



ANNEXURE TO THE SALES ORDER

DATASTART (WALES) LTD

TERMS OF SOFTWARE LICENCE AND TECHNICAL SUPPORT

The Seller has agreed to grant the Buyer a non-exclusive licence to Use the Licensed Program upon the terms of the Agreement.

1. DEFINITIONS

In the Agreement:

- a) "the Buyer" means the person, firm or company named as the Buyer in the Sales Order;
- b) "Licence Fee" means the fee for the licence of the Licensed Program set out in the Sales Order;
- c) "Licensed Program" means the current version of the Software Program detailed in the Sales Order in object code form and any fix issued from time to time at the sole discretion of the Seller to rectify faults or comply with statutory requirements;
- d) "New Release" means a version of the Licensed Program as modified and improved from time to time;
- e) "New Release Fee" means the licence fee for a New Release as set out in the Sales Order;
- f) "Recommended Operating Programs(s)" means the operating software which the Seller recommends from time to time to be used in conjunction with the Licensed Program;
- g) "the Sales Order" means the duly executed order for sale attached;
- h) "the Seller" means DataStart (Wales) Ltd;
- i) "Technical Support" means the provision of technical support by the Seller in accordance with and subject to the Technical Support Standard;
- j) "Use" means the copying or transmission of the Licensed Program into equipment for the processing of the instructions contained in the Licensed Program;
- k) "User Manual" means the instruction manuals, user guides and other information to be made available by the Seller to the Buyer at its discretion in either printed or machine readable form;
- l) "the Services" means the training, installation, data conversion and/or other services described in the Sales Order;
- m) "the Agreement" means the agreement between the parties comprising the Sales Order, these Terms and any further documents scheduled or annexed thereto or referred to therein;
- n) "Due Delivery Date" means the date for delivery notified to the Buyer by the Seller;
- o) "the Site" means the site specified for delivery in the Sales Order;
- p) "the Technical Support Standard" means the standard set out in the Schedule;
- q) "Fees" means the Licence Fee and the Service Fees;
- r) "Service Fees" means the fee set out in the Sales Order for the provision of the Services;
- s) "Technical Support Fees" means the fees set out in the Sales Order for the provision of Technical Support;
- t) "Project Plan" means the agreement between the Buyer and the Seller as to delivery dates;

2. THE AGREEMENT



- 2.1 Unless the Seller agrees to the contrary in writing, no Sales Order shall be binding on the Seller until accepted by the Buyer within the period and in the manner required by that Order.
- 2.2 The terms of the Agreement shall represent the complete agreement between the parties with regard to the subject matter thereof and shall override any differing terms and/or conditions which may appear or be referred to by the Buyer in any correspondence or other documentation. The terms of the Agreement may not be amended without the written agreement of the Seller.
- 2.3 In the event of any inconsistency between the Sales Order, these Terms and/or any further documents scheduled or annexed thereto or referred to therein, such Order, Terms and other documents shall have priority in the following order:-
- a) the Sales Order;
 - b) these Terms;
 - c) any such other documents.
3. GRANT OF LICENCE
- The Seller in consideration of the payment by the Buyer of the Licence Fee, the Service Fees and the Technical Support Fees hereby:-
- a) grants to the Buyer a non-exclusive licence restricted to the number of concurrent users stated in the Sales Order to Use the Licensed Program;
 - b) agrees to provide the Services;
 - c) agrees to provide the Technical Support.
4. VAT
- Unless agreed otherwise, all sums payable hereunder are exclusive of value added tax which will be added thereto.
5. PAYMENT TERMS
- 5.1 Subject to the provisions of the Sales Order and of clause 5.2, the Buyer shall pay the Fees as follows:
- a) a deposit of 50% on acceptance of the Sales Order in accordance with clause 2.1;
 - b) the balance of 50% within 14 days of the date of delivery and successful installation of the Licensed Program or, if the Buyer postpones the date of such delivery and/or installation or such delay occurs due to any of the circumstances referred to in clause 7.2, on the Due Delivery Date.
- 5.2 The Seller may in its discretion require payment in full or security therefor prior to the delivery of the Licensed Program and/or the provision of the Services where:
- a) the Buyer has defaulted at any time in respect of any other agreement with the Seller; or
 - b) in the Seller's view the financial circumstances of the Buyer render it prudent; or
 - c) in the Seller's view this is appropriate in relation to the particular Licensed Program or Services being supplied.
- 5.3 If the Licensed Program is only partially delivered and successfully installed, payment in accordance with clause 5.1 b) shall remain due in respect of that element of the Licensed Program which has been so delivered and successfully installed.
- 5.4 Time shall be of the essence in relation to the payment terms herein or any alternative payment terms agreed between the parties.
- 5.5 Without prejudice to any other remedy including a claim for damages which the Seller may have in the event of the Buyer terminating the Agreement prior to the Due Delivery Date, the deposit paid in accordance with clause 5.1 a) shall not be refundable.
- 5.6 Interest shall be payable by the Buyer in respect of the late payment of any sum due under the Agreement (before and after judgement), at the rate of one and a half percent (1 1/2%) per annum over the base rate of the National Westminster Bank



