.3 The Customer to undergo any reorganisation or have any part of its business transferred to a subsidiary or associated company of The Customer;

20.1.4 the name of The Customer to be changed;

20.2 where The Customer is a partnership:

20.2.1 any change in the partnership name or constitution;

Business Relationship

20.2.2 any partner to retire, resign or otherwise leave the partnership;

20.2.3 any new partner to be added to the partnership.

In each and every such case, Datasym shall have the option to terminate this Agreement without liability before any one or more of the above events shall occur subject to Datasyms right to claim compensation attributable to such enforced termination.

21. Relationship of The Customer to Datasym

It is agreed and understood that The Customer is not the franchisee, agent or representative of Datasym and has no authority or power to bind or contract in the name of or to create any liability against Datasym in any way or for any purpose. It is understood that The Customer is an independent contractor with non-exclusive rights confirmed by this Agreement to license, sub-license, market, distribute and support the Software on its own accord and responsibility in the Territory.

22. Waiver

Failure or neglect by Datasym to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of Datasym's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice Datasym's rights to take subsequent action.

23. Assignment

This Agreement shall not be assigned by The Customer whether voluntarily or involuntarily or by operation of law, in whole or in part, to any party without the prior written consent of Datasym. No such assignment by The Customer howsoever occurring shall relieve The Customer of its obligations hereunder.

24. Notices

Any notice required or permitted under the terms of this Agreement or required by statute, law or regulation shall (unless otherwise provided) be in writing and shall be delivered in person, sent by registered mail or air mail as appropriate, properly posted and fully prepaid in an envelope properly addressed or sent by facsimile to the respective parties as follows:

or to such other address or facsimile number as may from time to time be designated by notice hereunder. Any such notice shall be in the English language and shall be considered to have been given at the time when actually delivered if delivered by hand, or upon the next working day following sending by facsimile or in any other event within 14 days after it was mailed in the manner hereinbefore provided.

25. Data Protection and Personal Data

25.1 For the purposes of this Agreement the terms "Data Controller", "Data Processor", "Data Subject" and "Processing" bear the respective meanings given to them in the Data Protection Act 1998, and "Data Protection Principles" means the eight data

protection principles set out in Schedule 2 to that Act."

25.2 Datasym and Customer acknowledge that for these purposes, Datasym is the Data Controller and the Data Processor in respect of any personal data.

25.3 Datasym will process Personal Data within EU in accordance with the Data Protection Principles but where personal data is transferred outside the EU solely for purposes of support and maintenance and professional services the Customer hereby expressly consents to the Processing of personal data outside the EU and Datasym undertakes to uphold consistent standards in the processing of any personal data in accordance with Data Protection Principles.

26. Entire Agreement and Amendments

This Agreement supersedes any arrangements, understandings, promises or agreements made or existing between the parties hereto prior to or simultaneously with this Agreement and constitutes the entire understanding between the parties hereto. Except as otherwise provided herein, no addition, amendment to or modification of this Agreement shall be effective unless it is in writing and signed by and on behalf of both parties.

27. Headings

The headings of the paragraphs of this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

28. Severability

In the event that any or any part of the terms, conditions or provisions contained in this Agreement shall be determined by any competent authority to be invalid, unlawful or unenforceable to any extent such term, condition or provision shall to that extent be severed from the remaining terms, conditions and provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

29. Dispute Resolution

29.1 Any dispute, controversy or claim arising under, out of or relating to this Agreement and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be London. The language to be used in the mediation shall be English.

29.2 If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 90 days of the commencement of the mediation, it shall, upon the filing of a Request for Expedited Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of 90 days, either party fails to participate or to continue

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to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Expedited Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be London. The language to be used in the arbitral proceedings shall be English. The dispute, controversy or claim referred to arbitration shall be decided in accordance with the laws of England.

29.3 Either party has the right to apply for provisional relief, including pre-arbitral attachments or injunctions as may be reasonably necessary to preserve the rights of either party and for this purpose the Courts of England and Wales shall exclusive jurisdiction.

30. **Law**

The parties hereby agree that this Agreement and the provisions hereof shall be construed in accordance with English Law.

