

Supply of FOCUS Software

Contract Details

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these Conditions

Authorised Users	those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as further described in clause 2.2(d).
Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Change of Control	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly
Completion Acknowledgment Date	is as defined in the Configuration Services Agreement.
Configuration Services Agreement	Means, where applicable an Agreement for the Provision of Configuration and other Services entered into by the Customer and the Supplier.
Contract	the Contract between the Supplier and the Customer for the supply (inter alia) of software as a service of which these Conditions form part.
Contract Details	are as defined in the Contract
Confidential Information	information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5 or clause 11.6. Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.
Customer Data	the data inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Data Protection Legislation	the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications);
Documentation	the document made available to the Customer by the Supplier online via https://f0cus.co.uk or such other web address notified by the Supplier to the Customer from time to time which sets out a description of the Services and the user instructions for the Services.
Group	in relation to a company, that company, any subsidiary or holding company from time to time of that company and any subsidiary from time to time of a holding company of that company.
Heightened Cybersecurity Requirements	any laws, regulations, codes, guidance (from regulatory and advisory bodies. Whether mandatory or not), international and national standards, industry schemes and sanctions, which are applicable to either the Customer or an Authorised User relating to security of network and information systems and security breach and incident reporting requirements, which may include the cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time.]
Initial Subscription Term	the initial term as set out in the Contract Details
Normal Business Hours	8.30 am to 5.00 pm local UK time, each Business Day.
Renewal Period	the period described in clause 14.1.
Self Service Portal	the portal operated by the Supplier at [LINK] (or as updated by the Supplier) under which the Customer may (inter alia) purchase User Subscriptions.
Services	the subscription services provided by the Supplier to the Customer under this Contract via https://f0cus.co.uk or any other website notified to the Customer by the Supplier from time to time, as more particularly described in the Documentation.
Software	the online software applications provided by the Supplier as part of the Services (being the work management platform known as FOCUS).
Subscription Fees	the subscription fees payable by the Customer to the Supplier for the User Subscriptions, as set out in the Contract Details.
Subscription Term	has the meaning given in clause 14.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

Support Services Policy	the Supplier's policy for providing support in relation to the Services as made available at https://support.f0cus.co.uk or such other website address as may be notified to the Customer from time to time.
UK Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
User Subscriptions	the user subscriptions purchased by the Customer pursuant to clause 9.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with the Contract.
Virus	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
Vulnerability	a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

- 1.2 Definitions in the Contract Details shall, where the context so allows, have the same meaning in these Conditions.
- 1.3 Clause, schedule and paragraph headings shall not affect the interpretation of these Conditions.
- 1.4 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Contract.
- 1.9 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision.
- 1.10 A reference to writing or written includes e-mail.
- 1.11 References to clauses and schedules are to the clauses and schedules of this these Conditions and (where applicable) the Contract.
- 1.12 Reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee. For the purposes of determining whether a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be construed so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights

2. USER SUBSCRIPTIONS

- 2.1 Subject to the Customer purchasing the User Subscriptions in accordance with clause 3.4 and clause 9.1, the restrictions set out in this clause 2 and otherwise in these Conditions, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right, **without the right to grant sublicences**, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's internal business operations.
- 2.2 In relation to the Authorised Users, the Customer undertakes that:
 - (a) the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;
 - (b) it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;
 - (c) each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed with reasonable frequency and that each Authorised User shall keep his password confidential;
 - (d) it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times;
 - (e) it shall permit the Supplier or the Supplier's designated auditor to audit the Services in order to check the numbers of Authorised Users and the Customer's data processing facilities to audit compliance with the Contract. Each such audit may be

conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;

- (f) if any of the audits referred to in clause (e) reveal that the Customer has underpaid Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Customer shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the prices set out in the Contract Details within 10 Business Days of the date of the relevant audit.
- (g) it will ensure that all Authorised Users are suitably trained prior to being permitted to use the Services so that they can competently use and access the Services. To the extent that the Supplier (acting reasonably) does not believe that the Authorised Users (or any of them) have been suitably trained it may deliver (or procure the delivery of) such training to the Authorised Users and the Customer must pay for such training at a rate reasonably determined by the Supplier and will cooperate with the Supplier in relation thereto.

2.3 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) infringes the rights of any third party;
- (c) facilitates illegal activity;
- (d) depicts sexually explicit images;
- (e) promotes unlawful violence;
- (f) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (g) is otherwise illegal or causes damage or injury to any person or property;

and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

2.4 The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Contract:
 - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

- (b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
 - (c) use the Services and/or Documentation to provide services to third parties; or
 - (d) subject to clause 22.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
 - (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2; or
 - (f) introduce or permit the introduction of, any Virus or Vulnerability into the Supplier's network and information systems.
- 2.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- 2.6 The rights provided under this clause 2 are granted to the Customer only and (without limitation) shall not be considered granted to any subsidiary or holding company of the Customer.

