

Master Service Agreement

This Master Service Agreement (the "**Agreement**") is made and entered into on _____ 20____ (the "**Effective Date**") between:

1. **EFICODE UK LIMITED**, a company registered in England and Wales with company number 5643578, whose registered office is at Unit 15, Chalcroft Business Park, Burnetts Lane, Southampton, SO30 2PA (hereafter "**Eficode UK**"); and
2. _____, a company registered in _____, with company number _____ whose registered office is _____ at _____ (hereafter the "**Client**").

(Individually a "**Party**" and collectively the "**Parties**")

1. This Agreement

- 1.1. Some Services and/or Third Party Software may be subject to additional terms specific to that Service as set forth in the Product Specific Terms found here: <https://www.eficode.com/trust-centre-uk/legal/product-specific-terms>.



By signing this Agreement, Client accepts and agrees to comply with, and be legally bound by the Product-Specific Terms as they are applicable.

2. Definitions

2.1. In this Agreement the following words and phrases shall have the following meanings unless otherwise stated:

“Accepted Industry Standards”

means the use of standards and practices and the exercise of the degree, skill, care, diligence, prudence and foresight which would reasonably be expected from a skilled and experienced person engaged in the provision of similar services under similar conditions;

“Affiliate”

means in relation to any company, that company and every other company which from time to time is a subsidiary or holding company of that company or a subsidiary of any such holding company. The terms “subsidiary” and “holding company” shall have the meanings given to them by section 1159 and schedule 2 of the Companies Act 2006;

“Agreement”

means this Agreement as may be amended from time to time together with any schedules, appendices, or otherwise;



“Applicable Law”

means all statutes, regulations, by-laws, delegated or subordinate legislation, common law and the law of equity, any binding court order, judgement or decree, along with any code of practice, rule, regulation or guidance note issued by a government, statutory, or other regulatory body, which are applicable to the operation of the Contractual Documents;

“Brand Features”

means the name, trading names, brand, logo, trademarks, service marks, domain names or other distinctive features of Eficode UK or the Client;

“Bespoke IP”

means all Intellectual Property in the Deliverables, except for any Intellectual Property in Eficode UK Background Works;

“Charges”

means the charges payable for the Services as specified in each Order or otherwise agreed in writing;

“Client IP”

means all IP owned, developed or licensed by (or on behalf) of Client (including the Bespoke IP), which is provided by (or on behalf of) Client to Eficode UK in connection with the Services;

“Eficode UK Background Works”

means any systems, materials, products, methodologies or other items developed by (or on behalf of) Eficode UK for its



customers generally and not specifically for the provision of the Services to the Client;

“Confidential Information”

means Information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of the party disclosing the information, including, without limitation, the technical data and know-how relating to the business of the disclosing party or any of its suppliers, customers, agents, distributors, shareholders, management or business contacts;

“Contractual Documents”

means collectively this Agreement, the Product-Specific Terms, any applicable Statement of Work or Signed Quotation;

“Data Protection Legislation”

means all Applicable Laws and regulations relating to the processing of Client data and privacy including the General Data Protection Regulation and the UK Data Protection Act 2018 and any applicable enacting, successor, supplementing or amending legislation;

“Deliverables”

means any output of the work to be delivered to the Client according to the Contractual Documents;



“Intellectual Property or “IP”

means patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

“Order”

means a Signed Quotation for the provision of the Services, a signed Statement of Work for provision of the Services, payment of an invoice presented to the Client by Eficode UK for the provision of the Services, or the use by the Client of the Services, whichever is earlier;

“Product-Specific Terms”

means the terms published on the Eficode UK website found here: <https://www.eficode.com/trust-centre-uk/legal/product-specific-terms> and as may be amended from time to time;



"Services"	means the services to be provided by Eficode UK in accordance with the Contractual Documents, including, but not limited to consultancy, training, professional services, managed services, support, hosting and subscription services;
"Signed Quotation"	means a quotation produced by Eficode UK listing the nature of the Services together with the applicable Charges, signed and dated by authorised representatives of both Parties;
"Statement of Work"	means the document detailing the nature of the Services and Deliverables, together with the applicable Charges, as may be executed from time to time between the Client and Eficode UK;
"Term"	means the term of this Agreement or a Statement of Work as the context dictates;
"Third Party Software"	means any software licenced to the Client by a third party, procured by Eficode UK on behalf of the Client;
"Users"	means any employee, representative, consultant, contractor or other party who the Client has granted access to the Services/Deliverables as the context dictates.



