

C SOFTWARE LIMITED: IMR SOFTWARE LICENCE

Licence Details	
Licence No:	CS-xxxxxxxxx
Commencement Date:	To Be Confirmed
Customer:	[COMPANY NAME] LIMITED (Company No. [NUMBER])
Customer's address:	[REGISTERED ADDRESS]
Customer's email address for notices:	[EMAIL]
Customer's representative:	Name: [NAME] Title: [TITLE] Email: [EMAIL] Telephone: [TELEPHONE] Postal Address: [POSTAL ADDRESS]
Delivery Date:	On receipt of payment
Supplier:	C SOFTWARE LIMITED (Company No. 03736174).
Supplier's address:	16 Miller Court, Severn Drive, Tewkesbury Business Park, Tewkesbury, Gloucestershire, England, GL20 8DN.
Supplier's email address for notices:	rob@csoftware.co.uk
Supplier's VAT number:	GB551565931
Supplier's representative:	Name: Robert Dorehill Title: Managing Director Email: rob@csoftware.co.uk Telephone: +44 (0) 1684 210 580
End Date:	dd/mm/yyyy
Licence Period:	The period starting on the Commencement Date and ending on the End Date or such later date as agreed in writing between the Customer and the Supplier in accordance with clause 2.2 of the Licence Terms, subject at all times to termination in accordance with the Licence Terms.

Licence Terms:	The terms and conditions attached hereto at Schedule 1.
Software:	The Nomad software and any changes thereto made by the Supplier for the Customer under the terms of this licence and more particularly defined in the Annex.
Fees:	The fees set out in Schedule 2.
Permitted Users:	Officers and employees of the Customer, and officers and employees of any contractor of the Customer who has been approved in writing in advance by the Supplier, up to such maximum number of Permitted Users per Server instance license as set out in the Special Terms below.
Special Terms:	Maximum Permitted Instances is: xxx [Total months purchased] Maximum Permitted Users is: xx [per Permitted Instance]

C SOFTWARE Limited: Licence details

1. The agreement between the Supplier and the Customer is made up of the following:
 - 1.1.1 the Licence Details set out above;
 - 1.1.2 the Licence Terms attached hereto at Schedule 1;
 - 1.1.3 the details of the Fees attached hereto at Schedule 2;
 - 1.1.4 the Specification annexed hereto; and
 - 1.1.5 any document referred to in the body of the document set out at above,
 (together the **Licence**).
2. If there is any conflict or ambiguity between the terms of the documents listed, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list, unless a contrary intention is indicated in writing.
3. This Licence has been entered into on the date stated at the beginning of it.

Signed by

for and on behalf of **C SOFTWARE LIMITED**

Authorised Signatory

Signed by

for and on behalf of

Authorised Signatory

SCHEDULE 1

C SOFTWARE LIMITED: LICENCE TERMS FOR REMOTE ACTIVATION

Background

- (A) The Supplier is the entire legal and beneficial owner and licensor of the Software and is willing to license the Customer to use the Software.
- (B) The Customer wishes to take a licence of the Software from the Supplier.
- (C) The Supplier and the Customer have agreed for the licence of the Software, and for the Supplier to make any amendments to the Software as the parties agree, on the terms set out in this Licence.

Agreed terms

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this Licence.

Access Information: means the Supplier's website at <https://nomadactivator.com> and the username and password (each provided by the Supplier) required by the Customer to request an API key and/or activation key to permit use of the Software.

Affiliate: includes, in relation to either party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party.

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

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Commencement Date: the date set out in the Licence Details.

Control: as defined in section 1124 of the Corporation Tax Act 2010.

Deliverables: the Software, Access Information and any Maintenance Releases.

Delivery Date: has the meaning given in the Licence Details.

End Date: has the meaning given in the Licence Details.

Fee: the licence fee payable by the Customer to the Supplier under clause 8 (Fees), as set out in the Licence Details and Schedule 2.

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 its end users (but not the Supplier) relating to security of network and information systems and security breach and incident reporting requirements, which may include the Network and Information Systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and rights in domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

Licence Details: the Licence Details to which these Licence Terms are attached.

