



Embridge
CONSULTING

G-Cloud 15

Terms & Conditions

Lot 2b – Software as a
Service (SaaS)

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embridgeconsulting.com





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Introduction

This document contains the Terms & Conditions for provision of software as a service (SaaS), along with the Embridge Consulting Terms & Conditions of service for the resell / implementation / delivery of the software.

Both Terms & Conditions will be applicable with the relevant clauses and sections relating directly to the particular product / service being supplied.

In relation to Professional Services for the implementation of the software, we refer you to our Lot 3 Cloud Support listings and documentation.



Software Term & Conditions

The following pages detail the Terms & Conditions for the provision of specific software.



Master Services Agreement

This Master Services Agreement is made and entered into as of _____, 2024 (the “Effective Date”) by and between Proactis Limited, Riverview Court, Castle Gate, Wetherby, Leeds, LS22 6LE, United Kingdom (“Proactis”), and _____, located at _____ (“Customer”)(collectively the “Parties”). Pursuant to this Agreement, Customer will be granted access to, and be provided, certain Services and SaaS Products as set forth in this Agreement and any attachments or Statements of Work agreed to by Proactis and the Customer, collectively referred to as the “Agreement”. If there is a conflict between an attachment or Statement of Work and this Master Services Agreement, the provisions of the Master Services Agreement shall take precedence. The Services and SaaS Products provided by Proactis are intended for use only by Customer and Customer’s Authorized Users. Customer accepts and agrees to this Agreement and Proactis’ Privacy Policy (which is available at <https://www.proactis.com/uk/privacy-policy/> and may be reasonably and subsequently amended from time to time).

Attachments to this Master Services Agreement:

Order Form
Service Level Agreement
Data Processing Addendum

- 1) **Definitions.** The following definitions apply to this Agreement. Additional definitions applying solely to a particular attachment to this Agreement will be set forth in that attachment.
 - a) **“Additional Services”** means those services described in one or more Statement(s) of Work executed between the Parties.
 - b) **“Affiliate”** means with respect to a Party, any corporation or other entity that controls, is controlled by, or is under common control with, a Party. “Control” or “Controlled” means, for purposes of this definition, control of more than a 50% interest in an entity.
 - c) **“Authorized User”** means a user who is authorized by Customer to utilize the SaaS Products on its behalf.
 - d) **“Confidential Information”** means:
 - i) with regard to Proactis, all Proactis Information, Software, inventions, know-how, ideas, programs, apparatus programs, and Intellectual Property Rights related to, connected with or arising out of the SaaS Products or Services;
 - ii) with regard to Customer, Customer Information, and any non-public information regarding the business or business partners of Customer, in whole and in part; and
 - iii) with regard to either Party, the terms, conditions, pricing and other contents of this Agreement, any other information, technical data, or know-how, including, but not limited to, that which relates to research, product plans, products, services, customers, markets, software, software code, software documentation, developments, inventions, lists, trade secrets, data compilations, processes, designs, drawings, engineering, hardware configuration information, marketing or finances or any other information a reasonable person would understand to be confidential.

Notwithstanding the foregoing, Confidential Information does not include information, data or know-how which:

- i) is in the public domain at the time of the disclosure or becomes available to the public thereafter without restriction, and not as a result of the act or omission of the receiving Party;



- ii) is rightfully obtained by the receiving Party from a third Party without restriction as to disclosure;
 - iii) is lawfully in the possession of the receiving Party at the time of the disclosure;
 - iv) is approved for release by written authorization of the disclosing Party;
 - v) is developed independently and separately by the receiving Party without use of the disclosing Party's Confidential Information; and/or
 - vi) is required to be disclosed by the receiving Party pursuant to law or legally enforceable order of court or judicial body or by any governmental or other regulatory authority, provided that, to the extent it is legally permissible, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- e) **“Content”** means any data, information or materials provided to Proactis by a Supplier including, parametric information regarding Products such as item descriptions, product and service attributes, units of measures, categories, price, payment methods, photographs, drawings, audio, video, technical specifications, and any associated marketing literature or point of purchase information, including any updates, revisions, and corrections thereto. Content does not include Transaction Documents or any portion of the Software or SaaS Products.
- f) **“Controller”, “Processor”, “Data Subject”, “Personal Data”, “Personal Data Breach” and “Processing”:** have the meanings given to them in the Data Protection Legislation in relation to Customer's Personal Data provided to Proactis under this Agreement.
- g) **“Data Protection Legislation”** means the relevant data protection and data privacy laws, rules and regulations to which Customer Personal Data is subject. Data Protection Legislation shall include, but not be limited to, the EU General Data Protection Regulation 2016/679 (“GDPR”) including the Standard Contractual Clauses (“SCCs”) if entered into and applicable; the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (“DPA 2018”); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; the California Privacy Rights Act (“CPRA”), and all other legislation and regulatory requirements in force and as reasonably applicable from time to time which apply to a Party relating to the use of Personal Data.
- h) **“Fees”** means all fees payable by Customer to Proactis pursuant to this Agreement.
- i) **“Force Majeure”** means events or conditions beyond a Party's reasonable control, including, without limitation, acts of common enemy, earthquakes, floods, fires, epidemics, terrorist attacks, embargoes, strike, fire, governmental acts or orders or restrictions, acts of God, lack of internet availability, cyberattacks including but not limited to DDOS attacks and ransomware, inability to secure products or services from third parties, or any other reason where failure to perform is not caused by the negligence of the nonperforming Party.
- j) **“Information”** means any technical, or business information in written, graphical, oral, or other tangible or intangible forms, including but not limited to specifications, drawings, tools, samples, reports, compilations, records, data, computer programs, drawings, models, and secrets.
- k) **“Intellectual Property Rights”** means any patent rights, copyrights, trade secrets, trade names, service marks, trademarks, moral rights, know-how and any other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions,



continuations or reissues of the foregoing now or hereafter in force.

- l) **“Market Statistics”** means aggregated, non-attributable statistical information associated with Transaction Information, but does not include information or the presentation of information from which could be reasonably determined: (a) the identity of specific transactions or parties, (b) Transaction Information, or (c) Stock Keeping Unit-level pricing contained in specific Content.
 - m) **“Party”** or **“Parties”** means either individually or collectively, as the case may be, Proactis and Customer and any and all permitted successors and assigns.
 - n) **“Products”** means the goods and/or services that may be ordered from Suppliers by Customer through its use of the SaaS Products.
 - o) **“Services”** means the professional services provided by Proactis and Affiliates to Customer in conjunction with the Software as a Service offerings described in the Attachments hereto.
 - p) **“Software”** means the proprietary computer software programs utilized or provided by Proactis in the delivery of SaaS Products.
 - q) **“SaaS Products”** means the Software as a Service products provided by Proactis and Affiliates to Customer pursuant to this Agreement and as described in the Attachment(s) attached hereto, including any successor or replacement services offering the same or more functionality than its predecessor.
 - r) **“Statement of Work”** means the detailed description of Additional Services to be provided by Proactis to Customer as may be executed from time to time between the Parties, in a form to be mutually agreed upon.
 - s) **“Supplier”** means a person or entity who has agreed to use one or more SaaS Products offered by Proactis for the offering and sale of Products to Customer.
 - t) **“Transaction Documents”** means any electronic business documents transmitted through the use of the SaaS Products.
 - u) **“Transaction Information”** means the specific pricing, quantities, parties and terms and conditions of any contract, order, bid, or proposal disclosed directly or indirectly to Proactis in a Transaction Document, but shall not include any information which was at the time of disclosure (1) intended to be disclosed by Proactis to a bidder or other intended recipient on behalf of Customer, or (2) within an enumerated exception to the definition of Confidential Information.
- 2) **SaaS Products Access.**
- a) **Use.** Subject to payment of the applicable Fees, Customer’s compliance with the terms of this Agreement and reasonable Customer assistance as is necessary in the performance of Services, Proactis hereby grants Customer a non-exclusive, non-transferable, non-assignable, limited right to access and utilize the SaaS Products and the Software to manage the purchase and sale of Products, subject to the following restrictions: (i) Customer may use the SaaS Products and the Software solely for Customer’s own internal business purposes; and (ii) Customer shall not (A) make any copies of all or any portion of the Software or the SaaS Products, (B) sell, sublicense, distribute, rent, lease, publish, display, disclose, loan, distribute or assign the SaaS Products or the Software to any other person or entity, (C) modify, reverse engineer, decompile, disassemble, translate, alter, adapt, create the source code from the object code, or create derivative works based on the SaaS Products or the Software, (D) permit any non-Authorized User or other third Party to use the



SaaS Products or the Software; (E) cause any damage to the Proactis Software, Services, SaaS Products or any related components; or (F) access it in order to (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Service, or (3) copy any ideas, features, functions or graphics of the Service. If Proactis perceives a reasonable risk to the functioning of the computer systems or the network of Proactis or third parties and/or the Services or SaaS Products via a network, particularly due to excessive email or other data traffic, poorly secured systems or activities of viruses, Trojans and similar software, Proactis is entitled to take any measures which it reasonably considers necessary to combat or avert this danger. Proactis shall take reasonable precautions to prevent hacking, virus infection and other electronic attacks affecting the security or validity of the Customer's data held by Proactis but do not guarantee the same will not occur. Customer shall not alter or remove any copyright, trade secret, patent, trademark, proprietary and/or other legal notices contained on or in copies of the SaaS Products or Software.

- b) QlikTech Products (Qlikview). To the extent that the SaaS Products and Software purchased under this Agreement utilize third Party products from QlikTech, the following additional provisions apply:
- i) Customer shall use the SaaS Products and Services only in accordance with the provisions of this Agreement.
 - ii) Customer shall be prohibited from using the QlikTech products provided under this Agreement in any way other than as integrated with the data structures of the Proactis SaaS Products and Software provided under this Agreement. The customer may not, under any circumstances whatsoever, use the QlikTech Products provided under this Agreement independently or separated from the Proactis SaaS products and Software provided under this Agreement.
 - iii) Proactis reserves the right to conduct reasonable audits to ascertain whether the Customer's use of the Proactis SaaS Products and Services complies with the provisions of this Agreement.
 - iv) Upon termination of the End User License Agreement between Proactis and QlikTech related to QlikTech products, Proactis may immediately terminate, and Customer's shall immediately discontinue, access and use of the QlikTech products. In the event of a termination of the QlikTech products End User License Agreement, Proactis will refund the pro-rated portion of any pre-paid Fees covering the period of time during which the QlikTech product was to be provided by Proactis.
- c) Code of Conduct.
- i) The Parties shall refrain from storing or distributing, nor allow such storage or distribution, of data or information understood to be:
 - (1) in violation of the provisions of applicable law including, e.g. GDPR, etc.;
 - (2) defamatory or libelous;
 - (3) erotic or pornographic, unless explicitly permitted in the quotation;
 - (4) an infringement of the rights of third parties, including, but not limited to, copyrights, trademark rights and portrait right;
 - (5) a violation of the personal privacy of third parties, including, but not limited to, the distribution of personal data of third parties without permission or necessity, or a repeated harassment of third parties with communications unsolicited by them; and/or
 - (6) containing malicious content such as viruses or spyware.

In the event Proactis, in its sole discretion, i) deems any data or information with its SaaS Product, Software or systems in violation of this Section 2(c), "Code of Conduct"; or ii) if any part of any data or information within its SaaS Product, Software or system becomes the subject of an actual or threatened



lawsuit; or iii) if Proactis believes such data or information may violate a third Party's Intellectual Property Rights or applicable law, Proactis shall be entitled to remove such data or information without incurring any liability to Customer. Additionally, in the event the Customer violates Section 2(c) Proactis may take any remedial actions necessary, up to and including termination of Customer's SaaS Product access, without incurring any liability to Customer. Notwithstanding the foregoing, Proactis has no legal obligation to remove or control such data or information.

- d) User IDs and Passwords. Proactis shall provide to Customer user IDs and passcodes or other secured means to access the SaaS Products, as applicable. Customer may request additional user IDs and passcodes, subject to the payment of the applicable additional fees. Customer is responsible for maintaining the confidentiality of its user IDs and passcodes and will be solely liable for all activities that occur under Customer's user IDs. Customer shall immediately notify Proactis of any unauthorized use of Customer's user IDs and change any affected passcodes. Customer agrees to access the SaaS Products in a secure manner in compliance with Proactis' reasonable standards established from time to time which currently require, to the extent applicable, Customer's use of web browsers utilizing 256 bit SSL encryption.
- e) Cookies. As part of this Agreement, Customer hereby expressly "opts-in" and consents to the use by Proactis of any cookies necessary for the Proactis SaaS Products to function properly. Customer may "opt-out" or revoke consent of the use of cookies by the Proactis SaaS Products at any time, upon reasonable notice to Proactis. If Customer "opts-out" or revokes consent of the use of cookies by the Proactis SaaS Products, Proactis may discontinue providing the Proactis SaaS Products to Customer without breaching this Agreement.
- f) Audit. Proactis may audit Customer's use of the SaaS Products during normal business hours on reasonable notice and at Proactis' expense. Customer will provide reasonable assistance to Proactis as is reasonably required to perform such audits. To the extent that any audit indicates that Customer has underpaid any Fees due to Proactis, Customer shall immediately pay such underpayment together with any applicable interest due.

3) **Scope, Availability, and Modifications.**

- a) Scope of SaaS Products. The SaaS Products are intended to enable transactions between Customer and Suppliers. Proactis is not a Party to, third Party beneficiary of, or a guarantor of performance with respect to any subsequent agreement between Customer and any third Party. Specifically, (i) Proactis does not control the quality, safety, legality or availability of Products accessed through the SaaS Products, the terms and conditions on which those Products are offered or purchased, or the third Party's compliance with an agreement that it may execute with Customer; (ii) Proactis undertakes no duties to distribute or ship the Products of a Supplier; (iii) under no circumstances shall Proactis take title to, or in any manner obtain an interest in, or otherwise be deemed to be within the chain of title of, any Products of a Supplier; and (iv) the Customer acknowledges that it will not hold Proactis liable nor make any claim that Proactis is liable in relation to the provision of goods and/or services by any third Party supplier to the Customer. The Customer acknowledges that Proactis takes no responsibility for the terms and conditions governing the purchase, sale and delivery of Products. Where Customer is receiving SaaS Products or Services from Proactis where Customer communicates with Supplier's via Proactis' SaaS Products, then Customer shall use its best efforts to ensure that its' Suppliers enter into the relevant terms for accessing and using Proactis' SaaS Products and will provide all reasonable co-operation with Proactis to ensure such terms are complied with by their Suppliers. Proactis shall provide such Additional Services as may be agreed to between the Parties and set forth in a properly executed Statement of Work.
- b) Availability of SaaS Products. Notwithstanding anything to the contrary stated herein, Customer acknowledges and agrees that the availability of the SaaS Products is subject to the availability of connection services to and within the Internet and to other network functions within and around the Internet and that the



Internet, by its nature, is not fault-tolerant and Proactis shall not have any liability for any breach of any representation, warranty or covenant of this Agreement that arises out of or relates to the unavailability of such connection services and other network functions.

- c) Modification of SaaS Products. Customer understands and agrees that Proactis may modify the SaaS Products, their names, or the manner in which the SaaS Products are made available, and that those modifications may create differences in how Customer accesses the SaaS Products. Customer further understands and agrees that, upon reasonable advance written notice to Customer, Proactis reserves the right to replace any of the SaaS Products with SaaS Products offering the same or more functionality than its predecessor.
 - d) Customer Assistance and Cooperation. The Customer shall reasonably cooperate with Proactis in a timely manner in response to any reasonable request from Proactis related to this Agreement. Reasonable cooperation shall include, but is not limited to, providing access to personnel, systems, data, Customer suppliers and information in a timely manner, and ensuring that such information is accurate in all material respects.
 - e) Use of Third Party Software. Proactis may provide access to certain third Party software and/or services. To the extent that SaaS Products or Services contains or provide access to any third Party software and/or services, the third Party software and/or services are provided on an “as is” basis without warranty of any kind. Furthermore, Proactis has no express or implied obligation to provide any technical or other support for such software or services. Additionally, any provision of unlimited licenses pertains solely to Proactis products. Any third Party integrated products are excluded from unlimited licensing provisions.
 - f) Replacement of Third Party Software. At any time during the Term, if any third Party software then currently used in the provision of the SaaS Software and/or Services under this Agreement ceases to be commercially available or suitable for use, Proactis will investigate a replacement product for such third Party software in a timely manner. Proactis shall evaluate, technically review, and select a replacement product offering the same or more functionality than its predecessor. In the event a replacement product offering the same or more functionality than its predecessor cannot be obtained, then either Party may terminate the affected Services and Proactis will provide a pro-rata refund of any pre-paid Fees covering the period of time during which the affected Services were to be provided by Proactis. Customer shall be liable for any fees accrued prior to the date of termination.
- 4) Payment.
- a) Payment Terms. During the term of this Agreement, Customer agrees to compensate Proactis for the SaaS Products and Services as set forth in the Order Form attached hereto or any Statement of Work. Except as otherwise specified herein or in an Order Form, payment obligations are non-cancelable, fees paid are non-refundable, and subscriptions purchased cannot be decreased or exchanged for alternative services during the relevant subscription term. All payment obligations of the Customer under this Agreement are required by the terms hereof to be paid in Great British Pounds. Proactis shall invoice Customer for the first Annual SaaS Fee for all products and services as of the Order Form Effective Date and payments shall be made within thirty (30) days of the invoice date. Subsequent Annual SaaS Fees shall be due and payable on the anniversary of the Order Form Effective Date of each year of the Initial Term or any Renewal Term. Unless otherwise noted in the Order Form or any Statement of Work, Proactis shall send invoices to Customer and all amounts due Proactis shall be paid within thirty (30) days of the invoice date. Customer shall pay interest on overdue amounts from the date due until paid in full at the rate determined by the Late Payment of Commercial Debts (Interest) Act 1988 or any superseding legislation and any regulations made pursuant to that legislation.



