Insight Legal Services Agreement – Northern Ireland

INSIGHT LEGAL
S O F T W A R E

This is the Schedule referred to in the foregoing Services Agreement between the Supplier and the Customer (the "Master Terms")

1.   Definitions & Interpretation
1.1.   Definitions
"Agreement" means these Master Terms, the Services Agreement and any special or additional terms which have been agreed between the Supplier and the Customer in writing and signed by an authorised signatory of each of the Supplier and the Customer from time to time;
"Azure" means the Microsoft Azure SQL Database Service;
"Charges" means all sums due under this Agreement, as specified in the Services Agreement or as otherwise agreed in writing between the Supplier and the Customer or intimated by the Supplier to the Customer from time to time in accordance with this Agreement;
"Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures" have the meanings given in the Data Protection Legislation;
"Current Release" means the most recent version of the Software which has been made available by the Supplier;
"Data Conversion" means the service whereby the Supplier imports and converts the Customer's data into the correct data format which excludes (without limitation) data extraction unless specified in the Services Agreement;
"Data Conversion Fee" means the fees for the Data Conversion as set out in the Services Agreement;
"Data Protection Legislation" means the UK Data Protection Legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party;
"Deliverables" means any output to be produced by the Supplier as may be specified in the Services Agreement;
"Documentation" means (where available) the operating manuals, user instructions, technical literature and other related materials the Supplier or a Reseller supplies to the Customer in any form pursuant to this Agreement and any Third Party Software documentation;
"Equipment" means all the Customer's computer hardware on which the Software is installed or downloaded as appropriate by way of the Customer's server to secure the computer configuration of the Software in accordance with the Specification;
"Group Companies" means any subsidiary, group or parent company from time to time (as such words are defined in the Companies Act 2006);
"Initial Term" means the period specified in clause 4 of the Services Agreement;
"Installation Date" means the date on which the Software is first installed on or downloaded by means of the Equipment;
"Installation Service" means the installation of the Software on the Equipment, if specified as being provided by the Supplier in the Services Agreement;
"Installation Fee" means the fee (if any) for the Installation Service set out in the Services Agreement;
"IPR" means all intellectual property rights including, without limitation, all patents, copyright and all related rights, trade marks and service marks, trade names and domain names, design rights, database rights (including rights in the design or structure of any database), confidential know-how, database rights and all other similar rights (whether registered or unregistered) and all applications for the same anywhere in the world;
"Licence" means the Licence specified in clause 2;
"Licence and Support Fee" means the fee for the use and Support of the Software as set out in the Services Agreement as may be increased by intimation by the Supplier to the Customer from time to time, normally May and November;
"Licenced Materials" means the Software, Current Releases, release codes, the Documentation, physical media on which Software is stored and any other material supplied by the Supplier to the Customer with the Software or as part of the Support service;
"Licenced Users" means the total number of the Customer's employees and authorised representatives that are authorised by the Supplier to use or access the Software, all as specified in the Services Agreement or otherwise agreed in writing by the Supplier;
"Maintenance Release" means any release of the Software which corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a Current Release;
"Renewal Term" means the period defined in clause 12.1;
"Reseller" means an officially accredited reseller for the Licenced Materials appointed by the Supplier;
"Services" means the services to be supplied by the Supplier or its agents or sub-contractors or a Reseller pursuant to this Agreement, all as may be specified in the Services Agreement and as may be varied by intimation by the Supplier to the Customer from time to time;
"Services Agreement" means the agreement between the Supplier and the Customer for the supply of the Services;
"Software" means the software product of the Supplier specified in the Services Agreement including any Maintenance Releases and any copies of the same supplied by the Supplier or a Reseller but excluding source code material and all preparatory design material;
"Source Code" means the Software code in human-readable form or any part of the Software code in human-readable form, including code compiled to create the Software or decompiled from the Software, but excluding interpreted code comprised in the Software.
"Specification" means the functional specification (if any) for the Software or minimum and/or optimum system environment or hardware specifications for use of the Software published by the Supplier on the Website;
"Standard Support Hours" means the standard hours during which the Support will be provided as specified in clause 7.4;
"Support" means the support service of the Supplier comprising advice by telephone, post, email, the Website or other means available to the Supplier (excluding on site visits) as may be appropriate and necessary to resolve the Customer's difficulties and queries in relation to installing and using the Software;
"Term" means the Initial Term and any Renewal Term;
"Terms Addendum" means any additional terms supplemental to these Master Terms and specific to the provision by the Supplier of certain further products and services;
"Third-Party Additional Terms" the additional terms and conditions set out on the Website relating to Third-Party Software;
"Third Party Software" means all software owned by a third party but legally licenced for use or distribution by the Supplier as part of or for use within the Software and available on the Website;
"UK Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including, as retained, amended, extended or re-enacted after 31st December 2020, the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;
