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TEMPLATE ORDER FORM

Order for Supplier Software Subscription Associated Implementation and Support Services

This Order incorporates and is governed by the General Terms and Conditions and related Additional Services Terms and Conditions (as applicable)

Customer: [Customer name]

Customer company registration number: [company registration number]

Date prepared: []

Prepared by: [sales contact name]

Prepared for: [customer contact name]

1 SOFTWARE

Product	Use environment	Limit on End User numbers	Fees, disbursements and expenses
BoostBot	TBD	TBD	TBD

2 ADDITIONAL SERVICES

Services (if not applicable mark as "N/A")	Details	Fees, disbursements and expenses
Training	TBD	TBD
Professional Services	TBD	TBD
Product Training	TBD	TBD
Implementation Services	TBD	TBD
Data Migration	TBD	TBD

Project Management	TBD	TBD
Hypercare	TBD	TBD
Support Services	TBD	TBD

3 ADDITIONAL TERMS AND CONDITIONS

[Any variations to the general terms agreed with the Customer (if any) to be set out here]

Signed by the parties to show their agreement to the terms of the Order set out above.

	Customer	Supplier
Signature		
Name		
Title		
Date		



GENERAL TERMS AND CONDITIONS

These General Terms and Conditions ("**General Terms**") contain the terms and conditions that govern your access to and use of the Licensed Materials and the Services (as defined below) and is an agreement between **INTELLIUM AI LTD** (also referred to as "**Supplier**", "**we**" "**us**", or "**our**") and you or the entity you represent ("**you**" or "**your**").

These General Terms take effect from the date when you and we execute an Order (the "**Effective Date**"). You represent to us that you are lawfully able to enter into contracts. Certain capitalised terms are defined in the provisions of this Agreement. Please see Clause 12 of this Agreement for other definitions used in this Agreement.

1 Purpose and Scope

1.1 These General Terms establish the terms and conditions to which the parties have agreed to facilitate the licensing of software, other products and/or the provision of services by us. All references to the "**Agreement**" shall include these General Terms, any order form executed by the parties ("**Order**") and all additional services terms ("**Additional Terms**") specified in such Orders. Additional product or service-specific terms and conditions are set forth in such Additional Terms. All references to these General Terms shall mean this document, exclusive of Additional Terms and Orders.

1.2 Each Order shall contain:

- (a) details of the Licensed Materials and/or Services to be provided;
- (b) any Additional Terms that will apply;
- (c) the Fees and (if stated) any Expenses payable by you to us in respect of each Service;
- (d) the date from which the Licensed Materials and/or the Services will be provided;
- (e) the User Subscriptions to be granted.

2 Provision of Services

2.1 We shall perform the Service specified in each Order in accordance with the terms and conditions of the Agreement from the service commencement date specified in that Order. We shall continue to perform such Services until the earlier of the date upon which the Service or the Agreement is terminated in accordance with clause 5.

2.2 The Services to be provided by us are limited to the Services specified in any Order agreed between you and us in accordance with clause 1.2 of these General Terms.

2.3 We agree to provide the Services with reasonable skill and care.

3 Customer obligations

3.1 You shall provide us with all necessary co-operation in relation to the Agreement.

3.2 You shall also provide all necessary access to such information as may be required by us in order to provide the Services, including but not limited to Customer Content, security access information and configuration services.

3.3 Without affecting your other obligations under these General Terms, you shall comply with all applicable laws and regulations with respect to your activities under these General Terms.

3.4 You shall carry out all other responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in your provision of such assistance as agreed by the parties, we may adjust any agreed timetable or delivery schedule as reasonably necessary.

3.5 You shall use and ensure that your End Users use the Licensed Materials only as set out in the Order. You are responsible for ensuring that each of your End Users exercise their rights under this Agreement in accordance with its terms and conditions and you shall be responsible for any such user's breach of such terms and conditions.

3.6 You shall obtain and shall maintain all necessary licences, consents, and permissions necessary for us and our Personnel to perform our obligations under the Agreement.

3.7 You shall ensure that your network and systems comply with any minimum specifications provided by us from time to time.

3.8 You shall be, to the extent permitted by law and except as otherwise expressly provided in these General Terms, solely responsible for procuring, maintaining and securing any network connections and telecommunications links from your systems to our data centres required for our provision of Services, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.

4 Payment

4.1 You shall pay the Fees and any agreed Expenses to us in accordance with this clause 3.8.

4.2 Subject to clause 4.4, Fees and payment terms are specified in the applicable Order. Unless

otherwise stated in an Order, we shall issue an invoice in respect of the Fees and any agreed Expenses on a monthly basis.

- 4.3 Unless agreed otherwise in an Order, invoices shall be payable by you within thirty (30) days of the date of the invoice ("**Invoice Period**"). Other than in the case of a reasonably disputed payment, any payments not received by the end of the Invoice Period will be subject to interest at a rate of 3% (three per cent) above the prevailing base rate of HSBC Bank Plc ("**Default Interest**").
- 4.4 All fees are based on the Licensed Materials purchased. Additional Licensed Materials and associated Services must be purchased and shall be invoiced to you in the event actual use exceeds the licensed quantity, at our then-current fees. For the avoidance of doubt, we will bill you based on and you will be deemed to have purchased the higher of (i) the Licensed Materials set forth in the Order or (ii) actual usage ("**Purchased Quantity**"), regardless of submission or not of an Order. You may not decrease the Purchased Quantity during the Initial Term and there shall be no fee adjustments or refunds for any decreases in usage.
- 4.5 In the event that payment is not received in accordance with clause 4.3, we will be entitled to suspend any or all Services upon 10 days' written notice to you and/or to modify the payment terms, and to request full payment before any additional performance is rendered by us.
- 4.6 You shall reimburse us for reasonable travel expenses as set out in the Additional Terms.
- 4.7 Unless otherwise stated in the Order, the Fees are stated excluding value added tax ("**VAT**"). VAT or any other such tax which may be payable from time to time as applicable shall be charged in addition to the Fees at the prevailing rate.
- 4.8 Unless otherwise stated in the Order, from the commencement of each Renewal Term the Fees shall be subject to a 3% increase which shall apply to the Fees for that Renewal Term. Notwithstanding this, we reserve the right to modify our Fees upon written notice to you at least ninety (90) days prior to the expiry of the Initial Term or any subsequent Renewal Term, which notice may be provided to your billing contact by e-mail. Supplier shall not increase the fees and charges during the Initial Term.
- 4.9 In the event that we anticipate extraordinary Expenses as a result of a foreseeable Event of Force Majeure, we shall seek approval by you of such anticipated extraordinary Expenses when it becomes clear that an Event of Force Majeure is inevitable.
- 4.10 All Fees shall be paid in the currency set out in the Order (which shall be either British Pound Sterling, Euro or United States Dollar).