Plc from time to time, from the due date of payment until payment in full.

6. DELIVERY AND RISK

6.1 The Seller shall use reasonable endeavours to deliver the Licensed Program and User Manual to the Site on the Due Delivery Date or as soon as possible thereafter.

6.2 Risk will transfer on the Due Delivery Date. If the Buyer with the agreement of the Seller postpones the Due Delivery Date, the Seller may by written notice to the Buyer treat the risk in the Licensed Program as having been passed to the Buyer on the Due Delivery Date and may store the Licensed Program at the Buyers expense.

7. INSTALLATION

7.1 Subject to clause 7.2, the Seller shall install the Licensed Program in consideration of the Service Fees.

7.2 For the avoidance of doubt, time is not of the essence in relation to this clause. If the installation of the Licensed Program takes longer than the time estimated in the Project Plan as a result of:

- a) incorrect, inadequate or incomplete information being supplied to the Seller by the Buyer; or
- b) any defect in hardware not supplied by the Seller
- c) Lack of required access to the Buyer's systems
- d) Failure by the buyer to adhere to the Project Plan

The Seller may charge for any additional person hours required for the installation to be successfully completed at its hourly rate prevailing at that time. Such additional fees shall be due when invoiced by the Seller and payable within 14 days of the date of the Seller's invoice therefor which may be submitted at the end of each calendar month in which such additional person hours are incurred.

8. NEW RELEASE(S)

The Seller in consideration of the New Release Fee will grant the Buyer a non-exclusive licence to Use any New Release, such licence being restricted to the number of concurrent users stated in the Sales Order applicable thereto and thenceforth the term "Licensed Program" shall be deemed to include any such New Release and the terms of the Agreement, including those relating to payment of Fees, shall apply thereto.

9. TECHNICAL SUPPORT

9.1 The Seller in consideration of the Technical Support Fees shall provide the Technical Support.

9.2 Unless stated otherwise in the Sales Order applicable thereto, the Technical Support Fees shall be due and payable monthly in advance with effect from the date upon which the balance of the Fees becomes payable in accordance with clause 5.1 b).

9.3 The Seller shall be entitled by 14 days' written notice to the Buyer to increase the Technical Support Fees not more than once in every successive period of 12 months during the term of the Agreement by the percentage increase in the UK Index of Retail Prices (All Items) since the date upon which the Technical Support Fees first became due and payable, or the date of the last such increase, whichever is the later.

10. PROPERTY AND CONFIDENTIALITY IN THE LICENSED PROGRAM

10.1 The Licensed Program and User Manual contain confidential information of the Seller and all copyright trademarks and other intellectual property rights therein are the exclusive property of the Seller.

10.2 Other than as set out in clause 10.3, the Buyer shall not:

- a) copy, assign, transfer, sell, lease, rent, charge or otherwise deal in or encumber the Licensed Program and/or User Manual nor use them on behalf of or make them available to any third party;
- b) reverse compile the whole or any part of the Licensed Program from object code into source code;
- c) modify, adapt, merge or combine the whole of any part of the Licensed Program with any other software;
- d) remove or alter any copyright or other proprietary notice in the Licensed Program and/or User Manual.