THE FIRST SCHEDULE

The terms set out below and referred to in the Agreement shall have the following meaning:

1. Commencement date shall mean [TBC]

2. Software shall mean

3. Equipment shall mean

4. Territory shall mean United Kingdom, Republic of Ireland and South Africa

5. Term shall mean five years.

Business Relationship

THE SECOND SCHEDULE
as at

Business Relationship

THE THIRD SCHEDULE

Technical Information.

No specific information

Business Relationship

THE FOURTH SCHEDULE

The Software is licensed. It is not sold, even if for convenience we make reference to words such as "sale" or "purchase". All Software is protected by copyrights and other intellectual property rights.

The Customer may make a reasonable number of back-up copies of the Software so long as the Customer does not use such back-up copies for any purpose other than to replace the original copy of the Software provided.

The Customer may not do (or permit others to do) any of the following: (a) modify, adapt, alter, translate, or create derivative works of the Software; (b) reverse engineer, decompile or disassemble the Software, or otherwise attempt to derive the source code of the Software except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation; (c) remove, alter, or obscure any confidentiality or proprietary notices (including copyright and trademark notices) on the Software; (e) use the Software as a tool to create other report distribution applications; (f) circumvent, or provide or use a program intended to circumvent technological measures (such as activation codes) that control installation or use of the Software; (g) use an activation code to install or use copies of the Software in any manner that exceeds the scope of the licence under which the activation code is provided to; or (h) otherwise reproduce or use the Software

The Customer may not break the Software up into components and install the components on separate computers under a given licence.

In the event of non-payment, we shall have the right to revoke the Licence and prevent access to the Software. We shall, or at our election our appointed representative shall, have the right to repossess any copies of the Software for which payment has not been received and any documentation, data, records or information relating thereto. For these purposes we, any one of our agents or authorised representatives shall be entitled at any time and without notice to enter upon any premises in which the same are or are reasonably believed to be kept, stored or used.

Business Relationship

GDPR Policy and Procedure

1.   General Data Protection Regulation

The General Data Protection Regulation (GDPR) came into effect on 25th May 2018, when it replaced the Data Protection Act (1998). Personal information relating to identifiable individuals must be kept accurate and up to date. It must be fairly obtained and securely stored. Personal information may only be disclosed to people who are authorised to use it.

2.   GDPR Principles

The GDPR sets out seven key principles:

1.   Lawfulness, fairness and transparency

For processing of personal data to be lawful, you need to identify specific grounds for the processing. This is called a 'lawful basis' for processing, and there are six options which depend on your purpose and your relationship with the individual. There are also specific additional conditions for processing some especially sensitive types of data:

   a)   Consent

   b)   Contract

   c)   Legal obligation

   d)   Vital tasks

   e)   Public task

   f)   Legitimate interests

Processing of personal data must always be fair as well as lawful. If any aspect of your processing is unfair you will be in breach of this principle – even if you can show that you have a lawful basis for the processing.

In general, fairness means that you should only handle personal data in ways that people would reasonably expect and not use it in ways that have unjustified adverse effects on them. You need to stop and think not just about how you can use personal data, but also about whether you should. Transparency is fundamentally linked to fairness. Transparent processing is about being clear, open and honest with people from the start about who you are, and how and why you use their personal data.

Transparency is always important, but especially in situations where individuals have a choice about whether they wish to enter into a relationship with you. If individuals know at the outset what you will use their information for, they will be able to make an informed decision about whether to enter into a relationship, or perhaps to try to renegotiate the terms of that relationship.

2.

3.   Purpose limitation

This principle is that personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.

4.   Data minimisation

Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (data minimisation).

So you should identify the minimum amount of personal data you need to fulfil your purpose. You should hold that much information, but no more.

5.   Accuracy

Personal data shall be accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.

6.   Storage limitation

Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by the Regulation in order to safeguard the rights and freedoms of the data subject.

So, even if you collect and use personal data fairly and lawfully, you cannot keep it for longer than you actually need it.

7.   Integrity and confidentiality (security)

Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Business Relationship

  8.   *Accountability*

The accountability principle requires you to take responsibility for what you do with personal data and how you comply with the other principles. You must have appropriate measures and records in place to be able to demonstrate your compliance.

Business Relationship

3.