3. Interpretation

- 3.1. Unless the context otherwise requires, any reference to the singular will include the plural and vice versa.
- 3.2. Any particular reference to a gender shall include the other gender.
- 3.3. "Includes" or "including" means without limitation.
- 3.4. Headings and titles are inserted for the convenience of the Parties and are not to be considered when interpreting this Agreement.
- 3.5. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 3.6. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 3.7. A reference to writing or written includes email.
- 3.8. A reference to a statute, statutory provision, rule or regulation is a reference to it as amended, extended or re-enacted from time to time.



4. Order of Precedence

4.1. In the event of any conflict or inconsistency between the Contractual Documents, the following order of precedence shall apply:

- a) a Statement of Work or Signed Quotation together with any schedules or appendices thereto;
- b) any applicable Product-Specific Terms;
- c) this Agreement together with any schedules, appendices or any other documentation referred to herein;

5. Overview of structure

5.1. This Agreement establishes the contractual framework for the supply of Services by Eficode UK to the Client and the payment for such Services pursuant to an Order, as may be entered into from time to time between Eficode UK and the Client.

5.2. For the avoidance of doubt, this Agreement does not govern any purchase of Third Party Software, which is subject to, and governed by the [Resale of Third Party Software Terms](https://www.eficode.com/trust-centre-uk/legal/product-specific-terms) as published on the Eficode UK website here: <https://www.eficode.com/trust-centre-uk/legal/product-specific-terms> and as may be amended from time to time.

6. Precedence over standard terms



- 6.1. This Agreement shall apply to the exclusion of, and shall prevail over, any standard terms and conditions contained in or referred to in any documentation submitted by the Client, or in any correspondence or elsewhere or implied by trade custom, practice or any course of dealing.

7. Warranties, Remedies and Disclaimers

- 7.1. Each Party warrants that it has validly entered into this Agreement and has the legal power to do so.
- 7.2. Eficode UK warrants:
- a) to perform the Services and deliver the Deliverables in accordance with the Contractual Documents. Eficode UK shall allocate sufficient resources to enable it to comply with this warranty;
 - b) to the Client that the Services and/or Deliverables will be provided using reasonable skill and care and to Accepted Industry Standards. The foregoing warranty is subject to the Client notifying Eficode UK promptly, and in any event within thirty (30) days of the date of performance of the alleged nonconforming Services, and providing all information and assistance reasonably requested by Eficode UK in connection therewith. Upon receiving such timely notice Eficode UK will use commercially reasonable efforts to re-perform or otherwise remedy the nonconformity at no additional charge to the Client;
 - c) to use reasonable endeavours to meet any performance dates specified in the Contractual Documents but any such dates shall be estimates only and time



for performance by Eficode UK shall not be of the essence unless explicitly specified in the Contractual Documents.

- 7.3. Eficode UK shall have the right to make any changes to the Services, Deliverables and/or Contractual Documents which are necessary to comply with any Applicable Law provided that Eficode UK shall notify the Client promptly in writing in the event of any such changes and should the Client disagree with the changes to be made, the Client shall have the right to terminate the affected Services immediately by serving written notice to Eficode UK and Eficode UK shall refund to the Client any Charges paid in advance, minus Charges accrued up to the date of the notice.
- 7.4. The Client warrants:
- a) to comply with any responsibilities of the Client as set out in the Contractual Documents;
 - b) to provide to Eficode UK in a timely manner access to all information reasonably required by Eficode UK to enable it to comply with its obligations pursuant to the Contractual Documents upon reasonable advance written notice haven been given to the Client;
 - c) to inform Eficode UK in writing of all health and safety and security requirements that apply at the Client's premises prior to any agreed access by Eficode UK;
- 7.5. If Eficode UK's performance of its obligations is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees then, without prejudice to any other right or remedy it may have, Eficode UK shall be permitted an extension of time to perform its obligations equal to the delay caused by the Client and Eficode UK shall not be liable for



any costs or losses sustained or incurred by the Client arising directly or indirectly from Eficode UK's failure or delay to perform any of its obligations as set out in the Contractual Documents.