- 10.3 The buyer may at its discretion make back-up copies of its entire system including the Licensed Program. Any such copy shall be in all respect's subject to the Agreement and shall be deemed to form part of the Licensed Program for these purposes.
- 10.4 The Buyer shall keep confidential the Licensed Program and User Manual and limit access to the same to those who are entitled to use them and shall take all such other steps as may from time to time be necessary to protect the confidential information and intellectual property rights of the Seller in the Licensed Program and User Manual.
- 10.5 The Buyer shall inform all relevant employees, agents and sub-contractors that the Licensed Program and User Manual constitute confidential information of the Seller and that all intellectual property rights therein are the property of the Seller and the Buyer shall take all such steps as shall be necessary to ensure compliance by its employees, agents and sub-contractors with the provisions of this clause 10.
11. WARRANTY
- 11.1 Subject to clauses 11.3 and 11.4 and the limitations upon its liability in clause 12 the Seller warrants that:
- a) its title to and property in the Licensed Program and User Manual is free and unencumbered and that it has the right power and authority to licence the same upon the terms and conditions of the Agreement;
 - b) the Licensed Program is compatible with the Recommended Operating Program(s);
 - c) the Licensed Program shall be of satisfactory quality for a period of 90 days following the day of delivery;
 - d) it will perform the Services and the Technical Support with reasonable care and skill.
- 11.2 Subject to clauses 11.3 and 11.4, in the event of a breach of the warranty under clauses 11.1b), c), d) or e), the Seller will use reasonable endeavours to remedy the breach as soon as possible.
- 11.3 Without prejudice to the foregoing the Seller does not warrant that the Use of the Licensed Program will meet the Buyers data processing requirements or that the operation of the Licensed Program will be uninterrupted or error free.
- 11.4 The Seller shall have no liability to remedy a breach of warranty where it arises as a result of:
- a) the improper use, operation or neglect of either the Licensed Program or the equipment on which it is being operated;
 - b) the modification, merger or interface of the Licensed Program (in whole or in part) with any other software;
 - c) the Use of the Licensed Program on hardware other than that recommended by the Seller or in conjunction with software other than the Recommended Operating Program(s);
 - d) the failure by the Buyer to implement reasonable recommendations by the Seller;
 - e) any repair adjustment alteration or modification of the Licensed Program without the Seller's prior written consent;
 - f) any breach by the Buyer of its obligations under any maintenance agreement in respect of the hardware used to operate the Licensed Program;
12. LIMITATION OF LIABILITY
- 12.1 The following provisions set out the Seller's entire liability (including any liability for the acts and omissions of its employees agents and sub-contractors) to the Buyer in respect of any breach by the Seller of its contractual obligations arising under, or any representation statement or tortious act or omission in connection with, the Agreement ("Event of Default").
- AND THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF THIS CLAUSE 12
- 12.2 The Seller's liability to the Buyer for death or injury resulting from its own negligence or that of its employees, agents or sub-contractors shall not be limited.
- 12.3 Subject to clause 12.2 the Sellers liability hereunder in respect of any Event of Default shall be limited to damages of an amount equal to the Licence Fee Service Fee and/or the New Release Fee where applicable.
- 12.4 The Seller shall not be liable to the Buyer in respect of any Event of Default for loss of profits, goodwill or any type of special indirect or consequential loss (including loss or damage suffered by the Buyer as a result of an action brought by a third party except as provided for by clause 13) even if such loss was reasonably foreseeable or the Seller had been advised of the



possibility of the Buyer incurring the same.

- 12.5 In the event of an Event of Default, the Buyer hereby agrees to afford the Seller not less than 14 days following written notification of such Event to the Seller in which to remedy it.
- 12.6 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under the Agreement.
- 12.7 Except in the case of a claim falling within clause 12.2, the Seller shall have no liability to the Buyer in respect of any Event of Default unless the Buyer shall have served notice of the same upon the Seller within 30 days of the date it became aware of it or the date when it ought reasonably to have become aware of it, whichever is the sooner.
- 12.8 Nothing in this clause shall confer any right or remedy upon the Buyer to which it would not otherwise be legally entitled.