3. ADDITIONAL USER SUBSCRIPTIONS

- 3.1 Subject to clause 3.2 and clause 3.4, the Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in the Contract Details via the Self Service Portal and the Supplier may (subject always to full payment and compliance by the Customer with the provisions of the Contract) grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of the Contract.
- 3.2 If the Customer wishes to purchase additional User Subscriptions, the Customer may request to do so by logging on to the Self Service Portal, paying the Fees stated as being payable and providing such information and otherwise complying with the requirements set out on the Self Service Portal and in this Contract. . All requests to purchase additional User Subscriptions are subject (without limitation) to the consent (at its option) of the Supplier and to payment by the Customer of the full amount(s) due.
- 3.3 Where the Supplier approves the request, the Supplier shall activate the additional User Subscriptions following its approval of the Customer's request and payment of all required fees (subject to any conditions required by the Supplier)
- 3.4 The Customer must pay to the Supplier the relevant fees for all additional User Subscriptions through the Self Service Portal as set out in the Contract Details or on the Self Service Portal .Where such additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by the Supplier for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).
- 3.5 Without limitation, the provisions of clause 2.2 (g) will apply any additional Authorised Users.

4. SERVICES

- 4.1 The Supplier shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of the Contract.
- 4.2 The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
- (a) planned maintenance carried out during the maintenance window of 00:01 Sunday to 13:00 Sunday UK time; and
 - (b) unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 4 Normal Business Hours' notice in advance.
- 4.3 The Supplier will, as part of the Services and in consideration of the Support Service Charges set out in the Contract Details provide the Customer with the Supplier's standard customer support services during Normal Business Hours in accordance with the Supplier's Support Services Policy in effect at the time that the Services are provided. The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time. The Customer may purchase enhanced support services separately at the Supplier's then current rates.

5. CUSTOMER DATA

- 5.1 The Customer shall own all rights, titles and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.
- 5.2 The Supplier shall follow its archiving procedures for Customer Data as set out in its Back-Up Policy available at <https://support.focus.co.uk> or such other website address as may be notified to the Customer from time to time, as such document may be amended by the Supplier in its sole discretion from time to time. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against the Supplier shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the archiving procedure described in its Back-Up Policy. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable under clause 5.9).
- 5.3 The Supplier shall, in providing the Services, comply with its Privacy and Security Policy relating to the privacy and security of the Customer Data available at <https://support.focus.co.uk> or such other website address as may be notified to the Customer from time to time, as such document may be amended from time to time by the Supplier in its sole discretion.
- 5.4 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

5.5 The parties acknowledge that:

- (a) if the Supplier processes any personal data on the Customer's behalf when performing its obligations under the Contract, the Customer is the controller and the Supplier is the processor for the purposes of the Data Protection Legislation.
- (b) Appendix 1 sets out the further information required under Article 28 (3) GDPR.

5.6 Without prejudice to the generality of clause 5.4, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract so that the Supplier may lawfully use, process and transfer the personal data in accordance with the Contract on the Customer's behalf.

5.7 Without prejudice to the generality of clause 5.4, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:

- (a) process that personal data only on the documented written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier and/or Domestic UK Law (where **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK) to process personal data (**Applicable Laws**). Where the Supplier is relying on Applicable Laws as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
- (b) not transfer any personal data outside of the European Economic Area and / or the United Kingdom unless the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) it is required to do so by any applicable Domestic UK Law , EU or any EU Member State law.
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation; and
 - (iv) the Customer has agreed to such transfer and the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- (c) assist the Customer, at the Customer's cost, 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;
- (d) notify the Customer without undue delay on becoming aware of a personal data breach;
- (e) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract within a reasonable period unless required by Applicable Law to store the personal data (and for these purposes the term "delete" shall mean to put such data beyond use); and

- (f) maintain complete and accurate records and information to demonstrate its compliance with this clause 5 and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 5.8 Each party shall ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, 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 (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
- 5.9 The Customer consents to the Supplier engaging third party subcontractors to process the personal data provided that: (i) the Supplier provides at least 10 days' prior notice of the addition or removal of any subcontractor; (ii) the Supplier imposes data protection terms on any subcontractor it appoints that protect the personal data to the same standard provided for by this Clause 5; and (iii) the Supplier remains liable for any breach of this Clause 5 that is caused by an error or omission of its subcontractor. If the Customer refuses to consent to the Supplier's appointment of a third party subcontractor on reasonable grounds relating to the protection of the personal data, then either the Supplier will not appoint the subcontractor or the Supplier may elect to suspend or terminate this Contract without penalty.
- 5.10 The Supplier shall permit the Customer (or its nominated auditor) to audit the Supplier's compliance with this Clause 5. The Customer must give the Supplier not less than 30 days' prior written notice of its intention to conduct such an audit, must conduct the audit during normal business hours, and must take all reasonable measures to prevent disruption or harm to the Supplier's operations. The Customer will not exercise its audit rights more than once in any twelve (12) calendar month period and will be responsible for all reasonable costs incurred by the Supplier in connection with the audit.
- 5.11
- 5.12 Either party may, at any time on not less than 30 days' notice, revise this clause 5 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Contract).