- 7.6. Except as expressly provided herein, neither Party makes any warranties of any kind, whether express, implied, statutory or otherwise, and each Party specifically disclaims all implied warranties, including any warranties of merchantability or fitness for a particular purpose, to the maximum extent permitted by Applicable Law. It is the responsibility of the Client to ensure the Services and/or Deliverables meet the Client's Requirements. Eficode UK shall not be held liable for any failure to provide any facility or function not specified in the Contractual Documents.

8. Charges

- 8.1. In consideration of the provision of the Services and/or Deliverables by Eficode UK, the Client shall pay the Charges as set out in the Contractual Documents, in accordance with the terms of the Contractual Documents.
- 8.2. Without prejudice to and of the provisions of this Agreement, Eficode UK reserves the right to increase the Charges by giving notice to the Client at any time, to reflect any increase in the cost of the Services and/or Deliverables to Eficode UK that is due to any significant delay caused by any instructions of the Client or failure of the Client to give Eficode UK adequate or accurate information or instructions in respect of the Services and/or Deliverables.

9. Expenses



9.1. Unless otherwise agreed between the Parties, the Charges exclude the following, which shall be payable by the Client:

- a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom Eficode UK engages in connection with the Services; and
- b) the cost to Eficode UK of any materials or services procured by Eficode UK from third parties for the provision of the Services as such items and their cost are agreed between the Parties.

9.2. Each invoice shall, where applicable, include any expenses as a single line item.

10. Invoicing

3.1. Eficode UK shall invoice the Client for the Charges at the intervals specified in the Contractual Documents.

11. Payment Terms

11.1. The Client shall pay each undisputed invoice submitted to it by Eficode UK within thirty (30) days of the date of invoice in full and in cleared funds to a bank account nominated in writing by Eficode UK from time to time. All invoices and payments shall be made in the currency stated on the invoice. The Client shall be responsible for any applicable bank and/or foreign exchange charges.



- 11.2. Any sum payable by the Client under this Agreement which is expressed in Pounds Sterling shall, where applicable (and by mutual written agreement between the parties), be converted into either US Dollars, or Euros, using an independent exchange rate selected by Eficode UK in its sole discretion.
- 11.3. Without prejudice to any other right or remedy that it may have, if the Client fails to pay Eficode UK any sum due under the Contractual Documents on the due date:
- a) the Client shall pay late payment fees equivalent to 2% of the invoice value for each full calendar month the invoice is overdue by. The Client shall pay the late payment fees together with the overdue amount; and
 - b) if applicable, Eficode UK may suspend part or all of the Services until payment has been made in full.
- 11.4. Eficode UK shall have the right to terminate the Services immediately if Client fails to pay any undisputed amounts due in full within thirty (30) days of the due date and fails to remedy such failure within thirty (30) days of receipt of written notice to do so.
- 11.5. All sums payable to Eficode UK under the Contractual Documents:
- a) are exclusive of VAT, and the Client shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
 - b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).



12. Statements of Work/Quotation

12.1. Each Statement of Work/Quotation shall be agreed in the following manner:

- a) the Client shall ask Eficode UK to provide Services and shall provide Eficode UK with as much information as Eficode UK reasonably requests in order to prepare a draft Statement of Work or quotation for the Services as the context dictates;
- b) following receipt of the requested information, Eficode UK shall as soon as is reasonably practicable either inform the Client that it declines to provide the Services (which shall be at Eficode UK's sole discretion) or provide the Client with a draft Statement of Work/Quotation.

12.2. A Statement of Work/Quotation shall not be deemed final until signed by authorised representatives of both Parties and dated.