13. INTELLECTUAL PROPERTY INDEMNITY

- 13.1 The Seller will indemnify and hold harmless the Buyer against any damages that may be awarded or agreed to be paid to any third party in respect of any claim or action that the normal operation possession or use of the Licensed Program and/or the User Manual infringes the patent copyright registered design or trade mark rights of the said third party ("Intellectual Property Infringement") provided that the Buyer:
- a) gives notice to the Seller of the alleged Intellectual Property Infringement forthwith;
 - b) gives the Seller the sole conduct of the defence to any such claim or action and does not at any time admit liability or otherwise settle or compromise or attempt to settle or compromise the said claim or action except on the express instructions of the Seller;
 - c) acts in accordance with the reasonable instructions of the Seller and gives the Seller such assistance as it shall reasonably require.
- 13.2 The Seller shall reimburse the Buyer's reasonable expenses in complying with clause 13.1.
- 13.3 The Seller shall have no liability to the Buyer in respect of an Intellectual Property Infringement, which results from any breach by the Buyer of the Agreement.
- 13.4 In the event of an Intellectual Property Infringement the Seller may at its discretion and expense either:
- a) procure the right for the Buyer to use the Licensed Program and/or the User Manual; or
 - b) make such alterations to the Licensed Program and/or the User Manual as may be necessary provided that such alterations do not materially diminish their performance or function;
 - c) replace the Licensed Program and/or the User Manual with a non-infringing substitute with materially the same performance and function.
- 13.5 If the Seller is in its reasonable judgement unable to exercise any of the options set out at clause 13.4 then either party shall be entitled to terminate the Agreement on 14 days notice to the other.

14. DURATION OF THE AGREEMENT

The Agreement shall continue until terminated in accordance with the provisions in clause 15.

15. TERMINATION

- 15.1 The Agreement and the ongoing obligations in relation to Technical Support and New Releases may be terminated:
- a) by the Buyer giving not less than 12 months notice to the Seller or by the Seller giving not less than 12 months notice in writing to the Buyer;
 - b) forthwith by the Seller if the Buyer fails to pay any sum due hereunder within 7 days of the due date therefor;
 - c) forthwith by either party immediately if the other commits any material breach of the Agreement which (if remediable) shall not have been remedied within 14 days of a written request to remedy the same;



- d) forthwith by the Seller immediately if the Buyer convenes a meeting of its creditors or makes a proposal for a voluntary arrangement or for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee, receiver, administrative receiver or similar officer is appointed in respect of all or part of its business or assets or a meeting is convened for the purposes of considering a resolution or other steps are taken for its winding up or for the making of an administration order (other than for the purposes of amalgamation or reconstruction);
- e) forthwith by the Seller immediately if the Buyer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- f) forthwith by the Seller immediately if there is a change of control of the Buyer (within the meaning of section 1124 of the Corporation Tax Act 2010);
- g) forthwith by the Seller immediately if the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy;
- h) forthwith by the Seller immediately if the Buyer 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;

15.2 Any termination of the Agreement will be without prejudice to the accrued rights and remedies of either party.

15.3 Within 7 days of termination of the Agreement (however and by whomsoever occasioned) the Buyer shall deliver to the Seller all copies of the Licensed Program and the User Manual in its possession or control. Notwithstanding the provisions of this clause, the Buyer shall be entitled to retain one copy of the Licensed Program and all the relevant data free of charge in a fire-proof room for archival purposes. Any Support advice on the access to this data will be subject to separate agreement between the Seller and the Buyer. If the Buyer uses the Licensed Program other than for archival purposes it shall forthwith become liable to pay to the Seller its then current charges for Use of the Licensed Program or any equivalent software then Licensed in substitution for the Licensed Program.

16. PERSONNEL

16.1 Trained personnel employed by the Seller will provide the Services and the Technical Support to the Buyer. The Buyer undertakes that during the term of the Agreement and for 12 months after its termination it shall not engage, employ or otherwise solicit for employment or the provision of consultancy services any personnel who, during the currency of the Agreement, were employees of or consultants to the Seller.

16.2 Should the Buyer breach clause 16.1 it agrees to pay the Seller forthwith damages equal to the aggregate of 12 months salary of the personnel in question, such sum being the estimated cost to the Seller of the recruitment and training of replacement personnel.