Licence Period: has the meaning given in the Licence Details.

Maintenance Release: release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version.

New Version: any new version of the Software which from time to time is publicly marketed and offered for purchase by the Supplier in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product.

Permitted Instances: the maximum number of server instances of the Software (being independent copies of the Software, whether operating on the same or independent physical or virtual servers) that the Supplier is permitted to install pursuant to this Licence, as set out in the Special Terms section of the Licence Details.

Permitted Users: has the meaning given in the Licence Details.

Site: the premises from which the Customer carries out its business as stated in the Licence Details or as notified to the Supplier in writing from time to time.

Software: the computer programs detailed in the Licence Details, and any Maintenance Release which is acquired by the Customer during the subsistence of this Licence.

Specification: the document detailing the specification of the Software which forms the Annex.

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 confidentiality, integrity, or availability.

- 1.2 **Holding company** and **subsidiary** mean a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006. In the case of 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 amended so that: (a) references in sub 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.

- 1.3 Clause, Schedule and paragraph headings shall not affect the interpretation of these Licence Terms.
- 1.4 Unless the context otherwise requires:
- 1.4.1 words in the singular shall include the plural and in the plural shall include the singular;
 - 1.4.2 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
 - 1.4.3 a reference to one gender shall include a reference to the other genders; and
 - 1.4.4 any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.6 References to clauses and Schedules are to the clauses and Schedules of these Licence Terms and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.7 The Schedules and Annexes form part of this Licence and shall have effect as if set out in full in the body of these Licence Terms. Any reference to these Licence Terms includes the Schedules and Annexes.
- 1.8 A reference to writing or written excludes fax but includes email.

2. COMMENCEMENT AND DURATION

- 2.1 This Licence shall commence on the Commencement Date and, subject to earlier termination in accordance with its terms and subject to extension in accordance with clause 2.2, shall continue until the End Date.
- 2.2 At the request of the Customer, the Customer and the Supplier may agree an extension to the Licence Period. Any such extension shall be agreed between the Customer and the Supplier in advance and is subject to agreement of, and payment by the Customer to the Supplier of, any Fees applicable in respect of any such extension period. Save as may be agreed between the Supplier and the Customer, the terms of this Licence shall apply to any such extension period and any extension period agreed in accordance with the foregoing shall be subject to earlier termination of this Licence in accordance with its terms.
- 2.3 The Parties agree that these Licence Terms will apply to any subsequent variations, extensions or additional contracts entered into between the parties in relation to the Software unless signed and in writing by the Supplier and the Customer.

3. DELIVERY, ACTIVATION AND RISK

- 3.1 The Supplier shall provide the Software in accordance with this Licence.

- 3.2 On the Delivery Date (subject to clause 3.4) the Supplier shall make available to the Customer:
- 3.2.1 the Software for download by the Customer by way of secure file transfer from such server as notified by the Supplier to the Customer; and
 - 3.2.2 the Access Information.
- 3.3 Following the Supplier making the Software and Access Information available to the Customer in accordance with clause 3.2, the Customer:
- 3.3.1 shall be responsible for downloading the Software and installing it on the Customer's equipment or cloud infrastructure. The Customer shall be responsible for ensuring that such equipment or cloud infrastructure meets any requirements for the Software as notified or published by the Supplier from time to time, and the Supplier shall not have any liability to the Customer for any failure or defect in the Software arising from use or installation of the Software on any equipment or cloud infrastructure that does not meet any such requirements;
 - 3.3.2 shall use the Access Information in order to install and activate the Software and the Customer shall be responsible for ensuring that such Access Information is kept secure by the Supplier and not disclosed to any third party. The Customer shall be liable to the Supplier for any use of the Software arising from any use of the Access Information.
- 3.4 The Supplier shall use reasonable endeavours to meet the Delivery Date but time is not of the essence in respect thereof.
- 3.5 The licence set out in this Agreement, and the Access Information provided by the Supplier to the Customer in accordance with clause 3.3.2, shall permit the Customer to install no more than the number of Permitted Instances of the Software, each such instance being installed on no more than one server (whether physical or virtual), and accordingly the Customer shall be responsible for ensuring that the Software (or an instance of the Software) is installed and activated on the correct server (whether physical or virtual) at the point of installation and activation in accordance with clause 3.3. In the event that the Customer installs and activates the Software (or an instance of the Software) on the incorrect server, or otherwise for any reason wants to install and activate the Software (or an instance of the Software) on another server (whether physical or virtual) than the one it has originally installed and activated that Software on, the Supplier shall be under no obligation to provide the Customer with an additional copy of the Software or additional Access Information so as to allow the Customer to so install and activate the Software (or an instance of the Software) on another server (whether physical or virtual).
- 3.6 Subject to clause 11.2, the Supplier shall ensure that the Software shall comply in all material respects with the Specification.