"Website" means the Supplier's website www.insightlegal.co.uk as updated from time to time.
1.2.   Interpretation
In the event of any conflict between these Master Terms and the Services Agreement and any special or additional terms which have been agreed between the Supplier and the Customer in writing and signed by an authorized signatory of each of the Supplier and the Customer from time to time, the terms of the latter shall prevail.
2.   Grant of Licence
2.1.   Subject to the terms of this Agreement, in consideration of the payment to the Supplier by the Customer of the Licence and Support Fee and the Charges, the Supplier grants to the Customer a non-exclusive and non-transferable licence to use the Software ('the Licence') during the Term. The Licence entitles the Customer to the Software for use on the Equipment together with the Documentation and to download, install and use the same on the Equipment in accordance with the Documentation, provided that:
2.1.1   it permits the Supplier to install the Software using the Supplier's Azure Microsoft account, the Customer (1) being bound by its acceptance of these Master Terms to adhere to the terms and conditions which relate to the use of Azure ("Azure Terms") at all times during the term of the Agreement and (2) acknowledging and agreeing that, on termination of this Agreement, howsoever caused, the Customer will automatically cease to be entitled to use the Supplier's Azure Microsoft account. As required, the Supplier and the Customer shall negotiate terms in good faith for the Supplier to facilitate the transfer of the cloud-stored data to the Customer's Azure Microsoft account or otherwise from the Supplier's Azure Microsoft account. The Customer shall indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of the Azure Terms or as a result of the transfer of cloud-stored data from the Supplier's Azure Microsoft account to the Customer's Azure Microsoft account or otherwise on termination of this Agreement for whatever reason; or
2.1.2   it installs the Software using Azure for the cloud storage of data that the Supplier's Software utilises excluding documents, emails and files which may be attached to matters within the Software. In order to use Azure, the Customer shall register, install, pay and maintain an Azure Microsoft account at all times during the Term of this Agreement and adhere to the Azure Terms.
2.2   Third–Party Software shall be deemed to be incorporated within the Software for the purposes of the Licence and use of the Third-Party Software shall be subject to the Third-Party Additional Terms. The Customer shall indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of any Third-Party Additional Terms including, without limitation, the Azure Terms (if applicable) during the Term or which may occur on or after the termination of this Agreement howsoever arising, including any failure of the Third-Party Software or Azure or the Customer's other software.
2.3 The Supplier may treat the Customer's breach of any Third-Party Additional Terms and/or the Azure Terms as a breach of this Agreement.
2.4   Payment of the Licence and Support Fee shall entitle the Customer to a standard subscription membership of the Institute of Legal Finance & Management ("ILFM") to be effected by the Supplier for the Customer for the period of 12 months in accordance with the provisions of clause 2.5.
2.5 On payment of the Licence and Support Fee, the Supplier shall procure that such membership of ILFM is processed and authorised.
2.6 In the event that any licensor of any Third-Party Software, forming part of the Software and so made available by the Supplier to the Customer in connection with the Licence, gives notice to terminate ("Notice") the Supplier's licence to use such Third-Party Software, with effect from the date of expiry of the Notice the Supplier shall cease to be obligated to provide such Third-Party Software to the Customer as a requirement of the terms of the Licence.
3.   Acceptance & Cancellation
3.1   The Customer will be deemed to have accepted the Software on the Installation Date. Risk in the Licenced Materials shall pass to the Customer on such acceptance.
3.2   If prior to the Installation Date, the Customer gives notice in writing to the Supplier that it wishes the Supplier not to provide the Services ("Cancellation Notice"), the Supplier shall be entitled to payment from the Customer of a cancellation charge calculated on the following basis:-
3.2.1   where the Cancellation Notice is given to the Supplier greater than 4 weeks but less than 8 weeks prior to the date estimated as being the Installation Date as advised by the Supplier, the sum which is equal to twenty five per cent (25%) of the Licence and Support Fee payable in aggregate in respect of the Initial Term; or
3.2.2   where the Cancellation Notice is given to the Supplier 4 weeks or less prior to the date estimated as being the Installation Date as advised by the Supplier, the sum which is equal to fifty per cent (50%) of the Licence and Support Fee payable in aggregate in respect of the Initial Term,
together in each case with a sum reflective of the reasonable fees, costs, charges and expenses which are incurred by the Supplier in the performance of its obligations under this Agreement up to and including the receipt of a Cancellation Notice.
4.   Permitted Use
4.1.   The Customer may use the Software only on the Equipment (such use being expressly limited to the maximum number of Licenced Users). The use of the Software on equipment not forming part of the Customer's equipment requires the prior written consent of the Supplier and may incur a change in the Charges.
4.2.   It is the Customer's obligation to ensure that the Agreement issued by the Supplier contains the correct information. If there is any change to the licence metrics or variables relating to the Software, Support and/or Services and/or the Charges due under this Agreement the Supplier will issue the Customer with a revised Services Agreement.
4.3.   The Customer may use the Licenced Materials for processing the Customer's own data and for normal business purposes only.
4.4.   The Customer shall not:
4.4.1.   use or attempt to use the Licenced Materials or any of the Software's output to, or permit any third party to, provide a data processing service to any third party;