6. THIRD PARTY PROVIDERS

The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. The Supplier makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not the Supplier. The Supplier recommends that the Customer refers to the third party's website terms and

conditions and privacy policy prior to using the relevant third-party website. The Supplier does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

-
7. SUPPLIER'S OBLIGATIONS
- 7.1 The Supplier undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
- 7.2 The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1.
- 7.3 The Supplier:
- (a) does not warrant that:
 - (i) the Customer's use of the Services will be uninterrupted or error-free;
 - (ii) that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements;
 - (iii) the Software or the Services will be free from Vulnerabilities; or
 - (iv) the Software, Documentation or Services will comply with any Heightened Cybersecurity Requirements.
 - (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 7.4 This Contract shall not prevent the Supplier (or any member of its Group) from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Contract.

8. CUSTOMER'S OBLIGATIONS

- 8.1 The Customer shall:
- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to this Contract; and

- (ii) all necessary access to such information as may be required by the Supplier;
in order to provide the Services, including but not limited to Customer Data, security access information and any configuration services;
- (b) without affecting its other obligations under this Contract, comply with all applicable laws and regulations with respect to its activities under this Contract;
- (c) carry out all other Customer responsibilities set out in this Contract in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this Contract and shall be responsible for any Authorised User's breach of this Contract;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this Contract, including without limitation the Services;
- (f) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and
- (g) be, to the extent permitted by law and except as otherwise expressly provided in this Contract, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9. CHARGES AND PAYMENT

- 9.1 The Customer shall pay the Subscription Fees to the Supplier for the User Subscriptions in accordance with the relevant provisions of this Contract including (without limitation) clause 3, this clause 9 and the Contract Details and will pay the Support Service Charges in accordance with clause 4.3 and the Contract Details . Any Fees due in relation to the Configuration Services Agreement will be payable in accordance with the Configuration Services Agreement.
- 9.2 The Customer shall on the date of this Contract (and when making any payment through the Self Service Portal) provide to the Supplier valid, up-to-date and complete credit card details/bank details acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:
- (a) its credit card details to the Supplier, the Customer hereby authorises the Supplier to bill such credit card/bank account:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term;
 - (ii) subject to clause 14.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period; and

- (iii) in relation to additional User Subscriptions, on the date such additional User Subscriptions are purchased.

and the Customer shall pay each invoice within 14 days after the date of such invoice.

9.3 If the Supplier does not receive payment in full on the date it is due, then without prejudice to any other rights and remedies of the Supplier:

- (a) the Supplier may, without liability to the Customer, immediately disable the Customer's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3 % over the then current base lending rate of the Supplier's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

9.4 All amounts and fees stated or referred to in these Conditions:

- (a) shall be payable in pounds sterling;
- (b) are, subject to clause 13.2 , non-cancellable and non-refundable;
- (c) are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

9.5 If, at any time whilst using the Services, the Customer exceeds the amount of disk storage space specified in the Documentation, the Supplier shall charge the Customer, and the Customer shall pay, the Supplier's then current excess data storage fees. The Supplier's excess data storage fees current as at the Effective Date are set out in the Contract Details.

9.6 The Supplier shall be entitled to increase the Subscription Fees, , the Support Service Charges payable pursuant to clause 4.3 and/or the excess storage fees payable pursuant to clause 9.5 at the start of each Renewal Period upon 90 days' prior notice to the Customer and the Contract Details shall be deemed to have been amended accordingly. Fees for additional User Subscriptions may be increased at any time and will be set out on the Self Service Portal.

10. PROPRIETARY RIGHTS

10.1 The Customer acknowledges and agrees that the Supplier and/or its licensor(s) own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this Contract does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

10.2 The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Contract.

11. CONFIDENTIALITY

- 11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Contract. A party's Confidential Information shall not be deemed to include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving party;
 - (b) was in the other party's lawful possession before the disclosure;
 - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - (d) is independently developed by the receiving party, which independent development can be shown by written evidence.
- 11.2 Subject to clause 11.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Contract.
- 11.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Contract.
- 11.4 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 and is given in accordance with this clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 11.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.
- 11.6 The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.
- 11.7 No party shall make, or permit any person to make, any public announcement concerning this Contract without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 11.8 The above provisions of this clause 11 shall survive termination of this Contract, however arising.