5 Term, Termination and Suspension

- 5.1 The Agreement commences on the Effective Date and shall continue for one (1) year ("**Initial Term**"). The Agreement shall automatically renew for consecutive one (1) year period(s) (each a "**Renewal Term**") unless: (i) either party gives the other written notice of termination not less than ninety (90) days prior to the end of the Initial Term or the Renewal Term (as applicable), in which case the Agreement shall terminate upon the expiry of the Initial Term or Renewal (as applicable); or (ii) until terminated in accordance with the remaining provisions of this clause 5. The Initial Term together with any Renewal Term shall together be known as the "**Term**".
- 5.2 Either party may terminate the Agreement including all Additional Terms and Orders executed thereunder immediately upon written notice: (i) in the event that the other party commits a non-remediable material breach of the Agreement, or if the other party fails to remedy any remediable material breach within 30 days of being notified in writing of such breach, except for breach of clause 3.1 which shall have a 10 day remedy period; or (ii) if the other party becomes the subject of a voluntary arrangement under section 1 of the Insolvency Act 1986, or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or notice has been received of a pending appointment of or the appointment of a receiver, manager, administrator or administrative receiver over all or any part of its undertaking, assets or income, intends to pass or has passed a resolution for its winding-up, or has a petition presented to any court for its winding-up or for an administration order, or has ceased or threatened to cease to trade (each of the events described in this sub-clause being an "**Insolvency Event**"). Where a party has rights to terminate the Agreement, the non-breaching party may at its discretion either terminate the entire Agreement or the applicable Additional Terms or Order, provided however that termination of Additional Terms shall automatically terminate all Orders executed under such Additional Terms. Additional Terms and Orders that are not terminated shall continue in full force and effect under the terms of these General Terms.
- 5.3 If you do not pay an undisputed invoice within sixty (60) days of its due date, Supplier may at its sole discretion suspend your services or terminate the Agreement subject to us giving you thirty (30) days' prior written notice. Upon termination for non-payment, the Agreement and all of your rights hereunder will terminate without further notice.
- 5.4 Following termination of the Agreement or any Additional Terms (for whatever reason), you shall certify that you have returned or destroyed

all copies of the applicable Licensed Materials, and Confidential Information of ours and acknowledge that your rights to use the same are relinquished. Termination shall not excuse your obligation to pay in full any and all amounts due, nor shall termination by us result in a refund of fees paid. If we terminate the Agreement for your non-payment or your other material breach, you agree to pay to us the remaining value of the then-current Initial Term or Renewal Term (that you acknowledge as liquidated damages reflecting a reasonable measure of actual damages and not a penalty) equal to the aggregate recurring fees (as set forth in the Order) that will become payable during the cancelled portion of such Initial Term or Renewal Term.

6 Warranties & Disclaimers

6.1 We undertake that the Hosting Environment, Services, Access Licence, Applications, bug fixes, Upgrades, and Licensed Materials and any components or combinations thereof (and the exercise of the rights granted herein with respect thereto):

- (a) do not and shall not infringe, dilute, misappropriate, or violate any Intellectual Property Right, publicity right, privacy right, or other proprietary or other rights of any third party, and are not and shall not be defamatory or obscene;
- (b) correspond with our Documentation;
- (c) provide security processes and facilities in accordance with the Additional Terms; and
- (d) contain or use accepted measures, software and other processes to detect, restrain and avoid and mitigate the potential impact of any disabling programs or devices, viruses, Trojan horses, worms or other computer programming routines that may damage or detrimentally interfere with the Hosting Environment, any other software, any computer hardware or any telecommunications network.

6.2 Except as expressly stated in these General Terms, and subject to clause 8.6, all warranties and conditions whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

6.3 We specifically disclaim any and all liability and express or implied warranty of fitness for a particular purpose in connection with the Customer's use of the Licensed Materials in hazardous environments including without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, direct life-support machines, or any other application in which the failure of the Licensed Materials or Services could lead directly to death, personal injury, or severe physical or property damage ("**High Risk Activities**").

6.4 You agree that it is your responsibility to ensure that any use, by you, of the Licensed Materials or the Services in connection with High Risk Activities is suitable for such use before such Licensed Materials or Services are used. Your pre-use assessment as to the suitability of the Licensed Materials and/or the Services in connection with High Risk Activities must include, but shall not be limited to, a formal technology assessment.