4.4.2.	translate or adapt the Licenced Materials for any purpose nor arrange or create derivative works based on the Licenced Materials;

4.4.3.	transfer or distribute (whether by licence, sub-licence loan, rental, sale or otherwise) or otherwise deal in, charge or encumber the Licenced Materials or permit the use of the Licenced Materials by any other person or any third party or make available the same to any third party;

4.4.4.	make, or permit any third party to make for any purpose (including without limitation for error correction), any alterations, copying, modifications, additions or enhancements to the Software and take steps to prevent the same; or

4.4.5.	permit any third party to alter, adapt, make error corrections to, decompile, reverse engineer or disassemble the Software or any part of it or permit the Software to be combined with any other programs except that the Customer may decompile the software only to the extent permitted by law.

4.5.	The Customer shall follow all lawful and reasonable instructions and directions given by the Supplier from time to time in relation to the use of the Licenced Materials

4.6.	The Customer shall permit the Supplier, or its agents, on reasonable prior notice, to inspect and have access to any premises where the Licenced Materials are being used, and to the computer equipment located there, and any records kept pursuant to this Agreement, to verify that the use of the Software by the Customer is in accordance with the terms of this Agreement. The Supplier may require the Customer to operate and run a tool or programme provided by the Supplier on the Equipment in order to verify that the use of the Software complies with the terms of this Agreement.

4.7.	The Customer shall use appropriate hardware and software to operate the software in accordance with the Specification.

4.8.	The Customer may not use the Software other than as specified in this Agreement and the Customer acknowledges that additional Charges may be payable on any change of use approved by the Supplier.

4.9.	The Customer shall ensure compliance with the terms of this Agreement by all of its employees, contractors, sub-contractors and affiliates whomsoever.

4.10.	The Supplier reserves the right in its sole discretion to impose a monthly Charge on the Customer for any and all third-party costs, charges and outlays which are incurred by the Supplier by reason of the use and operation by the Customer of the Software in circumstances where there is a requirement of the Customer to operate with in excess of 10 bank feeds.

4.11.	The Supplier reserves the right in its sole discretion to impose a monthly Charge on the Customer for any and all costs, charges and expenses which are incurred by the Supplier by reason of the Customer requiring storage of their data by way of on premises hardware of the Customer.

5.	Extent of permitted reproduction

5.1.	The Customer shall use all reasonable endeavours to prevent unauthorised copying or use of the Software and/or the Documentation.

5.2.	The Customer shall not make or permit others to make any copies of the Documentation without the Supplier's prior written consent, excluding the printing of help files which is permitted in so far as the making of such copies are necessary for the use of the Software permitted by this Agreement. Such copies are the property of the Supplier.

5.3.	The Customer shall ensure that the number of persons using the Software does not exceed the number of Licenced Users.

5.4.	The Customer shall ensure that the Software is accessed only on the Equipment.

5.5.	The Customer undertakes to effect and maintain adequate security measures and to supervise and control use of the Software in accordance with this Agreement.

5.6.	In the event that the Customer uses the Software outwith the scope of the terms of this Agreement, the Customer shall pay for broadening the scope of the licences granted under this Agreement to authorise the particular use which is outwith the scope, an amount equal to the fees which the Supplier would have levied (in accordance with its normal commercial terms then current) had it licenced any such use on the date when such use commenced together with interest at the rate provided for in clause 9.6.1 of this Agreement from such date to the date of payment.

