

Terms & Conditions





Seamcor Terms & Conditions

These are the terms and conditions applicable to your purchase of any goods or services from Seamcor Limited, a company registered in England and Wales under company number 0506475, with registered office at Suite G02, Oak House, Bridgewater Road, Worcester, England WR4 9FQ (“we” or “us”).

These terms and conditions form a legally binding contract between you and us when you make a purchase from us. If you do not agree to these terms and conditions, please do not proceed to make an order.

Where these terms and conditions are appended and/or referred to within an order form, and there is a conflict between these terms and conditions and such order form, the order form will prevail.

These terms and conditions were last updated in October 2023. We reserve the right to update these terms and conditions from time to time, so please check this regularly.

1 DEFINITIONS USED IN THESE TERMS AND CONDITIONS

“**Cap-Ex Software**” is as defined in clause 3.1(a);

“**Confidential Information**” means all information, whether written or oral (however recorded), provided by the disclosing party to the receiving party and which (i) is known by the receiving party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving party to be confidential;

“**Data Protection Legislation**” means the EU retained law version of the General Data Protection Regulation 2016/679, and the UK Data Protection Act 2018, and any related secondary legislation, all as may be amended/varied from time to time;

“**Documentation**” means the documents provided by us to you in any media including printed text or digitally, and shall include the technical documentation, program specification and the manual;

“**Fully Managed Service**” is as defined in clause 4.9(b);

“**Licence**” is as defined in clause 3.4;

“**Term Licence**” is as defined in clause 3.1(b);

“**Notice Period**” means the notice period set out in the Order Form;

“**Professional Services**” is as defined in clause 5.1;

“**SOTI**” is as defined in clause 4.9(d);

“**Start Date**” means the start date set out in an Order Form, where applicable;

“**Support Services**” is as defined in clause 4.1;

“**Software**” means the Principle Suite Software or the Seamcor Software and any Updates received by you during the Term;

“**Software Assurance**” means an entitlement to receive all available Software Updates;

“**Term**” is as defined in clause 2.2;

“**Updates**” means an update in functionality of the software or a permanent fix or solution to known problems in the Software as released by us at times deemed appropriate by us; and

“**Working Day**” means any day that is not a Saturday, Sunday or public holiday in England, and “**Business Hours**” being between the hours of 8:30am and 5pm.

The term “**you**”, “**your**” and “**yours**” when used in these terms and conditions shall mean the Customer and the term “**we**”, “**us**” and “**our**” shall mean, as the context permits, either Seamcor Limited, or alternatively it may mean reference to both you and Seamcor Limited together.

2 THIS AGREEMENT

2.1 These terms and conditions related to the provision of Software, Hardware, Professional Services and Support Services to you.

2.2 These terms and conditions, and the License, will commence upon the Start Date and shall continue for the period specified in the Order Form, following which this Agreement shall automatically rollover for subsequent periods of the same term, unless either party provides the other party with at least the written notice required in the Order Form, to end no sooner than the end of the then-current period (the “**Term**”).

3 PROVISION OF SOFTWARE AND CHARGES

3.1 Where we provide Software to you, this will be as specified in the Order Form, and it will be based on one of the following options:

- (a) On a capital expenditure basis, where you purchase the Software by way of a once-off payment (“**Cap-Ex Software**”);
- (b) On a monthly/annual rental basis (“**Term Licence**”).

3.2 Where you purchase Cap-Ex Software, you will be offered Support Services, and this may be charged for based on either annual, quarterly or monthly payments, as specified in the Order Form.

3.3 Where you purchase a Term Licence, Support Services are included within such licence fee.

3.4 Regardless of the basis on which you purchase the Software, this is provided to you by way of non-exclusive, non-transferable, royalty-free licence to use the Software (the “**Licence**”). You must, and ensure that your users, comply with the end user licence agreement provided in relation to the Software. We retain full ownership of the Software, regardless of your method of purchase and payment, and at no time shall ownership in the Software transfer to you by virtue of an Order Form or these terms and conditions.