13. Change Control

13.1. Either Party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a relevant Change Order has been signed by both Parties. A **"Change Order"** shall be a document setting out the proposed changes and the effect that those changes will have on:

- a) the Services;
- b) the Charges;



- c) the timetable for the Services; and
 - d) any other terms
- 13.2. If Eficode UK wishes to make a change to the Services, it shall provide a draft Change Order to the Client.
- 13.3. If the Client wishes to make a change to the Services:
- a) it shall notify Eficode UK and provide as much detail as Eficode UK reasonably requires of the proposed changes, including the timing of the proposed change; and
 - b) Eficode UK shall, as soon as reasonably practicable after receiving the information at clause 13.1 of this Agreement, provide a draft Change Order to the Client.

14. Remedies

- 14.1. If the Services and/or Deliverables are not supplied in accordance with, or Eficode UK fails to comply with, any terms of the Contractual Documents the Client shall be entitled (without prejudice to any other right or remedy under this Agreement or in law) to exercise any one or more of the following rights or remedies:
- a) to refuse to accept the provision of any further Services and acceptance of any further Deliverables. Eficode UK shall refund the Client any Charges paid in advance, minus Charges accrued up to the date this clause is invoked; or



- b) to require Eficode UK, without any additional charge to the Client, to carry out any and all remedial work as necessary to correct its failure.

15. Term

- 15.1. This Agreement commences on the Effective Date and shall continue for a period of three (3) years unless terminated earlier in accordance with this Agreement.

16. Termination

- 16.1. Either Party may terminate the Contractual Documents for cause with immediate effect by giving written notice to the other Party if:
 - a) the other Party commits a material breach of any of the terms of the Contractual Documents, and that breach (if capable of remedy) is not remedied within thirty (30) days after written notice being given requiring it to be remedied; or
 - b) an order is made or a resolution is passed for the winding-up of the other Party or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt; or



- c) the other Party ceases, or threatens to cease, to carry on its business.
- 16.2. Without affecting any other right or remedy available to it, Eficode UK may terminate a Statement of Work/Signed Quotation with immediate effect by giving written notice to the Client if:
- a) pursuant to clause 11.4, if any payment is not made within thirty (30) days of the due date;
 - b) there is a change of Control of the Client.
- 16.3. Either Party may terminate a Statement of Work/Signed Quotation for convenience at any time by giving not less than sixty (60) days' written notice to the other Party.
- 16.4. Either Party may terminate this Agreement for convenience at any time by giving not less than thirty (60) days' written notice to the other Party.

17. Consequences of Termination

- 17.1. On termination or expiry:
- a) the Client shall immediately pay to Eficode UK all of Eficode UKs outstanding unpaid invoices and interest with respect to the terminated or expired Services, and in respect of the Services and/or Deliverables supplied and



expenses incurred but for which no invoice has been submitted, Eficode UK may submit an invoice, which shall be payable immediately on receipt;

- b) In the event that this Agreement and/or a Statement of Work/Signed Quotation is terminated pursuant to clause 16.3 or 16.4 (termination for convenience) by either Party the Client shall receive a refund for any undelivered Services/Deliverables that have been paid for in advance.
 - c) In the event that this Agreement and/or a Statement of Work/Signed Quotation is terminated by Eficode UK pursuant to clause 16.1 or 16.2 the Client shall not be entitled to a refund for any Charges paid in advance, irrespective of whether the Services/Deliverables have been delivered.
 - d) the Client shall, within fourteen (14) days of request by Eficode UK, return all of Eficode UKs equipment. If the Client fails to do so, then Eficode UK may enter the Client's premises and take possession of Eficode UKs equipment. Until Eficode UKs equipment has been returned or repossessed, the Client shall be solely responsible for its safe keeping;
- 17.2. Termination or expiry of the Contractual Documents shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contractual Documents which existed at or before the date of termination or expiry.
- 17.3. Termination of any Statement of Work and/or Signed Quotation shall not automatically affect any other Statement of Work and/or Signed Quotation.



- 17.4. On termination of this Agreement all other existing Contractual Documents shall terminate automatically, unless otherwise agreed in writing between the Parties.