6.	Proprietary rights

6.1.	The Customer acknowledges that all IPR in the Licenced Materials and Maintenance Releases or Deliverables and rights in any copies of them shall belong to the Supplier and the Customer shall have no rights, title or interest in or to any of the IPR except the right, as expressly granted under this Agreement, to use them in accordance with this Agreement. The Customer shall do or procure to be done all such further acts and things and shall execute or procure the execution of all such other documents as the Supplier may from time to time require for the purpose of giving the Supplier the full benefit of the provisions of this clause.

6.2.	The Customer agrees not to remove, suppress or modify in any way any proprietary marking, including any trade mark or copyright notice, on or in the Software or which is visible during its operation or which is on any physical media or on any Documentation. The Customer agrees to include the Supplier's proprietary marks in any authorised copies of the Licenced Materials made by the Customer in compliance with this Agreement.

6.3.	The Customer shall notify the Supplier immediately if the Customer becomes aware of any unauthorised access to, use, copying or disclosure of, any part of the Licenced Materials by any person.

6.4.	Nothing in this Agreement shall give to the Customer or any other person any right to access or use the Source Code or constitute any licence of the Source Code.

6.5.	The Customer shall not decompile, reverse engineer, disassemble or attempt to derive the Source Code of the Software, save only to the extent permitted by law.

7.	Support and Services

7.1.	In consideration of the Customer making payment of the Licence and Support Fee and the performance by the Customer of all other obligations pursuant to this Agreement, the Supplier agrees to provide the Support in accordance with the terms of this Agreement.

7.2.	Maintenance Releases or details of such releases may be issued at the Supplier's discretion.

7.3.	Support covers assistance in relation to operational errors that make the agreed product set unusable when operated in conformity with the training provided, any online user instructions in the help function in respect of the product or any Documentation (as the case may be). Such errors shall be notified by the Customer to the Supplier's customer support department in writing. The Supplier will use reasonable endeavours to attempt to correct errors or assist the Customer to avoid errors or, at the Supplier's sole option, pursue other means toward a mutually satisfactory solution.

7.4.	The Support will be provided during the hours of 9.00am to 5.30pm Monday to Friday, excluding UK public holidays and where applicable any Republic of Ireland or Northern Ireland public holidays and any other date where the Supplier's business is closed, details of which will be published on the Website.

7.5.	The provision of any Support outside the Standard Support Hours is at the Supplier's sole discretion. Charges in respect of all time spent in providing any Support outside the Standard Support Hours will be invoiced to the Customer at the Supplier's discretion at its then current rates.

7.6.	The Supplier will use reasonable endeavours to provide the Support promptly having regard to the availability of personnel, necessary supplies and facilities.

7.7.	If the Customer make unreasonable, excessive or inappropriate use of the Support, then the Supplier may at its sole discretion either suspend the Support or charge additional charges in respect of time spent supplying such Support at the then current rates.

7.8.	The Support is provided to the Customer as part of the supply of the Licenced Materials. Where the Licenced Materials are supplied by a Reseller, the Reseller will provide the Support in respect of the Software in accordance with and subject to this Agreement, unless specified otherwise in the Services Agreement or other written notification by the Supplier or a Reseller to the Customer.

7.9.	The Supplier will perform the Services and produce any Deliverables in consideration of the Charges.

7.10.	All Deliverables will be produced based on the data, information and explanations supplied by the Customer. All other information that the Supplier provides shall be supplied in good faith based on information provided by the Customer. The Supplier does not warrant or guarantee the accuracy or completeness of any information provided by the Customer or any third party. The Supplier does not verify the accuracy or completeness of information that the Supplier receives from the Customer or any third parties.

7.11.	Any Deliverables will be produced for the Customer for exclusive use within the Customer's business and not for the benefit of any third party. The Customer is not permitted to disclose the Deliverables to any third party.

7.12.	The Supplier shall not be obliged to provide any Services or produce any Deliverables which are not described in the Services Agreement.

7.13.	The Supplier shall only be obliged to provide the Services during the Standard Support Hours unless otherwise agreed in writing between the parties.

7.14.	The Supplier shall use reasonable endeavours to provide the Services in accordance with the Services Agreement.

7.15.	The provision of any Services outside the Standard Support Hours may be provided at the Supplier's sole discretion and all time spent supplying any Services outside these hours will be charged at the rates as specified on the Website from time to time.