- b) Expenses. Customer shall reimburse Proactis for all out-of-pocket, travel-related expenses reasonably incurred by Proactis in performing the Services hereunder.
 - c) Taxes. All amounts due to Proactis shall be exclusive of value added tax (VAT) or GST or similar taxes which shall be added to such amounts. Customer shall calculate and pay all taxes, duties or charges of any kind (including withholding or value added taxes) imposed by any governmental entity for the SaaS Products and Services provided under this Agreement, excluding only taxes based solely on Proactis' net income. Customer shall hold Proactis harmless from all claims and liability arising from Customer's failure to support or pay any such taxes, including duties, tariffs or charges.
- 5) **Proprietary Rights.**
- a) Title to Technology. All Intellectual Property Rights pertaining to Proactis, the Software, Services, and the SaaS Products, in whole or in part, shall be, vest with and remain the exclusive property of Proactis and its third Party licensors. Furthermore, Customer will not contest Proactis' or such third Party licensor's rights or title in or to the same. Proactis may take technical measures to protect the Software, Services, SaaS Products and other Intellectual Property. If Proactis has secured the Software, Services or SaaS Products which are under its control by means of technical protection, the Customer is not permitted to remove or to evade this protection. This protection shall not inhibit the Customer in its use of the SaaS Product. Additionally, Customer shall not alter or remove any copyright, trade secret, patent, trademark, proprietary and/or other legal notices contained on or in copies of the SaaS Product. If Customer is permitted by Proactis to make any copies of the SaaS Product, then Customer shall reproduce all relevant notices on or in all copies.
 - b) Title to Transaction Information. As between the Parties, all Intellectual Property Rights in Transaction Information supplied by Customer and/or its Suppliers in connection with the SaaS Products are and shall remain the exclusive property of Customer. Proactis makes no claims, warranties or representations with regard to the ownership of Transaction Information. Notwithstanding the foregoing, all Intellectual Property Rights in Market Statistics are and shall remain the exclusive property of Proactis.
 - c) Title to Content and Information. All title, right, and interest in and to Content submitted to Proactis in the course of performing the Services shall remain the property of the applicable Supplier or other third Party owners. All title, right and interest in and to Information licensed by Proactis from third Party licensors and utilized in the process of providing the SaaS Products, if any, shall remain the exclusive property of Proactis or its third Party licensors. If all or part of any Content or Information becomes the subject of an actual or threatened lawsuit or if Proactis believes such Content or Information may violate a third Party's Intellectual Property Rights or applicable law, Proactis will immediately be entitled to remove such Content or Information without incurring any liability to Customer.
 - d) Suggestions. Proactis shall have a royalty-free, worldwide, perpetual license to use or incorporate into the Service any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or its Authorized Users relating to the SaaS Products.
- 6) **Confidentiality.**
- a) Nondisclosure of Confidential Information. Each Party shall retain the other Party's Confidential Information in the strictest confidence (need to know basis) and shall not disclose such Confidential Information to any third Party except as is necessary in the performance of the Services under this Agreement. Each Party agrees: (i) to use the Confidential Information only for the purposes of this Agreement and as expressly permitted by this Agreement; (ii) not to make copies of or store Confidential Information or any part thereof except as expressly permitted by this Agreement or as is necessary in the performance of Services; (iii) to reproduce and



maintain on any copies of any Confidential Information such proprietary legends or notices (whether of disclosing Party or a third Party) as are contained in or on the original or as the disclosing Party may otherwise reasonably request; (iv) to take reasonable steps to ensure that any Confidential Information is not disclosed or distributed in violation of this Agreement; and (v) to treat this Agreement as Confidential Information. The recipient of any Confidential Information shall restrict disclosure of the Confidential Information to its employees, agents or sub-contractors on need to know basis solely for the purpose of discharging its obligations to the other Party and shall ensure that any employee, agent or sub-contractor receiving the Confidential Information is subject to obligations of confidentiality at least as restrictive as those contained within this Agreement. The Parties shall be responsible for any breach of this Agreement as a result of any action or disclosure by them or any of their employees, agents or subcontractors. Notwithstanding the foregoing, the Customer shall provide information to third parties if required to do so by law, including but not limited to, the Freedom of Information Act (FOIA), but shall allow Proactis to redact content as allowed by law. A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.

- b) Remedies. The Parties agree that, notwithstanding any other section of this Agreement, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to preliminary and permanent injunctive relief, as well as money damages. Nothing stated herein shall be construed to limit any other remedies available to the Parties.

7) **Term and Termination.**

- a) Term. This Agreement shall become effective on the Effective Date and shall continue in force so long as one or more of the SaaS Products is being provided by Proactis.
- b) Order Form Term. The Initial Order Form Term shall commence as of the “Start Date” listed on the applicable Order Form and continue until the “End Date” listed on the applicable Order Form (the “Initial Order Form Term”). At the end of the Initial Order Form Term, the term for the Order Form shall automatically renew for successive periods equal to the Initial Order Form Term unless either party gives notice of its intent not to renew such term no later than ninety (90) days prior to the end of the Initial Order Form Term or any Renewal Term (each a “Renewal Term”).
- c) Termination for Cause. Proactis may, by written notice to Customer, terminate this Agreement if any of the events described under (i), (ii) or (iii) below occurs, and Customer may, by written notice to Proactis, terminate this Agreement if either of the events described under (ii) or (iii) below occurs (in each case, “Cause”). In the event Customer terminates this Agreement for Cause, Proactis will refund the pro-rated portion of any pre-paid Fees covering the period of time during which SaaS Products were to be provided by Proactis. In the event Proactis terminates this Agreement for Cause, the Customer will forfeit any pre-paid Fees paid to Proactis.
 - i) Customer fails to pay any amount due to Proactis within ten (10) days after Proactis gives Customer written notice of such non-payment;
 - ii) The other Party is in breach of any material, non-monetary term, condition or provision of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after the non-breaching Party gives the breaching Party written notice of such breach; or



- iii) The other Party (a) terminates or suspends its business activities, (b) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or (c) becomes subject to any bankruptcy or insolvency or similar proceeding under any applicable law which is not rescinded within sixty (60) days.
 - d) Acceleration of Payments. In the event Customer is in default in making any payment to Proactis when due, Proactis may suspend Customer's access to, and Proactis' performance of, the SaaS Products and any or all of its other Services related obligations under this Agreement until Customer has cured such default and made the required payments, and arrangements have been made reasonably satisfactory to Proactis that ensure the payment of future invoices. At Proactis' sole option, at any time Customer is in default of any payment due under this Agreement, and regardless of whether Proactis terminates this Agreement for Cause, Proactis shall have the right to declare all amounts payable hereunder, under the Order Form, any Statement of Work or otherwise, and including, without limitation, all costs, expenses, interest charges and fees, to be immediately due and payable without notice to Customer and Proactis shall have all remedies available to it at law or in equity for collection of such amounts payable. Proactis' failure to exercise such option to accelerate shall not constitute a waiver of such right to accelerate at any subsequent time or waive any future right to accelerate. In addition, Customer agrees that if it is in default, and regardless of whether Proactis terminates this Agreement for Cause, damages will be difficult to ascertain such that Proactis shall be entitled to: (i) all amounts due and owing under all uncompleted SaaS Products hereunder, and; (ii) all amounts which would have become due hereunder had this Agreement continued for the entire Initial Term or any Renewal Term, as applicable, including, without limitation, all costs, expenses, interest charges and fees, to compensate Proactis for lost opportunities, as liquidated damages, and not as a penalty, in addition to all other rights and remedies available to Proactis.
 - e) Effect of Termination. Upon termination of this Agreement consistent with the terms herein, Proactis may immediately discontinue Customer's access and use of the SaaS Products. Customer shall promptly discontinue use of any SaaS Products, Software and Confidential Information that Customer has received from Proactis and destroy all tangible copies and purge and/or permanently delete all electronic, magnetic, and other copies of the SaaS Products, Software and Confidential Information in its possession and certify the same if requested by Proactis.
 - f) Return Of Materials. Upon termination or expiration of this Agreement, Customer will have four (4) weeks to determine if Customer wants Proactis to return a copy of all or any part of Customer data. If Customer requests a copy of all or any part of Customer data, the data will be provided in a mutually agreed upon format in compliance with Proactis' standard off-boarding process. If Customer does not affirmatively elect to have a copy of the Customer data returned to Customer within four (4) weeks of the termination or expiration of this Agreement or after such time as a copy of the Customer data was returned to Customer, Proactis will, at its sole discretion, no longer hold or be responsible for and may delete, any and all data held on behalf of the Customer.
 - g) Survival. Notwithstanding any termination of this Agreement, Section 6 ("Confidentiality") shall survive for a period of five (5) years, Section 12(c) ("Employee Solicitation") shall survive for a period of one (1) year, while Sections 5 ("Proprietary Rights"), 7(d) ("Acceleration of Payments"), 8 ("Disclaimer; Limitation of Liability"), 9 ("Indemnification") and 12(e) ("Governing Law") shall survive termination of this Agreement indefinitely. All other rights granted hereunder will cease upon termination.
- 8) **Disclaimer; Limitation of Liability.**



- a) Disclaimer. TO THE MAXIMUM EXTENT ALLOWED BY LAW AND EXCEPT AS UNAMBIGUOUSLY AND EXPRESSLY SET FORTH IN ANY EXHIBIT, SCHEDULE OR ATTACHMENT, THE SAAS PRODUCTS AND SERVICES ARE PROVIDED “AS IS” AND PROACTIS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND REASONABLE SKILL AND CARE WITH RESPECT TO THE SAAS PRODUCTS AND SERVICES CONNECTED WITH, RELATED TO OR ARISING OUT OF THIS AGREEMENT. PROACTIS EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT ACCESS OR USE OF THE SAAS PRODUCTS WILL BE ERROR-FREE, SECURE OR UNINTERRUPTED, OR THAT INFORMATION OR CONTENT WILL BE ACCURATE OR TIMELY.
 - b) Limitation of Liability. TO THE MAXIMUM EXTENT ALLOWED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGIES OR SERVICES, COST OF COVER OR PUNITIVE OR EXEMPLARY, OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE SERVICES OR SAAS PRODUCTS PERFORMED HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, PROACTIS SHALL HAVE NO LIABILITY IN RELATION TO THE USE OF ANY SOFTWARE LICENSED DIRECTLY FROM A THIRD PARTY WHETHER ARRANGED BY PROACTIS OR NOT. IN ADDITION, PROACTIS WILL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN DELIVERY OR FURNISHING THE SERVICES OR SAAS PRODUCTS. PROACTIS’ TOTAL LIABILITY UNDER THIS AGREEMENT OR THE TERMINATION OF THIS AGREEMENT WHETHER FOR DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL AND/OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, RESTITUTION, WILL NOT, IN ANY EVENT, EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO PROACTIS PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRIOR TO THE OCCURRENCE OF THE BREACH OR DAMAGE.
- 9) Indemnification.
- a) By Proactis. Proactis agrees to defend or, at its option, to settle, any claim brought against Customer for infringement of any copyright, trade secret, trademark, or other Intellectual Property Right by the SaaS Products as delivered, and to indemnify Customer against all damages and costs assessed against Customer under any such claim or action. Customer agrees that Proactis shall be released from the foregoing obligation unless Customer has taken all reasonable steps to mitigate any potential expenses and provides Proactis with: (i) prompt written notice of any such claim or action, or possibility thereof; (ii) sole control and authority over the defense or settlement of such claim or action; (iii) proper and full information and assistance to settle and/or defend any such claim or action; and (iv) Customer is not in breach of this Agreement. Customer shall have the right to employ separate counsel and participate in the defense at its own expense provided that Proactis shall remain in control of the defense. In addition, Proactis may, at its sole option and expense, either: (a) procure for Customer the right to use the infringing SaaS Products; (b) replace the infringing SaaS Products with non-infringing, functionally equivalent services; (c) modify the infringing SaaS Products so that they are not infringing; or if (a), (b), and (c) are not commercially feasible, then (d) will cease to provide the infringing SaaS Products, pay as liquidated damages an amount equal to any Fees covering any period of time during which such infringing SaaS Products were to be provided and terminate this Agreement as it relates to such infringing SaaS Products. Upon exercise of option (d) in the previous sentence, Proactis shall have no further obligations or liability to Customer with respect to the infringing SaaS Products. Except as specified above, Proactis will not be liable for any costs or expenses incurred without its prior written authorization. The foregoing obligations do not apply with respect to SaaS Products or Software or portions or components



thereof (i) not supplied by Proactis, (ii) made in whole or in part in accordance to Customer specifications, (iii) that are modified by anyone not explicitly authorized by Proactis; (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of such SaaS Products or Software is not strictly in accordance with this Agreement. Customer will indemnify Proactis from all damages, settlements, attorneys' fees and expenses related to any claim of infringement or misappropriation excluded from Proactis' indemnity obligation by the preceding sentence.

- b) By Customer. Customer shall indemnify and hold harmless Proactis and its Affiliates, and their directors, shareholders, members, agents and employees from and against any fine, penalty, costs, losses, liabilities and expenses (including reasonable attorneys' fees) arising out of or relating to the Customer's use of the SaaS Products under this Agreement.
- c) Exclusive Remedy. THE FOREGOING PROVISIONS OF THIS SECTION 9 STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF PROACTIS AND ANY OF ITS LICENSORS, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT BY THE SAAS PRODUCTS, ANY SOFTWARE, OR ANY PART THEREOF.

10) **Data Protection.**

- a) Both parties will comply with all applicable requirements of the Data Protection Legislation and any other legislation or regulatory requirements in force applicable to a Party using data in relation to this Agreement. This clause is in addition to, and does not relieve, remove, or replace, a party's obligations under the Data Protection Legislation.
- b) The Parties acknowledge that for the purposes of the Data Protection Legislation, Customer is the Data Controller and Proactis is the Data Processor, where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation. Attachment 2, "Data Processing Addendum" sets out the scope, nature and purpose of Processing by Proactis, the duration of the Processing and the types of Personal Data, as defined in the Data Protection Legislation, and categories of Data Subjects.
- c) Without prejudice to the generality of Section 10(a), the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Proactis for the duration and purposes of this Agreement.
- d) Without prejudice to the generality of Section 10(a) Proactis shall, in relation to any Personal Data Processed in connection with the performance by Proactis of its obligations under this Agreement:
 - i) process that Personal Data only on the written instructions of the Customer unless Proactis is required by the laws of any member of the European Union or by the laws of the European Union applicable to Proactis to process Personal Data ("Applicable Laws");
 - ii) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having



- regard to the state of technological development and the cost of implementing any measures;
- iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - iv) not transfer any Personal Data outside of the United Kingdom or European Economic Area unless the prior written consent of the Customer has been obtained or the following conditions are fulfilled:
 - (1) the Customer or Proactis has provided appropriate safeguards in relation to the transfer;
 - (2) the Data Subject has enforceable rights and effective legal remedies;
 - (3) Proactis complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (4) Proactis complies with reasonable instructions notified to it in advance by the Customer with respect to the Processing of the Personal Data;
 - v) assist the Customer in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - vi) notify the Customer without undue delay on becoming aware of a Personal Data breach involving Customer's Personal Data; and
 - vii) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by Applicable Law to store the Personal Data.
- e) The Customer consents to Proactis appointing Redcentric as a third-party processor of Personal Data under this Agreement. If Proactis considers it necessary to change the third-party processor used for Customer Personal Data, Proactis shall notify the Customer prior to the change of sub-processor such that the Customer has an opportunity to reasonably object. As between the Customer and Proactis, Proactis shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.

11) **Insurance.**

Proactis shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts stated herein, with responsible insurance carriers duly qualified in those states (locations) where the SaaS Products are to be performed, covering the operations of Proactis, pursuant to this Agreement.

Types of Insurance	Limits of Liability (Minimum Amounts)
Global Professional Indemnity	£2,000,000 any one claim and in the aggregate costs inclusive
Global Cyber	£2,000,000 any one claim and in the aggregate costs inclusive
Employer's Liability	£2,000,000 any one event
Public and Products Liability	£2,000,000 any one occurrence unlimited in the period of insurance for Public Liability and in the aggregate for Products and Pollution Liability total £4,000,000



Upon Customer's request, Proactis shall provide Customer with certificates of insurance evidencing all of the above coverage, including all special requirements specifically noted above, and shall provide Customer with certificates of insurance evidencing renewal or substitution of such insurance within thirty (30) days after the effective date of such renewal or substitution.

12) **General.**

- a) **Notices.** Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (i) delivered in person; (ii) sent by first class registered mail, or air mail, as appropriate; or (iii) sent by overnight air courier. Notice to Customer shall be sent to the address set forth on the cover of this Agreement. Notice to Proactis shall be delivered to: Proactis Limited, Riverview Court, Castle Gate, Wetherby, Leeds, LS22 6LE, United Kingdom, Attention: Legal Department. Either Party may change its address for notice by notice to the other Party given in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, three (3) business days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service. The Parties shall immediately notify each other in writing of any changes with respect to name, postal address, email address, telephone number and, if requested, bank account number.
- b) **Representations.** Each Party represents and warrants that: (i) It is duly organized, validly existing and in good standing under the laws of its domicile; (ii) It has the power and authority to execute, deliver and perform under this Agreement; (iii) This Agreement constitutes a valid and binding obligation enforceable in accordance with its terms; and (iv) That no-one employed by, contracted to or otherwise influenced by the Customer, whether or not authorized to have access to the SaaS Products, Software or Services shall take any action in violation of this Agreement.
- c) **Employee Solicitation.** Customer shall not, directly or indirectly, for itself, or on behalf of any other person, firm, corporation or other entity, whether as principal, agent, employee, stockholder, partner, member, officer, director, sole proprietor, or otherwise, solicit, participate in or promote the solicitation of Proactis' employees or independent contractors to leave the employ or service of Proactis, during the period such employee or independent contractor is working with Customer and for one (1) year immediately following the period for which such employee or independent contractor last performed services for the Customer. Notwithstanding the foregoing, Customer shall not be in breach of this Section 12(c) if it hires a Proactis employee or independent contractor as a result of a general solicitation or other recruitment campaign not specifically targeted to any Proactis employees or independent contractor.
- d) **Assignment.** Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by either Party, in whole or in part, whether voluntarily or by operation of law without the prior written consent of the other Party, which consent shall not unreasonably be withheld or delayed. Notwithstanding the foregoing, Proactis may assign this Agreement including, but not limited to, in connection with a sale of its assets, merger or consolidation or other transaction commonly known as a business combination or to any Affiliate. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors and assigns. Notwithstanding anything to the contrary, Proactis shall have the right to subcontract any of its obligations hereunder to third parties, provided that Proactis shall remain primarily responsible for the performance of any such obligations.
- e) **Governing Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of England and Wales and the Parties submit exclusively to the jurisdiction of the English Courts. In any action or proceeding to enforce rights under this Agreement, the prevailing Party will be entitled to recover costs and reasonable attorney's fees from the other Party. The validity of the UN Convention on Contracts for the



International Sale of Goods is excluded.

