

**3T SOFTWARE LABS LIMITED**  
**END USER LICENSE AGREEMENT**

Any use of the Software (as defined below) is subject to the terms of this licence agreement ("**Agreement**"). Please read the full Agreement carefully.

The Customer confirms that it accepts and agrees to be legally bound by all terms and conditions of this Agreement by downloading and/or installing and/or using the Software. If these terms are not accepted, the Customer must not download, install or use the Software.

**IMPORTANT NOTICES:**

This Agreement shall prevail over the Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the purchase order or confirmation of order.

**TERMS AND CONDITIONS:**

**1 Definitions and interpretation**

- 1.1 In this Agreement (except where the context otherwise requires) the following words and phrases shall have the following meanings:

**"Authorised User"** means those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Software and the Documentation;

**"Confidential Information"** means the Software, the source code of the Software and any information which is designated by the party disclosing it to be confidential;

**"Customer"** means, whether the Software is obtained directly from the Supplier or through a Reseller, (a) where an individual downloads and/or installs the Software on a OSE for his own personal use, that individual (a **"Consumer"**); or (b) where an individual downloads and/or installs the Software on a OSE for business use, that individual's employer (and the Supplier will assume that such individual has the authority to purchase on behalf of their employer); or (c) where an entity or organisation downloads and/or installs the Software on a OSE for use by its employees, that entity or organisation (and such entity shall be responsible for all use by its employees of the Software and Documentation);

**"Documentation"** means the documents made available to the Customer by the Supplier online via <https://studio3t.com/knowledge-base/> or such other web address notified by the Supplier to the Customer from time to time which sets out a description of the Services and the user instructions for the Software, and includes any news or tips displayed when using the Software;

**"Evaluation Period"** has the meaning given to it in clause 2.1;

**"Free Edition Software"** means the edition of the Supplier's Studio 3T application which is made available free of charge/without the payment of a Subscription Fee;

**"Intellectual Property Rights"** means patents, registered designs, registered trade and service marks, registered copyright and modifications to and applications for any of the foregoing and the right to apply for protection for such registered rights anywhere

in the world and inventions, discoveries, copyright, database rights, unregistered trade or service marks, brand names or know-how and any similar or equivalent rights whether capable of registration or not arising, applied for or granted under the laws of any country;

**“Non-Commercial”** means use of the Software in an environment not primarily intended for, or directed towards, commercial advantage or monetary compensation;

**“Non-Commercial Edition Software”** means the Non-Commercial edition of the Supplier’s Studio 3T application which was offered as a free edition (sometimes with limitations on the use) prior to April 1<sup>st</sup> 2022.

**“OSE”** means an Operating System Environment which is all or part of an operating system instance, or all or part of a virtual (or otherwise emulated) operating system instance which enables separate machine identity (primary computer name or similar unique identifier) or separate administrative rights;

**“Paid Edition Software”** means the edition of the Supplier’s Studio 3T application which is made available on payment of the Subscription Fee;

**“Reseller”** means any third party authorised by the Supplier to sell licences to the Software;

**“Services”** means the provision of the Software and (if applicable) the Support Services;

**“Software”** means either the Paid Edition Software or Free Edition Software (as the context requires) and any related software services (online and locally installed) for which the Customer has purchased a Subscription under this Agreement;

**“Subscription”** means the subscription licence for the Software and Documentation granted under clause 3;

**“Subscription Fee”** means the fee (if any) payable by the Customer under this Agreement (excluding VAT and all other relevant taxes, including Withholding Tax, where applicable), as detailed by the Supplier or Reseller (as the case may be) from time to time including through their respective websites, calculated in accordance with the duration of the Subscription Period and number of Use Subscriptions;

**“Subscription Period”** means the period of time the Subscription is valid, which for:

- (a) the Paid Edition Software and/or Non Commercial Edition Software shall be determined by the number of months/years from the Subscription Start Date selected by the Customer when purchasing the Subscription; and
- (b) the Free Edition Software, shall be for an initial period of twelve (12) months from the Subscription Start Date, automatically renewing for further periods each of one (1) month thereafter.