3.5 Where you purchase the Term Licence, the Licence is available to you for the Term. Where you purchase Cap-Ex Software, the Licence is available to you until your contract for Support Services is no longer in force and effect.

- (a) We may also provide additional services to you, being the fully managed service, which is inclusive of installation, configuration, scoping and training regarding the Software (but excludes any development activities) (the “**Fully Managed Service**”), which may be charged by payment in advance, in annual, quarterly or monthly payments, or will be included as part of a Term Licence. This will be specified in the relevant Order Form.
- (b) We may also provide Professional Services, and these are quoted and charged for on a per-project basis. Please note that Professional Services are not included within the Term Licence.
- (c) We sell Hardware to you on a capital expenditure basis based on your requirements, and this is not included within the Term Licence.

3.6 The specific goods and services provided to you are as detailed, including various options selected as noted above, and charges and payment terms, on the relevant Order Form.

4 SUPPORT SERVICES

4.1 Where we provide support services in relation to your use of the Software (the “**Support Services**”), this will be as detailed in this clause 4.

4.2 The Support shall be provided remotely, save to the extent that the parties agree otherwise in writing.

4.3 We will provide technical support which will be given by telephone, e-mail or on-line on the use of the Software and to the diagnosis and rectification of faults in the Software, but excludes malfunctions in computer hardware, operating systems, printers or third-party software.

4.4 Issues raised through the Helpdesk shall be categorised as follows:

- (a) critical: the Software is inoperable, or a core function of the Software is unavailable;
- (b) serious: a core function of the Software is significantly impaired;
- (c) moderate: a core function of the Software is impaired, where the impairment does not constitute a serious issue; or a non-core function of the Software is significantly impaired; and
- (d) minor: any impairment of the Software not falling into the above categories; and any cosmetic issue affecting the Software.

We shall determine in our discretion the category of severity of each issue when it is reported to our helpdesk.