7 Intellectual Property Rights

7.1 All rights not expressly granted in the Agreement are reserved by us and Supplier's Licensors. You acknowledge that: (i) all Licensed Materials are licensed and not sold; (ii) you acquire only the right to use the Licensed Materials and we and Supplier's Licensors shall retain sole and exclusive ownership of and all rights, title, and interest in the Licensed Materials, including without limitation (whether developed by us, you or a third party): (a) Intellectual Property Rights embodied or associated with the Licensed Materials; (b) deliverables and work product associated with the Licensed Materials; and (c) all copies and derivative works thereof; and (iii) the Licensed Materials, including the source and object codes, logic and structure, constitute valuable trade secrets of ours and Supplier's Licensors. You agree to secure and protect the Licensed Materials consistent with the maintenance of our and Supplier's Licensors' rights therein, as set forth in these General Terms. You agree to execute such further instruments, and take such further actions, as we may reasonably request, at our expense, to apply for, register, perfect, confirm, and protect our rights.

7.2 As an express condition of your configuration of the Licensed Materials and the services of Supplier's Licensors, you agree that you shall not (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, timeshare, provide on a service bureau basis or otherwise commercially exploit or make available to any third party the Licensed Materials (or Supplier's Licensors) or the content in any way; (ii) modify or make derivative works based upon the Licensed Materials or the Content; (iii) create Internet "links" to the Licensed Materials or "frame" or "mirror" any content other than on your own intranets or otherwise for your own internal business purposes; or (iv) reverse engineer or access the Licensed Materials in order to: (a) build a competitive product or service; (b) build a product using similar ideas, features, functions or graphics of the Licensed Materials; or (c) copy any ideas, features, functions or graphics of the Licensed Materials.

7.3 Provided that: (i) you promptly give us written notice of any claim; (ii) provide us, at our expense, with all available information and assistance relating to the claim and cooperate

with us and our counsel; (iii) do not compromise or settle such claim; and (iv) are not in material breach of the Agreement, we shall, on demand, indemnify, keep indemnified and hold you harmless, from and against any claims which arise directly or indirectly out of or relate to any dispute or claims or proceedings brought against you by a third party in any way connected with our ownership, use or operation of Intellectual Property Rights supplied by us to you under the Agreement.

- 7.4 We shall, on your request, provide all assistance as is reasonably necessary to assist you in your defence of any dispute or claims or proceedings as described in clause 7.3 above.

8 Limits of liability

- 8.1 We will have in place and maintain in force for the duration of the Agreement, at our own cost, such insurance as is appropriate and adequate having regard to our obligations, and the liabilities that may arise, under or in connection with the Agreement and as required by law. We will supply, so far as is reasonable, evidence of the maintenance of our insurance and the applicable terms from time to time, on request.
- 8.2 If you become aware of any matter which you know is likely to give rise to a claim against us, by either you or any third party, you will as soon as reasonably practicable give us notice of that matter (specifying to the extent reasonably known to you at the relevant time, the nature of the likely claim).
- 8.3 Subject to clauses 8.6 and **Error! Reference source not found.**, our total liability shall not exceed in any period of 12 months (or shorter period in the period immediately prior to termination of the Agreement) commencing on the Effective Date of the Agreement or any anniversary of such Effective Date ("**Contract Year**"), an amount which is equal to 100% of the Fees (excluding VAT and expenses) paid to us by you in such Contract Year.
- 8.4 Subject to clause 8.6, we shall not be liable for consequential, indirect or special losses.
- 8.5 Subject to clause 8.6, we shall not be liable for any of the following losses (whether direct or indirect): loss of profit; loss of data; loss of use; loss of contract; loss of opportunity; loss of savings; or harm to reputation or loss of goodwill.
- 8.6 Notwithstanding any other provision of this Agreement, our liability shall not be limited in any way in respect of the following:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) any other losses which cannot be excluded or limited by applicable law.

- 8.7 Subject to clause 8.6, unless agreed otherwise in an Order, we shall have no liability to you in respect of any Licensed Materials or Services provided to you on a trial basis (e.g. for evaluation or internal research and development purposes including 'proof of concept' activities) or for training purposes.

9 Data Protection

- 9.1 Each Party shall comply with its respective obligations in accordance with all Data Protection Laws.
- 9.2 You retain control of, and remain responsible for the inputting, maintenance, accuracy and quality of, the Customer Personal Data. You shall ensure that the Customer Personal Data does not contain any special categories of personal data (as defined by Article 9 of UK GDPR) or personal data relating to criminal convictions and offences. You shall comply with all applicable requirements of the Data Protection Laws, including in relation to the Customer Personal Data and providing us with your Data Processing Instructions. In particular, you shall ensure that you provide any required notices and obtain any required consents and registrations and comply with Chapter 5 of UK GDPR (or any equivalent transfer requirements in a relevant jurisdiction) in order to enable lawful transfer of Customer Personal Data to us (and our third-party processors) and lawful collection and processing of Customer Personal Data by us (and our third-party processors) for the duration and purposes of the Agreement.
- 9.3 We shall process the Customer Personal Data only in accordance with the Data Processing Instructions, unless required by applicable laws and regulations to otherwise process that Customer Personal Data. If we are required by applicable laws and regulations to process Customer Personal Data, we shall notify you of such requirement before processing unless we are prohibited by applicable laws and regulations from so notifying you. We shall immediately inform you if, in your opinion, any of the Data Processing Instructions infringe Data Protection Laws.
- 9.4 We shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk of accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Customer Personal Data, having regard to the state of the art, the cost of implementing any measures and the nature, scope, context and purposes of processing. At your written request, we shall provide you with a summary of the relevant technical and organisational measures implemented by us.
- 9.5 We shall not engage a third-party processor in relation to any Customer Personal Data without