18. Postponement/Cancellation

- 18.1. If the Client postpones the scheduled start date of the Services for any reason, the Client shall be liable to pay the following Charges **"Postponement Charges"** to Eficode UK (and such Charges shall be invoiced by Eficode UK and be payable by the Client):

- a) six (6) to ten (10) working days prior to the scheduled start date of the Services the Client shall be liable to pay to Eficode UK two hundred and fifty pounds (£250.00) for each of the scheduled days that has been postponed, up to a maximum of two thousand five hundred pounds (£2,500.00); or
- b) five (5) or less working days prior to the scheduled start date of the Services the Client shall be liable to pay to Eficode UK four hundred and fifty pounds (£450.00) for each of the scheduled days postponed, up to a maximum of four thousand five hundred pounds (£4,500.00).

- 18.2. If the Client terminates a Statement of Work/Signed Quotation in breach of the Contractual Documents, the Client shall be liable to pay the following Charges **"Cancellation Charges"** to Eficode UK (and such Charges shall be invoiced by Eficode UK and be payable by the Client):

- a) six (6) to ten (10) working days prior to the scheduled start date of the Services the Client shall be liable to pay to Eficode UK fifty percent (50%) of the total Charges payable under the Statement of Work/Signed Quotation; or



- b) three (3) to five (5) working days prior to the scheduled start date of the Services the Client shall be liable to pay to Eficode UK seventy percent (70%) of the total Charges payable under the Statement of Work/Signed Quotation;
or
 - c) two (2) working days or less prior to the scheduled start date of the Services the Client shall be liable to pay to Eficode UK ninety percent (90%) of the total Charges payable under the Statement of Work/Signed Quotation.
- 18.3. The Parties intend by the provisions in this Section 18 to agree in advance to the settlement of damages to Eficode UK that will arise from the Clients postponement or termination in breach of contract. The Parties acknowledge that this Section 18 provides for reasonable liquidated damages, and not a penalty, and bears a reasonable relation to the damages Eficode UK will sustain, which are uncertain and difficult to estimate at this time.

19. Surviving Provision

- 19.1. Any provision contained in the Contractual Documents that expressly or by implication are intended to come into or continue in force on or after termination or expiry of the Contractual Documents shall remain in full force and effect for such period as necessary.

20. Confidentiality

- 20.1. Each Party undertakes that it shall not at any time during this Agreement, and for a period of five (5) years after termination of this Agreement, disclose to any person any Confidential Information, except as permitted by clause 20.2 below.



20.2. Each Party may disclose the other Party's Confidential Information:

- a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with this Agreement. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this Agreement; and
- b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

20.3. No Party shall use the other Party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contractual Documents.

21. Limitation of Liability

21.1. Nothing in the Contractual Documents shall limit or exclude either Party's liability to the other for:

- 1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 2. fraud or fraudulent misrepresentation; or
- 3. any liability which cannot be limited or excluded by Applicable Law.

22. Exclusion of Damages



22.1. Subject to Section 21 neither Party shall have any liability to the other Party, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contractual Documents for:

- a) loss of profits;
- b) loss of products or loss of production;
- c) loss of agreements or contracts; or
- d) any special, indirect or consequential loss or damage, costs or expenses.

23. Liability Cap

23.1. Subject to Sections 21 and 22 each Parties total liability to the other Party, whether in contract, tort (including negligence), for breach of statutory duty, under an indemnity or otherwise for any loss or damage, costs or expenses arising under or in connection with the Services, Deliverables and/or Contractual Documents including any liability for the acts or omissions of its employees, consultants and subcontractors shall in no event exceed in the aggregate the total Charges paid, or payable by the Client to Eficode UK in the 12 months preceding the first incident that occurred whereby liability arose.

24. Data Protection and Data Processing

24.1. Eficode UK is committed to protecting and respecting the Client's and other Users' privacy and to acting in compliance with Data Protection Legislation. Information about how we collect, use, store and otherwise process the Clients personal data and other information can be found in our Privacy Policy



published on the Eficode UK website here: <https://www.eficode.com/trust-centre-uk/privacy/privacy-policy> and as may be amended from time to time.