4.   **Rights under the General Data Protection Regulation**

The GDPR provides the following rights for individuals:
1.   The right to be informed – which is addressed in the [ORG] Web site Privacy section

2.   The right of access – also known as a Subject Access request

3.   The right to rectification

4.   The right to erasure – also known as the right to be forgotten

5.   The right to restrict processing

6.   The right to data portability

7.   The right to object

8.   Rights in relation to automated decision making and profiling.

5.   **Organisation responsibilities**

The organisation that is responsible for making decisions on how the data will be handled, in particular with regard to processing or sharing personal data is known as the Data Controller, and organisations who process data on behalf of the Data Controller are Data Processors. Datasym are the Data Controllers for the following information:
- Datasym's employee records
- Business to Business contact details

Datasym are Data Processors for:
- Customers who we are contracted to make data changes on behalf of.
- Customers who we support via remote control sessions and may have access to personal identifiable information.

All requests by individuals to exercise their rights under the GDPR should be addressed to the Data Protection Officer.
Any action required of Datasym in its role as the Data Processor will be under the instructions of the Data Controller.
The right to be informed is addressed in the Privacy Statement on our web site.

Business Relationship

6.

7.   **Recognising a GDPR Request**

A request may be made verbally or in writing. The request will not necessarily include the words General Data Protection Regulation or GDPR but is likely to relate to all or some of the information held by the organisation about the individual.

Clarification of specific information held by us such as confirming the individual's address is not a GDPR request and will be addressed outside this procedure.

Datasym is a Data Processor for some of its clients such as NHS organisations, who retain the role of Data Controllers. The Data Controller is responsible for responding to the GDPR actions or Subject Access Requests (SARs) from its clients, so if we receive requests from patients or service users of these clients, the requester should be advised to contact the Data Controller, the Data Controller should be advised of the request and the request recorded in the GDPR Request log and marked closed.

For the purpose of this document, the person submitting the request will be referred to as the **Data Subject** or **Subject**

8.   **Recording a GDPR Request**

GDPR Requests may be received in a telephone call, by email, letter, verbally (for example, by a member of staff), by social media, or by submission of a Subject Access Request (SAR) form. Every request must be recorded regardless of the form in which it is received.

An Information Request may be received by any member of Datasym staff. But in order to ensure that the request is handled in accordance with the GDPR, every request must be passed to the Data Protection Officer. This includes requests that are initially addressed to the Department which will ultimately respond to them, for example, employee SARs submitted to Human Resources.

The record should include:

- Date/time of request
- Form of request (phone, email, letter etc.)
- Name / contact details of requester
- Details of information or action requested

Confirmation of the request should be confirmed with the requester to ensure that we have understood their request, as this can help avoid later disputes about how we have interpreted the request. It may be necessary for the department handling the request to contact the requester for clarification. Once recorded, the request should be passed promptly to the department that will respond.

The GDPR Record should be monitored by the Data Protection Officer, and anticipated completion updated every 5 days after liaison with the relevant Department. If a request has not been completed within 15 working days, the Data Protection Officer should be advised.

On completion of each request the record will be updated with completion date, together with notes of any actions taken if relevant.

A summary of GDPR requests will be submitted to each *Information Governance Steering Group (IGSG)* meeting.

9.   **Target for responding to a GDPR Requests**

Organisations must respond to all GDPR Requests without undue delay, or at the latest within one month of receipt of the request from the Subject. This is a legal requirement of the General Data Protection Regulation (GDPR).

It may be acceptable to extend the one month period for SARs by a further two months if the request is complex, includes large amounts of data that will take a long time to collate or if the Subject submits multiple requests. In this case the Subject must be informed within a month of the proposed extension. An extension is an exception to the normal target and must be approved by the DPO.

10.   **Subject Access Requests**

If there is any doubt about the identity of the person making the request, we can ask for more information. However, it is important that we only request information that is necessary to confirm who they are. An individual is only entitled to their own personal data, and not to information relating to other people. However, there are exceptions to this, for example if the Subject has assigned authority to a family member or carer. If clarification is needed, refer to the Data Protection Officer.

Preparation of the response should begin as soon as it is received, and should not be delayed until identification is validated.

If the Subject requests specific information, then that information must be provided unless there is a valid reason for withholding it.

If all information held by Datasym on the Subject is requested, then details of all Datasym's records on the Subject should be provided.