Seamcor Ltd, Oak House, Bridgewater Road, Worcester, WR4 9FQ, United Kingdom

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Version 10/2023



- 4.5 We shall use reasonable endeavours to respond to Helpdesk requests promptly, in accordance with the following time periods:
- critical: 2 Business Hours;
 - serious: 4 Business Hours;
 - moderate: 1 Working Day; and
 - minor: 5 Working Days.
- 4.6 We shall use reasonable endeavours to resolve issues raised through the Helpdesk promptly, in accordance with the following time periods:
- critical: 4 Business Hours;
 - serious: 8 Business Hours;
 - moderate: 4 Working Days; and
 - minor: 10 Working Days.
- 4.7 We do not warrant or guarantee you uninterrupted or error free use of the Software, or that the Software will be free of minor defects.
- 4.8 For the avoidance of doubt, Support shall not apply to third party software included in the Software.
- 4.9 The Support Services applicable to you will be specified in the Order Form, and are defined as follows:
- Standard Support includes fixing Software bugs, Software assurance; and minor training questions;
 - Premium Support includes fixing Software bugs, Software assurance; and minor training questions;
 - Fully Managed Service includes Software installations, upgrades, setup, scoping, training and consultancy; and
 - SOTI includes easy deployment, security, remote control for support and training, and easy upgrades.
- 4.10 Support is provided during the following days and times (based on UK times):
- Standard Support: Monday to Friday, 8:30am to 5pm (excluding UK bank holidays);
 - Premium Support: 7 days per week, 8am to 8pm (excluding Christmas Day);
 - Fully Managed Services: Monday to Friday, 8:30am to 5pm (excluding UK bank holidays); and
 - SOTI: corresponding to the Support Services package provided.
- 4.11 Your use of the Support Services is subject to fair usage. In our sole and reasonable discretion, we will determine on an ongoing basis whether your use of the Support Services is fair, and in line with commercially reasonable expectations. Where we determine that your use of the Support Services has, over a period of time, fallen outside our reasonable definition of "fair usage", we will contact you to offer you a more appropriate level of Support Service relative to your usage. Where you agree to purchase additional Support Services, you and us will execute an Order Form in respect of such Support Services.
- 4.12 Where you choose not to purchase additional Support Services, we will confirm our defined parameters for your Support Services and adhere to such limitations during the Term.
- 4.13 Where you choose to purchase additional Support Services, we will refund you for any fees paid in advance in respect of any Support Services already purchased.
- ## 5 PROFESSIONAL SERVICES
- 5.1 Where we provide consultancy or other services to you that are not included within the Order Form (the "Professional Services"), these are quoted for on a separate basis, and will be subject to a separate Order Form, to which these terms and conditions will apply.
- 5.2 We provide the Professional Services to you in accordance with industry standard and using all reasonable care and skill. We do not warrant or guarantee to meet particular deadlines, although we will use best endeavours to do so.
- 5.3 Our Professional Services are quoted and charged for based on a day rate, being 3.5 hours for a half day and 6 hours for a full day.
- 5.4 All Professional Services, whether provided separately or included within another package of services, are provided at your own risk. We cannot guarantee that our actions regarding our Software will not cause harm to your servers or other hardware.
- ## 6 HARDWARE
- 6.1 Any Hardware purchased shall be supplied by us on the terms and conditions of use for such Hardware as defined by our third-party suppliers at the time of delivery (the "Hardware").
- 6.2 We give no warranty to you in respect of the Hardware but shall take reasonable steps to assist you in pursuing warranty claims against the relevant third-party supplier.
- 6.3 In circumstances where we have attempted to physically deliver Hardware to you, and you are unable or unwilling to accept such delivery, you will be charged for the cost of the failed delivery in addition to all subsequent attempts. If you are unable to accept delivery, a new date shall be set by mutual agreement of the parties.
- 6.4 We do not warrant that the Hardware is free from minor errors not materially affecting performance. Such errors shall not be rectified in the absence of a prior written agreement to the contrary.
- 6.5 The return of Hardware shall be at our sole discretion.
- 6.6 Risk of loss or damage in respect of any tangible item shall pass to you on delivery or collection of the item by you or your agent.
- 6.7 The legal and beneficial ownership of Hardware shall remain with us until payment in full in respect of all such Hardware has been received by us in accordance with these terms and conditions.
- 6.8 Until such payment is received in full, we may, without prejudice to any of our rights, recover or resell any of the Hardware, and may enter upon your premises for that purpose.
- ## 7 YOUR OBLIGATIONS TO US
- 7.1 You shall:
- Observe and comply with all of the provisions of the Licence;
 - Ensure the Software is used only on the computer hardware for which the Software has been licensed and approved;
 - Maintain and operate the Software in a proper and prudent manner in accordance with such advice and instruction as we may issue from time to time, and allow its use only by competent and authorised personnel;
 - Keep a minimum of one separate back-up of your current data (for use in rotation) of a standard and frequency to allow you to recover information without undue loss of staff time;
 - Not permit any alterations in the Software or the Documentation save by written consent from us or any authorised reseller expressly approved by us in writing;
 - Make available to us, without charge, any information or facilities to enable us to discharge our obligations under these terms and conditions including, but not limited to, computer print-outs, documents, full data backups provided that we shall hold any such information provided by you as confidential;
 - Notify us of any defect or alleged defect in the Software or the Documentation promptly but no later than five days of the date it becomes apparent; and
 - Be responsible for ensuring that the Software is suitable for the purpose intended.
- ## 8 CHARGES
- 8.1 We will specify the charges applicable to your purchase in the Order Form.
- 8.2 All charges are invoiced on the following basis:
- For Cap-Ex Software, you will be charged a deposit of 50% at the time of ordering (to cover Software, Professional Services and Hardware), and 50% of the total invoice after installation, including where some Professional Services remain outstanding (for example, training). Such invoices are due for payment within 30 days, and we will not begin providing goods or services to you until the deposit has been paid;