- f) Independent Contractors. The relationship of Proactis and Customer established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed or implied to give either Party the power to direct or control the day-to-day activities of the other or constitute the Parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking.
- g) Publicity. The Parties agree that any press release, public announcement, confirmation or other information regarding this Agreement or the transactions contemplated hereby shall be made only after each Party has approved in writing the time, form and content of any such information to be disseminated to third parties or the public. Customer hereby grants Proactis the right to refer to the name of Customer and Customer's products or services, in its client listings, on its web site, in a client profile, and in future press releases. Provided that Proactis is performing in a satisfactory manner, Customer will act as a reference for the SaaS Products, including providing access and availability of Customer management for these purposes at times that are convenient for Customer.
- h) Third Party Rights. The Parties do not intend that any third party gains any rights in connection with this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 unless expressly agreed in writing and incorporated into this Agreement.
- i) Compliance with Laws. Proactis Policies and Procedures. Customer agrees to comply with all applicable laws, executive orders and regulations issued, where applicable. Customer shall comply with Proactis policies and procedures where the same are posted, conveyed, or otherwise made available to Customer. Without limiting Customer's other obligations of indemnification herein, Customer shall defend, indemnify, and hold Proactis Indemnitees harmless from and against any and all Claims, including reasonable expenses suffered by, accrued against, or charged to or recoverable from Proactis, on account of the failure of Customer to perform its obligations imposed herein.
- j) Discrimination. Proactis will not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of his or her age, race, color, disability, family status, marital status, political affiliation, religion, sex/gender (including gender identity and expression), sexual orientation, union membership, veteran status, national origin or ancestry or any other characteristic required by law.
- k) Customer's Primary Support Contact. The Customer's Primary Support Contact shall be the individual Proactis communicates with regarding all maintenance and support services and shall be identified on the applicable Order Form. The Customer's Primary Support Contact must receive training from Proactis on the use of the Proactis SaaS Solution, the Proactis reporting desk, and any other necessary matters in relation to this Agreement. The Customer's Primary Support Contact may be substituted or replaced from time to time upon notice to Proactis. However, at all times, the Primary Contact must have adequate expertise in the Proactis SaaS solutions and be trained by Proactis to fully operate the SaaS solution, understand the full functionality of SaaS solution, and be able to work effectively and efficiently with the Proactis support desk. If Proactis does not reasonably consider the Customer's Primary Support Contact to be suitable, Proactis may request the Customer appoint a different, acceptable contact who shall then be deemed to be the Customer's Principal Support Contact. Proactis is not obliged to provide any training free of charge to the Customer's Principal Support Contact, or any other representative of Customer, other than as specifically delineated in this Agreement.



- l) Miscellaneous. The Parties agree that this Agreement states the entire agreement between them with respect to its subject matter and supersedes all prior agreements, representations, conditions or warranties whether verbal or in writing. No terms or representations sought by the Customer to apply to this Agreement shall apply or be incorporated unless reduced to writing, signed by both parties and expressly incorporated into this Agreement. In the event that any provision of this Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction: (i) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law; and (ii) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect. The failure of either Party to enforce at any time any of the provisions of this Agreement shall not be deemed to be a waiver of the right of either Party thereafter to enforce any such provisions. No waiver, amendment, modification, or variation to this Agreement shall be valid unless in writing and signed by a duly authorized representative of each Party. Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by Force Majeure. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same Agreement. Section and Attachment headings are for ease of reference only and do not form part of this Agreement. This is an integrated Agreement and all exhibits, schedules and attachments hereto and incorporated herein constitute the entire, final, complete and exclusive agreement between the Parties and supersede all previous agreements, intentions, or representations, oral or written, relating to this Agreement. Any and all terms and conditions contained in, incorporated into, or reference by any purchase order or other document relating to the Services that add to or conflict with the terms in this Agreement shall be deemed invalid. Any use of the word “including” will be interpreted to mean “including, but not limited to,” unless otherwise indicated. Both Parties acknowledge having read the terms and conditions set forth in this Agreement and all attachments hereto, understand all terms and conditions, and agree to be bound thereby. No employee, agent, representative, or affiliate of Proactis has authority to bind Proactis to any oral representations or warranty concerning the Software or the SaaS Products or Services. Any written representation or warranty not expressly contained in this Agreement (including any Attachments) will not be enforceable.

By signing below, the undersigned certify that they have read and understand, and agree to be legally bound by, this Master Services Agreement.

ACCEPTED AND AGREED: Proactis Limited		ACCEPTED AND AGREED: [CUSTOMER NAME]	
Name:		Name:	
Title:		Title:	
Signature:		Signature:	





ATTACHMENT 1

SERVICE LEVEL AGREEMENT

ATTACHMENT 2

DATA PROCESSING ADDENDUM

Proactis shall comply with any further written instructions with respect to Processing by the Customer. Any such further instructions shall be incorporated into this Attachment 2, “Data Processing Addendum”.

Description	Details
Subject matter of the Processing	The Licensee uses Proactis’ procurement solution modules. The modules specified in the Customer Contract will fall into one or more of the following categories: Sourcing and contract management (Rego, S2C, ProContract, P9, Marketplace, eBuy, eContract, eSource, TBN,) This module is used to carry out the functions of the tendering process, from the initial advertisement to the awarding of the contract. Catalogue imports of items which can be uploaded into the system to allow for users within the same organisation as the Licensee to purchase. Documents can be raised or received electronically in conjunction with purchase requests or order fulfilment. The software may also manage supplier relationships and contracts, through optional modules. Invoice handling (Invoice Capture with or without Managed Service, Rego/P9 Invoice Modules) This module is used to capture the data from which the original source is a paper or electronic invoice document. An image record will be stored alongside the extracted data, which will be located in the Purchase to Pay solution the Licensee uses. Purchase-to-Pay (Rego, P2P, P9, Marketplace) This module is used to carry out the functions of the purchasing process, from the initial recording of the requisition or purchase order, through to the payment of the received invoice. The invoice may be received electronically into the system, with an image record of that stored with the purchase order.
Duration of the Processing	The processing will last for the length of the contract between Proactis and the Licensee .
Nature and purposes of the processing	Sourcing and contract management (Rego, S2C, ProContract, P9, Marketplace, eBuy, eContract, eSource, TBN) The nature of the processing within this module includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction of data (whether or not by automated means)

	The purpose for the processing is to carry out the functions of tendering process, from the initial advertisement to the awarding of the contract. Contract Management processes and Supplier Management processes are other, optional, functions within this module which the Licensee can use. The Contract Management module allows for the storage of a contract and tasks associated with contracts, such as reminding of when a contract is due for renewal. The Supplier Management module, if used, will allow the Licensee to capture Supplier details in the product. Data access is restricted to those registered users of the software and Proactis staff, in respect to the development and support of such software, for the purposes of maintaining / correcting errors within the product that the Licensee reports. Invoice handling (Invoice Capture with or without Managed Service, Rego/P9 Invoice Modules) The nature of the processing within this module includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction of data (whether or not by automated means) The purpose for the processing is to carry out the functions of the invoice scanning process which will then allow a document or scanned image to be associated with the relevant data fields in the purchase to pay solution being used. Data access is restricted to those registered users of the software and Proactis staff, in respect to the development and support of such software, for the purposes of maintaining / correcting errors within the product that the Licensee reports. Purchase-to-Pay (Rego, P2P, P9, Marketplace) The nature of the processing within this module includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction of data (whether or not by automated means) The purpose for the processing is to carry out the functions of purchasing process, from the initial raising of the purchase order or requisition to recording acceptance of the purchase of the goods or services received. Data access is restricted to those registered users of the software and Proactis staff, in respect to the development and support of such software, for the purposes of maintaining / correcting errors within the product that the Licensee reports.
Type of Personal Data	Sourcing and contract management (Rego, S2C, ProContract, P9, Marketplace, eBuy, eContract, eSource, TBN) The data sets include: name, email address, telephone number, business address, and are used within the product for basic operations of the software.

	Tender documents can be uploaded to the software, which are compiled entirely by the Buying organisation (the Licensee) which can include other data which Proactis has no control over being included nor is necessarily needed for the functionality of the product. Contract documents can be uploaded to the software, which can contain an address (usually this is a business address), contact name, email address and telephone number. Supplier information can also be uploaded to the software, which can include a name, email address, telephone number, address (for Sole Trader organisations this can be classified as personal data). Invoice documents can be uploaded to the software, which can contain an address (usually this is a business address), contact name, email address and telephone number. A description of the goods / services the Invoice covers may contain personal data. Similarly, on the electronic invoice lines, there will be description fields available which can include other content and personal (or sensitive personal) data which Proactis has no control over being included nor is necessarily needed for the functionality of the product. Invoice handling (Invoice Capture with or without Managed Service, Rego/P9 Invoice Modules) The data sets include: name and email address within the product for basic operations of the software The scanned invoice documents can contain an address (usually this is a business address), contact name, email address and telephone number. A description of the goods / services the Invoice covers may contain personal data. Purchase-to-Pay (Rego, P2P, P9, Marketplace) The data sets include: name, email address, telephone number, business address, and are used within the product for basic operations of the software Invoice documents can be uploaded to the software, which can contain an address (usually this is a business address), contact name, email address and telephone number. A description of the goods / services the Invoice covers may contain personal data. Similarly, on the electronic invoice lines, there will be description fields available which can include other data which Proactis has no control over being included nor is necessarily needed for the functionality of the product.
Categories of Data Subject	Licensee Staff (including volunteers, agents, and temporary workers), Licensee's suppliers or potential suppliers; Proactis employees
Data Protection Officer	The Proactis Group has appointed Mark Anderson, Compliance and Quality Officer to act as its Data Protection Officer. He is contactable at compliance@proactis.com or at: Proactis Riverview Court 1 Castle Gate



	Wetherby LS22 6LE UK Please mark any posted documents 'for the attention of the Data Protection Officer'
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Data retention periods will be as per contract between Proactis and Licensee, unless required by other laws.



Embridge Consulting Terms & Conditions

The following pages detail the Terms & Conditions for the provision of Embridge Consulting services for the resell / implementation / delivery of the software. These are provided by Embridge Consulting.

In relation to Professional Services for the implementation of the software, we refer you to our Lot 3 Cloud Support listings and documentation.

1. INTRODUCTION

1.1. Agreement

The Agreement between Embridge and the Customer is governed by the following (in descending order of priority):

- 1.1.1. Third Party Terms;
- 1.1.2. Embridge General Terms of Business (this document);
- 1.1.3. any appendices, schedules or other documents referred to in the Embridge General Terms of Business;
- 1.1.4. the Order Form; and
- 1.1.5. any appendices, schedules or other documents referred to the Order Form that are not included in 1.1.3 above.

The Agreement governs the purchase by the Customer of any Products and/or Services and it becomes effective and binding on the Parties on the Effective Date and continues until it is terminated in accordance with provisions in this Agreement.

The Agreement is the sole agreement between the Parties and is to the exclusion of any other terms and conditions. The Customer hereby represents and warrants that it has read all the terms of the Agreement and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

1.2. Updating Third Party Terms

Insofar as it is not incompatible with Applicable Law, Embridge or a Third Party Provider may update the Third Party Terms at their sole discretion from time to time. The Customer confirms and agrees that the latest version of the Third Party Terms as updated from time to time will always apply in relation to the Agreement between the Parties. If Embridge receives a written notification from a Third Party Provider of any updates to the Third Party Terms it will promptly notify the Customer.

2. DEFINITIONS AND INTERPRETATION

2.1. Definitions

In the Agreement, capitalised words and phrases have the meanings given to them in the definitions sections included in each document mentioned in clause 1.1.

2.2. Interpretation

Any reference to the singular includes the plural and vice versa. Words importing natural persons include bodies corporate and other legal persons and vice versa. Any particular reference to a gender includes the other gender. Includes or including means without limitation. The headings are for convenience only and do not affect the construction of these terms.

3. FEES AND PAYMENT

3.1. Fees

The Customer shall pay all fees specified in the Order Form. Unless otherwise agreed: (i) fees are calculated in relation to the Products and/or Services purchased for Use in relation to a quantity of a Volume Metric; and (ii) payment obligations are non-cancellable and fees paid are non-refundable.

Additional fees are payable where the Customer exceeds the quantity of the Volume Metric purchased in an Order Form or agrees to purchase additional Products (or modules thereof) or Services.

Reductions in fees (or annual charges) and partial cancellations are not permitted.

3.2. Annual Renewals and Minimum Terms

3.2.1 Where any Products or Services are payable as an annual subscription, these Products or Services are chargeable annually in advance starting on the Billing Start Date stated in an Order Form and, thereafter, are chargeable annually in advance on the relevant Renewal Date.

3.2.2 Annual subscriptions renew automatically each year on the Renewal Date for a 1 (one) year term unless either Party has given at least sixty

(60) calendar days' notice in writing (in advance of the relevant Renewal Date) of its intention to terminate.

3.2.3 Annually billed Products or Services subject to a Minimum Term will renew automatically after the Minimum Term for successive recurring terms equivalent to the Minimum Term unless agreed otherwise in an Order Form or either Party has given at least sixty (60) calendar days' notice in writing (in advance of the next relevant Renewal Date) of any intention to terminate.

3.2.4 Neither Party is entitled to serve any notice of its intention to terminate pursuant to clause 3.2 that is purported to take effect prior to the expiry of the relevant term.

3.2.5 Customer shall provide any written notice to terminate under clause 3.2.2 or 3.2.3 to finance@embridgeconsulting.com. Embridge will acknowledge the notice and confirm cancellation or termination where this complies with the terms of the Agreement.

3.3. Invoicing and Payment

Unless otherwise agreed and where applicable, Embridge has the right to raise an invoice:

- 3.3.1. for any one-off payments for Products, on the Effective Date; and/or
- 3.3.2. for any Products or Services payable as an annual subscription in advance (to which a Minimum Term may apply) on the Billing Start Date and each Renewal Date; and/or
- 3.3.3. for any Products or Services payable for periods longer or shorter than one year as set out in an Order Form (which may not coincide with the Billing Start Date or Renewal Date), in advance on the Billing Start Date and each Renewal Date with such charges pro-rated to be billed within the applicable annual billing period; and/or
- 3.3.4. unless stated otherwise in an Order Form or Statement of Work, for Professional Services and associated Expenses monthly in arrears (on a time and materials basis) as consumed; and/or
- 3.3.5. for any other applicable fees as specified in the relevant Order Form, and

all invoices submitted to the Customer by Embridge are due and payable within 30 calendar days of the invoice date.

3.4. Indexation Based Increases

3.4.1 In addition to increases in fees for the reasons set out in clause 3.1, any fees stated in an Order Form will increase by way of indexation on each Renewal Date. Also, any fees that are stated as due or payable in the future shall be increased by applying upward only indexation for each year which passes prior to those fees being invoiced.

3.4.2 The increase on each Renewal Date will be the annual increase in the Reference Index (a previous year or years being measured at the point the relevant invoice is raised) plus 2% or 4% (whichever is higher). For the avoidance of doubt, increases for indexation are permitted on each Renewal Date within the Minimum Term.

3.4.3 For annually billed Products or Services subject to a Minimum Term the increase in any one year following the Minimum Term:

- 3.4.3.1 in relation to Embridge Products and Services and Unit4 Products and Services will remain as per clause 3.4.2 above; and
- 3.4.3.2 in relation to Proactis Products and Services will be dependent on the term of the next fixed period (Proactis standard indexation is 5% per annum).

3.5. Invoice Procedure

Invoices are considered validly issued including where produced and sent electronically and regardless of whether any Customer purchase order has been issued. Further, the internal purchasing procedures of the Customer cannot be used to delay the issuing of invoices in accordance with the terms of this Agreement. Failure to issue a purchase order will not negate Embridge's legal rights to collect any sums due and owing under any undisputed invoice. Embridge shall use its reasonable endeavours to comply with any invoice

procedure provided by the Customer prior to the Effective Date.

3.6. Overdue Fees

If any amounts invoiced hereunder are not received by Embridge by the due date, then Embridge may charge interest at the then current statutory rate of interest in England and Wales. Further, in the case of overdue fees, Embridge may condition future renewals and Order Forms on payment terms shorter than those specified in the "Invoicing and Payment" section above. If Embridge is required to take action to collect any amount due, then the Customer agrees that the Customer shall pay Embridge all costs Embridge incurs in collecting any amounts hereunder, including, but not limited to, reasonable attorneys' fees and costs.

3.7. Suspension of Services for Late Payment

If any amounts invoiced under the Agreement are not received by Embridge and are thirty (30) calendar days or more overdue (or in the case of Professional Services are sixty (60) calendar days or more overdue), Embridge may, without limiting its other rights and remedies, automatically and immediately suspend any Products and/or Services until such amounts are paid in full provided, in all cases, Embridge has given the Customer ten (10) or more calendar days' prior written notice that its account is overdue in accordance with the "Notices" section.

3.8. Payment Disputes

Save in relation to an audit carried out in accordance with clause 13.1 (Audit), Embridge shall not exercise its rights under clauses 3.6 or 3.7 (above) to the extent that the Customer is disputing the applicable charges or fees, within the payment period and is acting reasonably and in good-faith and is cooperating diligently to resolve the dispute.

3.9. Taxes

Unless otherwise stated, Embridge's fees do not include Taxes. The Customer is responsible for paying all Taxes associated with its purchases hereunder. If Embridge has the legal obligation to pay or collect Taxes for which the Customer is responsible under this clause, the appropriate amount will be invoiced to and paid by the Customer, unless the Customer provides Embridge with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Embridge is solely responsible for Taxes assessable against it based on its income, property and employees.

4. CONFIDENTIALITY

4.1. Protection of Confidential Information

The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own Confidential Information (but in no event less than reasonable care) and agrees: (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of the Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' directors, officers, employees, contractors and agents (and in the case of Embridge being the Receiving Party, its Third Party Providers, where necessary) who need such access for purposes consistent with the Agreement and who are party to confidentiality agreements or similar arrangements with the Receiving Party containing protections no less stringent than those herein. Neither Party shall disclose the terms of the Agreement or any Order Form to any third party other than to its Affiliates and accountants without the other Party's prior written consent. Where Embridge is the Receiving Party, the Customer as the Disclosing Party hereby gives consent to Embridge to share Confidential Information with the Third Party Provider on confidentiality terms containing protections no less stringent than those herein.

4.2. Compelled Disclosure

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by Applicable Law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by Applicable Law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party shall reimburse the Receiving Party for its reasonable cost of

compiling and providing secure access to such Confidential Information.

5. PROPRIETARY AND USE RIGHTS

5.1. Reservation of Rights in the Products and Services

- 5.1.1. Embridge (and where applicable, its Third Party Provider(s)) own all rights, title and interest in and to the Products, Services, Documentation, Statistical Data, all related IPRs and any data or information provided and/or created by Embridge or its Third Party Provider(s) for the purpose of and/or in connection with performing the obligations under the Agreement ("the Material"). Subject to the limited rights expressly granted in this Agreement, Embridge and (where applicable, its Third Party Provider(s)) reserve all rights, title and interest in and to the Material together with all modifications, updates, enhancements and improvements thereto (even if requested and paid for by the Customer), all goodwill associated therewith and all related IPRs whether current or future. No rights are granted to the Customer other than as expressly set forth in the Agreement.
- 5.1.2. Embridge (and, where applicable, its Third Party Provider(s)) will own any IPRs that come into existence after the Effective Date as a direct or indirect result of (i) the creation of any Material and/or its provision to the Customer, (ii) and/or the performance by Embridge of any obligation under the Agreement. The Customer shall promptly take any steps and/or execute any document that is reasonably requested by Embridge to give effect to this provision.
- 5.1.3. To safeguard the IPRs referred to in clause 5.1.1 and 5.1.2 above, The Customer must: (i) notify Embridge immediately if it becomes aware of any unauthorised use of any Material by any third party and give Embridge (at Embridge's reasonable expense) any assistance in connection with that use as Embridge reasonably requires and (ii) not through any act or omission jeopardise the validity or enforceability of any IPRs.
- 5.1.4. The Customer agrees that any purchases of Products, Services, Documentation and all related IPRs under this Agreement are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Embridge or its Third Party Provider(s) regarding future functionality or features.
- 5.1.5. Notwithstanding any other clause of this Agreement, Embridge reserves the right at any time to discontinue the provision of any Embridge Apps at Embridge's sole discretion. In such circumstances the Customer will (or procure that any third party of a managed cloud environment will) promptly remove the relevant App and workflows from the Customer tenant.