8.	Customer Obligations

8.1.	The Customer undertakes to:

8.1.1.	satisfy itself that the Software meets the needs of the Customer's business. It is the Customer's sole responsibility to determine that the Software is ready for operational use in the Customer's business before the Software is installed. If the Customer is not qualified to make these assessments the Customer undertakes to engage the services of an expert for such assessment on the Customer's behalf prior to installation of the Software;

8.1.2.	allow the Software to transmit data to the Supplier, at any time, to enable the Supplier to check whether the Customer is using a Current Release or enable the Supplier to prompt the Customer when a Current Release is available, subject always to the foregoing being carried out strictly in accordance with the Data Protection Legislation.

8.1.3.	allow the Supplier to study the Customer information and data used with the Software for the purpose of rectifying any problems with the Software in relation to the provision of Support;

8.2.	In relation to the Support and/or Services, the Customer shall:

8.2.1.	use all reasonable endeavours to ensure that the then Current Release and the Equipment are used in a proper manner by competent trained employees only or by persons adequately trained under the Customer's supervision;

8.2.2.	ensure that each Maintenance Release or Current Release the Supplier issues to the Customer is installed and implemented as soon as is reasonably possible and in any event not later than three (3) months from the Customer being informed that a Maintenance Release or Current Release is available;

8.2.3.	notify the Supplier by phone, email or by the Website if the Software is not operating correctly or of any other problem with the Software;

8.2.4.	co-operate with the Supplier's staff as reasonably required to enable the Supplier to perform the Support and Services and provide facilities for remote testing and diagnostic purposes; and

8.2.5.	provide the Supplier's staff with access to the Licenced Materials and the Equipment during the Standard Support Hours and at such other times as the Supplier may request on reasonable prior notice or as may otherwise be expressly agreed with the parties.

8.3.	Where employees or consultants or agents or third party providers of the Supplier are carrying out services at the Customer's premises, the Customer will ensure they are provided, free of charge, with suitable and safe office accommodation, suitable services (including telephone, facsimile and photocopying facilities) and any computing and ancillary facilities, third party software, facilities and services (if any) as may be required to perform the Support. The Customer shall indemnify and hold harmless the Supplier and against any losses, claims, damages, costs (including legal and other professional fees) and expenses which the Supplier may suffer or incur as a result of the Customer's breach of this clause 8.3.

8.4.	The Supplier reserves the right to refuse to provide any Support and/or Services to the Customer, if in the Supplier's sole opinion the Customer is not compliant or the Supplier anticipates non-compliance with any provision of this Agreement.

8.5.	The Customer undertakes to ensure that it backs up all of its data whether stored on the Equipment, Azure, file server, workstations or computers or on a portable laptop or home computer or any other media proprietary to the Customer before the Customer or the Supplier installs the Software. The Customer will indemnify and hold harmless the Supplier against all losses, damages, claims or actions which the Supplier may suffer or incur as a result of the Customer's failure to properly back up all of its data during the Term and on and after its termination howsoever caused.

8.6.	The Customer will promptly provide the Supplier with full and accurate information, data and explanations as and when required by the Supplier for the purpose of satisfying its obligations under this Agreement. Where applicable, the Customer will also provide the Supplier with appropriate test scripts, tests and test data.

8.7.	If the Supplier is delayed or impeded or obliged to spend additional time or incur additional expenses in the performance of any of its obligations under this Agreement as a result of the Customer's acts or failure to act or omissions (including the provision of any incorrect or inadequate data or delay or failure to provide information or instructions or perform the Customer obligations under this Agreement), then the Customer shall pay to the Supplier any additional reasonable costs and expenses incurred by the Supplier. Any timetable agreed for the performance by the Supplier of any such obligation shall be revised by the Supplier to an extent reasonable in the circumstances.

9.	Payment Terms

9.1.	The Customer agrees to pay the Supplier the Charges monthly in advance by direct debit throughout the Term of the Agreement, unless specified otherwise in the Services Agreement. The first payment shall fall due on the Installation Date and subsequent payments being due monthly thereafter on the same day each month until expiry of the Term.

9.2.	Charges for any services outwith the Services Agreement are payable within 14 days of the date of the Supplier's invoice.

9.3.	The Customer's access to the Software may be suspended until the Supplier has received any payment that is due in full and in cleared funds in accordance with this Agreement.

9.4.	All amounts due under this Agreement are exclusive of VAT and any other taxes, duties or levies. Charges are exclusive of any travel, subsistence and other out-of-pocket expenses reasonably incurred by the Supplier in respect of the provision of such Services, which shall additionally be payable to the Supplier by the Customer on the terms of the Supplier's invoice to the Customer and the Customer agrees to pay in cleared funds, at the Supplier's then current rates for such Services and outlays incurred, within 14 days of the date of the Supplier's invoice.