- your prior specific or general written authorisation.
- 9.6 You hereby give us general authorisation to engage a third-party processor to process the Customer Personal Data in connection with the provision of the Licensed Materials and the performance of the Services, provided that:
- (a) we notify you of the proposed third-party processor, including providing details of the processing intended to be undertaken by that third-party processor; and
 - (b) you are provided with an opportunity to object to the appointment of such proposed third-party processor within ten (10) Business Days after such notification.
- 9.7 If, within ten (10) Business Days of the notification in clause 9.6(a), you notify us in writing of any objections to the proposed appointment:
- (a) you and we shall discuss such objections and we shall work with you in good faith: (i) to address your objections or (ii) to agree a change in the provision of the Licensed Materials or the Services which avoids the use of that proposed third-party processor; and
 - (b) if, within thirty (30) Business Days of our receipt of your notification under this clause 9.7, your objections have not been addressed and the relevant change has not been agreed under clause 9.7(a), you may by written notice to us with immediate effect terminate the Agreement to the extent that it relates to the Licensed Materials or the Services which require the use of that proposed third-party processor.
- 9.8 Where we engage a third-party processor under this clause 9 in relation to any Customer Personal Data, we confirm that we have entered or (as the case may be) will enter with that third-party processor into a written agreement incorporating data protection obligations which are substantially similar to those set out in this clause 9. As between us and you, where a third-party processor engaged by us under this clause 9 fails to fulfil its data protection obligations in relation to any Customer Personal Data, we shall remain fully liable to you for the performance of that third-party processor's obligations.
- 9.9 We shall not transfer any Customer Personal Data outside the UK unless we have obtained your prior written consent and such transfer is in accordance with Data Protection Laws. By giving us your specific or general authorisation to appoint a third-party processor located outside the UK, you authorise us to enter into Standard Contractual Clauses with that third-party processor in your name and on your behalf. We shall make any such executed Standard Contractual Clauses available to you on request.
- 9.10 We shall, to the extent permitted by applicable laws and regulations, promptly notify you if we receive a Data Subject Request.
- 9.11 Taking into account the nature of the processing and the information available to us, we shall provide reasonable assistance, at your cost, to you:
- (a) by implementing appropriate technical and organisational measures, to the extent this is possible, for the fulfilment of your obligation as reasonably understood by us to respond to any Data Subject Request;
 - (b) in responding to any Data Subject Request, to the extent that: (i) you are unable to respond to the Data Subject Request without our assistance; (ii) such response is required by Data Protection Laws; (iii) you request such assistance in writing; and (iv) we are permitted by Data Protection Laws to provide such assistance;
 - (c) in ensuring compliance with your obligations under Articles 32 to 36 of UK GDPR, in each case solely in relation to the processing of the Customer Personal Data by us.
- 9.12 After becoming aware of a Customer Personal Data Breach, we shall:
- (a) notify you without undue delay (and in any event within seventy-two (72) hours); and
 - (b) use reasonable efforts to provide you with the following information (whether at the same time as or subsequent to the notification in clause 9.12(a)): (i) the name and contact details of the relevant individual to contact for more information about the Customer Personal Data Breach; (ii) details of the nature of the Customer Personal Data Breach including, where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned; (iii) details of the measures taken or proposed to be taken by us to address the Customer Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.
- 9.13 Unless required by applicable laws or any applicable governmental or regulatory authority to retain or store the Customer Personal Data, we shall: (i) at your written request, Delete or return all the Customer Personal Data to you following termination or expiry of the Agreement. If we have not received such written request within thirty (30) days of termination or expiry of the Agreement, you shall be deemed to have requested the Deletion of the Customer Personal Data; and (ii) Delete all existing copies of the Customer Personal Data in our possession. We shall comply with our obligations under this clause 9.13 promptly and in any event within thirty (30) days of receipt of your written request



or deemed request and, on your written request, we shall confirm in writing to you that we have done so. To the extent that we are required by applicable laws or any applicable governmental or regulatory authority to retain or store the Customer Personal Data: we shall only process such Customer Personal Data for the purpose(s) specified in the applicable laws requiring its retention or storage; and the provisions of the Agreement shall continue to apply to any such Customer Personal Data.

9.14 We shall at your cost:

- (a) on your written request, make available to you all information necessary to demonstrate our compliance with this clause 9; and
- (b) on no more than one occasion in every twelve (12) calendar months and on thirty (30) Business Days' written notice from you allow you or your designated auditor (other than a competitor of ours) to access such information at our registered office on a date agreed with us during our normal business hours to the extent necessary to demonstrate compliance by us with this clause 9, provided that such access does not unreasonably disrupt our operations.

10 Confidentiality

- 10.1 Subject to clause 10.3, neither Party shall disclose to any third party any Confidential Information.
- 10.2 Subject to clause 10.3, we shall only use the Confidential Information disclosed to us by you for the purposes of the Agreement.
- 10.3 Clause 10.1 and 10.2 shall not apply to any information which:
- (a) the other Party consents in writing to the use or disclosure of;
 - (b) at the date of disclosure is in the public domain or which subsequently enters the public domain other than by breach of clause 10.1 and/or clause 10.2;
 - (c) is already known to the Parties prior to its disclosure under these General Terms, free of any obligation of confidentiality;
 - (d) is obtained from a third party following entry into the Agreement, free from any obligation of confidentiality; or
 - (e) is required to be disclosed to professional advisers for the purpose of obtaining professional advice.
- 10.4 If a Party receives a request from a regulatory body requesting the disclosure of Confidential Information, such Party shall promptly notify the other Party to allow a reasonable opportunity to resist such disclosure and/or seek a protective order before the required time for disclosure. Such Party shall also, if requested, provide

reasonable assistance, at the non-disclosing Party's expense, in resisting the disclosure and/or seeking a protective or confidentiality order to govern the disclosure. A Party shall be entitled to comply with any such request to the extent required by law, but shall in doing so make every effort to secure confidential treatment of any Confidential Information it is compelled to disclose and shall not disclose any more Confidential Information than is necessary to comply with its requirements.