5.2. Grant of Rights

[Where SaaS]

On the purchase of any Products or Services on a SaaS basis on the Billing Start Date and each subsequent Renewal Date, the Customer is granted a non-exclusive, non-transferable right to access and use the Products and Services on a SaaS basis (including any Documentation) on an annual basis solely for the internal business purposes of the Customer and its Affiliates for the Minimum Term and any subsequent renewed term. Each annual grant is conditional upon the payment by the Customer of the relevant fees and Customer's compliance with the terms of the Agreement.

Embridge shall and shall procure that:

- 5.2.1. the Products and Services on a SaaS basis are made available to the Customer pursuant to the Agreement for the Term with first access (to an environment to allow any Project to commence) being provided to the Customer as soon as reasonably practicable after the Billing Start Date;
- 5.2.2. the Products and Services on a SaaS basis are made available in accordance with any applicable Embridge Service Terms or Third Party Terms and Applicable Law; and
- 5.2.3. Customer Support for the Products and Services on a SaaS basis is made available from the date of first access in accordance with clause

5.2.1.

Embridge and the relevant Third Party Provider(s) will retain sole control over the computing platform configuration, technical system requirements, Updates (as defined in the relevant Support Terms) and the timing thereof.

[OR Where On Premise or Third Party Hosting]

On the purchase of a Software Licence, the Customer is granted a non-exclusive, non-transferable licence to use the Products (including any relevant Documentation) solely for the internal business purposes of the Customer and its Affiliates for fifteen (15) years from the Effective Date. The grant of a Software Licence is subject always to the Customer's compliance with the terms of the Agreement.

On the purchase of a Software Subscription, the Customer is granted a non-exclusive, non-transferable annual licence to use the Products solely for the internal business purposes of the Customer and its Affiliates for the duration of the Minimum Term and any subsequent renewed term. Each annual grant is conditional upon the payment by the Customer of the applicable annual fees and Customer's compliance with the terms of the Agreement.

Embridge shall and shall procure that the Products are made available to the Customer (for example by way of electronic download and release of appropriate licence keys) together with the applicable Customer Support as soon as reasonably possible following the Effective Date.

Subject to the following clause, the Customer is licensed to use the server elements of the applicable Products on a single installation at the Installation Address. The Customer may not split the usage of the Products across multiple server installations unless the Parties specifically agree otherwise.

Unless otherwise agreed or set out in the Order Form, the Customer is permitted to use the server elements of the applicable Embridge Products and the Third Party Products for one environment.

5.3. Use of Products and Services

Where there is no separate Third Party Product EULA or Third Party Services EULA provided, the Products and Services (including any Documentation) may only be used or accessed by:

- 5.3.1. the Customer and its Affiliates, their respective employees and any sub-contractors for data inputting and reporting for the internal business purposes of the Customer and/or its Affiliates (such sub-contractors being persons acting on behalf of the Customer either under (i) an outsourcing or facilities management arrangement on terms requiring the sub-contractor to comply with the Agreement and notified to Embridge in advance of any such arrangement; or (ii) a consultancy agreement on terms requiring the sub-contractor to comply with the Agreement); and
- 5.3.2. the Customer, its Affiliates and their respective employees for Configuration purposes in the normal course of the respective businesses of the Customer and/or its Affiliates or by the Customer's sub-contractors for Configuration purposes where such sub-contractors are either approved services partners of Embridge or its relevant Third Party Provider or approved by Embridge expressly in writing for such purpose; and
- 5.3.3. the Customer's ultimate parent organisation and its Affiliates for their own internal business purposes provided the parent organisation is an Affiliate of the Customer and that (i) each such organisation is not a competitor of Embridge or its relevant Third Party Provider and (ii) this right will automatically cease if any such organisation ceases to be an Affiliate; and/or
- 5.3.4. any other Users who would reasonably need access to the Products or Services (including any Documentation) in order for the stated business purpose or requirement of the Customer, in using the same, to be fulfilled.

Where a separate Third Party Product EULA or Third Party Services EULA is provided, then it will apply in relation to usage of such Third Party Product and/or Third Party Services by the Customer.

Save as set out in clauses 5.3.1 to 5.3.4 above, the Products and Services, (including any Documentation) may not be used to provide any business

processing services to any third party or be used by any third party (whether a business or individual).

5.4. Responsibility for acts or omissions

The Customer is responsible for the acts or omissions of its employees and permitted sub-contractors and for its Affiliates, their respective employees and permitted sub-contractors.

5.5. Restrictions on use

The Customer and any party granted a right to use or access Products or Services shall:

- 5.5.1. secure and protect the proprietary rights in the Products and/or Services and any copies which are made of it;
- 5.5.2. ensure that no copies of the Products and/or Services in any form are given to any third party without the express permission of Embridge in writing;
- 5.5.3. reproduce any copyright notice on all material related to, or part of, the Products and/or Services or any Documentation on which any such copyright notice is displayed;
- 5.5.4. Not:
 - 5.5.4.1. copy, decompile, disassemble, reverse engineer, frame, mirror or duplicate any part or content of the Products or Services;
 - 5.5.4.2. attempt to derive the source code of the Products or Services;
 - 5.5.4.3. access the Products and/or Services to (a) build a competing product or service; or (b) copy any features, functions or graphics;
 - 5.5.4.4. unless specifically permitted to do so in the Agreement, reproduce, distribute, publicly display, sublicense, lease, rent, assign, loan, transfer or otherwise make available the Products and/or Services to a third party;
 - 5.5.4.5. modify, adapt, alter, translate, or create derivative works of the Products or Services;
 - 5.5.4.6. merge (together) the Products and/or Services with any other software or service;
 - 5.5.4.7. develop an alternative to the Products and/or Services that is based on or derived from, in whole or in part, the Products and/or Services or any Documentation;
 - 5.5.4.8. use the Products and/or Services in violation of any import, export, re-export or other applicable laws or regulations;
 - 5.5.4.9. remove or obscure any copyright notices, proprietary rights notices, trade marks (or trademarks), trade mark credits, trade designation, confidentiality notice, mark, logo, legend or other information included in the Products and/or Services;
 - 5.5.4.10. use robots or robotic process automation without Embridge's prior consent; and
 - 5.5.4.11. purport to assign, transfer, mortgage, charge, part with possession, or in any way deal with any of its rights, duties, or obligations under the licence to the Products and/or Services without the previous consent in writing of Embridge.

5.6. Escrow

Embridge shall ensure one copy of the source code that comprises or underpins the Embridge Product, is, where reasonably practicable, deposited with one (or more) escrow provider (further details are available in Embridge's escrow policy) and such source code will be updated from time to time with any new Release (as defined in the Embridge Support Terms). The Customer is able to enter into an escrow agreement with the escrow provider and release of the source code for the relevant Embridge Product will be available to the Customer in accordance with the applicable escrow agreement.

Embridge shall procure that one copy of the source code that comprises or underpins the Third Party Product, is, where reasonably practicable, deposited with one (or more) escrow provider (further details are available in the Third Party Provider's escrow policy) and such source code will be updated from time

to time with any new Release (as defined in the Third Party Terms). The Customer is able to enter into an escrow agreement with the escrow provider and release of the source code for the relevant Third Party Product will be available to the Customer in accordance with the applicable escrow agreement.

5.7. Additional and Supplemental Services

Where Embridge has agreed to provide additional or supplemental Services which are contracted and billed on an annual basis (whether or not subject to a Minimum Term), such as Managed Application Services or enhanced or improved support, these Services will be provided in accordance with the relevant Service Description.

[Where SaaS]

5.8. Notice and Takedown

The Customer shall behave toward third parties with due care and in a lawful manner, at all times and in all cases, i.e. regarding third party rights such as data protection rights and IPRs. With the aim of avoiding any liability to third parties or limiting the consequences of a liability towards third parties, Embridge is, at all times, entitled to take measures at its own discretion in relation to an act or omission by or at the risk of Customer, including acts or omissions that infringe or could possibly infringe those third party rights. Embridge cannot be required to form an opinion on the validity of the claim of third parties or of the Customer's defence, or to become involved in any way in a dispute between the Customer and third parties. The Customer shall remove Customer Data immediately on the first written request of Embridge. If the Customer fails to do so, Embridge is entitled to remove the Customer Data or prevent access to Customer Data at its discretion.

In the event of the infringement or imminent infringement of this clause 5.8, Embridge is entitled to refuse Customer access to the Products and/or Services with immediate effect and without prior notice.

The foregoing does not affect any other measures or the exercising of other rights by Embridge in relation to the Customer. Embridge will (and will procure that the Third Party Providers will) act reasonably with regards to the exercise of the rights under this clause 5.8.

5.9. Integration with Non-Embridge Applications

The Products and/or Services may contain standardised features (APIs) designed to interoperate with other Non-Embridge Applications. To use such features, Customer may be required to obtain access to such Non-Embridge Applications from the third party providers of such products. If the provider of any such Non-Embridge Application ceases to make the Non-Embridge Application available for interoperation with the corresponding features of the Products and/or Services on reasonable terms (e.g., uses old integration methods or inadequate security protocols), Embridge may cease providing such features without entitling Customer to any refund, credit, or other compensation. If, for reasons reasonably attributable to a provider of a Non-Embridge Application, it can no longer reasonably be expected for Embridge to make the Products and/or Services available for interoperation with such Non-Embridge Application features, Embridge may cease providing such corresponding features without entitling Customer to any refund, credit, or other compensation.

5.10. Changes to the platform provider

Embridge reserves the right on behalf of itself and its Third Party Provider(s) to change the platform provider of the Products and Services, provided that: (i) Embridge or the relevant Third Party Provider(s) have given reasonable notice to the Customer of such change; (ii) the jurisdiction in which the Customer Data is stored shall not be changed (without having first obtained Customer consent, which shall not be unreasonably withheld, delayed or conditioned); and (iii) the service provided by the new platform provider shall be (in form and content) consistent in all material respects with the previous offering.

6. PROFESSIONAL SERVICES

6.1. Availability

Customer may request and Embridge may agree, subject to Embridge's reasonable scheduling and availability, to provide Embridge Professional Services. Any such Embridge Professional Services are provided remotely at Embridge's Prevailing Rates, unless an alternative arrangement is agreed to in writing by the Parties and included in the Order Form. Any estimates,

timeframes or quotes provided by Embridge are subject to adjustment based on changes in scope or the required level of effort, delays in Customer making available personnel or performing its responsibilities, the testing and validation process, and other circumstances outside of Embridge's reasonable control. Change control notes will be issued to address any changes to scope requested by the Customer so that these are signed off and an estimate of costs provided before such work is carried out.

6.2. Working Time

Unless otherwise stated in an Order Form, all Embridge Professional Services are provided on a time and materials basis on Business Days. An Embridge Professional Services working day consists of a 7.5 hour day and in any case excludes travelling time and lunch. Embridge may charge the Customer for additional time worked in accordance with the then current Embridge policy (which will include an uplift for work carried outside the working hours set out above). The minimum chargeable time is one (1) 7.5 hour day. Weekend working is not included in the agreed day rates.

6.3. Location

The Customer shall permit Embridge's Personnel sufficient access to its premises to enable Embridge to provide the Embridge Professional Services. When working at the Customer's premises, the Customer shall allow Embridge's Personnel to have the use and benefit of a suitable working area and suitable technical equipment. If Embridge agrees to supply Embridge Professional Services on an hourly basis, during standard working hours, for example by telephone, the fee will be the daily rate applicable to the Customer calculated pro rata plus any associated costs.

6.4. Expenses

Unless otherwise agreed in the Order Form, the Customer agrees to pay all Expenses in accordance with Embridge's then current expenses policy. Where travel is required, Embridge expenses are currently fixed at £250 + VAT per day per Embridge resource but can be provided at actual cost at the Customer's election. The £250 + VAT rate excludes foreign travel and flights. No additional expenses will be incurred without the Customer's prior written approval.

6.5. Cancellation at short notice

If the Customer and Embridge have agreed to specific dates for delivery of Embridge Professional Services, and for any reason the Customer cancels or defers the arrangements or the Embridge Professional Services cannot be provided by Embridge due to the Customer's actions or failure to act (including but not limited to the Customer failing to meet the pre-requisites specified by Embridge), the Customer agrees to pay: (i) 50% of the relevant fee if the cancellation/deferment takes place between six (6) and ten (10) Business Days prior to the date of delivery of the Embridge Professional Services and 100% of the fee if the cancellation/deferment (including non-provision of the Embridge Professional Services) takes place five (5) Business Days or less prior to the date of delivery of the Embridge Professional Services; and (ii) any costs which Embridge incurs as a result of the cancellation (for example, travel or accommodation costs).

In the event of deferment/cancellation/non-provision of the Embridge Professional Services due to the acts or omissions of the Customer or its sub-contractors, Embridge shall use all reasonable endeavours to redeploy the affected staff and will only charge this fee where it is unable to redeploy staff on other chargeable work.

6.6. Standard Industry Implementation

Embridge and its Third Party Provider(s) are the owners of all IPRs in their industry standard processes and template documentation and the Customer is granted a royalty-free, non-exclusive, non-sublicensable (except to Customers' Affiliates) license for the duration of the Term to use and adapt such processes and template documentation free of charge in relation to Projects.

In consideration of the grant of such licence by Embridge and its Third Party Provider(s), the Customer hereby assigns by way of future assignment all IPRs in any adaptations of or modifications to the industry standard process and/or template documentation to Embridge and its Third Party Provider(s). Where any industry standard process or template documentation is provided to a Customer as part of the sales process, the Parties acknowledge that there is an assumption that these will be used as the basis for the provision of the Embridge Professional Services.

6.7. Project IPR

Embridge has the right to perform similar Embridge Professional Services for third parties, including any competitors of the Customer. Any IPRs which may be created by Embridge or its Third Party Providers during the provision of Embridge Professional Services or a Project, including, without limitation, ideas, know-how, techniques, enhancements or modifications to Products or Services, source code or Documentation and any software scripts, are the property of Embridge or its Third Party Providers. Embridge retains title and full ownership rights to all such IPRs under any Applicable Law of any jurisdiction; however, the Customer shall be granted a royalty-free, non-exclusive, non-sublicensable (except to Customers' Affiliates), license to use such IPRs for its internal business purposes for the same term as the Customer's license for the relevant Products and/or Services (as applicable).

6.8. User Acceptance Tests for Projects

The Customer is responsible for setting and carrying out User Acceptance Tests.

6.9. Change Control

Embridge shall provide such additional Embridge Professional Services and shall make such changes to the Embridge Professional Services (and consequential pricing or timing issues) as may be agreed between the Parties in accordance with the change control process (if any) agreed prior to the initiation of any Project.

6.10. Sub-contracting

Embridge will only sub-contract delivery of the Embridge Professional Services with the prior approval of the Customer.

6.11. Delivery estimates and Time of delivery

Unless otherwise agreed in an Order Form or a Statement of Work, dates or times for delivery of Projects provided by or agreed with Embridge are estimates and indicative only and time is never 'of the essence' in relation to the delivery of any Embridge Professional Services. Embridge is not liable for any failure to deliver a Project or any agreed deliverables by any specified dates whether agreed before or following any Project initiation.

6.12. Statements of Work

Professional Services may be ordered pursuant to an Order Form or a Statement of Work (or both). Where the Parties agree a Statement of Work (or SOW) it will set out: (i) the tasks and deliverables of both Embridge and the Customer in relation to a particular Project (ii) the charges payable by the Customer to Embridge for completion of the scope of work comprising the Embridge tasks and deliverables; and (iii) any assumptions and qualifications made by Embridge in reaching and agreeing those charges.

If changes to the scope of work are required, or changes to the assumptions occur, or any other variations to the SOW are required, the Parties shall agree (in good faith) the required amendments to the SOW. Where a change process is set out in the SOW to manage variations, the Parties will follow such process. However, if the Parties are unable to agree the necessary changes to the SOW directly or through change management, Embridge is entitled to cease work on the Project and to charge Customer for and recover any costs or expenses incurred up to that date, including those costs and expenses which are in excess of any charges set out in the SOW.

7. CUSTOMER RESPONSIBILITIES (GENERAL)

7.1. Customer Responsibilities

Unless otherwise stated:

- 7.1.1. the Customer shall promptly provide Embridge with all information and documentation which may reasonably be requested by Embridge in order to allow Embridge to fulfil its obligations;
- 7.1.2. the Customer shall ensure that to the extent reasonably necessary any Users of the Products and/or Services have received adequate training and that the Users involved in the implementation and operation of the same undertake sufficient training to carry out that role in line with Good Industry Practice and in accordance with any relevant Documentation and reasonable advice given by Embridge (or its partners, agents or sub-contractors as applicable);
- 7.1.3. the Customer agrees to use the Professional Services of Embridge

and its approved services partners exclusively for (i) Professional Services to be provided as part of a Project by Embridge (as opposed to Professional Services to be provided as part of a Project by the Customer) during the implementation of the Embridge Product and (ii) Professional Services relating to implementation of any new Releases (as defined in the Embridge Support Terms or Third Party Support Terms as relevant);

- 7.1.4. any transfer of data by the Customer into the database used by the Products and/or Services must be carried out using the standard interfacing tools supplied with the relevant Products and Services. Without prejudice to Embridge's other rights and remedies under the Agreement, any work carried out by Embridge arising directly or indirectly from a breach of this clause 7.1.4 will be charged to the Customer at Embridge's Prevailing Rates;
- 7.1.5. the Customer is responsible for connectivity to its network and the Internet including the agreed mechanism for any remote support access;
- 7.1.6. the Customer is responsible for the accuracy of the inputs to and the outputs from the Products and/or Services used in conjunction therewith, as well as ensuring the parameters of the Products and/or Services are set correctly for the administration, processing of data and calculations in accordance with any legal, accounting or tax requirements;
- 7.1.7. the Customer must ensure that its operating systems and database software (as applicable) are at all times compatible with the Products and/or Services and are not malfunctioning in a way that adversely affects the operation of the relevant Products and Services.
- 7.1.8. comply with its responsibilities and obligations in any applicable Policy Documentation and under Applicable Law; and
- 7.1.9. the Customer is responsible for ensuring that the necessary equipment and software for the efficient operation of the Products and/or Services is procured and ready for the commencement of Professional Services on a date mutually agreed in advance between the Parties.

[Where SaaS]

- 7.1.10 the Customer is responsible for providing and installing the appropriate web browser to access the Products or Services, as advised from time to time by Embridge;
- 7.1.11 the Customer shall: (i) be responsible for procuring and maintaining client-side equipment, software and services required to remotely access and use the Products and/or Services including network connectivity; (ii) be responsible for the functional operation and administration of the application that is provided as part of the Products or Services; and (iii) use the Products and/or Services only in accordance with the Agreement, and relevant policy documentation (including the AUP and Fair Usage Policy) and Applicable Law; For the avoidance of doubt, any (i) unauthorised use of or (ii) Fair Usage thresholds that are exceeded for Embridge Apps (prior to or post termination) shall be invoiced to the Customer.