**“Subscription Start Date”** means:

- (a) in respect of the Paid Edition Software, the date upon which the Customer purchases the Subscription;

- (b) in respect of the Free Edition Software, the date upon which the Software is downloaded or installed (whichever is the earlier);
- (c) in respect of the Non-Commercial Edition Software, the date upon which the Non-Commercial Edition was downloaded or installed (whichever was the earlier);

**“Supplier”** means 3T Software Labs Limited registered in England and Wales under number 10075999 whose registered office is at Newnham House, Cambridge Business Park, Cambridge, United Kingdom, CB4 0WZ;

**“Support Services”** means either:

- (a) the standard support service provided by the Supplier which is included in the Subscription Fee as standard; or
- (b) where the Customer has paid an additional fee (or where the Customer purchases a tier of Software which includes enhanced support services free of charge), the priority support service provided by the Supplier;

**“Team Sharing”** means the resource sharing functionality made available to the Customer for use as part of the Software;

**“Third-Party Components”** means components owned by third parties which are used in the Software;

**“UK GDPR”** means Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018;

**“User Subscriptions”** means the number of users licensed to use the Software, determined by the number of users selected by the Customer when purchasing the Subscription;

**“Viruses”** means anything or device (including any software, code, file or program) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data (whether by re-arranging, altering or erasing the program or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices; and

**“Working Day”** means Monday to Friday excluding bank and public holidays in England;

**“Working Hours”** means 9am to 5pm UK time each Working Day.

## **2 Evaluation Period**

- 2.1 The Customer is granted a 30-day free trial of the Paid Edition Software for the purpose of deciding whether or not, in the sole opinion of the Customer, the Software meets its requirements (**“Evaluation Period”**). During the Evaluation Period the terms in Schedule 1 will apply.

## **3 Subscription**

- 3.1 The Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Software and the Documentation during the Subscription Period only in accordance with this Agreement.
- 3.2 The Customer:
- 3.2.1 shall only use and copy the Software for use on any OSE owned, leased and/or controlled by the Customer for the Customer's internal business purposes;
  - 3.2.2 shall not make the Software available for use by any third party in any manner whatsoever;
  - 3.2.3 may make one copy of the Software in machine readable form for normal operational security and back-up purposes, provided: (i) that the Customer must ensure that such copy is not installed on any OSE at any time when the original copy of the Software supplied to the Customer is installed upon any other OSE; (ii) the terms of the Subscription will apply to such copy as it applies to the original copy of the Software; and (iii) such copy and the media on which it is stored will be the Supplier's property and the Customer shall ensure that such copy bears the Supplier's proprietary notice;
  - 3.2.4 shall not reproduce, modify, adapt, merge, translate, disassemble, decompile, recompile or reverse engineer the Software or create derivative works based on the whole of or any part of the Software or incorporate the Software into any other program not provided by the Supplier. The information necessary to achieve interoperability of the Software with other programs is available from the Supplier on request; and
  - 3.2.5 shall not:
    - (i) access all or any part of the Software and Documentation in order to build a product or service which competes with the Software and/or the Documentation;
    - (ii) use the Software and/or Documentation to provide services to third parties;
    - (iii) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software and/or Documentation available to any third party except the Authorised Users, or
    - (iv) attempt to obtain, or assist third parties in obtaining, access to the Software and/or Documentation, other than as provided under this clause 3.

#### **4 Authorised Users**

- 4.1 Where Authorised Users are required to create an individual log-in to access the Software, the Customer undertakes to procure that each Authorised User shall keep a secure password for its use of the Software and Documentation and that each Authorised User shall keep their password confidential.
- 4.2 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- 4.3 The Customer undertakes that:

- 4.3.1 the maximum number of Authorised Users that it authorises to use the Software and the Documentation shall not exceed the number of User Subscriptions it has purchased for the Paid Edition Software; and
- 4.3.2 it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to use the Software and/or Documentation.

## **5 Monitoring usage**

- 5.1 The Supplier reserves the right to use a security mechanism within the Software to monitor usage of the Software by Authorised Users (including tracking User Subscriptions if applicable) in order to establish that the Customer's and Authorised Users' use of the Software is in accordance with this Agreement. The Customer shall not engage in any activity designed to circumvent or obstruct, or which has the effect of circumventing or obstructing, the Software's monitoring and/or tracking capabilities.
- 5.2 In addition to the above, the Customer shall permit the Supplier to audit usage of the Software no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business.
- 5.3 If any of the monitoring or audit measures referred to in this clause 5 reveal that the Customer of the Paid Edition Software has underpaid Subscription Fees due to the Supplier (or Reseller), then without prejudice to the Supplier's other rights, the Customer shall pay to the Supplier an amount equal to such underpayment within 30 days of the date the Supplier issues the outcome of the relevant audit to the Customer. The Supplier reserves the right, without liability to the Customer or prejudice to its other rights, to suspend the Subscription if the Customer does not pay such underpayment by the due date.