4. LICENCE

- 4.1 The Supplier shall at all times own all copies of all or any part of the Deliverables. The Intellectual Property Rights in the Deliverables are, and shall remain, the property of the Supplier and the Customer acquires no rights in or to the Deliverables other than those expressly granted by this Licence.

- 4.2 In consideration of the Fee paid by the Customer to the Supplier, the Supplier grants to the Customer a limited, revocable, non-exclusive, non-transferable licence for a Licence Period commencing on and including the Commencement Date to use the Software.
- 4.3 The Supplier shall not permit any party who is not a Permitted User to use the Software except with the prior written consent of the Supplier.
- 4.4 At the expiry of the Licence Period, this Licence shall automatically terminate, unless otherwise agreed by the Parties.

5. SCOPE OF USE

- 5.1 The Customer's use of the Software shall be restricted to the use of the Software in object code form for the purpose of processing the Customer's data for the normal business purposes of the Customer.
- 5.2 The Customer may not use the Software other than as specified in accordance with this Licence without the prior written consent of the Supplier, and the Customer acknowledges that additional fees may be payable on any change of use approved by the Supplier.
- 5.3 Except as expressly stated in this clause 5 (Scope of Use), the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part except to the extent that any reduction of the Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Customer, unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.
- 5.4 The Customer may not use any such information provided by the Supplier to create or share any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it.
- 5.5 The Customer shall:
 - 5.5.1 ensure that the number of persons using the Software does not exceed the maximum number of Permitted Users as set out in the Licence Details;
 - 5.5.2 not install more instances of the Software than the number of Permitted Instances as set out in the Licence Details;
 - 5.5.3 keep a complete and accurate record of all incidences of installation of the Software and date of installation of the Software and shall produce such record to the Supplier on request from time to time;
 - 5.5.4 notify the Supplier as soon as it becomes aware of any unauthorized use of the Software by any person;
 - 5.5.5 pay, for broadening the scope of the licences granted under this Licence to cover the unauthorized use, an amount equal to the fees which the Supplier would have levied

(in accordance with its normal commercial terms then current) had it licensed any such unauthorised use on the date when such use commenced together with interest at the rate provided for in clause 8.4, from such date to the date of payment;

- 5.5.6 take all reasonable precautions to prevent any unauthorised access to any copy of the Software and Documents;
 - 5.5.7 not sub-license, rent, lend, assign or transfer in any other way this Licence or the Deliverables to any person without the prior written consent of the Supplier; and
 - 5.5.8 not give access to the Deliverables through any network of computers to users who are not employees or agents of the Supplier.
- 5.6 The Customer shall permit the Supplier to inspect and have access to any premises (and to the computer equipment located there) at or on which the Software is being kept or used, and have access to any records kept in connection with this Licence, for the purposes of ensuring that the Customer is complying with the terms of this Licence, provided that the Supplier provides reasonable advance notice to the Customer of such inspections, which shall take place at reasonable times.