7.2. Embridge Relief from Performance

If Embridge is prevented or delayed from performing any of its obligations under the Agreement by reason of any act, default or omission of the Customer its agents or sub-contractors, then Embridge is not deemed to be in breach of any terms of the Agreement which it might otherwise be in breach of as a result of the said act, default or omission.

8. CUSTOMER DATA, PRIVACY AND DATA PROTECTION

8.1. Customer Data

The Customer retains at all times ownership of and all right, title and interest in and to the Customer Data including any IPRs therein. Subject to the limited rights granted by the Customer in this Agreement, Embridge acquires no right, title or interest from the Customer or its licensors in or to Customer Data, including any IPRs therein.

The Customer grants to Embridge throughout the Term a non-exclusive,

irrevocable, royalty-free licence to use the Customer Data (which includes, without limitation, reproduce, extract, transform, load, modify, copy, report on and otherwise exploit the Customer Data), for the purpose of providing the Products and/or Services to the Customer and exercising its rights and performing its obligations under the Agreement.

The Customer shall submit the Customer Data in a format approved by Embridge as compatible for use with the applicable Products and Services. The Customer is solely responsible for the quality, accuracy, reliability, consistency, suitability and legality of its Customer Data and the means by which it acquired the Customer Data and shall use all reasonable efforts to update its Customer Data (used in conjunction with the Products and Services) in a timely manner to correct typographical errors, truncation of data, out-of-date information and other inaccuracies.

8.2. Statistical Data Use

Embridge will own all Statistical Data and nothing in the Agreement will prevent or limit Embridge in using or commoditising the Statistical Data, provided that the use of Statistical Data will not: (i) reveal any Personal Data to third parties; (ii) breach confidentiality undertakings or Applicable Law.

8.3. Privacy and Data Protection

Each Party shall comply with their respective obligations set out in the Privacy Policies and the Embridge Data Processing Terms.

[Where SaaS]

8.4. Return of Customer Data on Termination

On termination of the Agreement and at the Customer's request, Embridge will make available (and will procure that any Third Party Provider makes available) to the Customer a file containing the last back-up of any Customer Data in the native database format along with attachments in their native format. The Customer may also request that such Customer Data is destroyed.

The Customer must provide Embridge with at least thirty (30) calendar days' notice in writing (which may be by any means set out in the relevant Support Terms) of a request for a return of Customer Data on termination of the Agreement. Otherwise, the Customer is deemed to have requested destruction of the Customer Data and Embridge will thereafter, unless legally prohibited, delete and/or destroy and procure the same of all Customer Data in its systems or those of a Third Party Provider otherwise in their possession or under their control.

The Customer may request a file containing the last back-up of Customer Data (taken by Embridge) in its native database format along with attachments in their native format at any time during the Term. The Customer must provide at least thirty (30) calendar days' notice in writing (which may be by email or submitted as a Service Request to Customer Support) of a request for such a copy of its Customer Data.

Embridge reserves the right to charge the Customer on a time and materials basis at Embridge's Prevailing Rates or the Third Party Provider's Prevailing Rates for any work required to destroy and/or deliver any copy of Customer Data under this clause 8.4.

[OR Where On Premise]

8.5. On Premise Data Provisions

The Customer is responsible for the safety, security and integrity of its data at all times. This includes, but is not limited to, ensuring that appropriate back-ups are made of all data on a daily basis in accordance with Good Industry Practice and ensuring that the system can be restored to its previous state in the event of problematic maintenance operations on a production environment. Embridge shall provide a restoration service at the Customer's cost provided up-to-date backups are available. Where Embridge requires assistance from any sub-contractor to the Customer (e.g., a third party licensor or an ISP) to carry out such restoration work, the Customer shall procure such assistance for Embridge at no additional charge to Embridge.

In the event that any data is at any time corrupted, lost or sufficiently degraded as to be unusable and the Customer has complied with its obligations in the previous clause, then Embridge shall assist the Customer to recover or restore such data either by using its own internal resource (to the extent of its ability to do so in this field of operation) or by co-operating with a specialist third party

data recovery firm used by the Customer, at any additional charge agreed between the Parties in advance of any work being carried out.

On any termination of the Agreement by Embridge, the Customer shall immediately return the Products and/or Services to Embridge, or at Embridge's request destroy the same and all copies of the whole or any part thereof and within seven (7) calendar days certify to Embridge in writing that it has returned or destroyed the relevant Products and/or Services as applicable. Failure by the Customer to affect the return or destruction will entitle Embridge, upon giving reasonable notice, to enter any premises of the Customer to remove or supervise the destruction of the same. In such circumstances, the Customer hereby irrevocably authorises and licenses Embridge its employees or agents to enter the Customer's premises for that purpose. The Customer is liable for all reasonable costs incurred by Embridge in connection with the recovery of the Products and/or Services such costs to be paid on an indemnity basis.

9. WARRANTIES AND DISCLAIMER

9.1. General Warranties

Each Party warrants that:

- 9.1.1 it has full capacity and authority and all necessary consents to enter into and to perform the Agreement;
- 9.1.2 that the Agreement is executed by a duly authorised representative of each Party; and
- 9.1.3 it has validly entered into this Agreement and has the legal power to do so.

9.2. Customer Additional Warranty

The Customer warrants that its exercise of the licence granted in clause 8.1 above will not infringe nor contravene any Applicable Law or third party rights.

9.3. Product Functional Warranty

Embridge warrants that the Embridge Product or Embridge Services (as relevant), shall perform materially in accordance with the Documentation and the Specification on delivery or first access (as applicable). Following delivery, or first access (as applicable) the support and maintenance obligations will supersede this warranty.

Embridge will procure that any third party licensor provides the Third Party Product or Third Party Services (as relevant), in all material respects as set out in the applicable Third Party Terms and the Specification.

The Customer acknowledges that the Products and Services (as relevant), are standard software and not a bespoke or custom program prepared to meet the Customer's individual requirements (even if Embridge is aware of such requirements). It is therefore the responsibility of the Customer to ensure that the facilities and functions described in the Documentation, Specification and by Embridge in the Order Form meet its requirements including its obligations under Applicable Law. Embridge and its Third Party Providers (as appropriate) are not liable for any failure of the Products and Services (as relevant), to provide any facility or function not specified in the relevant Documentation, Specification or by Embridge in the Order Form. Embridge is not obliged to provide any Products or Services where it would be in breach of Applicable Law.

Embridge on behalf of itself and its Third Party Providers accepts no liability for any failure of the Products and Services to provide any facility or function as a result of:

[Where SaaS]

- 9.3.1 a modification to the code (or any Customisation) of any Products or Services which have not been carried out by Embridge or its Third Party Providers or any action which is expressly excluded in the Documentation (and any approval will be at the cost and expense of the Customer);

[Where On Premise]

- 9.3.2 a failure by the Customer to install a new Release, Update or apply a Hot Fix (or similar terminology for the relevant Third Party Product) which has been released to remedy an error or, save where Embridge has agreed otherwise in the Order Form, use of any Release (or similar terminology for the relevant Third Party Product) which is not the

most recent or penultimate Release of the relevant Products or Services; or

9.3.3 any combination of the Products and Services with any software or materials not supplied or approved by Embridge or its Third Party Providers; or

9.3.4 use of the Products and Services in a manner for which they were not intended or other than as permitted under the Agreement.

Embridge does not warrant, and Customer acknowledges, that the operation of the Products and Services is or will be uninterrupted or error free.

In the event of the Product and Services failing to perform in accordance with any of the above warranties, Embridge has no liability or obligation other than to remedy such failure by the provision of Customer Support. It is acknowledged by the Customer that the remedies expressed in the Agreement set out the whole extent of Embridge's (and any Third Party Provider's) liability and obligations in respect of any breach of any warranty.

9.4. Services Warranty

Embridge warrants that the Professional Services shall be provided with reasonable care and skill.

In relation to the Professional Services, the foregoing warranty is subject to Customer notifying Embridge promptly, and in any event within thirty (30) calendar days of the date of performance of the alleged nonconforming Professional Services, and providing all information and assistance reasonably requested by Embridge in connection therewith. Upon receiving such timely notice, as Embridge's entire obligation and Customer's sole and exclusive remedy, Embridge shall use commercially reasonable efforts to re-perform or otherwise remedy the nonconformity at no additional charge to the Customer.

Embridge accepts no liability for any failure of the Professional Services to provide any facility or function as a result of:

[Where SaaS]

9.4.1 a modification to the code (or any Customisation) of any Products or Services which has not been carried out by Embridge or its Third Party Provider(s) or any action which is expressly excluded in the Documentation (and any approval will be at the cost and expense of the Customer);

[Where On Premise]

9.4.2 a failure by the Customer to install a new Release, Update or apply a Hot Fix (or similar terminology for the relevant Third Party Product) which has been released to remedy an error or, save where Embridge has agreed otherwise in the Order Form, use of any Release (or similar terminology for the relevant Third Party Product) which is not the most recent or penultimate Release of the relevant Products or Services; or

9.4.3 any combination of the Product or Services with any software or materials not supplied by Embridge and where relevant approved by its Third Party Providers;

9.4.4 use of the Products or Services in a manner for which they were not intended or other than as permitted under the Agreement; or

9.4.5 incorrect instructions or information from the Customer or the Customer's failure to provide information or documentation.

9.5. Customer Responsibility for its Affiliates and Users

The Customer shall ensure the compliance with the terms of this Agreement (including Use of the relevant Products and Services) by any person permitted access to the applicable Products and Services. The Customer accepts responsibility and liability for (i) the acts and/or omissions of such persons in relation to any breaches by the Customer of the Agreement; or (ii) direct breach of any obligations under the Agreement by such persons. Any rights of Affiliates to use or access the Products and/or Services will terminate automatically on ceasing to be an Affiliate.

9.6. Right to Charge the Fees

Where Embridge has no liability for any failure of the Products and/or Services to provide any facility or function under this clause 9 (**Warranties and**

Disclaimer), it reserves the right to charge the Customer the fees for the remainder of any Minimum Term or any successive recurring term.

10. INDEMNIFICATION

10.1. Indemnification by Embridge

Embridge shall defend the Customer, at Embridge's expense, against any Claims made or brought against the Customer by a third party alleging that the use of any Embridge Product or Embridge Services directly infringes any IPR of a third party or misappropriates such third party's trade secrets. Further, Embridge shall indemnify and hold the Customer harmless against all costs (including reasonable attorneys' fees) finally awarded against the Customer by a court of competent jurisdiction or an arbitrator or agreed to in a written settlement agreement signed by Embridge, in connection with such Claims.

Promptly upon receiving notice of a Claim, the Customer shall: (a) give Embridge prompt written notice of the Claim; (b) give Embridge sole control of the defence and settlement of the Claim (provided that Embridge may not settle or defend any Claim unless it unconditionally releases the Customer of all liability); and (c) provide to Embridge, at Embridge's cost, all reasonable assistance in the defence or settlement of such Claim. Embridge's indemnification obligation will be offset or reduced to the extent its ability to defend or settle a Claim is jeopardized by the Customer's failure to comply with the preceding sentence.

Embridge shall have no indemnification obligation for: (i) infringement claims arising from the combination of any Embridge Product or Embridge Services with any of the Customer's products, services, hardware, data or business processes or use of Embridge Product or Embridge Services by the Customer other than in accordance with the Agreement; and (ii) for any amendment or modification to the Embridge Product or Embridge Services (including any Customisations) not carried out by Embridge or one of its approved software partners.

If the Embridge Product or Embridge Services are held or likely to be held infringing, Embridge has the option, at its expense to (i) replace or modify the Embridge Product or Embridge Services as appropriate, (ii) obtain a license for the Customer to continue using the Embridge Product or Embridge Services, (iii) replace the Embridge Product or Embridge Services with a functionally equivalent service; or (iv) as a final option having explored options (i) - (iii) but being unable commercially to provide these, terminate the applicable Embridge Product or Embridge Services and refund any prepaid fees applicable to the unusable portion of the applicable Embridge Product or Embridge Services following the effective date of termination.

In relation to any Third Party Product and Third Party Services the above provisions shall be deemed to apply as between the Third Party Provider and the Customer direct, with all references to "Embridge" in respect of any deliverables or obligations replaced with the relevant Third Party Provider.

10.2. Indemnification by the Customer

The Customer shall indemnify, defend and hold Embridge harmless from and against any and all Claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) arising out of or resulting in whole or in part from:

10.2.1 the Customer's, its Affiliates' or their Users' use of the Products and Services in breach of clauses 5.3, 5.4 or 7.1 of the Unit4 Third Party Terms (Service Terms - SAAS) (or equivalent for Proactis Third Party Terms), any EULA, AUP or for any unlawful purpose;

10.2.2 breach of any of Embridge's IPRs or Third Party Provider IPRs;

10.2.3 any claim by a third party that the Customer Data infringes the IPR of such third party;

10.2.4 the responsibilities of the Customer (under Applicable Law or the Agreement) in relation to the input, processing, intended or unintended release and/or storage of Customer Data by the Customer, or any Claims (whether or not bona fide) by Customer's ultimate end users, their legal representatives or other third parties in connection therewith.

10.3. Exclusive Remedy

This "Indemnity" section states the indemnifying Party's sole liability to, and the

indemnified Party's exclusive remedy against, the other Party for any type of Claim described in clauses 10.1 and 10.2 respectively.

11. LIMITATION OF LIABILITY

11.1. Applicability

Except for any specific limitations of liability elsewhere in the Agreement, this clause 11 sets out the entire aggregate liability of each of the Parties in respect of any Default by it or on its behalf.

11.2. Non-excluded Liability

Nothing in this Agreement, particularly in this clause 11, limits or excludes:

- 11.2.1 either Party's liability for fraud or fraudulent misrepresentation;
- 11.2.2 either Party's liability for death or personal injury attributable to negligence;
- 11.2.3 either Party's liability to the extent that such limitation or exclusion is not permitted by Applicable Law;
- 11.2.4 the Customer's liability for payment of undisputed and properly due fees; and
- 11.2.5 either Party's liability under clause 4 (Confidentiality) unless such liability arises from the Processing of any Personal Data under this Agreement. For the avoidance of doubt, clause 11.2.6 below applies to any Processing of Personal Data captured under clause 10 (Indemnification); and
- 11.2.6 for the Parties respective liabilities under clause 10 above.

11.3. Exclusion of Indirect, Consequential and other Damages

Subject to clause 11.2 (Non-excluded Liability), neither Party is liable to the other Party for any: indirect, special, incidental or consequential loss or damage; cover or punitive damages; damage to goodwill; loss or spoiling of data; and/or loss of contracts, however caused, whether in contract, tort or under any other form of liability, and whether or not the Party has been advised of the possibility of such damages.

Subject to clause 11.2, Embridge is not liable to the Customer for any lost profits or revenues of the Customer however caused, whether in contract, tort or under any other form of liability, and whether or not the Party has been advised of the possibility of such damages.

11.4. Limitation of Liability

Subject to clauses 11.12 and 11.3 (above), the entire liability of Embridge under the Agreement in respect of any Default (i) in respect of the supply of Embridge Apps will in no event exceed £5,000 and (ii) in all other cases will in no event exceed an amount equal to the aggregate of the amounts paid or payable by the Customer to Embridge under the Agreement in relation to the specific Product and/or Service to which any Claim relates in the twelve months preceding the date of Default. In addition, Embridge's liability will be further limited to Losses sustained by the Customer only as a direct result of the Default.

Embridge will not have any liability where an Embridge App does not perform (or its performance is adversely impacted) by a new Release Update or Hot Fix of any Third Party Products that it is intended to work with. The Customer is responsible for managed environment issues of Third Party Providers that impact the provision of an Embridge App.

11.5. Related Exclusions

Embridge will have no liability for a Default arising out of or connected with:

- 11.5.1. The use of any Material for a purpose not specified in or otherwise contemplated by the Agreement.
- 11.5.2. The use of any Material with any hardware, software, application or other service not approved by Embridge;
- 11.5.3. Any modification to any Material that is not made by Embridge or a person acting on Embridge's express instructions;
- 11.5.4. Any unapproved, negligent or reckless acts or omissions of the Customer, its Affiliates or its employees or agents in connection with

the Agreement; or

- 11.5.5. Any act or omission by any third party engaged by the Customer.

11.6. Claims

Embridge will have no liability to the Customer in respect of any Loss arising from any Default unless the Customer has served notice of its Claim for those Losses on Embridge within 24 months after the date on which the Claim arose.

11.7. Exclusion of Implied Terms

Except as expressly provided in this Agreement, Embridge excludes to the fullest extent permissible by Applicable Law all Implied Terms.

11.8. Cumulative Defaults

If multiple Defaults occur that together results in or contribute substantially to the same Loss suffered, they will be deemed to constitute one Default for the purposes of any Claim by the Customer.

11.9. Separate Limitations

Each term of this clause 11 is to be construed as a separate limitation or other provision and shall remain in force notwithstanding expiry or termination of the Agreement.

12. TERM AND TERMINATION

12.1. Term of Agreement

The Agreement commences on the Effective Date and continues until terminated by either Party in accordance with its terms.

12.2. Termination for Cause

A Party may terminate the Agreement for cause by giving notice of termination to the other Party if the other Party (i) is in material breach of its obligations under the Agreement, and the breach is not capable of remedy; or (ii) is in material breach of its obligations under the Agreement that is capable of remedy but the other Party has not remedied the breach within thirty (30) calendar days' after it received notice of the breach.

A breach by a Party of its obligations under the Agreement will be considered capable of remedy if the Party can perform the obligation in all respects other than as to time of performance.

12.3. Termination for an Insolvency Event

Either Party may terminate the Agreement by giving notice under clause 13.9 to the other Party if the other Party (i) becomes the subject of insolvency proceedings or any other proceeding relating, or analogous to, insolvency, receivership, liquidation or assignment for the benefit of creditors, (ii) goes into administration or an analogous arrangement; or (iii) becomes unable to pay its debts as they fall due.

12.4. Termination for Convenience (Embridge Apps Only)

A Party may terminate the Agreement in relation only to the provision of an Embridge App for convenience by providing ninety (90) calendar days prior written notice at any time.

12.5. Suspension

Subject to clause 3.7 above, Embridge is entitled to suspend the performance of all or any of its obligations under the Agreement and any other agreement with the Customer:

- 12.5.1. if there is an actual or threatened Default by the Customer of the Agreement or any other agreement with the Customer. In such event, Embridge shall promptly contact the Customer to provide an explanation and coordinate an appropriate resolution; and/or
- 12.5.2. in order to protect the security and integrity of Embridge's or the Third Party Provider's systems, facilities and equipment.

The suspension will remain in effect until the actual or threatened Default that caused the suspension (if remediable) has been remedied.