## **6 Team Sharing**

- 6.1 Where the Customer has a Subscription that includes Team Sharing, the provisions of Schedule 3 (Team Sharing) shall apply.

## **7 Documentation**

- 7.1 The Supplier hereby grants the Customer the right to possess and refer to the Documentation in accordance with the terms of this Agreement.
- 7.2 The Customer shall only use the Documentation for its internal business purposes, and shall not make the Documentation available for use by any third party in any manner.
- 7.3 The Customer shall not copy the whole or any part of the Documentation, and shall not remove any trade mark, copyright or proprietary notices from the Documentation.

## **8 Support Services**

- 8.1 Where the Supplier hosts the Software on its local server or third party servers, the Supplier shall use reasonable endeavours to make the Software available to the Customer 24 hours a day, seven days a week, except for maintenance performed outside Working Hours.
- 8.2 The Supplier will provide the Customer with the Support Services for the Paid Edition Software in accordance with Schedule 2, or as notified to the Customer from time to time.
- 8.3 The Customer acknowledges that Support Services are not included as part of a

Subscription to the Free Edition Software.

## **9 Customer's obligations**

9.1 The Customer shall:

9.1.1 provide the Supplier with:

- (i) all necessary co-operation in relation to this Agreement; and
- (ii) all necessary access to such information as may be required by the Supplier;

in order to provide the Services;

9.1.2 comply with all applicable laws and regulations with respect to its activities under this Agreement; and

9.1.3 ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement.

## **10 Data collection and privacy policy**

10.1 How data is collected about the Customer and how this is used by the Supplier is detailed in the Supplier's privacy policy, which can be viewed at: <https://studio3t.com/privacy-policy/> ("**Privacy Policy**"). Where the Customer or Authorised User shares resources containing personal data via Team Sharing, the provisions of Schedule 3 (Team Sharing) shall also apply to the Supplier's use of such personal data.

## **11 Payment and payment terms (applicable to Paid Edition Software only)**

11.1 The Subscription Fee and, if applicable, any fee for Support Services (together with any levies, duties and/or taxes imposed on you in your jurisdiction (including, but not limited to, value added tax, sales tax, use tax and withholding tax) shall be due and payable by the Customer as specified during the purchase process.

11.2 If the Customer does not pay the Subscription Fee or any other sums payable under this Agreement when due, the Supplier reserves the right to charge interest at a daily rate on all sums outstanding until payment in full is received whether before or after judgment at a rate of 4% above the base lending rate of Lloyds Bank plc from time to time. The Supplier reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

11.3 Where the Customer has obtained the Services through a Reseller, the terms the Customer has agreed with such Reseller in relation to payment and invoicing will apply instead of this clause 11.

## **12 Intellectual Property Rights**

12.1 The Customer acknowledges that the Supplier owns, or is licensed to use, all copyright and other Intellectual Property Rights of whatever nature in and relating to the Software and the Documentation together with any customisation and/or configuration work carried out by the Supplier under the provisions of this Agreement.

12.2 The Supplier warrants that the use of the Paid Edition Software and the Documentation in accordance with this Agreement will not knowingly infringe copyright belonging to any third party.

- 12.3 The Free Edition Software is provided AS IS and AS AVAILABLE with no representation, guarantee or warranty of any kind as to its functionality, quality, performance, suitability or fitness for purpose. All other terms, conditions, representations and warranties expressed or implied whether by statute or otherwise with respect to the Free Edition Software are hereby expressly excluded.
- 12.4 The Supplier makes use of third-party components in the Software. The full list of Third-Party Components can be found in the installation folder of the Software