- (b) Support Services commence on the 1st of each calendar month, the month after installation, and such start date will be confirmed in the Order Form. Such charges are payable in advance, before the Support Services commence. Please note that we prefer payment by direct debit. Your billing frequency will be as specified in the Order Form;
- 8.3 You shall pay all costs (at our then prevailing rates) and reasonable expenses incurred by us for work carried out by us in connection with any fault which is not covered by these terms and conditions.
- 8.4 If you fail to make any payment due to us under an Order Form by the due date for payment, then, in addition to any other remedies which are available to us, you shall pay interest on the overdue amount at the rate of 4% per annum above NatWest Bank plc's base rate from time to time, compounded weekly. Such interest shall accrue daily from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.
- 8.5 All amounts payable under an Order Form shall be exclusive of VAT or relevant local sales tax (if any) or any relevant local sales taxes which shall be paid at the rate and in the manner for the time being prescribed by law.
- 8.6 We may increase the Charges as from each anniversary of the date of the Order Form. Any increase shall be communicated to you for your approval at least three months before such anniversary.
- 8.7 All amounts due under an Order Form shall be paid by you to us in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 8.8 Where you have a Term Licence, failure to make payment on time will entitle us to terminate your access to the Software (without liability), and you and your end users will lose access to the Software.

9 CONFIDENTIALITY

- 9.1 Each party shall, during the Term and thereafter, keep confidential all, and shall not use for its own purposes nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its Affiliates ("Confidential Information"), unless such information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of these terms and conditions, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.
- 9.2 Each party shall notify the other party if any of its staff connected with the provision or receipt of the Support becomes aware of any unauthorised disclosure of any Confidential Information and shall afford reasonable assistance to the other party, at that other party's reasonable cost, in connection with any enforcement proceedings which that other party may elect to bring against any person.
- 9.3 These terms and conditions may not be disclosed by you (other than to your legal advisors) without our prior written consent.
- 9.4 We may refer to you as being our client in customer reference lists and sales presentations but shall not refer to you in any advertising or press release without your prior written consent.
- 9.5 The provisions of this clause 9 shall remain in full force and effect notwithstanding any termination of these terms and conditions and/or an Order Form.

10 DATA PROTECTION

- 10.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 10.2 The parties acknowledge that if we process any personal data on your behalf when performing our obligations under these terms and conditions, you are the controller and we are the processor for the purposes of the Data Protection Legislation.
- 10.3 Without prejudice to the generality of clause 10.1, you will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to us for the duration and purposes of these terms and conditions so that we may lawfully use, process and transfer the personal data in accordance with these terms and conditions on your behalf.
- 10.4 Without prejudice to the generality of clause 10.1, we shall, in relation to any personal data processed in connection with the performance by us of our obligations under these terms and conditions:
 - (a) process that personal data only on your documented written instructions unless we are required by the Data Protection Legislation to process personal data;
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by us, 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).
 - (c) not transfer any personal data outside of the EEA or the UK unless the following conditions are fulfilled:
 - i. either you or us have provided appropriate safeguards in relation to the transfer;
 - ii. the data subject has enforceable rights and effective legal remedies;
 - iii. we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - iv. we comply with reasonable instructions notified to us in advance by you with respect to the processing of the personal data;
 - (d) assist you, at your 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;
 - (e) notify you without undue delay on becoming aware of a personal data breach;
 - (f) at your written direction, delete or return personal data and copies thereof to you on termination of the agreement unless required by Applicable Law to store the personal data; and
 - (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 10 and allow for audits by you or your designated auditor and immediately inform you if, in our opinion, an instruction infringes the Data Protection Legislation.
- 10.5 You consent to us appointing a third-party processor of personal data under these terms and conditions with which we have entered into a third-party processor agreement incorporating terms which are substantially similar to those set out in this clause 10.
- 10.6 Either party may, at any time on not less than 30 days' notice, revise this clause 10 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 these terms and conditions).
- 10.7 Except as expressly provided otherwise, these terms and conditions does not transfer ownership of, or create any licences (implied or otherwise), in any intellectual property rights in any (non-personal) data.