In addition to a copy of their personal data, we also have to provide individuals with the following information:

- the purposes of processing;

- the categories of personal data concerned;

- the recipients or categories of recipient Datasym disclose the personal data to;

-

- Datasym's retention period for storing the personal data or, where this is not possible, the criteria for determining how long it will be stored;

- the existence of their right to request rectification, erasure or restriction or to object to such processing;

- the right to lodge a complaint with the ICO or another supervisory authority;

- information about the source of the data, where it was not obtained directly from the individual;

- the existence of automated decision-making (including profiling); and

Business Relationship
- the safeguards we provide if we transfer personal data to a third country or international organisation.

The information provided may be held by Datasym in structured records, hand-written notes, emails, electronic or paper records.
If it is believed that there is a risk that providing any part of the information may cause harm or distress to the Subject or any other individual, then the DPO should be consulted, and they may decide that this information should be withheld. This decision must be recorded.
If we, as a Data Controller have shared information on the Subject with a Data Processor, then it may be necessary to request input for the response from the Data Processor(s).
If the request has been made electronically, it should be provided in a suitable electronic form, such as pdf. The form of response may be discussed with the Data Subject.
Common methods of response may be:
- Email – with pdf attachments
- Electronic – providing the Data Subject with secure self-service access to their records
- Letter – with attachments
- Direct local access – providing the Data Subject with a view of their data, for example staff being shown their records in the office.

If responding to the request would involve disclosure of information about another individual, then unless specific consent for this disclosure has been provided by the other individual, then the DPO should be consulted.
From the time that the request is received, no information may be amended or deleted apart from routine updates. It is not acceptable to amend or delete the data if we would not otherwise have done so. Under the Data Protection Act 2018, it is an offence to make any amendment with the intention of preventing its disclosure.
More information on this subject can be found in the GDPR; Articles 12 and 15, and recitals 63and 64.

11.

12. **Rectification**

The GDPR includes a right for individuals to have inaccurate personal data rectified, or completed if it is incomplete. This request may be made verbally or in writing.
If we receive a request for rectification we should take reasonable steps to satisfy ourselves that the data is accurate and to rectify the data if necessary. We should take into account the arguments and evidence provided by the data subject.
Note that it may be worth considering temporarily restricting processing (see Restrict Processing section below) if the accuracy of the information is being questioned. This may avoid compounding an error.
If a request is made for rectification of a record, then this should be acted upon unless the organisation believes their record is correct, in which case the request should be recorded, and the requester advised of the decision not to change the record.
We should let the individual know if we are satisfied that the personal data is accurate, and tell them that we will not be amending the data. We should explain our decision, and inform them of their right to make a complaint to the ICO or another supervisory authority; and their ability to seek to enforce their rights through a judicial remedy.
If we have disclosed the personal data to others, we must contact each recipient and inform them of the rectification or completion of the personal data - unless this proves impossible or involves disproportionate effort. If asked to, we must also inform the Subject about these recipients.
More information on this subject can be found in the Accuracy principle of the GDPR Article 5(1)(d), and in articles 12, 16 and 19.

13. **Erasure**

This is also known as the right to be forgotten. This right only applies in certain circumstances.
Individuals have the right to have their personal data erased if:
- the personal data is no longer necessary for the purpose for which it was originally collected or processed;

- we are relying on consent as our lawful basis for holding the data, and the individual withdraws their consent;

- we are relying on legitimate interests as our basis for processing, the Subject objects to the processing of their data, and there is no overriding legitimate interest to continue this processing;

- we are processing the personal data for direct marketing purposes and the Subject objects to that processing;

- we have processed the personal data unlawfully (i.e. in breach of the lawfulness requirement of the 1st principle);

- we have to do it to comply with a legal obligation; or

- we have processed the personal data to offer information society services to a child, where consent is used as the lawful ground; consent is only valid if the child is over 16.

If the information has been shared with other organisations, they should be advised of this request, and if the information has been made public in online environments such as social media, forums or websites, then the controllers processing that Data should be advised to erase that information.
The right to erasure does not apply if processing is necessary for one of the following reasons:
- to exercise the right of freedom of expression and information;

- to comply with a legal obligation;

- for the performance of a task carried out in the public interest or in the exercise of official authority;

- for archiving purposes in the public interest, scientific research historical research or statistical purposes where erasure is likely to render impossible or seriously impair the achievement of that processing; or

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- for the establishment, exercise or defence of legal claims.