### **13 Third party claims**

- 13.1 Subject to clauses 13.2, 13.3, 13.4 and 15.2, in the event of any claim being brought against the Customer: (i) that the normal use or possession of the Software or the Documentation in accordance with this Agreement infringes the copyright of a third party; or (ii) as a result of the Supplier's use of Third-Party Components by a rights-holder of such Third-Party Components (a "**Claim**"), the Supplier shall indemnify the Customer against any damages that are awarded to be paid to any such third party in respect of such Claim provided that the Customer:
- 13.1.1 as soon as reasonably practicable notifies the Supplier in writing of any such Claim of which it becomes aware;
  - 13.1.2 does not make any admission as to liability or compromise or agree any settlement of the Claim without the prior written consent of the Supplier (not to be unreasonably withheld or delayed), or otherwise prejudice the Supplier or any other third party's defence of such Claim;
  - 13.1.3 gives the Supplier, or such person as the Supplier shall direct, immediate and complete control of the conduct or settlement of all negotiations and litigation arising from the Claim; and
  - 13.1.4 upon payment of its reasonable costs, gives the Supplier, and other third parties as the Supplier shall direct, all reasonable assistance with the conduct or settlement of any such negotiations or litigation.
- 13.2 If a Claim is brought, the Supplier shall have the right in its absolute discretion and at its own expense:
- 13.2.1 to procure the right for the Customer to continue using the Software and/or the Documentation in accordance with the terms of this Agreement;
  - 13.2.2 to make such alterations, modifications or adjustments to the Software and/or the Documentation so that they become non-infringing; or
  - 13.2.3 to replace the Software and/or the Documentation with non-infringing services and/or documentation.
- 13.3 If the Supplier is unable to resolve a Claim by taking one of the actions under clause 13.2 the Supplier shall have the right to terminate this Agreement upon repayment to the Customer of the Subscription Fee on a pro rata basis and such right shall be the Customer's sole and exclusive remedy under this Agreement in respect of any such Claim.
- 13.4 The indemnity provided under clause 13.1 shall not apply in respect of any Claim arising as a result of or in connection with or attributable to:
- 13.4.1 any use, possession of, or Subscription to the Free Edition Software;
  - 13.4.2 any configurations or modifications made to the Software or Documentation by the Customer or on the Customer's behalf (other than by the Supplier);

- 13.4.3 the Customer's use of the Software in combination with any third party software, components, environment or platform; or
  - 13.4.4 the Customer's failure to use any new or corrected version of the Software or Documentation made available by the Supplier.
- 13.5 In the event of any claim attributable to the use or possession by the Customer of the Software or the Documentation other than in accordance with this Agreement, the provisions of clauses 13.1 to 13.4 shall not apply and the Customer shall indemnify the Supplier against all liabilities, costs and expenses which the Supplier may incur as a result of such claim.

## **14 Warranties**

### **14.1 The Supplier:**

- 14.1.1 does not warrant that the Customer's use of the Software will be uninterrupted or error-free; or that the Software, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and
  - 14.1.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 14.2 EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, ALL CONDITIONS, WARRANTIES, TERMS AND UNDERTAKINGS, EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMON LAW, TRADE PRACTICE, CUSTOM, COURSE OF DEALING OR OTHERWISE (INCLUDING WITHOUT LIMITATION AS TO QUALITY, PERFORMANCE OR FITNESS OR SUITABILITY FOR PURPOSE) IN RESPECT OF THE SERVICES AND THE DOCUMENTATION ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW.

## **15 Limitation of liability**

- 15.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligent act of one party or for liability for any fraudulent misrepresentation by a party to this Agreement.
- 15.2 SUBJECT TO THE PROVISIONS OF CLAUSES 15.1 AND 15.3 THE LIABILITY OF THE SUPPLIER TO THE CUSTOMER FOR DIRECT LOSS IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE CUSTOMER'S USE OF THE PAID EDITION SOFTWARE, SUPPORT SERVICES OR THE DOCUMENTATION SHALL BE LIMITED IN RESPECT OF ALL CLAIMS ARISING TO THE SUBSCRIPTION FEE PAID BY THE CUSTOMER TO THE SUPPLIER UNDER THIS AGREEMENT IN RESPECT OF THE SERVICES PROVIDED IN THE 12 MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY. THE SUPPLIER SHALL HAVE NO LIABILITY WHATSOEVER IN RESPECT OF ANY LOSSES IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THE CUSTOMER'S USE OF THE FREE EDITION SOFTWARE OR THE DOCUMENTATION.
- 15.3 SUBJECT TO THE PROVISIONS OF CLAUSE 15.1, IN NO CIRCUMSTANCES SHALL THE SUPPLIER BE LIABLE TO THE CUSTOMER WHETHER IN CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE IN RESPECT OF:



- 15.3.1 LOSS OF PROFITS, ANTICIPATED SAVINGS, REVENUE, GOODWILL OR BUSINESS OPPORTUNITY;
- 15.3.2 LOSS OR CORRUPTION OF OR COST OF RESTORATION OF DATA (SAVE TO THE EXTENT SET OUT IN CLAUSE 8.2) OR FOR USE OF ANY RESULTS OBTAINED BY USE OF THE SOFTWARE; OR
- 15.3.3 ANY INDIRECT, CONSEQUENTIAL, FINANCIAL OR ECONOMIC LOSS OR DAMAGE, COSTS OR EXPENSES,

WHATEVER OR HOWEVER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE CUSTOMER'S USE OF THE SERVICES OR THE DOCUMENTATION.

## **16 Subscription Period and termination**

- 16.1 The Subscription shall commence on the Subscription Start Date and, unless terminated earlier in accordance with this clause 16 or clause 13.3, shall continue for the Subscription Period and shall terminate automatically upon the expiry of the Subscription Period.
- 16.2 The Subscription may be terminated immediately by either party if:
  - 16.2.1 the other commits a material or persistent breach of any term of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of written notice being given requiring it to be remedied (and where such breach is not capable of remedy, the terminating party shall be entitled to terminate the Agreement with immediate effect); or
  - 16.2.2 an interim order is made, or a voluntary arrangement approved, or if a petition for bankruptcy order is presented or a bankruptcy order is made against the other party or if a receiver or trustee is appointed of the other party's estate or a voluntary arrangement is approved or a notice is served of intention to appoint an administrator or an administrator is appointed by Court order or by any other means, or a receiver or administrative receiver is appointed over any of the other party's assets or undertaking or a resolution or petition to wind up the other party is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or if any circumstances arise which entitle the court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding up petition or make a winding up order or 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 above events.
- 16.3 In the case of the Free Edition Software only, the Subscription may be terminated:
  - 16.3.1 by the Supplier at any time upon one month's written notice to the Customer, providing that such notice shall not expire before the end of the then current Subscription Period; or
  - 16.3.2 by the Customer with immediate effect upon the uninstallation of the Software by the Customer.
- 16.4 The Customer may upgrade its Subscription from the Free Edition Software to the Paid Edition Software at any time on request and payment of a Subscription Fee. The Subscription for the Free Edition Software shall terminate immediately upon purchase of a Subscription for the Paid Edition Software.

- 16.5 Where the Subscription is terminated by either party in accordance with this clause 16 then subject to clauses 16.6 and 16.4 this Agreement shall terminate in its entirety.
- 16.6 Upon termination or expiry of this Agreement:
- 16.6.1 all licences granted under this Agreement shall immediately terminate;
  - 16.6.2 the Customer shall destroy the Software and all copies, in any form including partial copies or modifications of the Software received from the Supplier or made in connection with this Subscription and all Documentation relating thereto; and
  - 16.6.3 the following provisions of this Agreement shall remain in full force and effect: Clauses 1, 13, 14, 15, 16.7, 17 and 19.
- 16.7 Any termination of this Agreement shall be without prejudice to any other rights or remedies either party may be entitled to under this Agreement or at law.

## **17 Confidentiality**

- 17.1 Neither party shall at any time after the date of this Agreement:
- 17.1.1 divulge or communicate to any person, company, business entity or other organisation;
  - 17.1.2 use for any purposes other than the purposes of this Agreement; or
  - 17.1.3 through any failure to exercise due care and diligence, cause any unauthorised disclosure of
- any trade secrets or Confidential Information relating to the other party provided that these restrictions shall cease to apply to any such information which shall become available to the public generally otherwise than through a breach of a duty of confidentiality owed to the other party and further provided that neither party shall be restricted from disclosing the Confidential Information or any part of it pursuant to a judicial or other lawful government order, but only to the extent required by such order and subject to the party obliged to comply with such order giving the other party as much notice of the terms of the order as may be reasonably practicable.
- 17.2 Nothing in this clause 17 shall prevent:
- 17.2.1 the Supplier from disclosing the Software and the Documentation to any third party; or
  - 17.2.2 the Customer from disclosing the Software and the Documentation to such of its employees, sub-contractors and advisors as is necessary for the Customer to be able to exercise its rights and comply with its obligations under this Agreement, provided the Customer informs such parties of the confidential nature of the Confidential Information before disclosure and at all times, the Customer remains responsible for such parties' compliance with the obligations of confidentiality set out in this Agreement.