9.5.	Where access to the Software is granted to the Customer prior to receipt of any payment due under this Agreement, such access is temporary only and unless payment is made in accordance with this Agreement the Licence will automatically expire and no longer be available to the Customer, or will be restricted or suspended at the sole discretion of the Supplier, at the end of any agreed period

of access which shall be no longer than thirty (30) days from the date of installation on the Equipment. The Customer will indemnify and hold harmless the Supplier against all losses, damages, claims or actions which the Supplier may suffer or incur as a result of the Customer's failure to properly back up all of its data during the period of temporary access and/or by reason of the Licence expiring or being withdrawn by the Supplier under this clause and being no longer available to the Customer.

9.6. If any payment due under this Agreement or any other Agreement between the Supplier (or its Reseller) and the Customer is in arrears, the Supplier and its Reseller (as applicable) reserves the right without prejudice to any other right or remedy to:

9.6.1. charge interest on such overdue sum on a daily basis from the original due date until actual payment of the overdue amount whether before or after judgement at a rate of 3% per annum above Lloyds TSB plc's base rate from time to time; and/or

9.6.2. suspend or terminate the provision of any Support and/or Services under this Agreement until any outstanding payment is both received and cleared with interest due on the overdue amount; and/or

9.6.3. limit any access to the Software until any outstanding payment is both received and cleared with interest due on the overdue amount; and/or

9.6.4. terminate this Agreement pursuant to clause 12.

9.7. The Customer will notify the Supplier or its Reseller (as the case may be) in writing within fourteen (14) days of receipt of an invoice if the Customer considers such invoice incorrect or invalid for any reason. Any such notice shall detail the reasons for withholding payment. If no such notice is received by the Supplier in accordance with this clause 9.7, invoices will be deemed accepted and the Customer will make full payment in accordance with the terms of this Agreement.

10. Warranty

10.1. The Supplier warrants that the Software will conform in all material respects to the Specification for a period of 90 days from the date of the Installation Date (the "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 (i) 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 (ii) the loading of the Software on to equipment which has not been specified by the Supplier or suitably configured, the Supplier shall at the Supplier's option do one of the following:-

10.1.1. repair the Software;

10.1.2. replace the Software; or

10.1.3. terminate this Agreement with immediate effect by providing written notice to the Customer, in which case the Supplier shall provide the Customer with a back-up copy of their database and refund any Charges 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 the defect or fault, or sufficient information to enable the Supplier to re-create the defect or fault.

10.2. The Supplier does not warrant that the use of the Software will be uninterrupted or error-free. The Supplier does not provide any warranties in relation to Azure or any Third-Party Software.

10.3. 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.

10.4. The Customer acknowledges that complex software is never wholly free from defects, errors and bugs and subject to the other provisions of this Agreement, the Supplier gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.

10.5. The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Supplier gives no warranty or representation that the Software will be entirely secure.

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

11. Liability

11.1 Except as expressly stated in clause 11.4, 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: (i) special damage even if the Supplier was aware of the circumstances in which such special damage could arise; (ii) loss of profits; (iii)loss of anticipated savings; (iv) loss of business opportunity; (v)loss of goodwill; (vi) loss or corruption of data; (vii) losses arising out of the failure of any Third party Software to operate including Azure; or (viii) losses arising out of a force majeure event.

11.2 the total liability of the Supplier, whether in contract, tort (including negligence) or otherwise and whether in connection with this licence or any collateral contract, shall in no circumstances exceed a sum equal to the Charges up to a maximum of an amount equal to the (i) Charges paid for the first 12 months of the Agreement or (ii) if the Agreement has not been in existence for 12 months, the Charges paid.

11.3 the Customer agrees that, in entering into this Agreement, 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 this Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in this 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 this Agreement.

11.4 The exclusions in clauses 10.6 and 11.1 shall apply to the fullest extent permissible at law, but the Supplier does not exclude liability for (i) death or personal injury caused by the negligence of the Supplier, its officers, employees, contractors or agents; (ii) fraud or fraudulent misrepresentation; (iii) 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 (iv) any other liability which may not be excluded by law.

11.5 All dates including the Installation Date advised by the Supplier for the installation of the Software or the provision of Services or Support shall be treated as approximate only. The Supplier shall not in any circumstances be liable for any loss or damage arising from any delay beyond such approximate dates.

11.6 All references to "the Supplier" in this clause 11 shall, for the purposes of this clause and clause 19 only, be treated as including all employees, agents, subcontractors and suppliers of the Supplier and its Group Companies, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause.