12.6. Effect of Termination

Any termination of the Agreement is without prejudice to the accrued rights and liabilities of either Party and will not automatically terminate any other

agreements made in relation to other Order Forms. Embridge will not be under any obligation to deliver any Products or Services following the effective date of termination of the Agreement.

12.7. Surviving Provisions

Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement will remain in full force and effect for such period as necessary.

12.8. Payment for Termination

Upon any termination by Embridge under clause 12.2 (Termination for Cause), the Customer will be liable to Embridge for any fees in an Order Form that have not been invoiced and that cover the remainder of the unexpired term of the Order Form after the effective date of termination. In no event will any termination relieve Customer of the obligation to pay any fees payable to Embridge for the period prior to the effective date of termination. This remedy is without prejudice to any other rights or remedies Embridge may have under the Agreement.

13. GENERAL PROVISIONS

13.1. Audit

Upon reasonable notice and no more than once a year, Embridge (or a third-party auditor instructed on Embridge's behalf) may conduct an audit (either remotely or on the Customer's business premises) of the Customer's Use of any Products or Services. Use can be actual usage or creation by the Customer of a right to Use, including the setting up of any User roles within the Products or Services. The costs of any third party auditor will be at Embridge's expense.

The Customer shall give immediate, full and complete cooperation and provide all requested data and information to verify compliance with the terms of the Agreement. The Customer shall respond to any request for information as soon as possible, but no later than fourteen (14) days following such request.

If the output of any audit reveals Use which exceeds the quantity of the Volume Metric purchased in an Order Form, the Customer will be liable to Embridge for any underpayments that result from non-compliance (including unpaid fees) for the entire period of non-compliance. The pricing for such payments will be based on Embridge's Prevailing Rates (i.e., current price list at the point the audit is carried out) and Embridge will have the right to issue an invoice for such underpayments.

If the underpayments exceed five (5) percent of the total cost / value of any Products or Services paid by the Customer in a relevant Order Form, the Customer shall also reimburse Embridge for the costs of conducting the audit. The provisions of clauses 3.8 and 13.14 (Dispute Resolution) do not apply to the resolution of audit and underpayment matters.

13.2. Suggestions and Case Studies

Embridge shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use and incorporate into the Products and Services any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including customers end users, relating to the operation of the relevant Products and Services.

Embridge shall have the right to (i) carry out normal public relations and marketing activities referring to the Customer and (ii) compile case studies as part of their ongoing business improvement process and the Customer will not unreasonably withhold consent to participate in these activities provided they do not involve material effort on the part of the Customer.

13.3. Export Compliance

The Products and Services, incorporating Embridge and/or Third Party Provider IPRs or technology and derivatives thereof may be subject to export laws and regulations of other jurisdictions. Customer agrees that such Products and Services shall not be exported from the country of supply, directly or indirectly, separately or as part of a system unless the Customer at its own cost complies with all Applicable Laws and regulations of any governmental, judicial, arbitral, regulatory or other authority of competent jurisdiction. At the Customer's request and expense Embridge may assist the Customer to apply for such licences. Further, the Customer represents that neither it nor its personnel are named on any government denied-party list (or equivalent). The Customer shall

not permit Users to access or use the Products and Services in violation of any export law or regulation.

13.4. Anti-Bribery and Anti-Corruption

Neither Party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from the other Party's employee or agent in connection with the Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If a Party learns of any violation of the above restriction, it shall use reasonable efforts to promptly notify the other Party.

13.5. Anti-Modern Slavery and Anti-Human Trafficking

Both Parties comply with all Applicable Law relating to both modern slavery and human trafficking. Each Party has taken reasonable and commercially appropriate steps to ensure that there is no modern slavery and human trafficking practices within its business or its supply chains.

13.6. Agreed Disclosure

Embridge reserves the right, following the Effective Date, on behalf of itself and its Third Party Providers to use the Customer's name and logo to represent the fact that the Customer is a customer of Embridge and its Third Party Providers both internally and externally (including (i) on Embridge's website or a Third Party Provider's website or (ii) through use of social media).

The Customer agrees to allow Embridge or a relevant Third Party Provider to (i) make a press release and provide sufficient co-operation, such that Embridge or a relevant Third Party Provider may publish the same within 3 months of the Effective Date; and/or (ii) use the Customer's experience to produce a reference case and provide sufficient co-operation such that Embridge may produce such reference case within 3 months of the Project go-live date.

13.7. Relationship of the Parties

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

13.8. No Third-Party Beneficiaries

Where the Customer purchases only Embridge Products and/or Embridge Services, there are no third-party beneficiaries to the Agreement. In particular, Customer Affiliates cannot bring Claims directly against Embridge. Where the Customer purchases Third Party Products and/or Third Party Services, the relevant Third Party Provider may enforce the terms of this Agreement against the Customer as if it were a Party hereto. The Parties may amend the terms of the Agreement in accordance with clause 13.18 without the consent of the relevant Third Party Provider.

13.9. Notices

Except as otherwise specified in the Agreement, all notices, permissions and approvals hereunder shall be in writing. All notices of termination and notices under clauses 10 (Indemnification) and 13.14 (Dispute Resolution) (**Legal Notices**) must be clearly identified as Legal Notices.

All notices to Embridge must be addressed for the attention of its Finance Director at the registered office address given in the Order Form, or as otherwise notified in writing to the other Party (with a copy also sent by email to its Finance Director). Legal Notices to the Customer must be addressed to the Customer at the address given in the Order Form, or as otherwise notified in writing to the other Party. All other notices to the Customer shall be addressed to the relevant system administrator designated by the Customer in the Order Form.

Notices are deemed delivered as follows:

13.9.1. If delivered by hand, at the time the notice is left at the proper address or, if it is not a Business Day, the next Business Day.

13.9.2. If sent by next working day delivery service, on the second Business Day after mailing.

13.10. Waiver

No failure or delay by either Party in exercising any right under the Agreement will constitute a waiver of that right.

13.11. Severability

If any provision (or part of a provision) of the Agreement is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement is not affected and the provision (or relevant part thereof) will apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable.

13.12. Force Majeure

Neither Party is liable for any delay in performing its obligations if the delay is caused by Force Majeure. The Parties are not under an obligation to fulfil any obligation if fulfilment is impossible because of Force Majeure. The term Force Majeure includes force majeure of Embridge's suppliers or Third Party Providers, the failure to properly fulfil obligations by suppliers which the Customer has instructed Embridge to use, as well as any defect in Non-Embridge Applications or third party services which the Customer has instructed Embridge to use. If a situation of Force Majeure lasts longer than ninety (90) calendar days, the Parties will have the right to terminate an Order Form by giving notice to the other in accordance with clause 13.9 (Notices). Any Professional Services which have been delivered or performed pursuant to the Order Form before the force majeure event may be invoiced by Embridge and are payable by the Customer.

13.13. Assignment

Except as otherwise specified in the Agreement, the Customer may not assign, transfer, sub-licence or sub-contract any of its rights or obligations under this Agreement, in whole or in part, without the prior written consent of Embridge.

Embridge may assign, transfer, sublicense or sub-contract any of its rights or obligations under this Agreement in whole or in part, provided it gives written notice of such dealing to the Customer.

13.14. Dispute Resolution

Save in relation to an audit carried out in accordance with clause 13.1 (Audit), should a dispute arise between the Parties in relation to the Agreement then prior to pursuing any legal rights the aggrieved Party must provide written notification of the problem to a Director (or equivalent position) of the other Party. Both Parties shall then use all reasonable endeavours to resolve the dispute within fourteen (14) calendar days. Should the problem remain unresolved then the aggrieved Party must provide written notification of the problem to the Managing Director (or equivalent position) of the other Party. Both Parties shall then use all reasonable endeavours to resolve the dispute within a further twenty-one (21) calendar days. Should there still be no resolution in this thirty-five (35) calendar day period then either Party is entitled to pursue its legal rights.

13.15. Non-Solicitation

During the term of the Agreement and for 6 months after its expiration or termination, both Parties undertake that they shall not, without the prior written consent of the other Party, employ or solicit for employment, or solicit to provide services, as an employee, independent contractor or consultant any:

- employee;
- independent contractor; or
- consultant,

of the other Party (including in the case of Embridge any employee, independent contractor or consultant of its Third Party Provider). Nothing in this clause 13.15 prevents either Party from employing or hiring any individual that has responded directly to a recruitment advertisement through a recruitment agency or a public advertisement.

Each Party acknowledges that a breach by it of the provisions of this clause requires the expenditure of time and expense by the other Party in replacing any such person for which the other is entitled to recover as liquidated damages an amount equal to 50% of the gross annual salary or annual fee(s) of the person concerned as at the time of the breach. This provision is without prejudice to the other Party's right to seek injunctive relief.

13.16. Governing Law

The Agreement is governed exclusively by the laws of England and Wales and any disputes, whether contractual or non-contractual, arising out of or related

hereto, are subject to the exclusive jurisdiction of the courts of the same jurisdiction.

13.17. Entire Agreement

The Agreement constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter.

13.18. Variation

No modification, amendment, or waiver of any provision of the Agreement is effective unless in writing and signed by both Parties.

13.19. Counterparts

The Agreement may be executed in counterparts, which taken together will form one legal instrument.

13.20. Electronic Signature

Transmission of an executed document (but for the avoidance of doubt not just a signature page) by: (i) fax; or (ii) e-mail (in PDF or other agreed format); or (iii) electronic signature system (i.e. DocuSign) will take effect as delivery of the relevant document.

14. THIRD PARTY PRODUCTS AND SERVICES

Embridge will offer Third Party Products and Third Party Services for sale alongside Embridge Products and Embridge Services. Such Third Party Products and Services are sold subject to the Third Party Terms and the terms of the Agreement and incorporate any specific terms including any relevant Support Terms, Fair Usage Policy, SLAs, Service Description, Solution Description or other applicable Policy Documentation.

Embridge remains liable for any failure by the Third Party Provider to deliver the Third Party Products and/or Third Party Services in accordance with the Agreement.

Embridge warrants that, where applicable, it has the right to sub-license or grant access to (as applicable) any part of the Third Party Products and/or Third Party Services which it is sub-licensing or granting access to (as applicable) to the Customer or (as appropriate) the right to distribute any Third Party Products and/or Third Party Services which it is providing to the Customer.

Where Embridge resells a Third Party Product or Third Party Service, save as otherwise set out in an Order Form, Embridge is permitted to pass on any increase in fees levied against Embridge by that Third Party Provider to the Customer.

1. SUBJECT OF THESE DATA PROCESSING TERMS

In these data processing terms ("**Data Processing Terms**"):

- 1.1 The Customer (hereinafter referred to as the "**Controller**") is the Party, who (alone or in conjunction with others) determines the purposes and means of Processing of any Personal Data.
- 1.2 Embridge (hereinafter referred to as the "**Processor**") is the Party, who acts on behalf of the Controller without being subject to its direct authority.
- 1.3 The Processor will Process the Personal Data for the Controller (and Controller consents to the same) in accordance with applicable law and these Data Processing Terms including the Data Processing Information.
- 1.4 The Data Processing Information sets out:
 - 1.4.1 in Section 1, without limitation, the purposes and means of the Processing, the categories of Personal Data that will be Processed and the retention period for such Personal Data and the country(ies) (or place(s)) where the Personal Data will be Processed.
 - 1.4.2 in Section 2, the applicable Security Measures adopted by the Processor, which the Controller confirms are adequate.
 - 1.4.3 in Section 3, the details of any Sub-Processors.
- 1.5 The Data Processing Information shall be updated from time to time during the term of these Data Processing Terms, if necessary.

2. PROCESSING

- 2.1 The Processor and the Controller shall, without undue delay, provide each other with all necessary information to enable proper compliance with the Data Protection Legislation.
- 2.2 The Processing of Personal Data takes place in the country/place or countries/places set out in Section 1 of the Data Processing Information and Controller gives its explicit permission for the Processing of the Personal Data in the countries/places mentioned in Section 1 of the Data Processing Information. If Processing will take place in another place (s) / country (s), the Processor will inform the Controller of this.
- 2.3 Where Processing of Personal Data takes place in a country outside the UK for which the UK has not provided an adequacy decision, Processing will only take place provided that there are appropriate safeguards that provide an adequate level of protection for Personal Data. In such a case, to ensure appropriate contractual safeguards, the Parties will comply with their respective obligations in the Standard Contractual Clauses (or such other appropriate safeguards that the Data Protection Authority or a competent regulator decides provides for a sufficient level of protection) and the Controller hereby consents and instructs the Processor to carry out such Processing.

3. RESPONSIBILITIES OF THE PROCESSOR

- 3.1 The Processor will Process the Personal Data in a proper and careful manner in accordance with these Data Processing Terms and will ensure compliance with the Data Protection Legislation.
- 3.2 The Processor will only Process Personal Data in accordance with the performance of the Agreement and the written instructions provided by the Controller, unless the Processor is legally obliged to Process the Personal Data in a manner contrary to this. In the latter case, the Processor will inform the Controller of the relevant legal provisions and its obligations thereunder.
- 3.3 The Processor will only Process Personal Data for the purposes for which it has received instructions and to fulfil the obligations delegated under these Data Processing Terms. The Processor will not use the Personal Data for other purposes.
- 3.4 The Processor will not provide the Personal Data to a third party (other than the Data Subject or other persons approved by the Controller or the Processor to Process the Personal Data), unless this exchange takes place on the instructions of the Controller or in the context of the performance of the Agreement, these Data Processing Terms (including the Data Processing Information) or when this is necessary to comply with a legal obligation or court order.
- 3.5 The Processor will not alter, edit, amend or otherwise change the Personal Data without the Controller instructing it to do so.
- 3.6 The Processor shall give its reasonable cooperation to the Controller to fulfil requests of a Data Subject in relation to his/her rights under the Data Protection Legislation such as, but not limited to, (i) granting Data Subjects access to their Personal Data; (ii) rectifying or erasing Personal Data at the request of the Data Subject; (iii) presenting evidence of the rectification or erasure of his Personal

Data; (iv) providing the Personal Data, which the Data Subject has provided to the Controller and the Controller has passed to the Processor and; (v) transmitting any Personal Data of the Data Subject to another Controller (data portability). If a request is made to return or provide a copy of the Personal Data, the Processor will provide the Personal Data in a structured, widely used and machine-readable format.

- 3.7 In the event the Processor receives a request or objection from a Data Subject (which could be a request for (without limitation) information, access, rectification, data transfer, introducing a processing restriction, or transfer of the Personal Data), the Processor will forward that request immediately to the Controller.
- 3.8 The Processor shall maintain a record of all categories of Processing activities carried out on behalf of Controller, in accordance with the Data Protection Legislation. The Processor shall provide the Controller with all necessary information in relation to the same.
- 3.9 The Processor shall support the Controller in complying with the legal information obligations of a Data Protection Authority or Data Subjects and, if necessary, shall, if it concerns technology of the Processor, assist the Controller where a Privacy Impact Assessment is required by the Data Protection Legislation.
- 3.10 If the Controller is subject to specific request for information from a Data Subject or third party (other than the Data Subject or other persons approved by the Controller or the Processor to Process the Personal Data) entitled to make such a request, the Processor will assist the Controller with this. The Processor shall not take any steps in relation to any enquiry received from a Data Subject or a third party (other than the Data Subject or other persons approved by the Controller or the Processor to Process the Personal Data), except in accordance with any previous instructions of the Controller. If a Data Subject contacts the Processor to enforce his or her claims related to Data Protection Legislation, the Processor shall forward this request promptly to the Controller.

4. RESPONSIBILITIES OF THE CONTROLLER

- 4.1 The Controller is responsible for the lawful Processing of the Personal Data and compliance with the Data Protection Legislation including, but not limited to, the protection of the rights of the Data Subjects.
- 4.2 The Controller shall be solely responsible for determining the purposes for which and the way in which the Personal Data is to be Processed.
- 4.3 The Controller is responsible for informing the Data Subjects and guaranteeing the rights that the Data Subjects can exercise based on the Data Protection Legislation and other applicable privacy laws and regulations and for communication with the Data Subjects.
- 4.4 The Controller warrants that the collected Personal Data is adequate, relevant and not excessive in relation to the purposes for which the Personal Data is transferred and (further) Processed.
- 4.5 The Controller shall make available all information that the Processor may need for the Processing, in a timely fashion and in the agreed format set forth in Section 1 of the Data Processing Information.
- 4.6 The Controller shall be responsible and liable (as between the parties themselves and to the Data Subjects and the Data Protection Authority) for: (i) ensuring Data Subjects have given the appropriate consent to the Processing (whether by the Processor or any Sub-Processors) and/or ensuring they have the lawful basis to do so; and (ii) any claims or complaints resulting from the Processor's actions to the extent that those actions are the result of the Controller's instructions.

5. SUB-PROCESSORS

- 5.1 The Processor may be required to appoint certain third parties to provide (or assist in the provision of) part of the Products and/or Services to the Customer. By signing this Agreement, the Customer agrees that the Processor may subcontract the processing of personal data to such Sub-Processors.
- 5.2 The Processor will engage the Sub-Processor(s) listed in Section 3 of the Data Processing Information or in an Order Form by entering into the Agreement.
- 5.3 The Controller hereby consents to changes in Sub-Processors. The Processor will inform the Controller in writing in advance of any intended changes, for example regarding replacement of any Sub-Processor or any additional Sub-Processor. The Controller may object to such changes in writing, within ten (10) Business Days of written notification of such a change to the Sub-Processors. If the Customer does not object in writing within ten (10) business days of

written notification, the Customer is deemed to have accepted the change to the Sub-Processors. If the Customer does object in writing within ten (10) business days of written notification, the Processor and the Customer will discuss the possible resolutions within a reasonable timeframe and without detriment to the Parties and to their compliance with each of their respective obligations set forth in the Agreement and/or any Order Form. If the Parties are unable to come to an agreement on possible resolutions within a reasonable period of time, which shall not exceed forty (40) business days, the Customer may terminate the relevant Service which cannot be provided by the Processor without the use of the objected to new Sub-Processor.

5.4 The engagement of a Sub-Processor does not affect the obligations of the Processor towards the Controller in any way. Access to the relevant Personal Data may only be granted when the Sub-Processor complies (or assures compliance) in all material respects with the obligations of these Data Processing Terms. The Processor will execute a written agreement with Sub-Processors in relation to the sub-processing of any Personal Data, which will comply with the Data Protection Legislation and, where practicable, be on materially the same terms as these Data Processing Terms.

5.5 Section 3 of the Data Processing Information lists the current Sub-Processors, the Processing location and the description of the work. The Processor will, if necessary and within a reasonable time after a change, update this Section during the term of the Agreement.

5.6 Where the Processor sub-contracts any of its obligations to a Sub-Processor who has been approved by the Controller (under the Agreement or if different by subsequent approval), the Processor shall remain liable under these Data Processing Terms for the actions of those Sub-Processors.

5.7 Where the Processor sub-contracts any of its obligations to a Sub-Processor, Controller may (in some circumstances) provide instructions to the Sub-Processor in relation to the Processing of its Personal Data by the Sub-Processor. In such circumstances, Processor shall not be responsible for a breach of these Data Processing Terms that results from the Sub-Processor acting on the instructions of Controller, whether or not Processor is aware of the same.