## **18 Non-Commercial Edition Software (only applicable where licensed before April 1<sup>st</sup> 2022**

- 18.1 For the avoidance of doubt, a Subscription for Non-Commercial Edition Software is limited to Non-Commercial Use only and as a result, for Non-Commercial Edition Software: (a) clause 3 shall apply; (b) clauses 8.2 and 12.2 of this Agreement shall not apply; and (c) clause 13.3 shall apply except that the wording "upon repayment to the Customer of the Subscription Fee on a pro rata basis" shall be deleted.

## **19     General**

- 19.1     The failure or delay of the Supplier to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any time or times thereafter.
- 19.2     Neither party shall be liable for any delay in or for failure to perform its obligations under this Agreement, other than an obligation to make any payment due to the other party, if that delay or failure is caused by circumstances beyond the control of that party including, without limitation, fires, strikes, insurrection, riots, embargoes, or regulations of any civil or military authority.
- 19.3     This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersedes, cancels and replaces all prior agreements, licences, negotiations and discussions between the parties relating to it. The Customer confirms and acknowledges that it has not been induced to enter into this Agreement by, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.
- 19.4     No variation of this Agreement shall be valid unless it is in writing and signed by an authorised representative of each of the parties.
- 19.5     The Customer shall not be entitled to assign this Agreement nor any of its rights or obligations hereunder nor sub-license the use of the Software or the Documentation.
- 19.6     The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement, and nothing in this Agreement shall confer or purport to confer on any third party any benefit or any right to enforce any term of this Agreement or operate to give any third party the right to enforce any term of this Agreement.
- 19.7     Each party shall: (i) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption, including, but not limited to, the UK Bribery Act 2010; (ii) have and maintain in place throughout the Subscription Period its own policies and procedures designed to ensure compliance with anti-bribery and anti-corruption laws, as appropriate; and (iii) promptly report to the other party any request or demand for any undue financial or other advantage of any kind made or received by it in connection with the performance of this Agreement.
- 19.8     If any provision of this Agreement shall be held to be unlawful, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining provisions of this Agreement which will remain in full force and effect.
- 19.9     This clause applies to Consumers only. The Consumer shall have the right to cancel this Agreement 14 days from the date the Consumer agrees to be obliged to pay for the Software and/or Support Services under this Agreement. Should the Consumer wish to cancel this Agreement under this clause 19.9, the Consumer must notify the Supplier of its decision to cancel by sending the Supplier an email clearly confirming the decision to the relevant email address on the "Imprint" page of the Supplier's website. Any complaints about this Agreement, including complaints about the Software and/or Support Services, should be raised with the Supplier using the relevant contact details on the "Contact Us" page of its website.
- 19.10     Any notice to be given under this Agreement shall be in writing and shall be delivered by hand or sent by first class post to the address of the other party set out in this Agreement (or such other address as may have been notified). Any such notice or

other document shall be deemed to have been served: if delivered by hand - at the time of delivery; and if sent by post - upon the expiration of 48 hours after posting.

- 19.11 Any request, instruction, information or other document issued in accordance with this Agreement may (except where this Agreement specifies a requirement for notice or notification) be sent by email to the other party at any email address as may be notified from time to time.
- 19.12 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 19.13 The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