17. LICENSED PROGRAM AND TECHNICAL SUPPORT

17.1 The Buyer accepts that the Licensed Program was not designed and produced to individual requirements and that it was responsible for its selection. The Buyer further acknowledges that it has satisfied itself that the level and extent of the Technical Support is appropriate to its needs, notwithstanding the fact that a more comprehensive support package may have been available from the Seller.

17.2 The Seller recommends that the Buyer takes all reasonable steps to protect its data from loss and/or corruption by operating, by way of example but without limitation, appropriate back-up and virus scanning procedures.

18. SEVERABILITY

If any of the terms of the Agreement or any part thereof are held to be invalid for any purpose they shall for that purpose be deemed to have been omitted and their omission shall not affect the enforceability or validity of any other provision of the Agreement.

19. CONFIDENTIALITY

Each of the parties undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the entering into of the Agreement save that which is:

- a) trivial or obvious;



- b) already in its possession other than as a result of a breach of this clause; or
- c) in the public domain other than as a result of a breach of this clause

and to take all steps necessary to ensure compliance with this clause by its employees, agents and sub-contractors.

20. ENTIRE AGREEMENT

The Seller shall not be liable to the Buyer for loss arising from or in connection with any representation, agreements, or undertakings made prior to or following the execution of the Agreement, other than those representations, agreements, statements or undertakings confirmed by a duly authorised representative of the Seller in writing and expressly incorporated into the Agreement, or referred to in it.

21. ASSIGNMENT AND SUB-LICENSING

The Buyer shall not be entitled to assign the Agreement in whole or in part nor any of its rights or obligations under it nor sub-license the use (in whole or in part) of the Licensed Program and/or the User Manual without the prior written consent of the Seller.

22. FORCE MAJEURE

22.1 Neither party shall be liable for any breach of its obligations under the Agreement resulting from causes beyond its own reasonable control including but not limited to fires strikes (of its own or other employees) insurrection or riots embargoes container shortages wrecks or delays in transportation inability to obtain supplies and raw materials requirements or regulations of any civil or military authority (an "Event of Force Majeure").

22.2 Each of the parties agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

22.3 If a default due to an Event of Force Majeure shall continue for more than 4 weeks then the party not in default shall be entitled to terminate the Agreement. Neither party shall have any liability to the other in respect of the termination of the Agreement as a result of an Event of Force Majeure.

23. WAIVER

The waiver by either party of a breach or default of any of the provisions of the Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

24. NOTICES

Any notice request instruction or other document to be given hereunder shall be delivered or sent by first class post or by facsimile transmission (such facsimile transmission notice to be confirmed by letter posted within 12 hours) to the address or to the facsimile number of the other party set out in the Sales Order (or such other address or number as may have been notified) and any such notice or other document shall be deemed to have been served (if delivered) at the time of delivery (if sent by post) upon the expiration of 48 hours after posting and (if sent by facsimile transmission) upon expiration of 12 hours after despatch.

25. HEADINGS

The headings in the Agreement are for the purposes of information and identification only and shall not affect its interpretation or construction.

26. STATUTES

Reference in the Agreement to any statute or statutory provision includes a reference to the statute or statutory provision as from time to time amended, extended or re-enacted.

27. GOVERNING LAW

The Agreement shall be governed by and construed in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English courts.

VARIATION



28. The Seller may at its discretion and at any time vary the terms of this Agreement, including the introduction of any additional terms and conditions, and shall give to the Buyer 30 days written notice of any such change.



THE SCHEDULE

TECHNICAL SUPPORT STANDARD

1. Technical Support shall be the provision of Support by [telephone/post/web site/remote access etc] and shall comprise:
 - a) fault diagnosis and rectification;
 - b) access to documentation upon the day to day operation of the Licensed Program and the production of reports etc;
 - c) the supply of any upgrades or new modules required in order to ensure the Licensed Program complies with statutory requirements.

The Buyer will note that Technical Support does not extend to any additional modifications or customisation to the Licensed Program, the terms upon which such modification and customisation may be undertaken by the Seller to be agreed on a case by case basis.