- 10.5 We shall have the right to disclose Confidential Information to our Personnel who "need to know," in order to perform their obligations under these General Terms and an Order. We shall use all efforts in identifying and preventing any unauthorised use or disclosure of any Confidential Information. If we become aware or have reason to believe of a breach or intended breach of the terms of these General Terms we shall immediately advise you and you and we shall cooperate in seeking any appropriate remedy against any such action. We shall ensure that any of our Personnel comply with the provisions of this clause 10.5.

11 General

- 11.1 **Assignment:** Unless an Order expressly states otherwise, no right or obligation arising under the Agreement may be assigned or otherwise disposed of, in whole or in part, by any Party without the prior written agreement of the other Party provided that you shall be entitled to assign any of your rights or obligations under the Agreement to any of your Affiliates.
- 11.2 **Variation:** No variation of any terms of these General Terms shall be effective unless it is in writing and signed by both Parties. Unless otherwise agreed by the Parties, in the event that the Parties agree to change the scope of Services and/or Licensed Materials, Fees or any other terms of the Agreement, the Parties shall enter into a new Order to record that change.
- 11.3 **Waiver:** No delay or non-exercise of either Party in exercising any right or power it has under these General Terms shall affect such right or power or be interpreted as a waiver of it. No single or partial exercise or non-exercise of any right or power shall in any circumstances affect any other or further exercise of the same right or power or the exercise of any other right or power.
- 11.4 **Severability:** If any provision of these General Terms is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable in whole or in part, that provision shall, to the extent required, be deemed not to form part of these General Terms and the validity and enforceability of the other provisions of these General Terms shall not be affected.



- 11.5 **Audits:** During the Term and for a period of one year following its termination, you shall maintain and make available to us records sufficient to permit us or an independent auditor retained by us to verify, upon ten (10) days' written notice, your full compliance with the terms and requirements of the Agreement. You shall, in an expeditious manner to facilitate the timely completion of such compliance verification: (i) provide any assistance reasonably requested by us or our designated auditor in conducting any such audit, including installing and operating audit software; (ii) make requested Personnel, records, and information available to us or our designated auditor. Audits shall be performed during regular business hours. If the audit reveals any non-compliance, you shall reimburse us for the reasonable costs and expenses of the verification process (including, but not limited to the fees of an independent auditor) incurred by us, and you shall promptly remedy any such non-compliance, including without limitation through the payment of any and all Fees owed to us during the period of non-compliance; provided, however, that the obligations under this clause 11.5 do not constitute a waiver of our termination rights.
- 11.6 **Third Parties:** Save in relation to your Affiliates, a person who is not a Party to the Agreement shall not have any rights under or in connection with it by virtue of the Contract (Rights of Third Parties) Act 1999 or any similar legislation in any other jurisdiction. Notwithstanding the above, the Parties expressly agree that the Agreement can be varied or rescinded by the Parties, notwithstanding that varying or rescinding the Agreement may extinguish or alter such third party benefit or right.
- 11.7 **Entire Agreement:** Each Party acknowledges that:
- (a) these General Terms (together with all other documents to be entered into further to them) set out the entire agreement and understanding between the Parties, and supersedes all proposals and prior agreements, arrangements and understandings between the Parties, relating to the subject matter of the Agreement; and
 - (b) in entering into these General Terms (and any other document to be entered into further to them) it does not rely on any representation, warranty, or other assurance of any person (whether Party to these General Terms or not) that is not set out in these General Terms or the documents referred to in them. Each Party waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, warranty or other assurance. The only remedy available to any Party in respect of
- any representation, warranty or other assurance that is set out in these General Terms (or any document referred to in them) is for breach of contract under the terms of these General Terms (or the relevant document). Nothing in these General Terms shall, however, limit or exclude any liability for fraud.
- 11.8 **No Partnership or Agency:** Nothing in these General Terms shall be deemed to constitute or imply any partnership between the Parties or constitute either of the Parties as agent of the other.
- 11.9 **Publicity:** We shall not make any public announcements or otherwise communicate with any news or industry media with respect to the Agreement without your prior written approval. In addition, we will not use your name or your Affiliates' name or any of their logos, marks, or symbols as a business reference or in advertising or marketing promotions.
- 11.10 **Counterparts:** The Agreement may be executed in any number of counterparts, all of which taken together constitute one and the same document, and any Party may execute the Agreement by signing any one or more of such counterparts.
- 11.11 **Costs:** Except as provided in these General Terms, each of the Parties to these General Terms shall pay its own respective legal and other costs and expenses in connection with the negotiation, preparation, execution and performance by it of these General Terms.
- 11.12 **Export:** Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Licensed Materials. You agree that such export laws govern your use of the Licensed Materials (including technical data), and you agree to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). you agree that no data, information, program, and/or materials resulting from Services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical or biological weapons proliferation, or development of missile technology.
- 11.13 **Notices:** Any notice required to be given under the Agreement shall unless otherwise stated in it, be in writing, sent to the other party marked for the attention of the person at the address specified in the Order (or to such other address as either party may from time to time notify to the other in writing in accordance with this clause). For the purpose of notices to be given by us in writing, the expression "writing" or "written" shall be deemed to include email communications. A correctly addressed notice



sent by first-class post shall be deemed to have been delivered 72 hours after posting, and correctly addressed emails shall be deemed to have been delivered 24 hours after sending.

11.14 **Order of Precedence:** To the extent any terms and conditions of these General Terms conflict with the terms and conditions of any Additional Terms, the provisions of the Additional Terms shall take precedence unless the Additional Terms expressly state the intent for these General Terms to supersede a specific portion of the Additional Terms. In the event of a conflict between an Order and the Agreement, the Order shall prevail. The terms of your purchase order or any other business processing document (if any) shall be superseded and excluded by the terms and conditions of the Agreement and therefore have no effect.