More information on this subject can be found in the GDPR articles 6, 9, 12, 17 and recitals 65, 66.

14.   Restrict Processing

Individuals have the right to restrict the processing of their personal data where they have a particular reason for wanting the restriction. This may be because they have issues with the content of the information you hold or how we have processed their data. In most cases we will not be required to restrict an individual's personal data indefinitely, but will need to have the restriction in place for a certain period of time.
This is not an absolute right and only applies in certain circumstances.
When processing is restricted, we are permitted to store the personal data, but not use it.
Examples of times when restrictions on processing may be requested include when:

- the individual contests the accuracy of their personal data and we are verifying the accuracy of the data (see Rectification section above);

- the data has been unlawfully processed (i.e. in breach of the lawfulness requirement of the first principle of the GDPR) and the individual opposes erasure and requests restriction instead;

- we no longer need the personal data but the individual needs us to keep it in order to establish, exercise or defend a legal claim; or

- the individual has objected to us processing their data under Article 21(1), and we are considering whether our legitimate grounds override those of the individual. (See objection section below)

Restriction of processing may be managed in a number of ways depending on the location and types of processing used with the information.
Processing is defined in a number of ways including collection, structuring, dissemination and erasure of data.
Methods used to restrict processing may include:

- temporarily moving the data to another processing system;

- making the data unavailable to users; or

- temporarily removing published data from a website.

If the information is a record in a database, technical actions may be needed to restrict processing.
While processing is restricted, we must not process the data in any way except to store it unless:

- we have the individual's consent;

- it is for the establishment, exercise or defence of legal claims;

- it is for the protection of the rights of another person (natural or legal); or

- it is for reasons of important public interest.

If we have disclosed the information to others, we must advise them of the restriction.
If the processing was restricted due to disputed accuracy of the information or an objection to processing, the processing may restart once the situation is resolved. The Data Subject must be advised before restarting processing.
More information on this subject can be found in the GDPR articles 18, 19 and recital 67.

15.   Data Portability

The right to data portability gives individuals the right to receive personal data they have provided to a controller in a structured, commonly used and machine readable format. It also gives them the right to request that a controller transmits this data directly to another controller.
This right only applies when the legal basis for processing the information is consent, or for the performance of a contract, AND the processing is carried out by an automated means (excludes paper files or records).
We may be asked to provide the information to the requester, or to another Data Controller.

The data can be transferred either by directly transmitting it to the individual or alternative Data Controller, or by providing a tool which allows the individual to extract the data themselves. Regardless of the method of transfer, it must use a secure transmission mechanism.
Requests for transmission of data should be addressed on a case by case basis, depending on the location and structure of the data, and the technical structure of the processing systems used by the recipient, however, the data should be accurate and transferred in a format that is:
- structured
- commonly used, and
- machine readable.

More information on this subject can be found in the GDPR articles 13, 20 and recital 68.

16.   Objections

The GDPR gives individuals the right to object to the processing of their personal data. This effectively allows individuals to ask us to stop processing their personal data.
An individual can ask us to stop processing their personal data for direct marketing at any time. This includes any profiling of data that is related to direct marketing. This is an absolute right. If the objection relates solely to direct marketing and we also process their data for other purposes, then there is no need to delete the data.
Individuals can also object if the processing is for:

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- a task carried out in the public interest;

- the exercise of official authority vested in us; or

- our legitimate interests (or those of a third party).

In these circumstances the right to object is not absolute.
Objections should be addressed on a case by case basis.
Note that it may be worth considering temporarily restricting processing (see Restrict Processing section above) while the objection is being considered.
More information on this subject can be found in the GDPR articles 6, 12, 21, 89 and recitals 69, 70.

17.   Automated decision making and profiling

The GDPR describes this subject as –
"Any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements."

More information on this subject can be found in the GDPR articles 4(4), 9, 12, 13, 14, 15, 21, 22, 35(1) and 35(3).

18.   Data Processing Officer

The Data Processing Officer (DPO) for Datasym is Chris Thorne.
The DPO should be advised of all GDPR Requests and consulted in the event that clarification is needed, or if the Department responding to the request believe that the request should not be carried out, or that some information should be withheld from the subject.
The DPO should be advised if the request has not been completed within 15 working days, and by the Department if there is a risk that they may not meet the one month response target.