- 24.2. Where Eficode UK acts as a data processor on the Client's behalf the Client accepts and agrees to be bound by the Data Processing Agreement as found published on the Eficode UK website here: <https://www.eficode.com/trust-centre-uk/privacy/data-processing-agreement> and as may be amended from time to time.

25. Intellectual Property Rights

- 25.1. Subject to Clause 25.2 below (Bespoke IP), each Party will retain ownership of all its Intellectual Property.
- 25.2. Client will own all Bespoke IP created in the course of providing the Services. Eficode UK hereby assigns to Client all Bespoke IP with full title guarantee, which assignment Client accepts.
- 25.3. Licence from Client: Client grants to Eficode UK a non-exclusive, royalty-free, non-assignable and revocable licence to use Client IP solely for the purpose of providing the Services and performing its obligations under the Agreement during the Term.
- 25.4. Licence from Eficode UK: Eficode UK grants to Client (or, where relevant, will ensure the grant of) a worldwide, royalty-free, non-exclusive, perpetual and irrevocable licence to use, copy and modify Eficode UK IP solely as necessary



for Client to perform its obligations under the Agreement and to realise the full benefit of the Services.

- 25.5. Each Party warrants that the receipt and use of the Deliverables, Services and Intellectual property in accordance with the Contractual Documents by the other Party, its agents, subcontractors or consultants shall not infringe any rights of third parties.
- 25.6. Each Party shall keep the other Party, its agents, subcontractors or consultants indemnified in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Party as a result of or in connection with any claim brought against the Party, its agents, subcontractors or consultants by a third party for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use of the Deliverables or Services or Intellectual Property in accordance with the Contractual Documents.
- 25.7. If either Party **"Indemnifying Party"** is required to indemnify the other Party **"Indemnified Party"** under Section 25 of this Agreement, the Indemnified Party shall:
- a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 25.7 above (as applicable) (**"IPRs Claim"**);
 - b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;



- c) provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and
 - d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.
- 25.8. If the Services and/or Deliverables are held or likely to be held infringing, Eficode UK shall have the option, at its expense to (i) replace or modify the Services and/or Deliverables as appropriate, (ii) obtain a license for the Client to continue using the Services and/or Deliverables, (iii) replace the Services and/or Deliverables with a functionally equivalent service; or (iv) terminate the applicable Services and/or Deliverables and refund any prepaid, unused Charges applicable to the remaining portion of the Term of the applicable Services and/or Deliverables following the effective date of termination.
- 25.9. Where title to the Deliverables is due to pass to the Client, it shall not pass to the Client until Eficode UK has received all Charges due.

26. Relationship of the Parties

- 26.1. The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.



27. Sub-Contractors

- 27.1. Eficode UK shall be entitled, in its absolute discretion, to appoint sub-contractors to provide all or part of the Services.
- 27.2. Where such a sub-contractor is a personal services company Eficode UK shall comply with the off-payroll working rules and shall be solely responsible for completing and issuing the status determination statement to the contractor as applicable.
- 27.3. The Client understands and accepts that Eficode UK is deemed the end client under the off-payroll working rules and that Eficode UK retains complete discretion and responsibility over the status determination of any subcontractors used to provide all or part of the Services.

28. Non-solicitation

- 28.1. Each Party agrees, for the Term of this Agreement and for a further period of twelve (12) months thereafter, not to solicit or induce any officer, employee, agent or contractor of the other Party to terminate their employment or engagement with that Party without the prior written consent of that Party.

29. Publicity



- 29.1. The Client grants Eficode UK the right to include the Client's Brand Features in Eficode UK's promotional and marketing materials, website, collateral and/or other material.
- 29.2. The Client can opt to have their Brand Features excluded from such use by Eficode UK by emailing marketing@eficode.com with a copy sent to legal_uk@eficode.com with the subject matter stating, "Non-use of Subscriber Name" and indicating which items to remove. Eficode UK will notify the Client within thirty (30) days that all the Client's Brand Features have been removed.
- 29.3. The Client may not use Eficode UK's Brand Features without prior written consent from Eficode UK.
- 29.4. The Client acknowledges that Eficode UK reserves the right to withdraw any consent given in relation to this Section 30 at any time and without reason. In the event of such consent being revoked, the Client will remove all references to Eficode UK Brand Features within a period of no more than thirty (30) days.