11.15 **Governing Law and Jurisdiction:** The Agreement shall be construed in accordance with and governed by the law of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

12 Definitions

Access Licence: a non-exclusive, royalty-free, fully paid up, irrevocable right and licence to: (a) access, use, and interact with the Hosting Environment and all Applications hosted therein; and (b) use any of our Intellectual Property Rights included or embodied therein as further described in an Order.

Affiliate: in relation to any company, any “subsidiary” or “holding company” (as such terms are defined in the Companies Act 2006) of that company or any subsidiary of that holding company.

Application: the, databases, websites, programs, and/or any other applications incorporating our Software (including all Upgrades) and provided by you to your End Users, as further described in an Order.

Business Day: a day (other than a Saturday, Sunday or public holiday) where banks in London are open for business.

Confidential Information: confidential and proprietary information (whether in written, oral or electronic form) that: (a) is by its nature confidential; and/or (b) is designated by a Party as confidential; or (c) the other Party knows or ought to know is confidential; and includes, but is not limited to trade secrets, know-how, inventions, techniques, processes, software programs and other IT related information, documentation, schematics, procedures, contracts, customer databases, customer information, Customer Personal Data, financial information, budgets, sales, marketing, insurance secrets, anti-money laundering and compliance data, ideas, strategies, designs, projections, business plans, strategic expansion plans, products and product designs, sourcing information, potential product labelling and marking ideas, unpublished information relating to the intellectual property rights of either Party, and all communications between the Parties and other non-public information relating to either Party’s business.

Customer Content: (a) all information, data, materials, and content of any kind, whether or not Confidential Information, furnished or made available directly or indirectly to us by or on behalf of you, and/or processed via the Subscription Services, including information stored or entered into the Applications by End Users or on behalf of you or any of your Affiliates and (b) all information, data, materials, and content derived from the foregoing including the output from such information and content.

Customer Personal Data: Personal Data supplied by or on behalf of you and processed by us on your behalf in connection with our performance of our obligations relating to or arising from the Agreement.

Customer Personal Data Breach: a Personal Data Breach affecting Customer Personal Data.

Customer Requirements: your requirements for implementation as set out in an Order.

Data Processing Instructions: your documented instructions from the Customer, including those set out in the relevant Order, in relation to the processing of the Customer Personal Data.

Data Protection Laws: in relation to a Party, all data protection and privacy legislation in force from time to time and applicable to that Party which, for the Supplier, includes UK GDPR and the Data Protection Act 2018;.

Data Subject: has the meaning given to it in UK GDPR.

Data Subject Request: any request made by a Data Subject to exercise any rights of Data Subjects laid down in Chapter 3 of UK GDPR in relation to Customer Personal Data.

Delete: to remove or obliterate Personal Data on the Supplier’s live systems such that it cannot be recovered or reconstructed (to the extent technically and legally practicable) and “**Deletion**” shall be construed accordingly.

Documentation: the documents made available to you by us (whether in electronic or hard copy), regarding your use of the applicable Software or Services, as updated by us from time to time, including online design documents, project plans, user instructions, release notes and training manuals.

End User: an individual authorised by you to use your configuration of the Application and any other Licensed Materials agreed in an Order.

Event of Force Majeure: an event outside the reasonable control of either Party (without that Party’s fault or negligence) including an act of God, war, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors (excluding strikes or industrial action of the Party’s Personnel) which directly causes either Party to be unable to comply with all or a material part of its obligations under these General Terms.



Expenses: the expenses relating to a particular Service described in the relevant Order for such Service and paid in accordance with clause 4.

Fees: the fees for any Licensed Materials or any particular Services as set out in the relevant Order and paid in accordance with clause 4.

Hosting Environment: the facilities and environment managed and/or utilised by or for us to provide the Services to you, including all software, servers, hardware, networks, equipment, tools, and telecommunications facilities and technology installed and/or used within such environment, as further described in the Order.

Implementation Services: the services in respect of the implementation of an Application, to be provided by us to you as described in an Order.

Intellectual Property Rights: copyrights, rights in trade marks and trade names, patents, rights in designs, rights in databases, applications for any of such rights and any similar rights wherever and whenever existing.

Licensed Materials: Software, Documentation, Upgrades, training materials, and/or any deliverables under the Services.

Normal Business Hours: the hours between 0900 – 1700 local UK time (GMT or BST as applicable) on a Business Day.

Personal Data: has the meaning given to it in the GDPR.

Personal Data Breach: has the meaning given to it in UK GDPR.

Personnel: in relation to a Party, employees, officers, agents, subcontractors or third-party processors of that party or of that party's third-party processors concerned with performance of the Agreement.

processing: has the meaning given to it in UK GDPR.

Professional Services: the professional services, other than the Implementation Services and Support Services, to be provided by us to you as described in an Order.

Services: any service provided by us to you, as described in more detail in an Order.

Software: the proprietary computer software programs of the Supplier and its licensors and all related materials, improvements, updates, licensed internal code, embedded Third Party Products, new releases, fixes,

enhancements, derivative products and information utilised by the Supplier in providing you the Application.

Standard Contractual Clauses: (a) the European Commission's Standard Contractual Clauses for the transfer of Personal Data from the European Union to processors established in third countries (controller-to-processor transfers), as set out in the Annex to Commission Decision 2010/87/EU, or (b) any standard data protection clauses specified in regulations made by the UK Secretary of State under the Data Protection Laws and for the time being in force.

Subscription Services: any and all hosting and support Services to be provided to you by us including the provision, management, and support of and the access to the Hosting Environment and hosted Applications, the Access Licence, the storing of Customer Content and/or any processing, compiling utilising any of the Applications or Hosting Environment as more particularly described in an Order.