6. SECURITY AND DATA BREACHES

6.1 The Processor will take the technical and organizational security measures that comply with Data Protection Legislation and industry good practice necessary to ensure the availability, integrity and confidentiality of the Personal Data and to protect it against loss or unlawful Processing.

6.2 The technical and organizational security measures are described in Section 2 of the Data Processing Information and comply with generally accepted security standards. The Controller acknowledges that it considers the arrangements set out in Section 2 of the Data Processing Information are sufficient for the appropriate security of the Personal Data in accordance with Data Protection Legislation.

6.3 The Processor shall notify the Controller without undue delay after becoming aware of a Data Breach.

6.4 The notification mentioned in paragraph 6.3 shall contain at least:

6.4.1 the nature of the Data Breach including, where possible, the categories and approximate number of Data Subjects and the categories and approximate number of Personal Data records concerned;

6.4.2 the name and contact details of the data protection officer or another contact person where more information can be obtained;

6.4.3 the likely consequences of the Data Breach;

6.4.4 the measures taken or proposed to be taken by the Processor to address the Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.

6.5 The Processor shall support the Controller in fulfilling its statutory information obligations towards any supervisory authorities and/or the Data Subjects, in case of a Data Breach.

6.6 The Processor shall inform the Controller immediately if the Processor considers that any Processing instruction given by the Controller infringes any Data Protection Legislation.

7. ADDITIONAL CONFIDENTIALITY PROVISIONS

7.1 The Processor shall keep the Personal Data that it Processes under the Agreement confidential and shall take all necessary measures to ensure the confidentiality of the Personal Data. The Processor will also impose the

obligation of confidentiality on its personnel and person engaged by it who have access to the Personal Data.

7.2 The confidentiality obligation referred to in this article shall not apply if the Controller has given written permission to provide the Personal Data to a third party, or in case of a legal obligation to provide the Personal Data to a third party.

8. DATA PROTECTION AUDITS

8.1 The Processor enables the Controller to review the compliance of the Processor with these Data Processing Terms or to allow a review through independent auditors, at the cost of the Controller, without the use of any company confidential information of the Processor and without disturbing the operations of the Processor. In case the audit shows that the Processor is not in compliance with its obligations under these Data Processing Terms, the Processor shall remedy or rectify the shortcomings identified by the review as soon as reasonably possible. In such a case the Processor will bear the reasonably incurred and justifiably demonstrable costs of the auditor (payment only being made on presentation of a valid invoice from the auditors for such costs).

8.2 An audit can take place no more than once a year, unless there is sufficient evidence that shows that the Processor is not complying with its obligations under these Data Processing Terms. The Processor shall provide the Controller with all information reasonably necessary to perform the audit.

8.3 In the event of an investigation by a Data Protection Authority or another competent authority ("**Authority**"), the Processor will provide all reasonable cooperation and inform the Controller as soon as possible.

8.4 The Processor shall designate an individual to be the point of contact who will support the Controller in the fulfilment of disclosure obligations arising from Processing and the Processor shall inform the Controller of the contact details for the point of contact.

9. CHANGES

9.1 Where any changes to the performance of an obligation under the Agreement has material consequences in respect of the Processing of Personal Data, the Processor will provide the Controller with a notification of the proposed amendments to these Data Processing Terms (such notification may be electronic mail, or via another channel). The Controller will provide any objections, in respect of material changes only, to the amended terms within 7 days of receipt (of notification) and if it does not object, the Controller will be deemed to have accepted the changes and the updated version will apply on the effective date indicated.

9.2 Amendments to the Data Processing Information may be made by the Processor from time to time and published on its website. These changes will be notified to the Controller (such notification may be by electronic mail, or via another channel), stating the version number and the date of entry of the updated version. Material changes to the Data Processing Information will not be made without providing the Controller the opportunity to object.

10. MUTUAL LIABILITY

10.1 The Processor shall be liable to the Controller for fines and / or penalties imposed on the Controller by or on behalf of a Data Protection Authority and for claims relating to any loss or damage suffered by a Data Subject, where it has been established that these penalties and / or penalty payments or claims are directly attributable to a failure by the Processor to Process Personal Data in accordance with Data Protection Legislation or other applicable privacy legislation.

To avail itself of this paragraph 10.1, the Controller shall:

10.1.1 inform the Processor immediately in writing of the existence and the subject matter of the claim of a Data Subject or of any investigation or other instruction that could lead to determining the intention or decision of the Data Protection Authority to impose a penalty or order for a penalty;

10.1.2 to act and communicate to the Data Protection Authority or to the Data Subject in consultation with the Processor;

10.1.3 object and / or appeal against imposed fines if there is reason to do so; and

10.1.4 leave the handling of the case, including the making of any settlements, entirely to the Processor. To this end, the Controller will grant the necessary powers of attorney, information and cooperation to the Processor to defend itself against these legal actions, if necessary in the name of the Controller.

10.2 The Controller shall be liable to the Processor for fines and / or penalties imposed on the Processor by or on behalf of the Data Protection Authority and for claims for loss or damage suffered by a Data Subject, where it has been

established that these penalties and / or penalty payments or claims are attributable to the failure by the Controller to comply with Data Protection Legislation or other applicable privacy legislation.

To avail itself of this paragraph 10.2, the Processor shall:

- 10.2.1 inform the Controller in writing without delay of the existence and the subject matter of a claim of a Data Subject or of any investigation or other instruction that could lead to determining the intention or decision of the Data Protection Authority to impose a penalty or order for a penalty;
 - 10.2.2 to act and communicate to the Data Protection Authority or to the Data Subject in consultation with the Controller;
 - 10.2.3 object and / or appeal against imposed fines if there is reason to do so; and
 - 10.2.4 leave the handling of the case, including the making of any settlements, entirely to the Controller. To this end, the Processor will grant the necessary powers of attorney, information and cooperation to the Controller to defend itself against these legal actions, if necessary in the name of the Processor.
- 10.3 Insofar as the Parties share liability (whether joint and severally or otherwise) towards third parties, including Data Subject(s), or have a fine jointly imposed upon them by the Data Protection Authority, the Parties shall remain liable to each other under paragraphs 10.1 and 10.2 for such part of such liability to third parties and of any such joint fine that is proportionate to its degree of responsibility for the event giving rise to such liability or joint fine, taking account of the decision of any court or competent tribunal, the Data Protection Authority and the contribution made by any breach by a Party of its obligations under these Data Processing Terms.

11. TERM AND TERMINATION

- 11.1 These Data Processing Terms will take effect on the date of the Agreement
- 11.2 Upon termination or expiry of the Agreement, the Processor shall return, or at the Controller's request either destroy or save, any Personal Data in the manner set forth in Section 1 of the Data Processing Information. In case any Personal Data are held or stored in a computer system or in any other form which reasonably cannot be handed over to the Controller, the Processor will destroy the Personal Data on its systems immediately, unless the Parties agree otherwise in writing.

Data Processing Information Schedule

Section 1:

Embridge shall comply with any further written instructions with respect to processing by the Customer.

Any such further instructions shall be incorporated into this Schedule.

Description (Products other than Embridge Apps)	Details
Subject matter of the processing	The Processor (Embridge) will as part of this Agreement have access to the personal data of the Controller's (Customer) personnel dealing with this project and the personal data contained in the wider tendered integrated system for finance, payroll, HR and procurement systems. Third Party Providers as Sub-Processors will as part of this Agreement have access to the personal data of the Controller's (Customer's) personnel dealing with this project and the personal data of suppliers contained in the wider tendered integrated system for finance, payroll, HR and procurement systems.
Place of processing	UK but see section 3 of this schedule for details on potential international data transfers.
Duration of the processing	This will be within the agreed contractual dates.
Nature and purpose of the processing	To facilitate the fulfilment of the Processor's obligations arising under this Agreement. The collection, recording, organization, storing, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction and processing of Personal Data provided by the Customer for the purposes of providing a fully integrated HR, payroll, finance and procurement system.
Type of Personal Data	Personal and special category personal data will be stored on the integrated HR, payroll, finance and procurement systems to which the Processor will have access to during the term of the Agreement. The types of personal data can include, but are not limited to: supplier names (can include but is not limited to company, individual, self-employed), present addresses (delivery and home office), email addresses, phone numbers, supplier invoice details, bank details, VAT number, DUNS number, employee name, applicant names, address (current and former), date of birth, sex, telephone number, email address, religious belief, sexual orientation, marital status, political opinion, disability, race, and with or without dependents name, gender, bank details (current and former), NI number, salary history, including pension history, termination record, bonus nomination, sickness record (including medical/self-certificates), activity code, contract of employment, changes to terms and conditions, travel and subsistence record and any other personal and special category personal data the Controller or its users submit to the Controller's systems in the course of their use of these systems.
Categories of Data Subject	The categories of data subject that the Processor may process include but are not limited to employment and recruitment records, pay and pension records, health records, bank details and supplier details (can include but is not limited to company, individual, self-employed, staff, prospective staff and tenderers).
Plan for return and destruction of the data once the processing is complete UNLESS requirement under law to preserve that type of data	At the end of the term of the Agreement (howsoever arising) the Processor will, upon the Controller's request delete and/or destroy or transfer all files, records, documents, information and other materials relating to the contract that are in its possession or under its control and/or any personal data within the integrated HR, payroll, finance and procurement system. Any transfer will be generated in an accessible format stipulated by the Processor, to the Controller or to the Controller's representative. The Processor may need to make a charge for this deletion, destruction and/or transfer. If no request is made by the Controller at the end of the term of the Agreement, the Controller is deemed to have requested destruction of any personal data and Embridge will thereafter, unless legally prohibited, delete and/or destroy any personal data. No Personal Data should be retained beyond the term of the Agreement.

Description (Embridge Apps)	Details
Subject matter of the processing	The Customer may install the Embridge Apps on a managed cloud environment provided by a third party (including a Third Party Provider). Any such third party (including a Third Party Provider) will not be a Sub-Processor of Embridge, even if they are listed in Section 3 below.
Place of processing	UK but see section 3 of this schedule for details on potential international data transfers.
Duration of the processing	This will be within the agreed contractual dates.
Nature and purpose of the processing	To facilitate the fulfilment of the Processor's obligations arising under this Agreement which may involve the reviewing of Personal Data in the course of contract management provided by Embridge. Customer Personal data will be entered into Embridge's CRM, finance and internal support systems as contact details to enable contractual management of this Agreement. Personal data sets include: name, work e-mail address, work telephone number, work business address. The App may access Personal Data as part of a workflow process to make changes or synchronise master or transactional data within the application software in order to maintain up to date information and support specific business processes within the application software itself. This Personal Data could contain any of the sets of data set out below. Anonymised data may be used from time to time with the prior consent of the Customer to inform future functionality and design updates of the App.
Type of Personal Data	Personal and special category personal data will be stored on the integrated HR, payroll, finance and procurement systems to which the App may interact with and have access to during the term of the Agreement. The types of personal data can include, but are not limited to; supplier, customer, contractor and employee names (can include but is not limited to company, individual, self-employed), present addresses (delivery and home office), email addresses, phone numbers, invoice details, bank details, VAT number, DUNS number, employee name, applicant names, address (current and former), date of birth, sex, telephone number, email address, religious belief, sexual orientation, marital status, political opinion, disability, race, and with or without dependents name, gender, bank details (current and former), NI number, salary history, including pension data or history, payroll data, termination record, bonus nomination, sickness record (including medical/self-certificates), activity code, HCM information including contract of employment, recruitment and training data, rates, changes to terms and conditions, travel and subsistence record and any other personal and special category personal data the Customer or its users submit to the these systems in the course of their use of the systems.
Categories of Data Subject	The categories of data subject that the Processor can access include but are not limited to suppliers, customers, contractors and employees (can include but is not limited to company, individual, self-employed, staff, prospective staff and tenderers).
Plan for return and destruction of the data once the processing is complete UNLESS requirement under member state law to preserve that type of data	The App itself does not store or retain any Personal Data other than during the period of a workflow transaction itself. At the end of the term of the Agreement (howsoever arising) the Processor will only retain such contact details as are necessary for audit and contract management checks for as long as is necessary.

Section 2: Security Measures

The Processor shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:

- is in accordance with the law and these terms;
- as a minimum demonstrates good industry practice.

Data processing information is / will be provided for each Sub Processor and may be updated from time to time and will comply with the relevant data protection laws.

The Processor shall work with their sub-contractors as necessary to procure the application of security patches to vulnerabilities within a maximum period from the public release of such patches in line with their ISO27001 commitments.

The Processor shall operate an access control regime to ensure all users and administrators of the Processor's System are uniquely identified and authenticated when accessing or administering the Services. Applying the 'principle of least privilege', users and administrators shall be allowed access only to those parts of the ICT Environment that they require. The Processor shall retain an audit record of accesses. The Processor shall retain audit records collected for a period of at least 6 Months.

Section 3: Sub-Processors

Unit4 Business Software Limited

Data processing information is readily available on the website here: www.unit4.com/terms. Unit4 via the Processor or direct will inform the Controller in advance of any changes to sub-processors and the Controller will have the opportunity to object to such changes in writing. From a practical perspective, if the Controller objects then parties would need to discuss the requirements of the Controller continuing to use the SaaS or solutions.

Controllers must download the following Data Processing information (latest version) on the website of Unit4: <https://www.unit4.com/terms-and-conditions>, a copy is provided herein for reference only:

5. INFORMATION REGARDING COUNTRY (OR PLACE) OF PROCESSING OF PERSONAL DATA

Product - On-premises	Data is stored on the servers of the Controller in their principal place of business or registered office as can be notified to Unit4 from time to time.		
Product - Unit4 SaaS	Unit4 Cloud operates in several data centres, including a worldwide presence in Microsoft Azure. Unit4 will deploy the customer in the most logical location dependent on where the Customer resides (as set out in an Order Form). All Customer data will be stored only in the selected geo-political zone and won't be moved outside of it without explicit customer consent.		
	CLOUD MODEL	GEO-POLITICAL ZONE	LOCATION OF DATA CENTRE
	SaaS Cloud	EU	DUELIN / AMSTERDAM
	SaaS Cloud	USA	MULTIPLE LOCATIONS
	SaaS Cloud	CANADA	TORONTO / QUEBEC CITY
	SaaS Cloud	UNITED KINGDOM	LONDON / GARSFORD
	SaaS Cloud	ASIA	SINGAPORE / HONG KONG
	SaaS Cloud	AUS/TRAIA	VICTORIA / NEW SOUTH WALES
	SaaS Cloud	NORWAY	OSLO / STAVANGER
	SaaS Cloud	SWEDEN (NORDICS)	SATRA AND SOLLENTUNA
Product - Talent Management SaaS	Talent Management SaaS operates in Microsoft Azure, covering both the EU and UK Geo-Political Zones (above), with the zone being allocated based on Customer's location. All Customer data, save for sharing with selected sub-processors in Section 3, will be stored only in the selected geo-political zone and won't be moved outside of it without explicit customer consent.		
Unit4 - Support standards and other standard support services	Unit4 Support uses third party software (such as Salesforce / ServiceNow) to register and process Cases. These Cases are accessible for any Unit4 employee that is provided access to third party software such as support engineers, cloud engineers, Professional Services consultants and service management. Access is controlled by internal management and organisational processes, to ensure that Personal Data is not accessed by consultants or engineers in locations that should not have access to particular Customer details.		
	Customer Location	Primarily Support is provided from (but can include other EU countries):	
	United Kingdom and Ireland	United Kingdom, Ireland, Portugal and Poland.	
	Sweden, Norway, Denmark, Finland and Iceland	Poland, Portugal, Norway and Sweden.	
	US & Canada	Poland, Portugal, US and Canada.	
	Europe rest	Poland, Portugal and Germany.	
	APAC	Poland, Portugal and Singapore/ Malaysia.	
Unit4 - Support - 24/7 Support	Using a follow the sun methodology, 24/7 support of Customer Cases could occur in any of the support locations listed above as well as Netherlands, Spain and each other locations as required to support Unit4's business needs.		
Unit4 - Support EU Only Support	If EU Only support is elected, Cases are supported only within the EU locations listed above for standard support (during Business Hours).		
People platform services (PPS) (generally including ICS and other support services)	PPS are cloud services that use shared infrastructure and 3 rd party services that might not provide geographical zone location. Below is an overview of the PPS and the country (or place) of Processing of Personal Data using that service.		
	Service	Geo-political zone	Where Services Processes or Stores Data
	Wanda	Any	Primarily support is provided from:
			EU countries including Ireland, Poland and Spain. Unit4 can be anywhere globally where there is an Azure data centre (e.g. US).
	PPS Location services and/or Apps	Depends on Cloud Deployment	Service is processed and data is stored in the selected Geo-Political zone.
Unit4 Professional Services and other project services	Topic	Professional Services and customer success are provided from:	
	Implementation and other project services	In the Territory or Customer location or registered office/political place of business (as applicable) and/or Portugal depending on what is agreed between the Parties in the project documentation or a statement of work (if applicable).	
	Data Migration	In the Territory or Customer location or registered office/political place of business (as applicable) and/or Portugal depending on what is agreed between the Parties in the project documentation or a statement of work (if applicable).	
	Trouble shooting	In applicable Unit4 Support Service location and Portugal.	
	Customer Success	In applicable Unit4 Support Service location and Portugal.	

6. CONTRACT DETAILS

For questions or comments about the Data Processing information the contact person is:

Processor: By letter (addressed to Global Data Protection Officer copy to Corporate Legal Department) P.O. Box 5005, 3520 BU Utrecht, the Netherlands or by email to privacy@unit4.com or to the Unit4 address for notices provided in the Agreement.

Unit4 Data Processing Information Incorporating EU SCCs v 1.2 September 2021

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To use the solutions it is flagged that the Controller does need to permit transfer of data outside of the UK and EU, this is particularly the case with People Platform Services. People Platform Services will involve processing globally and the processing location of Unit4 sub-processors is set out in the Data Processing information (latest version) on the website of Unit4: <https://www.unit4.com/terms-and-conditions>

Please note that the Azure data centres are in London/Cardiff and that Unit4 support will primarily be provided from the UK, Ireland, Portugal and Poland. However, in the case of P1 incidents, logged outside of business hours, this may require processing by one of Unit4's other locations. Having said this, the extent of the personal data involved in such support tickets will be limited. EU only support is not included in the pricing submitted.

Clause 2.3 of the data processing terms specifies that where processing does take place outside the EEA, where the EC has not provided an adequacy decision, that processing will only take place provided there are appropriate safeguards that provide an adequate level of protection for personal data. The parties agree to use the SCCs.

Proactis Limited

Locations of Services for UK customers • Harrogate, (primary) • Reading, (secondary). No UK customer data is transferred to any of the other data centres that Proactis operate, be those in the EEA or outside of that entity.

Sub-sub-processor is Redcentric plc, Proactis' hosting service provider.

Proactis' security measures are as described in the Information Security Assurance Report and are kept under review. The document is made available to the Customer on request and will be dated with the date last updated.