12. INDEMNITY

- 12.1 The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation

court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation, provided that:

- (a) the Customer is given prompt notice of any such claim by the supplier;
- (b) the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
- (c) the Customer is given sole authority to defend or settle the claim.

12.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the Services or Documentation in accordance with this Contract infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- (a) the Supplier is given prompt notice of any such claim by the customer;
- (b) the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
- (c) the Supplier is given sole authority to defend or settle the claim.

12.3 In the defence or settlement of any claim, the Supplier may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Contract on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

12.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

- (a) a modification of the Services or Documentation by anyone other than the Supplier; or
- (b) the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by the Supplier; or
- (c) the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

12.5 The foregoing states the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13. LIMITATION OF LIABILITY

13.1 Except as expressly and specifically provided in this Contract:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or

omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction;

- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Contract; and
- (c) the Services and the Documentation are provided to the Customer on an "as is" basis.

13.2 Nothing in this Contract excludes the liability of the Supplier:

- (a) for death or personal injury caused by the Supplier's negligence; or
- (b) for fraud or fraudulent misrepresentation.

13.3 Subject to clause 13.1 and clause 13.2:

- (a) the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Contract; and
- (b) the Supplier's total aggregate liability in contract (including in respect of the indemnity at clause 12.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the total Subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the claim arose.

13.4 For the avoidance of doubt no licensor of the Supplier or member of the Supplier's Group contracts with the Customer pursuant to this Contract and no licensor of the Supplier or member of the Supplier's Group is intended to have any liability to the Customer pursuant to the Contract or otherwise in connection with the provision of the Services.

13.5 Service Credits shall be applied for total system down time

- (a) Service is measured across core support hours as set in out in the contract
- (b) Service credits apply when total system down time (TSDT) occurs for all users.
- (c) Table 1 below is applicable as a monthly average in any 3 month rolling period

TSDT	Credit on users
<=1hr	0%
>1hr <= 2hrs	25%
>2hr <= 4hrs	50%
>4 hrs	75%

14. TERM AND TERMINATION

14.1 This Contract shall, unless otherwise terminated as provided in this clause 14, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Contract shall be automatically renewed for successive periods of 12 months (each a Renewal Period), unless:

- (a) either party notifies the other party of termination, in writing, at least 60 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Contract shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of this Contract;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.

14.2 Without affecting any other right or remedy available to it, either party may terminate this Contract with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this Contract in full on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (c) the other party repeatedly breaches any of the terms of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract;
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
- (e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

- (h) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
 - (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
 - (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause (d) to clause (j) (inclusive);
 - (l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 14.3 Without affecting any other right or remedy available to it, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if the Customer is subject to a change of control.
- 14.4 On termination of this Contract for any reason:
- (a) all licences granted under this Contract shall immediately terminate and the Customer shall immediately cease all use of the Services and/or the Documentation;
 - (b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
 - (c) the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession, unless the Supplier receives, no later than ten days after the Effective Date of the termination of this Contract, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Customer Data; and
 - (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced.

15. FORCE MAJEURE

The Supplier shall have no liability to the Customer under this Contract if it is prevented from or delayed in performing its obligations under this Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, 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, provided that the Customer is notified of such an event and its expected duration.

16. CONFLICT

If there is an inconsistency between any of the provisions in the main body of this Contract and the Contract Details, the provisions in the Contract Details shall prevail.

17. VARIATION

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19. RIGHTS AND REMEDIES

Except as expressly provided in this Contract, the rights and remedies of the Supplier under this Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

20. SEVERANCE

20.1 If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract.

20.2 If any provision or part-provision of this Contract is deemed deleted under clause 20.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. ENTIRE AGREEMENT

21.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2 Each party acknowledges that in entering into this Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract.

- 21.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.
- 21.4 Nothing in this clause shall limit or exclude any liability for fraud.

22. ASSIGNMENT

- 22.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 22.2 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Contract.

23. NO PARTNERSHIP OR AGENCY

Nothing in this Contract is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24. THIRD PARTY RIGHTS

This Contract does not confer any rights on any person or party (other than the parties to this Contract and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

25. NOTICES

- 25.1 Any notice required to be given under this Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in the Contract Details , or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this Contract.
- 25.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

26. GOVERNING LAW

This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

27. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

APPENDIX 1

The further information required under Article 28 (3) GDPR is set out in the Table below:-

Duration of Processing	For the term of the Contract (subject to the terms of the Contract)
Nature and Purpose of the Processing	To allow the Supplier to carry out and provide the Services under the Contract
Categories/types of Personal Data being processed	Details (including names and contact details) relating to the staff, officers, customers, suppliers, agents and business partners of the Customer and of other persons as required in connection with the performance of the Services
Categories of Data Subjects	Staff, officers, customers, suppliers, agents and business partners of the Customer and such other persons as are required in connection with the performance of the Services