6. ASSIGNMENT

- 6.1 The Customer shall not:
- 6.1.1 sub-license, assign or novate the benefit or burden of this Licence in whole or in part;
 - 6.1.2 allow the Software to become the subject of any charge, lien or encumbrance; and
 - 6.1.3 deal in any other manner with any or all of its rights and obligations under this Licence,
- without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed.
- 6.2 The Supplier may at any time sub-license, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this Licence, provided it gives written notice to the Customer.
- 6.3 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 6.4 Notwithstanding clause 10 (Export), a party assigning any or all of its rights under this Licence may disclose to a proposed assignee any information in its possession that relates to the Licence or its subject matter, the negotiations relating to it and the other party which is reasonably necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant to this clause 6.4 shall be made until notice of the identity of the proposed assignee has been given to the other party.

7. MAINTENANCE RELEASES

- 7.1 The Supplier shall use reasonable endeavours to provide to the Customer during the Licence Period Maintenance Releases that are generally made available to its customers from time

to time. All such Maintenance Releases shall be made available for download by the Customer by way of secure file transfer from such server as notified by the Supplier to the Customer.

- 7.2 The Supplier warrants that no Maintenance Release will adversely affect the then existing facilities or functions of the Software.
- 7.3 The Customer shall install all Maintenance Releases as soon as reasonably practicable after release by the Supplier.
- 7.4 The Supplier shall not be liable for any breach of the warranty set out in clause 11.1 to the extent arising from any failure on the part of the Customer to download or install any Maintenance Release made available for download by the Supplier.

8. FEES

- 8.1 On or before the Commencement Date the Customer shall pay the Fees due to the Supplier for the entire Licence Period. In the event that the Licence Period is extended in accordance with clause 2.2, the Fees payable in respect of any such extension period shall be paid by the Customer to the Supplier within such period as agreed between the Supplier and the Customer and in any event prior to the commencement of the relevant extension period.
- 8.2 All payments made by the Customer under the Licence are exclusive of VAT. The Supplier shall provide the Customer with a valid VAT invoice. The Customer shall pay any stamp duties or similar transfer taxes imposed on the supplies made under the Licence and shall reimburse the Supplier for any such stamp duties or similar transfer taxes paid by the Supplier. All sums payable under the Licence are exclusive of VAT or any relevant local sales taxes, for which the Customer shall be responsible. If the Customer is required to make any deduction for or on account of tax from any payment due under the Contract (**Tax Deduction**):
 - 8.2.1 The Customer shall account to the relevant tax authority for such Tax Deduction and shall provide evidence to the Supplier that it has so accounted.
 - 8.2.2 The amount of the payment due under the Licence shall be increased so that the Supplier receives an amount equal to the amount that would have been received by it, had the Customer not been required to make any Tax Deduction.
- 8.3 The Customer and the Supplier shall co-operate to minimise the amount of any Tax Deduction. If following the making of a Tax Deduction, the Supplier determines in its sole discretion that it or any member of the Supplier's group has received and retained any credit, relief or other benefit as a result of the Tax Deduction, the Supplier shall pay such amount to the Customer as the Supplier determines in its sole discretion would leave the Supplier in the same position as if the Customer had not been required to make any Tax Deduction.
- 8.4 If the Customer fails to make any payment due to the Supplier under the Licence by the due date for payment, then, without limiting the Supplier's remedies under clause 14 (Termination), the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

9. CONFIDENTIALITY AND PUBLICITY

- 9.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 9.2. Insofar as the Software is concerned, the Customer hereby acknowledges that the Software, any versions thereof, any Maintenance Releases and other deliverables provided subject to this Licence shall be considered as confidential information.
- 9.2 Each party may disclose the other party's confidential information:
- 9.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Licence. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 9; and
- 9.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Licence.
- 9.4 No party shall make, or permit any person to make, any public announcement concerning the Licence 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.