11 TERMINATION

- 11.1 Without prejudice to any rights that have accrued under these terms and conditions, we may at any time terminate these terms and conditions and/or the Support Services with immediate effect by giving 7 (seven) days written notice to you if:
 - (a) you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admits inability to pay your debts or is deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986, enter into any arrangement with of your creditors, any part of winding up procedure is commenced by or against you (otherwise than for the purpose of a solvent restructure), an administrator or administrative receiver or receiver is appointed;
 - (b) any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1(a).
 - (c) the Licensee suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

12 OUR LIABILITY TO YOU UNDER THESE TERMS AND CONDITIONS

- 12.1 No other representations, warranties, conditions or guarantees, express or implied, including but not limited to implied warranties of fitness for purpose and satisfactory quality are made in respect of these terms and conditions.
- 12.2 We shall not be liable for any indirect, consequential, incidental or special damage or loss of any kind (including but not limited to business interruption or loss of data, use, business, savings or profits) suffered or arising in any manner whatsoever out of or in connection with these terms and conditions or the use of the Software and whether arising under contract, tort, including negligence, statute or otherwise, and to the extent that we are liable, subject to clause 12.3 below, our total liability in contract or tort shall be limited to a sum equal to the fees paid or payable during the twelve month period of the agreement prior to such claim.
- 12.3 Nothing in these terms and conditions shall exclude or limit our liability for: (a) fraud; (b) death or personal injury arising out of our negligence; or (c) any warranty as to title or quiet possession implied by statute.

13 GENERAL

- 13.1 These terms and conditions are personal to you and may not be assigned, sub-contracted, licensed, charged or otherwise dealt with or disposed of (whether in whole or in part) by you without our prior written consent.
- 13.2 These terms and conditions and the Order Form constitute the entire agreement between us relating to support and supersede all other agreements and all other literature concerning support whether written, oral, express or implied.
- 13.3 The illegality, invalidity or unenforceability of any provision of these terms and conditions shall not affect the remaining provisions, which shall remain in full force and effect.
- 13.4 Any notice to be given under these terms and conditions shall be deemed given upon the date of receipt if sent by recorded delivery to the address of the party to be notified.
- 13.5 We shall not be liable to you for any failure to perform or for any delay in performance under these terms and conditions to the extent such non-performance or delay is caused by any circumstances beyond our reasonable control including, but not limited to, fire, war, civil commotion, any act of central or local government, any industrial disputes, lockouts and strikes of any third party, provided that if any period of default continues for more than 60 days you shall be entitled to terminate these terms and conditions by notice to us in writing.
- 13.6 Any failure by us to enforce any of the terms and conditions of these terms and conditions shall not be construed as a waiver of our rights and remedies under these terms and conditions which are cumulative and are not exclusive of any rights and remedies provided by law.

These terms and conditions, and any non-contractual obligations arising hereunder, shall be governed by and construed in accordance with English law and both parties submit to the exclusive jurisdiction of the English courts.

END USER LICENCE AGREEMENT

1. INTERPRETATION

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

"Cloud Servers"	the cloud servers on which the Customer may host the Software.
"Heightened Cybersecurity Requirements":	any laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, industry scheme and sanctions, which are applicable to the Licensee 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].
"Intellectual Property Rights":	patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and 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.
"Licensee":	the person firm or company licensed to use the Software.
"New Version":	any new version of the Software which from time to time is publicly marketed and offered for purchase by the Licensor 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.
"Open-Source Software":	open-source software as defined by the Open Source Initiative (http://opensource.org) or the Free Software Foundation (http://www.fsf.org).