12. Term & Termination

12.1. This Agreement will commence on the Installation Date. The Licence will continue for the Initial Term (as defined in clause 1.1 of these Master Terms) and, unless terminated earlier in accordance with these terms, shall automatically renew on expiry of the Initial Term. Where the Initial Term was twelve (12) months, such renewal shall be for subsequent periods of twelve (12) months. Where the Initial Term was one (1) month, such renewal shall be for subsequent periods of one (1) month. Where the Initial Term was for a period other than the foregoing, save as otherwise specified in the Services Agreement, such renewal shall be for subsequent periods of the same duration as the Initial Term so stated, save that such will not include any period where the Supplier has granted the Customer a right to use the Software without payment. Each subsequent period beyond the Initial Term where such renewal occurs shall be known as a "Renewal Term" and the terms of this Agreement will continue to apply to each such Renewal Term. The Customer will pay any Charges due to the Supplier in respect of each such Renewal Term in accordance with the Supplier's invoices or any revised Services Agreement.

12.2. Without affecting any other right or remedy available to the Supplier, the Supplier reserves the right to terminate the Agreement at any time without refunding the Charges paid by the Customer, if the Customer has failed to pay an invoice from Supplier by direct debit or otherwise in accordance with this Agreement and where such sum remains unpaid for 14 days from the due date or where, in the Supplier's reasonable opinion, the Customer's system and/or the Equipment has ceased to be capable of running the Software successfully for any reason.

12.3. The Customer may terminate this Agreement by giving not less than thirty (30) days' prior written notice to take effect at the expiry of the Initial Term or any Renewal Term, but will not be entitled to any refund of any Charges paid under this Agreement. In the absence of such notice this Agreement will automatically renew on expiry of the Initial Term or Renewal Term as described in clause 12.1.

12.4. Either party shall be entitled to terminate this Agreement forthwith by notice in writing to the other if the other:

12.4.1. is in material breach of this Agreement and either that breach is incapable of remedy, or the other party fails to remedy the breach within thirty (30) days of receipt of written notice setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement;

12.4.2. 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 103 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 103(1)(e) or 103(2) of the Insolvency (Northern Ireland) Order 1989;

12.4.3. 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 any of its creditors other than (being a company) 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;

12.4.4. 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 (being a company) 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;

12.4.5. an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);

12.4.6. the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

12.4.7. a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;

12.4.8. 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;

12.4.9. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.4.2 to clause 12.4.8 (inclusive); or

12.4.10. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

12.4.11. (in the case of an individual) has been sequestrated, enters in to an individual voluntary arrangement or signs a trust deed for creditors;

12.5. Termination of the Licence, howsoever caused, shall not affect the rights of either party under this Agreement which may have accrued up to the date of termination.

12.6. On termination of this Agreement the Licence shall terminate and accordingly the Customer's right to use the Licenced Materials will automatically cease and at the Supplier's option, the Customer shall either be required to return all copies of them or, delete, destroy or otherwise make permanently unusable the Licenced Materials and certify to the Supplier in writing that this has been done within fourteen (14) days of the date of termination.

12.7. On expiry or earlier termination of this Agreement, the Customer's right to use the Software will cease and the Customer will be given notice of the date that access to the Software will be removed without further warning, save that:

12.7.1. where the Customer used its own Azure Microsoft account, the Customer shall continue to be entitled to read only access to the Software from the date of termination of the Agreement; or

12.7.2. where the Customer used the Supplier's Azure Microsoft account, the Customer shall continue to be entitled to read only access to the Software and the Supplier shall, in accordance with clause 12.9, provide the Customer with one copy of the Software database, all of the Customer's data and any other associated documentation which the Supplier determines; or

12.7.3. where the Customer used its own servers, the Customer shall continue to be entitled to read only access to the Software from the date of termination of the Agreement.

12.8. Where the Customer has served notice to terminate this Agreement at the end of the Initial Term or Renewal Term, the Customer may request a copy of the Customer's data to enable the Customer to carry out a trial migration. On request, and provided that there are no outstanding sums due to the Supplier under this Agreement, the Supplier will provide to the Customer one copy of the Customer's database in SQL backup format, together with any other associated documentation which the Supplier determines. Subject to clause 12.9, if the Customer requests a second copy of this data, a fee will be charged for providing such data at the Supplier's then current rates.

12.9. On termination of this Agreement or at any time within ninety (90) days from the date of termination of this Agreement, the Customer may request access to the Customer's data. Notwithstanding clause 12.8, on request, and provided that there are no outstanding sums due to the Supplier under this Agreement, the Supplier will provide to the Customer one further copy of the Customer's database, in SQL backup format, together with any other associated documentation which the Supplier determines. If the Customer requests a second copy of this data, a fee will be charged for providing such data at the Supplier's then current rates.