Supplier's Licensors: third party providers of the Supplier necessary for the Supplier to provide the Licensed Materials or Services.

Support Services: the maintenance and support services in respect of the Subscription Services to be provided by us to you as set out in Annex 2 to these General Terms or as otherwise described in an Order.

Third Party Product: software in object code form, database, service or content, including Documentation, updates and enhancements thereto if any, owned by an entity other than the Supplier.

UK GDPR: UK GDPR as defined and referred to in the Data Protection Act 2018.

Upgrades: collectively, any update, customisation, enhancement, release, replacement or successor product, improvement, new version or other modification to the Software as may be required to enable the Applications to operate in conjunction with any new generally available releases and versions of the operating system, database and other computer programs with which they are designed to operate or which adds substantial new functionality thereto.

User Subscriptions: the user subscriptions purchased by you under an Order which entitles the number of End Users specified in an Order to access and use the levels of Services and/or the Licensed Materials also set out in that Order.



ADDITIONAL SERVICES TERMS AND CONDITIONS

These Additional Terms are entered into between the entity listed on the Order ("**Supplier**", "**we**", "**us**" or "**our**"), and the customer identified in the signature block in the Order ("**You**", "**Your**"). The provisions of the Agreement between the parties are hereby fully incorporated herein by reference. The Effective Date of these Additional Terms shall be the Effective Date of the relevant Order. Capitalised terms that are not otherwise defined in these Additional Terms shall have the meanings set forth in the Agreement. The parties agree to the following:

1. Service Delivery

- 1.1. We shall notify you as soon as we become aware of any possible or actual delay or obstacle in providing the Services in accordance with these Additional Terms.
- 1.2. We undertake to you that at all times during the Term:
 - (a) we shall ensure that our Personnel have all the necessary skills, qualifications, experience and equipment to properly perform their obligations under the Agreement;
 - (b) we will inform you in a timely manner of any relevant information we receive which is likely to impact the Services;
 - (c) we will use best efforts to do all acts which are necessary for the proper and timely performance of our duties and obligations under the Agreement; and
 - (d) we have sufficient risk management and internal control systems in place in respect of the Services.

2. Project Management

- 2.1. Where agreed in an Order, for the duration of the Implementation Services and for a period of 3 months post go live, a Supplier Project Manager will be assigned to work closely with you to:
 - (a) Attend the project kick-off meeting;
 - (b) Establish a detailed project plan;
 - (c) Manage the deliverables against the project plan and against the contract;
 - (d) Ensure that the agreed project scope is adhered to;
 - (e) Report to the project sponsors against the agreed scope and objectives;
 - (f) Meet regularly by phone with you to review project progress, resolve issues and assign ongoing activities;
 - (g) Manage change control;
 - (h) Manage the transition from implementation to live running, into Hypercare and then to support;
 - (i) Attend the project close meeting;
 - (j) Attend the 3 month and 6 month reviews.
- 2.2. If the elapsed time of the project, from initiation to go-live, extends beyond the agreed time,

resulting in an increased workload or extended scope, then project management time will be charged on an hourly basis.

3. Hypercare

- 3.1. Where agreed in an Order, for the first 2 months following go-live an enhanced support service, called 'Hypercare' will be provided by Supplier. This includes 2 days onsite, to be agreed with the project manager to provide additional assistance in the first 2 months of live operation to:
 - (a) assist End Users the first time they use the system;
 - (b) answer ad-hoc questions; and
 - (c) provide tips on efficient practice.
- 3.2. Additional days are available on request. During these two months, the Customer's project team will have direct telephone access to a dedicated support consultant, in addition to the email helpdesk facility. This service is designed to help with the following issues:
 - (a) Quick questions e.g. remind me where I go to match an open item?
 - (b) Refresher training for End Users who have attended the training course in a particular area but can't remember in detail what was covered.
 - (c) In-depth discussions of functionality being used. E.g., how do the reporting structures link with system accounts?
 - (d) Tips on efficient practice.
 - (e) Reminders of functionality available.
- 3.3. A member of the Supplier team will be responsible for monitoring activities on a weekly basis during this phase and will meet by phone with the customer to review progress, resolve issues and assign ongoing tasks. Hypercare is not meant to be a replacement for implementation consultancy, training or testing. Supplier reserves the right to charge on an hourly basis for services which fall into these categories. This includes the following:
 - (a) Training for users who have not attended Supplier training previously
 - (b) Training on areas of the system that were out of scope of the implementation
 - (c) Completion of implementation tasks
 - (d) Reconfiguration of the system

3.4. In addition, if the Supplier team advise that the implementation is not ready to go live, or that the users involved do not have a sufficient level of competence then support will only be provided on an hourly chargeable basis. Off-site Hypercare cannot exceed 25 hours in a monthly period.

3.5. The hypercare service operates during Normal Business Hours. For all queries raised by Customer during the Hypercare period the aim is to respond to all issues within an hour. The charge for Hypercare is as set out in the Order.

4. **Support**

4.1. Once Hypercare ends, support will be provided through the normal service. For ongoing questions about the software, help with resolving specific problems and advice on new areas, the customer's appropriately trained users have two sources of support:

- (a) Online help within the Supplier product provides field by field documentation, troubleshooting and FAQs.
- (b) The Supplier email Helpdesk facility allows users to log queries and track responses. Details of response times are included in the attached terms and conditions.

4.2. It is assumed that Customer will appoint a primary support contact who will be the first point of contact for all support queries and will handle first level support queries. The primary support contact will then place calls on the Supplier support desk as required.

5. **Documentation**

5.1. Where agreed in an Order, we shall provide you access to Documentation. If any Documentation provided is revised, we shall promptly provide you access to such revisions. It is agreed that all Documentation shall be in English.