2. The hours in which Technical Support will be provided are Monday to Friday 9 - 5.30 pm excluding bank and other public holidays (a "Working Day").
3. Technical Support only extends to the Licensed Program and not to software or other products not supplied or developed by the Seller.
4. Unless agreed in writing otherwise between the parties, in order for the Seller to provide Technical Support, the Buyer is required to provide unrestricted remote access to the machine(s) on which the Licensed Software is installed at all times.
5. All requests for Technical Support are logged and it is the Seller's intention to respond to any such request within one hour of its receipt.
6. The Seller requests that after 4pm on any Working Day the Buyer only request Technical Support in respect of faults of a critical nature. This is requested to maintain the highest level of Technical Support.
7. Any request for Technical Support that requires immediate attention in order to ensure that the Buyer's workers are paid, will be dealt with as a matter of priority and provided that the request is logged before 5pm the fault in question will, notwithstanding the limited hours in which Technical Support is ordinarily provided, be pursued until a satisfactory conclusion is reached.
8. It is the Buyer's obligation to ensure that the Seller is aware that any request is of a critical nature and/or may prevent the payment of the Buyer's workers.
9. It is the Seller's intent that any faults with the Licensed Program will be resolved within one Working Day.
10. Technical Support does not extend to the diagnosis and/or rectification of any fault resulting from any of the circumstances described in clause 11.4.
11. The Seller may upon request by the Buyer provide Technical Support notwithstanding that it is not obliged to do so under the terms of the Agreement because, by way of example but without limitation, the Technical Support:
 - a) relates to a fault resulting from circumstances described in clause 11.4;
 - b) is requested and/or provided otherwise than during a Working Day.

In such circumstances the Seller reserves the right to charge additional fees at the Seller's rates from time to time, such fees being due and payable within [14] days of the date of the Seller's invoice therefore which may be submitted at the end of each calendar month in which such additional fees are incurred.



MERIT

GDPR ANNEXURE

1. In this Annexure the following terms are referred to:
2. “Data Breach” refers to a breach of security leading to the destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.
- 2.3 “Data Protection Legislation” the General Data Protection Regulation (Regulation (EU) 2016/679) (once applicable), Data Protection Bill (once enacted into English law) the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the ePrivacy Regulation repealing Directive 2002/58/EC and subordinate national legislation (once applicable), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all laws and regulations applicable to the relevant party relating to the processing of personal data under or in relation to the Agreement including, where applicable, the guidance and codes of practice issued by the Information Commissioner or any other applicable supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction.
- 2.4 “personal data”, “data subject”, “controller”, “processor” and “process” shall be interpreted in accordance with applicable Data Protection Legislation.
- 2.5 ‘The Buyer’s personal data’ means any personal data for which the Buyer is the data controller and the Seller is the data processor pursuant to this Agreement.

PROCESSOR CLAUSES

3. In the event that the Seller process the Buyer’s personal data under the Agreement, the parties record their intention that the Seller are the processor and the Buyer are the controller of such personal data. The Sales Order sets out the subject-matter of the processing of the Buyer’s personal data and the duration of processing will be until termination of contract as outlined in the terms and conditions. The Buyer warrants and undertakes that the Buyer have reviewed the sales order, and project plan where applicable, and that it contains full and accurate details of “type of personal data” and “categories of data subject” to which the Agreement relates. In the event of any change during the term of the Agreement the Buyer shall inform the Seller and the Buyer and the Seller shall work together to review the information as necessary.
4. Each party shall comply with its obligations under applicable Data Protection Legislation and the Buyer warrants and undertakes that the Buyer shall not instruct the Seller to process the Buyer’s personal data where such processing would be unlawful.
5. The Buyer agrees to use commercially reasonable efforts to disclose clearly, and obtain consent to, any data collection, sharing and usage that takes place on the Licensed Program, any site, app, other software product or other property as a consequence of the Buyer’s use of the Seller’s products; and
6. The Buyer must use commercially reasonable efforts to ensure that an end user is provided with clear and comprehensive information about, and consents to, the storing and accessing of personal information or cookies on the end user’s device where such activity occurs in connection with a product to which this policy applies.
7. Subject to the paragraph below, the Seller shall process the Buyer’s personal data only in accordance with the Buyer’s documented instructions and shall not transfer the Buyer’s Personal Data outside of the European Economic Area without the Buyer’s consent. For the avoidance of any doubt, any configuration of the service or the Licensed Program by the Buyer shall constitute ‘written instructions’ for the purposes of this annexure.
8. The Seller may process the Buyer’s personal data other than in accordance with the Buyer’s documented instructions where required to do so by applicable law provided that (unless prohibited by applicable law on important grounds of public interest) the Seller shall notify the Buyer of such legal requirement before such processing.
9. The Seller shall ensure that individuals engaged in the processing of the Buyer’s personal data under the Agreement are subject to obligations of confidentiality in respect of such personal data.
10. The Seller shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk involved in processing the Buyer’s personal data pursuant to the Agreement. The security measures are set out in the guidance documentation available within the online knowledgebase and the Buyer warrants that the Buyer has reviewed such security measures and considers them appropriate in the context of the