10. EXPORT

- 10.1 Neither party shall export, directly or indirectly, any technical data acquired from the other party under the Licence (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations (**Export Control Laws**), including United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 10.2 Each party undertakes:
- 10.2.1 contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out above; and
- 10.2.2 if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

11. SUPPLIER'S WARRANTIES

11.1 Subject to clause 11.2 and 11.3, the Supplier warrants that the Software will conform in all material respects to the Specification during the Licence Period (**Warranty Period**). If, within the Warranty Period, the Customer notifies the Supplier in writing of any defect or fault in the Software in consequence of which it fails to conform in all material respects to the Specification, and such defect or fault does not result from the Customer, or anyone acting with the authority of the Customer, having amended the Software or used it outside the terms of this Licence for a purpose or in a context other than the purpose or context for which it was designed or in combination with any other software not provided by the Supplier, or it has not been loaded onto Supplier-specified or suitably configured equipment, the Supplier shall, at the Supplier's option, do one of the following:

11.1.1 repair the Software;

11.1.2 replace the Software; or

11.1.3 terminate the Licence immediately by notice in writing to the Customer and refund any of the Fee paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Software to the date of termination) on return of the Software and all copies thereof,

provided the Customer provides all the information that may be necessary to assist the Supplier in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable the Supplier to re-create the defect or fault.

11.2 The Supplier:

11.2.1 does not warrant that the use of the Software will be uninterrupted or error-free;

11.2.2 does not warrant that the Software will work (at all or in certain respects), or otherwise conform to the Specification, on all devices, system architectures or other hardware that the Customer may utilise in its business. The Supplier will test the Software against those devices, architectures and other hardware as set out on the compatible device list as published by the Supplier from time to time (**Compatible Device List**). The warranty set out in clause 11.1 shall not apply to the extent that the Software does not conform to the Specification as a result of its use or attempted use on devices, architecture or hardware not included in the Compatible Device List.

11.3 The Customer accepts responsibility for the selection of the Software to achieve its intended results and acknowledges that the Software has not been developed to meet the individual requirements of the Customer.

11.4 All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into the Licence or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

11.5 Save in respect of any specific warranties given elsewhere in this Licence, the Supplier does not warrant or guarantee that the Deliverables, when taken in whole or in part, will:

11.5.1 comply with Heightened Cybersecurity Requirements, or

11.5.2 contain no Vulnerabilities,

and it shall be the Customer's sole responsibility to ensure that the Specification details all of the Customer's cybersecurity requirements, including any requirements that might be imposed on the Customer's business, operations or systems as part of any Heightened Cybersecurity Requirements, in sufficient detail so they can be implemented by the Supplier as part of the Deliverables.

12. LIMITS OF LIABILITY

12.1 Except as expressly stated in clause 12.2:

12.1.1 the Supplier shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

- (a) special damage even if the Supplier was aware of the circumstances in which such special damage could arise;
- (b) loss of profits;
- (c) loss of anticipated savings;
- (d) loss of business opportunity;
- (e) loss of goodwill;
- (f) loss or corruption of data;
- (g) wasted expenditure,

provided that this clause 12.1.1 shall not prevent claims for loss of or damage to the Customer's tangible property that fall within the terms of clause 12.1.1 or any other claims for direct financial loss that are not excluded by any of categories (a) to (g) inclusive of this clause 12.1.1;

12.1.2 the total liability of the Supplier, whether in contract, tort (including negligence) or otherwise and whether in connection with the Licence or any collateral contract, shall in no circumstances exceed the lower of (i) £10,000 or (ii) the sum equal to the Fees payable under this Licence in the period of 12 months commencing on the Commencement Date; and

12.1.3 the Customer agrees that, in entering into the Licence, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in the Licence or (if it did rely on any representations, whether written or oral, not expressly set out in the Licence) that it shall have no remedy in respect of such representations and (in either case) the Supplier shall

have no liability in any circumstances otherwise than in accordance with the express terms of the Licence.

12.2 The exclusions in this clause 12 shall apply to the fullest extent permissible at law, but the Supplier does not exclude liability for:

12.2.1 death or personal injury caused by the negligence of the Supplier, its officers, employees, contractors or agents;

12.2.2 fraud or fraudulent misrepresentation;

12.2.3 breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

12.2.4 any other liability which may not be excluded by law.

12.3 All dates supplied by the Supplier for the delivery of the Software shall be treated as approximate only. The Supplier shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.