13. Force majeure

No party shall be liable to the other for any delay or non-¬performance of its obligations under this Agreement arising from any cause beyond its control. For the avoidance of doubt, nothing in this clause 13 shall excuse the Customer from any payment obligations under this Agreement. If any such event continues for more than ninety (90) days and provided substantial performance is still impeded either party may terminate this Agreement forthwith by prior written notice without prejudice to the accrued rights of either party.

14.   Assignment

The Supplier may assign, sub-contract or otherwise transfer any of its rights and obligations under this Agreement without the Customer consent. The Customer may not assign, sub-contract or otherwise transfer any of its rights and obligations under the Agreement without the prior written consent of the Supplier.

15.   Notices

15.1.   Any notice required to be given pursuant to this Agreement shall, unless otherwise stated, be in writing, sent to the other party marked for the attention of the person at the address specified in this Agreement (or to such other address as either party may from time to time notify to the other in writing in accordance with this clause).

15.2.   For the purpose of notices to be given by the Supplier in writing, the expression "writing" or "written" shall be deemed to include email communications or facsimile transmissions. At the Supplier's option, the Supplier may send notices to the Customer's facsimile number or email address specified in Services Agreement.

15.3.   A correctly addressed notice sent by first class post shall be deemed to have been delivered 72 hours after posting, correctly directed faxes shall be deemed to have been received instantaneously on transmission, and correctly addressed emails shall be deemed to have been delivered 24 hours after sending.

16.   Severability

If any provision of this Agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions shall not be prejudiced.

17.   Waiver

No forbearance or delay by either party in enforcing its rights shall prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach.

18.   Entire Agreement

18.1.   This Agreement and any document expressly incorporated in it contains the entire and only agreement between the parties and supersedes all previous agreements between the parties.

18.2.   The Customer will be notified of any changes to this Agreement on the Website. Changes to the Agreement will take effect from the date of commencement of the Renewal Term or if sooner after thirty (30) days of notice being given to the Customer pursuant to this clause.

19.   Third party rights

A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

20.   Data Protection

20.1.   Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 20 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

20.2.   The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.

20.3.   Without prejudice to the generality of clause 20.1, the Customer will ensure that it has all necessary and appropriate consents and notices in place to enable the lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.

20.4.   Without prejudice to the generality of clause 20.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:

20.4.1.   process that personal data only on the documented written instructions of the Customer unless the Supplier is required by the Data Protection Legislation to otherwise process that personal data;

20.4.2.   ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, 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);

20.4.3.   ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and

20.4.4.   not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

20.4.4.1.   the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;

20.4.4.2.   the data subject has enforceable rights and effective legal remedies;

20.4.4.3.   the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and

20.4.4.4.   the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;

20.4.5.   assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

20.4.6.   notify the Customer without undue delay on becoming aware of a personal data breach;

20.4.7.   at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the personal data; and

20.48.   maintain complete and accurate records and information to demonstrate its compliance with this clause 20.

20.5.   The Customer does not consent to the Supplier appointing any third party processor of Personal Data under the Contract.

21.   Confidentiality

21.1.   Both parties agree not to use or disclose confidential information relating to or owned by the other, or received or disclosed to it by the other party during the term of this Agreement, save for any use or disclosure required in order to perform their respective obligations under this Agreement. Disclosure shall be limited to such of the receiving party's employees, officers, agents or contractors directly involved in performing the receiving party's obligations. The Customer hereby consents to the Supplier making reference to and expressly including the Customer's name, trademark, trade dress and logo as a customer of the Supplier and user of the Software during the term of the Agreement in all of the Supplier's publicity materials and Website.

21.2.   The parties agree that information is not to be regarded as confidential and that the receiving party will have no obligation regarding confidentiality where that information is already in the public domain or enters the public domain through no fault of the receiving party, or is received from a third party without any obligations of confidentiality, or is used or disclosed with the prior written consent of the owner of that information, or is disclosed in compliance with a legal, court of competent jurisdiction or any governmental or regulatory authority requirement, or is independently developed by the receiving party.

21.3.   Any confidential information will be returned or destroyed by the receiving party forthwith at the prior written request of the owner.

22.   Governing law and Jurisdiction

This Agreement shall be construed in accordance with and governed by the law of Northern Ireland. Both parties irrevocably agree that the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

NORTHERN IRELAND