5.2. You shall have the right to reproduce and distribute such Documentation provided under the Agreement, provided that such reproduction shall be solely for use in connection with your business activities and shall contain our proprietary and/or copyright notice(s).

6. **Product Training**

6.1. Training will be provided by us in accordance with the applicable Order. The Parties shall mutually determine the location and scheduling for such training. You may video or audio tape, or otherwise electronically store, for your own use any training session provided by us and may reproduce and distribute by any means such recorded training session and any associated Documentation, manuals, and coding sheets for your own use provided that, where such documentation is generic, all titles, logos and copyrights are also reproduced.

6.2. Training can be delivered at the Supplier offices in Bristol or on site at Your premises. If training is provided at a location supplied by You then a

suitable training environment must be provided, with a projector or screen. Attendees will be expected to bring their own laptops. Expenses will be charged in addition to the above costs. Electronic copies of the training material are provided.

7. **Implementation Services**

7.1. Where agreed in an Order, a dedicated Supplier consultant (**Consultant**) will be assigned to work with you. Your Consultant is responsible for understanding what you need to achieve, across the different business processes, and advise on how to do this within the software. Your Consultant will take into account:

- (a) Analysis and reporting requirements.
- (b) How processes will operate.
- (c) Best practice for maximising efficiency.

7.2. Your Consultant will lead the design workshops, work with you to configure the product, help you in the verification phase and throughout the project.

7.3. The amount of consultancy required from Supplier will depend on how the work is split between Supplier and Customer, how much time is spent considering and prototyping different approaches, the scope of modules included, number of different processes that are to be covered and how quickly the project team become proficient in their use of Supplier.

7.4. We shall supply Implementation Services and meet any key milestones to effect installation of the Application and related Services to you in accordance with the Order and the Customer Requirements in particular.

7.5. Following completion of Implementation Services, we shall demonstrate to you through testing that Application installation has been satisfactorily completed.

7.6. In the event that the results of testing are not accepted by you, within fifteen (15) Business Days of receipt of a written notice of non-acceptance by you we shall at our own cost rectify all faults and problems identified in such notice or present you with (i) evidence to support that the results of testing are in accordance with paragraph 7.5; or (ii) a plan to rectify such faults or problems and, if such a plan is approved by you, subsequently implement such plan within a period of time that is reasonable under the circumstances.

7.7. When we consider that all faults and/or problems have been rectified as required by paragraph 7.6 we shall re-present the demonstration of Application and the same procedure as set out above shall apply.

7.8. If you notify us under paragraph 7.6 after a second demonstration of the Application further to paragraph 7.5 you may on written notice to us reject the Application's installation without any



further liability to you and you shall be entitled to terminate the Order.

- 7.9. Acceptance of any Upgrade or Application installation shall in no way prejudice or affect any other of your rights.
- 7.10. Supplier will only invoice for the days or hours used. If as the project progresses it is evident that the hours are being used more quickly than expected then this will be flagged up by the project manager and the parties will agree an appropriate course of action.
- 7.11. It is assumed that the Implementation Services will be provided "Off-Site" i.e. the Supplier's Personnel will work at the Supplier premises.
- 7.12. If any Implementation Services is required to be provided at the Customer's premises, then this will be provided at the rate per hour specified in an Order for each 7 hour day and expenses will also be charged.

8. Data Migration

- 8.1. Software includes tools for importing data from external systems, the use of which is included in the training program.
- 8.2. Where agreed in an Order, we will provide additional technical consultancy assistance to:
 - (a) Transform agreed data to the Supplier format
 - (b) Map the old account codes to the new account codes based on the mapping rules provided
 - (c) Load the data into the Supplier demo environment
 - (d) Load the data into the Supplier live environment
- 8.3. Where we provide technical consultancy assistance in accordance with paragraph 8.2, it will be the responsibility of the Customer to:
 - (a) Extract the data to be migrated from external systems
 - (b) Cleanse the data to remove unwanted records
 - (c) Define the mapping of the data to the Supplier structures
 - (d) Verify that the imported data is both accurate and complete.

9. Expenses

- 9.1. Unless agreed otherwise in an Order, any services provided at Customer's premises, or other locations specified by the Customer will be subject to expenses.

- 9.2. Transport, overnight accommodation and reasonable meals will be recharged to the Customer as incurred. Any overnight stays will be agreed with the Customer in advance.

- 9.3. Expenses will be charged along with the services to which they relate.

10. Integration with External Systems

- 10.1. Where agreed in an Order, training in the use of the Supplier data import tools is provided as part of the training outlined in paragraph 6. The use of the Supplier web services for exporting and importing data is included in the Subscription Services.
- 10.2. Additional services are available, depending on the level of integration with external systems that is required, the technology of the external systems and the skills available within the Customer's team.
- 10.3. Where agreed in an Order, design workshops will be run to agree the specification for integration with external systems.
- 10.4. This will cover:
 - (a) configuration options within Supplier to support the integration
 - (b) documentation of the data transfer process
 - (c) mapping of the data fields
 - (d) specification documentation
 - (e) Programming of the interface, exporting data from the external system and importing data into the external system, and automation of the data transfer process is not included.

11. End User Terms

- 11.1. As a condition of your access to the Licensed Materials and the Services you shall include in any agreement with your End Users, terms no less onerous than those set out in this paragraph 11. You shall procure that each End User agrees that it shall not:
 - (a) reverse engineer, decompile, copy or adapt any software or other code or scripts forming part of the Application or create derivative works of the Service;
 - (b) attempt to transmit to or via this Service any information that contains a virus, worm, Trojan horse or other harmful or disruptive component; or
 - (c) attack the Application via a denial-of-service attack or a distributed denial-of service attack.