processing of the Buyer's personal data as anticipated by the Agreement.

11. The Seller may engage such other processors ("Sub Processors") as the Seller consider reasonably appropriate for the processing of the Buyer's personal data in accordance with the terms of the Agreement (including in connection with support, maintenance and development, staff training and the use of third party data centres) provided that the Seller shall notify the Buyer of the addition or replacement of such Sub Processors and the Buyer may, on reasonable grounds, object to a Sub Processor by notifying the Seller in writing within 5 days of the Seller's notification, giving reasons for the Buyer's objection. The parties shall work together to reach agreement on the engagement of Sub Processors. The Seller shall require all Sub Processors to enter into an agreement equivalent effect to the terms above and the Seller shall remain responsible and liable for Sub Processors' acts and omissions.
12. In the event that any data subject exercises its rights under applicable Data Protection Legislation against the Buyer, the Seller shall use reasonable commercial efforts, to assist the Buyer in fulfilling the Buyer's obligations as controller within 21 days following written request from the Buyer provided that the Seller may (a) extend such time period and/or (b) charge the Buyer on a time and materials basis in the event that the Seller considers, in its reasonable discretion, that such assistance is onerous, complex, frequent or time consuming.
13. Upon discovering a Personal Data Breach, the Seller shall notify the Buyer as soon as reasonably practicable and without undue delay and shall assist the Buyer to the extent reasonably necessary in connection with notification to the applicable Supervisory Authority and data subjects, taking into account the nature of processing and the information available to the Seller.
14. In the event that the Buyer consider that the processing of personal data performed pursuant to the Agreement requires a Data Privacy Impact Assessment to be undertaken, following written request from the Buyer, the Seller shall use reasonable commercial endeavours to provide relevant information and assistance to the Buyer to facilitate such privacy impact assessment. The Seller may charge the Buyer for such assistance on a time and materials basis.
15. Unless otherwise required by applicable law, following termination or expiry of the Agreement the Seller shall, at the Buyer's option, delete or return all the Buyer's personal data and all copies thereof to the Buyer.
16. Where requested by the Buyer, the Seller shall make available all information necessary to demonstrate the Seller's compliance with the foregoing and shall contribute to audits conducted by the Buyer or another auditor mandated by the Buyer with reasonable prior written notice. The Seller may charge the Buyer for such contribution on a time and materials basis.
17. In the event that the Seller consider that the Buyer's instructions relating to processing of the Buyer's personal data under the Agreement infringes Data Protection Legislation the Seller shall inform the Buyer and the Buyer shall assess the instructions and Data Protection Legislation. The Seller shall not be obliged to process any of the Buyer's personal data until the Buyer notify the Seller that the Buyer's instructions are non-infringing or amend the Buyer's instructions to make them non-infringing and notify the Seller accordingly.
18. The Seller reserves the right to amend this Annexure on written notice to the Buyer if the Seller considers it reasonably necessary as a result of any changes in law or practice relating to the protection or treatment of personal data.

ADDENDUM 1 – DETAILS OF PROCESSING

19. For details of how personal data is processed under this Agreement, please see our online knowledgebase at www.meritsoftware.co.uk