30. Force Majeure

- 30.1. Neither Party will be liable for any failure nor delay in the performance of the Contractual Documents which is caused by circumstances out of the reasonable control of a Party. (**"Force Majeure"**).
- 30.2. The Parties are not under any obligation to fulfil any obligation if fulfilment is impossible as a consequence of Force Majeure. If a situation of Force Majeure lasts longer than ninety (90) calendar days, the Parties shall have the right to



terminate the Contractual Documents by giving notice to the other Party in writing. Any Services which have been delivered or performed pursuant to the Contractual Documents prior to the Force Majeure event may be invoiced by Eficode UK and will be payable by the Client.

31. Entire Agreement

- 31.1. The Contractual Documents constitute the entire agreement between the Parties and supersede all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter.

32. Assignment

- 32.1. Neither Party may assign any of its rights or obligations hereunder, whether by operation of Applicable Law or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld). Notwithstanding the foregoing, either Party may assign the Contractual Documents without consent of the other Party, to its Affiliate or in connection with a merger, acquisition, corporate reorganisation, or sale of all or substantially all of its assets not involving a direct competitor of the other Party. A Party's sole remedy for any purported assignment by the other Party in breach of this paragraph shall be, at the non-assigning Party's election, termination upon written notice to the assigning Party. In the event of such a termination, Eficode UK shall refund the Client for any undelivered Services/Deliverables that have been paid for in advance.

33. Enurement



- 33.1. The Contractual Documents shall ensure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

34. Modification

- 34.1. Any amendment or modification to the Contractual Documents or additional obligation assumed by either Party in relation to the Contractual Documents shall be in writing and signed by each Party or an authorised representative of each Party. Any modification contrary to this clause shall be void and without full force or effect.

35. Severability

- 35.1. If any provision (or part of a provision) of the Contractual Documents is held by a court of competent jurisdiction to be contrary to Applicable Law, the provision (or relevant part thereof) shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by Applicable Law, and the remaining provisions shall remain in effect.

36. Waiver

- 36.1. The waiver by either Party of a breach, default, delay or omission of any of the provisions of the Contractual Documents by the other Party shall not be construed as a waiver of any subsequent breach of the same or other provisions.



37. Governing Law

- 37.1. It is the intention of the Parties that the Contractual Documents and performance of and under the Contractual Documents, and all legal action, dispute resolution and special proceedings, be construed and governed, to the exclusion of the law of any other forum or jurisdiction, by the laws of England and Wales, without regard to the jurisdiction any legal action, dispute resolution and special proceedings may be instituted.

38. Notices

- 38.1. Except as otherwise specified in the Contractual Documents, all notices required or permitted under the Contractual Documents will be in writing, will reference this Agreement, and will be deemed given when delivered via e-mail. All such notices served to Eficode UK will be sent to legal_uk@eficode.com.

39. Third Party Rights

- 39.1. Eficode UK acknowledges that the Client enters into this Agreement and the Contractual Documents on its own behalf and on behalf of its Affiliates, who shall all have the right to receive the benefit of the Services as if each Affiliate were named as the Client under this Agreement, provided that:
- a. the Client shall be entitled to enforce this Agreement on behalf of its Affiliates and any loss of such Affiliates shall be deemed to be losses of the Client and shall be deemed to be recoverable solely by the Client;



b. any act or omission of its Affiliates shall be deemed to be the act or omission of the Client; and

c. the consent of its Affiliates shall not be required to amend or terminate this Agreement or any Order.

39.2. Save as specifically set out in this Section 39 no other person who is not a party to this Agreement has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

40. Electronic Signature

40.1. Transmission of an executed document (but for the avoidance of doubt not just a signature page) by email or electronic signature system shall take effect as delivery of the relevant document.

Signed for and on behalf of:

EFICODE UK LIMITED

Signature

Name

Signed for and on behalf of:

CLIENT

Signature

Name



Title

Title