Description	Details for Proactis S2C service
Subject matter of the Processing	The Customer/Controller uses Proactis' Source to Contract solution ('S2C'). This application is used to carry out the functions of the tendering process, from the initial advertisement to the awarding of the contract. Catalogue imports of items which can be uploaded into the system to allow for users within the same organisation as the Controller to purchase. Documents can be raised or received electronically in conjunction with purchase requests or order fulfilment. The software can also manage supplier relationships and contracts, through optional modules within the S2C software.
Duration of the Processing	The processing will last for the length of the relevant customer contract between Proactis' Reseller and the Customer/Controller.
Nature and purposes of the processing	The nature of the processing within S2C includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction of data (whether or not by automated means) The purpose for the processing is to carry out the functions of tendering process, from the initial advertisement to the awarding of the contract. Contract Management processes and Supplier Management processes are other, optional, functions within the S2C product which the Controller can use. The Contract Management module allows for the storage of a contract and tasks associated with contracts, such as reminding of when a contract is due for renewal. The Supplier Management module, if used, will allow the Controller to capture Supplier details in the S2C product Data access is restricted to those registered users of the software and Proactis staff, in respect to the development and support of such software, for the purposes of maintaining / correcting errors within the product that the Controller reports.
Type of Personal Data	The data sets include: name, email address, telephone number, business address, and are used within the product for basic operations of the software. Tender documents can be uploaded to the software, which are compiled entirely by the Buying organisation (the Controller) which can include other content and personal (or sensitive personal) data which Proactis has no control over being included nor is necessarily needed for the functionality of the S2C product.

	Contract documents can be uploaded to the software, which can contain an address (usually this is a business address), contact name, email address and telephone number. Supplier information can also be uploaded to the software, which can include a name, email address, telephone number, address (for Sole Trader organisations this can be classified as personal data). Invoice documents can be uploaded to the software, which can contain an address (usually this is a business address), contact name, email address and telephone number. A description of the goods / services the Invoice covers may contain personal data. Similarly, on the electronic invoice lines, there will be description fields available which can include other content and personal (or sensitive personal) data which Proactis has no control over being included nor is necessarily needed for the functionality of the S2C product. The catalogue management functions (the uploading, deleting and updating of items) do not contain personal data.
Categories of Data Subject	Controller Staff (including volunteers, agents, and temporary workers), Controller's suppliers or potential suppliers; Proactis employees
Data Protection Officer	Based on Proactis' current activities and business purpose, there is no legal requirement for an official DPO. The Proactis Compliance and Quality Manager has assumed those responsibilities, and is contactable at compliance@proactis.com or at: Proactis, Riverview Court, 1 Castle Gate, Wetherby, LS22 6LE, UK Please mark any posted documents 'for the attention of the Compliance Manager'
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Data retention periods will be as per contract between Proactis and Controller, unless required by other laws.

Microsoft Ireland Operations Limited

Data processing information is readily available on the website here:
<https://www.microsoft.com/licensing/docs/view/Microsoft-Products-and-Services-Data-Protection-Addendum-DPA>

Microsoft via the Processor or direct will inform the Customer in advance of any changes to sub-processors and the Controller will have the opportunity to object to such changes in writing. From a practical perspective, if the Controller objects then parties would need to discuss the requirements of the Controller continuing to use the SaaS or solutions or Apps.

Please note that the Microsoft Azure data centres are in London and Cardiff and that all Embridge support will be provided from the UK. However, Microsoft may transfer Customer Data outside the UK and any such transfers are hereby approved provided they are governed by an International Data Transfer Addendum to the European Commission's standard contractual clauses for international data transfers issued by the UK Information Commissioner's Office under S119A(1) of the UK Data Protection Act 2018.

Microsoft's security measures are as described in
<https://www.microsoft.com/licensing/docs/view/Microsoft-Products-and-Services-Data-Protection-Addendum-DPA>

Please note that you authorise Microsoft to:

(i.) to create aggregated statistical, non-personal data from data containing pseudonymized identifiers (such as usage logs containing unique, pseudonymized identifiers); and

(ii.) to calculate statistics related to Customer Data

in each case without accessing or analyzing the content of Customer Data and limited to achieving the purposes below, each as incidental to providing the Products and Services to Customer.

Those purposes are:

- billing and account management;
- compensation such as calculating employee commissions and partner incentives;
- internal reporting and business modeling, such as forecasting, revenue, capacity planning, and product strategy; and
- financial reporting.

DEFINITIONS

In the Agreement, the following words and phrases have the following meanings:

Acceptable Use Policy (or AUP)	Embridge's or any of its Third Party Provider's acceptable use policies relating to the Products and/or Services purchased by the Customer, as applicable (and which for Unit4 Products and Services is available here: www.unit4.com/terms)
Account	a unique account established for each individual User to access the relevant Products and/or Services
Affiliate	means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control" for purposes of this definition, means direct or indirect ownership or the ability to exercise that control over more than 50% of the voting interests of the subject entity
Agreement	the legally binding terms and conditions agreed between Embridge and the Customer (in relation to the purchase by the Customer of Products and/or Services set out in an Order Form) including the Embridge General Terms of Business and any ancillary documentation referred to therein including (such as SLAs, Service Descriptions, applicable Policy Documentation, GDPR documentation), the Order Form and any Statement of Work.
Applicable Law	all laws, statutes and regulations in force from time to time applicable to the Parties.
Bespoke Development	a commissioned project or package of activities (agreed between the Parties in an Order Form) to amend or supplement code of a Product.
Billing Start Date	the day specified in the Order Form on which any annually subscribed Products or Services first become due and payable.
Business Day	9.00 a.m. to 5.00 p.m. Monday to Friday, excluding public holidays in the Territory.
Claim	a claim, demand, suit or proceedings of any type.
Confidential Information	all confidential information (including Personal Data) disclosed by the Disclosing Party to the Receiving Party, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party (including its directors, officers, employees, contractors or agents) prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.
Configuration	any solution setup that is accomplished by changing standard menus and functionality within the application itself. For the avoidance of doubt, Configuration excludes Customisation and Bespoke Development.
Customer	the customer Party whose details are set out in an Order Form.
Customer Data	all data or information submitted by the Customer directly or indirectly to Embridge (whether owned by the Customer or a third party).
Customer Support	Embridge Customer Support and/or Third Party Customer Support, as applicable.
Customisation	activities (usually delivered as Professional Services) to amend or supplement code of the Embridge Product or Third Party Product that is not sufficiently extensive to be classified as Bespoke Development (Customisation includes for example Custom Reports and Integration Development).
Custom Reports	activities (usually delivered as Professional Services) to amend or supplement code of the Embridge Product or Third Party Product for the development of reports that are not included in the standard Embridge Product or standard Third Party Product.

Data Breach	a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of Personal Data or access to Personal Data transmitted, stored or otherwise Processed.
Data Processing Information	information sheets setting out how Embridge or a Third Party Provider Processes Personal Data, as applicable (which for Unit4 Products and Services is available here: www.unit4.com/terms and for Embridge are set out in the Data Processing Information Schedule).
Data Protection Legislation	all Applicable Law relating to the processing of personal data, in particular the Data Protection Act 2018, the General Data Protection Regulation (EU) 2016/679 ("GDPR") where relevant and the General Data Protection Regulation (EU) 2016/679 as implemented in the United Kingdom ("UK GDPR"); and (ii) to the extent it relates to the processing of personal data any Applicable Law which amends, supersedes or replaces existing law.
Data Subject	a natural person, directly or indirectly identified or identifiable by reference to an identifier such as his name, an identification number location data, an online identifier or one or more elements specific to his physical, physiological, mental, economic, cultural or social identity.
Default	Any breach of any obligation or warranty under the Agreement, or any misrepresentation, mis-statement or tortious act or omission including negligence) arising under or in connection with the Agreement, or the occurrence of any event or series of events which gives rise to an obligation under the Agreement on a Party to indemnify the other Party.
Disclosing Party	in relation to the disclosure and receipt of Confidential Information, the Party and/or its respective Affiliates disclosing the Confidential Information.
Documentation	the data sheets and documentation available for the Products and Services, as relevant and as updated from time to time.
Effective Date	unless otherwise agreed, the date that the last Party signs an Order Form being the date that the Agreement takes effect.
Expenses	Embridge's reasonably incurred expenses for accommodation, subsistence and travel for supplying Professional Services at any premises other than Embridge's.
Embridge	the Embridge contracting entity that is Party to the Order Form.
Embridge Apps	applications and small workflows developed by Embridge. Any integration service and associated workflows utilising LEO, Embridge's digital integration platform, do not fall within this definition.
Embridge Customer Support	any support services provided by (or on behalf of) Embridge to the Customer under the Agreement in relation to the Products purchased by the Customer and provided by the Embridge managed service team ("Embridge Managed Service Team").
Embridge Data Processing Terms	the terms relating to the Processing of Personal data included in the Agreement.
Embridge General Terms of Business	these terms applicable to the sale of Products and Services;
Embridge Products	any Embridge software solution purchased by the Customer in an Order Form including any Embridge Apps and "Embridge Products" shall be construed accordingly.
Embridge Professional Services	any Professional Services provided by (or on behalf of) Embridge to the Customer under the Agreement.
Embridge Services	any services provided by Embridge ancillary to the Embridge Product or Third Party Product including (but not limited to) Embridge Customer Support and Embridge Professional Services.
Embridge Service Terms	any specific terms and conditions that apply to the delivery of any Embridge Products or Embridge Services, including any Support Terms, Fair Usage Policy, SLA, Service Description, Solution Description or applicable Policy Documentation.

Embridge Customer Support Terms	the applicable terms and service descriptions applicable to Embridge Customer Support available on request.	
Extended Legacy Tiered Support	the continued provision of support, but not maintenance via Embridge Customer Support to unsupported Releases of Products, provided only in accordance with agreed Support Terms.	
Fair Usage Policy	policy on Customer's fair use of the Third Party Products and Third Party Services relating to SaaS and/or FTE employee calculation (which for Unit4 Products and Services is available here www.unit4.com/terms).	
Force Majeure	circumstances beyond a Party's reasonable control, whether or not foreseeable, where such Party can demonstrate it has suffered a significant and unavoidable interruption or delay including war, terrorism, pandemic, epidemic, interruption of electricity, internet, means of telecommunication, strikes and unavailability of Personnel and any delay caused by any act or omission of the other Party.	
Good Industry Practice	using standards, practices, methods and procedures and exercising that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances.	
Implied Terms	All clauses, warranties and other terms (including customer purchase terms provided before or after the Effective Date) which are not set out in the Agreement and might have effect between the Parties or be implied or incorporated into the Agreement or any collateral contract whether by trade, custom, course of dealing, Applicable Law or otherwise, including any implied clauses, warranties or other terms as to satisfactory quality or fitness for purpose or that any Material will be accurate or complete or that the use of any Material will be uninterrupted or error-free.	
Incident	an issue with the Products that interrupts the current mode of operation and/or business processes of the Customer.	
Installation Address	the address where the Customer chooses to install the on premise edition of the Product (as provided to Embridge from time to time). In the absence of any such address being provided by the Customer, the Installation Address shall be taken to mean the Customer's registered office address as provided in the Order Form.	
Integration Development	activities (usually delivered as Professional Services) involving the development of capability that is intended to create an interface between the Products and any third party system or solution.	
Intellectual Property Rights or "IPRs"	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks (or trademarks) and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, 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.	
Loss	all losses, costs, expenses, damages, indemnities, penalties, fines, judgments, demands, fees, injuries/depletions and liabilities (including damages or compensation paid on legal advice to compromise or settle any Claim, and reasonable legal costs or expenses).	
Managed Application Services	delivery of Embridge Professional Services on an annual or monthly charging basis to assist Customers in the application management of a specific Product.	
Minimum Term	in relation to the purchase of a Product or Services subject to a Minimum Term, the minimum term set out in the Order Form for which the Customer commits to the purchase of the applicable Product or Service and runs from the Billing Start Date. In the absence of any agreement to the contrary in the	Order Form, the default "Minimum Term" shall be three (3) years (or 36 months).
Non-Embridge Applications		all applications, products and/or services whether online or offline used or accessed by the Customer that do not form part of the Products or Services provided by Embridge or its Third Party Providers.
Order Form		any ordering document (including order form, statement of work, quote or other document) executed by an authorised signatory of each Party for the provision of Products and Services subject to the terms of the Agreement. The term "Order Forms" shall be construed accordingly.
Party		each of the Parties to the Agreement and the term "Parties" shall be construed accordingly (as referring to both of them).
Personal Data		any information relating to a Data Subject and that is provided by Customer or any of its Affiliates or Personnel.
Personnel		any persons employed or engaged by Embridge or the Customer (as appropriate).
Policy Documentation		Embridge's or its Third Party Provider's or sub-suppliers' additional documentation and information containing established policies and/or procedures and/or information relating to the Products and/or Services purchased by the Customer, as applicable (which for Unit4 Products and Services is available here: www.unit4.com/terms).
Prevailing Rates		Embridge's prevailing rates for Products and/or Services as may be provided to the Customer by Embridge from time to time.
Privacy Policy		Embridge's or its Third Party Provider's privacy policies relating to the Products and/or Services purchased by the Customer, as applicable (which for Unit4 Products and Services is available here: www.unit4.com/terms).
Proactis Products and Services		Third Party Products and Third Party Services provided by Proactis Limited.
Process Processing	/	any operation or set of operations that is performed with Personal Data, whether or not by automatic means, such as but not limited to collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.
Products		(as applicable) any Embridge Products and/or Third Party Products.
Professional Services		any or all of the following services: general consultancy; implementation consultancy; installation services; project management services; technical assistance; data migration; design; addressing issues and faults; development of software; scheduled training; customised training courses; production of documents or related materials; or any other time based activity.
Project		a defined piece of work comprising Professional Services usually to implement or upgrade an Embridge Product or Third Party Product.
Receiving Party		in relation to the disclosure and receipt of Confidential Information, the Party and/or its respective Affiliates receiving the Confidential Information from the Disclosing Party.
Reference Index		the Consumer Prices Index (as published by a recognized authority i.e., Government, National Statistics Office or Central Bank) in the Territory.
Release		a new iteration of a Product that is made available to the Customer
Resolution		one or more of the following actions, as appropriate, in response to an Incident: (i) provision of the requested advice; (ii) explanation of how a particular element of functionality should be used; (iii) provision of an alternative method of system operation where an error has been identified and agreed;

- (iv) provision of a workaround or other solution; and where no alternative method of system operation or workaround is possible, confirmation that an application error has been identified and logged for error correction either with the Embridge R&D team or with the Third Party Provider's R&D organization (as relevant). Errors will be categorised and, reasonable endeavours will be used by Embridge or the Third Party Provider (as relevant) to provide a solution in accordance with their own priority levels and designated outcomes.

Renewal Date	any anniversary of the Billing Start Date.
Services	(as applicable) any Embridge Services and/or Third Party Services.
Service Terms	(as applicable) any Embridge Service Terms or Third Party Terms.
Service Description	the applicable Service Description describing the delivery of the cloud service in relation to a Product (which for Unit4 Products and Services is available here: www.unit4.com/terms and for Proactis is their document entitled Hosting Service Terms as amended by a Schedule of Variation thereto)
Service Level Agreement (or SLA)	the SLA (as applicable), being the KPIs applicable to the Products which are appended to the Embridge Customer Support Terms
Service Request	a request by the Customer to change the parameters of Customer's existing Product Configuration or a request for assistance in both cases that are not covered under Customer's standard support package.
Significant Revision	a significant revision to a Product, such that it resembles a new software product or a greatly enhanced version of the product, which a Third Party Provider may choose to name consistently with the previous one.
Software Licence	a long term licence to Use the Products set out in an Order Form.
Software Subscription	an annual subscription licence to Use the Products as set out in an Order Form.
Solution Description	where available and published for Third Party Products and Services (which for Unit4 Products and Services is available here: www.unit4.com/terms or www.unit4.com/service-descriptions) the solution description setting out a description of the functionality of the specific Product or Service or (alternatively) functional sheets or specifications / solution descriptions provided by Embridge from time to time.
Specification	the Solution Description for the applicable Product or Service (where there has been a documented tender process) the functionality set out in Embridge's response to tender as modified by any subsequent clarification documentation provided by Embridge to the Customer.
Statement of Work	a document that is agreed between the Parties relating to the delivery of Professional Services which sets out (i) the tasks and deliverables of both Embridge and the Customer in relation to a particular Project (ii) the charges payable by the Customer to Embridge for completion of the scope of work comprising the Embridge tasks and deliverables; and (iii) any assumptions and qualifications made by Embridge in reaching and agreeing those charges.
Statistical Data	the aggregated and statistical data (or any analysis thereof) derived from the provision of any Product and/or Service, including, without limitation, the number of records stored, the number and types of transactions, configurations and reports processed in the Product.
Support Terms	as applicable, additional terms that apply to Embridge Customer Support and the Third Party Customer Support.
Taxes	any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales and use, or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction.
Term	the term of the Agreement.
Territory	where Embridge has its registered office address.

Third Party Provider	a provider of Third Party Products and/or Third Party Services.
Third Party Customer Support	the support services provided by a Third Party Provider in relation to any Product in accordance with their standard support terms and which are provided to Embridge
Third Party Services	any Third Party Provider cloud services, support services, consulting services or other services provided by a third party subject to the terms of the Agreement.
Third Party Products	any Third Party Provider proprietary software products that are delivered to the Customer under a direct licence from Embridge.
Third Party Terms referred to as "Terms of Use")	any specific third party terms and conditions that apply to the delivery of any Third Party Products or Third Party Services including any relevant Support Terms, Fair Usage Policy, SLA, Service Description, Solution Description or EULA (in the case of Proactis as amended by a Schedule of Variation thereto), applicable Policy Documentation as may be updated from time to time and are provided on request.
Usage Limit	the limit on usage by the Customer of the relevant Product or Service. This may include limits and/or restrictions on (inter alia) allocated cloud storage, API calls, concurrency and Transactions (each as set out in the applicable Service Description or Fair Usage Policy).
Unit4 Products and Services	Third Party Products and Third Party Services provided by Unit4 Business Software Limited.
Update	a scheduled revision of a Product issued at greater frequency than a Release, which contain corrections to errors in the Product and or contains small functional enhancements to the Product.
Use	any and all use of and/or access to the Products or Services whether such use or access is direct or indirect, and of whatever nature including, but not limited to, multiplexing, pooling or through any API connection access.
User	all users (of whatever nature) permitted access to or Use of the Products and/or Services.
User Acceptance Tests	user acceptance tests defined (within a reasonable timeframe) by the Customer and in agreement with Embridge to test the compliance of the Products and Services with the Specification, or in the absence of a Specification the Documentation, to ensure that the Products or Services will deliver the functionality set out in the Specification in all material respects.
Volume Metric	a specific volume metric or unit of measure e.g., FTE employee, student or type of user (FTE employees in the case of Unit4 Products and Services being calculated in accordance with the Fair Usage Policy);