"Site":	the premises from which the Licensee carries out its business as notified to the Licensor in writing.
"Software":	the Principle Suite Software and the Seamcor Software the Updates and any new version received by the Licensee during the subsistence of this licence.
"Software Agreement"	any agreement for the supply of services relating to the Software entered into with the Licensor or a reseller.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 Unless the context otherwise requires:
- (a) Words in the singular shall include the plural and in the plural shall include the singular;
- (b) A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; and
- 1.4 In the case of conflict or ambiguity between any provision contained in the body of this licence and any provision contained in the schedules or appendices, the provision in the body of this licence shall take precedence.

2. LICENSE

- 2.1 In consideration of the Licensee's agreement to the other provisions of this licence the Licensor grants to the Licensee a non-exclusive licence to use the Software at the Site(s) or by way of installation on the Cloud Servers, only until this Licence is terminated in accordance with its terms.

- 2.2 In relation to scope of use:

- (a) for the purposes of clause 2.1, use of the Software shall be restricted to use of the Software in object code form for the purpose of processing the Licensee's data for the normal business purposes of the Licensee's business.
- (b) for the purposes of clause 2.1, "use of the Software" means loading the Software into temporary memory or permanent storage on the relevant computer, or loading the Software onto the Cloud Servers (as the case may be), provided that installation on a network server for distribution to other computers is not "use" unless such use is prescribed in the Software Agreement.
- (c) the Licensee may not use the Software other than as specified in clause 2.1 and clause 2.2(a) without the prior written consent of the Licensor.
- (d) the Licensee may make backup copies of the Software for its lawful use. The Licensee shall record the number and location of all copies of the Software and take steps to prevent unauthorised copying.
- (e) except as expressly stated in this clause 2, the Licensee 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 Licensee, unless the Licensor 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 Licensee shall request the Licensor to carry out such action or to provide such information and shall meet the Licensor's reasonable costs in providing that information before undertaking any such reduction.

- 2.3 The Licensee may not use any such information provided by the Licensor or obtained by the Licensee during any such reduction permitted under clause 2.2(e) to create 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.

- 2.4 The Licensee shall not:

- (a) sub-license, assign or novate the benefit or burden of this licence in whole or in part;
- (b) allow the Software to become the subject of any charge, lien or encumbrance; and
- (c) deal in any other manner with any or all of its rights and obligations under this agreement

- 2.5 The Licensee shall:

- (a) ensure that the number of persons using the Software does not exceed the number so authorised for use in the Software Agreement;
- (b) ensure that the Software is installed on designated equipment only;
- (c) keep a complete and accurate record of the Licensee's copying and disclosure of the Software and its users, and produce such record to the Licensor on request from time to time;
- (d) notify the Licensor as soon as it becomes aware of any unauthorized use of the Software by any person;
- (e) 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 Licensor 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 the Software Agreement, from such date to the date of payment.

- 2.6 The Licensee shall permit the Licensor 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 Licensee is complying with the terms of this licence, provided that the Licensor provides reasonable advance notice to the Licensee of such inspections, which shall take place at reasonable times.

3. EXPORT AND COMPLIANCE WITH POLICIES

- 3.1 Neither party shall export, directly or indirectly, any technical data acquired from the other party under this agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations including United States export laws and regulations, to any country without first obtaining any applicable licences or approvals.

- 3.2 Each party undertakes 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.

4. LICENSOR'S WARRANTIES

- 4.1 The Warranties relating to the supply of the Software, and the limitation of liability, are set out only in the Software Agreement. All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this 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. The Licensee is aware that continuing support for the Software is available at additional cost to the Licensee through a Support Agreement.

- 4.2 The Licensor does not warrant that the use of the Software will be uninterrupted or error-free or that it will meet any Heightened Cybersecurity Requirements.

- 4.3 The Licensee 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 Licensee.

- 4.4 The Licensee acknowledges that any Open-Source Software provided by the Licensor is provided "as is" and expressly subject to the disclaimer in clause 4.1.