12.4 All references to "the Supplier" in this clause 12 shall, for the purposes of this clause, be treated as including all employees, subcontractors and suppliers of the Supplier and its affiliates and group companies, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause.

13. INTELLECTUAL PROPERTY RIGHTS

13.1 The Customer acknowledges that all Intellectual Property Rights in the Software, Access Information and any Maintenance Releases belong and shall belong to the Supplier, and the Customer shall have no rights in or to the Software other than the right to use it in accordance with the terms of the Licence.

13.2 The Customer shall use reasonable endeavours to prevent any infringement of the Supplier's Intellectual Property Rights in the Deliverables and shall promptly report to the Supplier any such infringement that comes to its attention.

13.3 The Supplier shall defend the Customer against any claim that the Customer's use of the Software in accordance with the Licence infringes any Intellectual Property Rights of a third party (**Claim**), and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such Claim. For the avoidance of doubt, clause 13.3 shall not apply where the Claim in question is attributable to possession or use of the Software (or any part thereof) by the Customer other than in accordance with the terms of the Licence, use of the Software in combination with any hardware or software not supplied or specified by the Supplier if the infringement would have been avoided by the use of the Software not so combined, or use of a non-current release of the Software.

13.4 If any third party makes a Claim, or notifies an intention to make a Claim against the Customer, the Supplier's obligations under clause 13.3 are conditional on the Customer:

13.4.1 as soon as reasonably practicable, giving written notice of the Claim to the Supplier, specifying the nature of the Claim in reasonable detail;

- 13.4.2 not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Supplier (such consent not to be unreasonably conditioned, withheld or delayed);
 - 13.4.3 giving the Supplier and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Customer, so as to enable the Supplier and its professional advisers to examine them and to take copies (at the Supplier's expense) for the purpose of assessing the Claim; and
 - 13.4.4 subject to the Supplier providing security to the Customer to the Customer's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, taking such action as the Supplier may reasonably request to avoid, dispute, compromise or defend the Claim.
- 13.5 If any Claim is made, or in the Supplier's reasonable opinion is likely to be made, against the Customer, the Supplier may at its sole option and expense:
- 13.5.1 procure for the Customer the right to continue to use the Software (or any part thereof) in accordance with the terms of the Licence;
 - 13.5.2 modify the Software so that it ceases to be infringing;
 - 13.5.3 replace the Software with non-infringing software; or
 - 13.5.4 terminate the Licence immediately by notice in writing to the Customer and refund any of the Fee paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Software to the date of termination) on return of the Software and all copies thereof,
- provided that if the Supplier modifies or replaces the Software, the modified or replacement Software must comply with the warranties contained in clause 11 (Supplier's Warranties) and the Customer shall have the same rights in respect thereof as it would have had under those clauses had the references to the date of the Licence been references to the date on which such modification or replacement was made.
- 13.6 Notwithstanding any other provision in the Licence, clause 13.3 shall not apply to the extent that any claim or action referred to in that clause arises directly or indirectly through the possession or use of any third party software or through the breach of any third party terms by the Customer.
- 13.7 This clause 13 (Intellectual Property Rights) constitutes the Customer's exclusive remedy and the Supplier's only liability in respect of Claims and, for the avoidance of doubt, is subject to clause 12.1 (Limits of Liability).

14. TERMINATION

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

- 14.1.1 the other party fails to pay any amount due under the Licence on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- 14.1.2 the other party commits a material breach of any other term of the Licence and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- 14.1.3 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;
- 14.1.4 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;
- 14.1.5 the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- 14.1.6 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;
- 14.1.7 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 (being a company, partnership or limited liability partnership);
- 14.1.8 the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- 14.1.9 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;
- 14.1.10 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;
- 14.1.11 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 clauses 14.1.3 to clause 14.1.10 (inclusive);
- 14.1.12 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 14.1.13 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Licence is in jeopardy; or