- 4.5 The Licensee understands and acknowledges that there are inherent risks associated with use of Cloud Servers and, where the Licensee wishes to use the Cloud Servers to host the Software, it does so at its own risk.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 The Licensee acknowledges that all Intellectual Property Rights in the Software and any Maintenance Releases belong and shall belong to the Licensor and the Licensee shall have no rights in or to the Software other than the right to use it in accordance with the terms of this licence.



- 5.2 If any third party makes a Claim, or notifies an intention to make a Claim against the Licensee, the Licensor's obligations under clause 2 are conditional on the Licensee:
- as soon as reasonably practicable, giving written notice of the Claim to the Licensor, specifying the nature of the Claim in reasonable detail;
 - not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Licensor (such consent not to be unreasonably conditioned, withheld or delayed); and
 - giving the Licensor 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 Licensee, so as to enable the Licensor and its professional advisers to examine them and to take copies (at the Licensor's expense) for the purpose of assessing the Claim
- 5.3 If any Claim is made against the Licensee, the Licensor may at its sole option and expense terminate this licence immediately by notice in writing to the Licensee and refund any of the Fee paid by the Licensee as at the date of termination (less a reasonable sum in respect of the Licensee's use of the Software to the date of termination) on return of the Software and all copies thereof
- 5.4 This clause 5 constitutes the Licensee's exclusive remedy and the Licensor's only liability in respect of Claims.
- 6. DURATION AND TERMINATION**
- 6.1 The licence granted to the Licensee in this agreement, and this agreement, shall immediately terminate upon the expiry or other termination of the Software Agreement. Where the Customer does not make timely payment in accordance with the Software Agreement, this Licence may be terminated by the Licensor with immediate effect. This Licence shall also terminate immediately when the Customer no longer purchases support services from the Licensor.
- 6.2 Without affecting any other right or remedy available to it, the Licensor may terminate this agreement with immediate effect by giving written notice to the other party if the Licensee commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified to do so.
- 6.3 This agreement shall automatically terminate without notice if:
- the Licensee 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, enters into any arrangement with its creditors, any part of winding up procedure is commenced by or against the Licensee (otherwise than for the purpose of a solvent restructure), an administrator or administrative receiver or receiver is appointed;
 - any event occurs, or proceeding is taken, with respect to the Licensee in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 6.3(a);
 - the Licensee suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 6.4 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.
- 6.5 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the Licensor 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.
- 6.6 On termination for any reason:
- all rights granted to the Licensee under this licence shall cease;
 - the Licensee shall cease all activities authorised by this licence;
 - the Licensee shall immediately pay to the Licensor any sums due to the Licensor under any Software Agreement or otherwise which, to the extent that they have not already, shall become immediately due and owing; the Licensee shall immediately destroy or return to the Licensor (at the Licensor's option) all copies of the Software then in its possession, custody or control and, in the case of destruction, certify to the Licensor that it has done so.
- 7. WAIVER**
- No failure or delay by a party to exercise any right or remedy provided under this agreement 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.
- 8. REMEDIES**
- Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 9. ENTIRE AGREEMENT**
- 9.1 This licence and the Software Agreement contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.
- 9.2 Each party acknowledges that, in entering into this licence and the Software Support Agreement 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 this licence or not) ("Representation") other than as expressly set out in this licence or the Software Support Agreement.
- 9.3 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 as expressly provided in this licence.
- 9.4 Nothing in this clause shall limit or exclude any liability for fraud.
- 10. VARIATION**
- No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 11. THIRD-PARTY RIGHTS**
- A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement, but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 12. NOTICES**
- 12.1 Any notice given to a party under or in connection with this contract shall be in writing and shall be 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).
- 12.2 Any notice shall be deemed to have been received:
- if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - 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 or at the time recorded by the delivery service.
 - if sent by fax, at 9.00 am on the next Business Day after transmission.
- 12.3 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.



13. GOVERNING LAW AND JURISDICTION

- 13.1 This agreement 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.
- 13.2 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 this agreement or its subject matter or formation (including non-contractual disputes or claims).