- 14.2 The Supplier shall be entitled to terminate the Licence with immediate effect, at its sole discretion, if there is a change of Control of the Customer. The Customer is required to provide notice to the Supplier upon such a change of Control of the Customer.
- 14.3 Any provision of the Licence that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Licence shall remain in full force and effect.
- 14.4 Termination or expiry of the Licence shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.
- 14.5 On termination for any reason:
- 14.5.1 all rights granted to the Customer under the Licence shall cease;
- 14.5.2 the Customer shall cease all activities authorised by the Licence and, without limiting the foregoing, the Customer shall immediately cease its use of the Software and shall remove (or procure the removal of) any copies of the Software from the Customer's equipment and/or cloud infrastructure;
- 14.5.3 the Customer shall immediately pay to the Supplier any sums due to the Supplier under the Licence; and
- 14.5.4 the Customer shall immediately destroy or return to the Supplier (at the Supplier's option) all copies of the Software then in its possession, custody or control and certify to the Supplier that it has done so.
- 14.6 Any provision of the Licence which expressly or by implication is intended to come into or continue in force on or after termination of the Licence including clause 1, clause 10 (Export), clause 11 (Supplier's Warranties), clause 12 (Limits of Liability), clause 13 (Intellectual Property Rights), clause 15 (Waiver) and the Schedule(s) shall remain in full force and effect.

15. WAIVER

- 15.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 15.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

16. REMEDIES

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

17. ENTIRE AGREEMENT

- 17.1 The Licence, the schedules and the documents annexed as appendices to the Licence or otherwise referred to herein contain the whole agreement between the parties relating to

the subject matter hereof and supersede all previous and contemporaneous agreements, arrangements and understandings between them, whether written or oral, relating to that subject matter.

- 17.2 Each party acknowledges that, in entering into the Licence and the documents referred to in it, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to the Licence or not) (**Representation**) other than as expressly set out in the Licence.
- 17.3 Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract.
- 17.4 Nothing in this clause 17 shall limit or exclude any liability for fraud.

18. VARIATION

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

19. SEVERANCE

- 19.1 If any provision or part-provision of the Licence 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 the Licence.
- 19.2 If any provision or part-provision of the Licence is deemed deleted under clause 19.1 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.

20. COUNTERPARTS

The Licence may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

21. THIRD-PARTY RIGHTS

A person who is not a party to the Licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Licence, but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

22. NO PARTNERSHIP OR AGENCY

- 22.1 Nothing in the Licence is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23. FORCE MAJEURE

Neither party shall be in breach of the Licence or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 6 weeks, the party not affected may terminate the Licence by giving 2 weeks' written notice to the affected party.

24. NOTICES

24.1 Any notice given to a party under or in connection with this Licence shall be in writing and shall be:

24.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

24.1.2 sent by email to the addresses set out in the Licence Details (or an email address substituted in writing by the party to be served).

24.2 Any notice shall be deemed to have been received:

24.2.1 if delivered by hand, at the time the notice is left at the proper address;

24.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting;

24.2.3 if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

24.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include e-mail.

25. GOVERNING LAW AND JURISDICTION

25.1 The Licence 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.

25.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Licence or its subject matter or formation (including non-contractual disputes or claims).

26. DISPUTE RESOLUTION PROCEDURE

26.1 If a dispute arises out of or in connection with this Licence or the performance, validity or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause:

26.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting

documents. On service of the Dispute Notice, a director of each party (**the Appointed Directors**) shall attempt in good faith to resolve the Dispute; and

- 26.1.2 if the Appointed Directors are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (**ADR Notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR Notice should be sent to CEDR Solve. The mediation will start not later than 45 days after the date of the ADR Notice.
- 26.2 No party may commence any court proceedings in relation to the whole or part of the Dispute before the period specified in clause 26.3, provided that the right to issue proceedings is not prejudiced by a delay.
- 26.3 If the Dispute is not resolved within 90 days after service of the ADR Notice, or either party fails to participate or to continue to participate in the mediation before the expiration of such period of 90 days, or the mediation terminates before the expiration of such period of 90 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 25 (Governing Law and Jurisdiction).

SCHEDULE 2

FEEES

THE ANNEX

PART A