## Schedule 1

### Evaluation Period

- 1 The Supplier grants the Customer the right to use the Software for the Evaluation Period on the terms set out in this Agreement.
- 2 During the Evaluation Period, the Customer hereby agrees that the Software is provided AS IS with no representation, guarantee or warranty of any kind as to its functionality, quality, performance, suitability or fitness for purpose. All other terms, conditions, representations and warranties expressed or implied whether by statute or otherwise are hereby expressly excluded.
- 3 During the Evaluation Period, the Software may be limited and/or restricted in its functionality in which case the Supplier will notify the Customer of any applicable restrictions prior to the start of the Evaluation Period (by displaying these on its website or otherwise).
- 4 The Supplier shall not be liable for any claim, damages or other liability arising from or in connection with the Customer's use of the Software during the Evaluation Period.
- 5 For the avoidance of doubt, during the Evaluation Period: (a) clauses 12.2, 15.2, and 13.1 to 13.4 of this Agreement shall not apply; and (b) clause 13.5 shall apply except that the reference to clauses 13.1 to 13.4 are deleted.
- 6 If the Customer wishes to continue to use the Software beyond the end of the Evaluation Period, the Customer can decide whether to obtain the equivalent Subscription for the Paid Edition Software or the Free Edition Software. Once the appropriate Subscription has been obtained, this Agreement shall continue in force (except that this Schedule 1 shall no longer apply). If no Subscription is obtained, this Agreement shall terminate automatically upon expiration of the Evaluation Period and subject to paragraph 5 of this Schedule, the provisions of clause 16.6 of this Agreement shall apply.

## Schedule 2

### Support Services

#### 1 General

The Customer accepts that, although the Supplier will use reasonable endeavours to solve problems identified by the Customer, the nature of Software is such that no guarantee can be provided that any particular problem will be solved. The Customer accepts that, where a particular problem requires an update to the Software, the scheduling of any new releases and the functionality those releases contain shall be under the Supplier's sole control.

#### 2 Standard support services

During the Subscription Period, the Supplier will provide support to the Customer:

- within three Working Days; and
- via email only.

#### 3 Priority support services

During the Subscription Period, the Supplier will provide support to the Customer within one Working Day.

Requests for priority support services should also be raised by email, but the Supplier may respond via email, telephone or VOIP.

### Schedule 3

#### Team Sharing

##### Customer's use of Team Sharing

- 1 The Customer may use Team Sharing to share resources between Authorised Users or with other licensed customers of the Software. The Customer is solely responsible for any invitations for Team Sharing it or its Authorised Users send via the Software.
- 2 Where Team Sharing is made available to you, Team Sharing will be turned on by default in the Software, but either the Customer (at an organisation-wide level) or an individual Authorised User may opt out of Team Sharing. No Team Sharing invitations will be received via the Software (from other Customers or Authorised Users) and Team Sharing functionality will not be usable following any such opt-out.
- 3 Team Sharing is not intended to be a sole repository for resources shared via it and the Customer should retain its own copy of any resources shared on Team Sharing.
- 4 The Customer acknowledges that the Customer and Authorised Users determine the nature and content of the resources the Customer or Authorised Users upload to Team Sharing. Team Sharing is not intended to act as a repository for personal data, but where the Customer uploads resources containing personal data the provisions of paragraphs 7 - 12 of this Schedule 3 shall apply. The Customer is responsible for ensuring that the Customer and Authorised Users have the necessary rights, authorisations, lawful basis and consents for uploading resources to Team Sharing.
- 5 The Supplier shall have no liability to the Customer for the use of Team Sharing by the Customer beyond that already set out in this Agreement.
- 6 The Customer may remove resources it has uploaded to Team Sharing at any time up to the termination or expiry of the Subscription Period. Upon termination or expiry of the Subscription, the Supplier shall delete all resources uploaded to Team Sharing by the Customer within 90 days.

##### Sharing personal data via Team Sharing

- 7 Where the Customer or Authorised User shares resources containing personal data via Team Sharing, the following provisions of this Schedule 3 shall apply to the Supplier's use of such personal data in addition to the provisions of clause 10 of this Agreement.
- 8 The Customer acknowledges that the Customer determines the nature and content of the data the Customer or Authorised Users upload to Team Sharing. To the extent the data uploaded to Team Sharing contains personal data which is subject to data protection legislation, the Supplier will act as a processor of the personal data on the Customer's behalf, and paragraphs 9 – 11 of this Schedule 3 shall apply only to such personal data. The details of the processing are set out in the Supplier's Privacy Policy.
- 9 As the controller of the personal data, the Customer is responsible for: (i) ensuring the Customer has a lawful basis for uploading the personal data to Team Sharing, including obtaining any necessary authorisations or consents from data subjects; and (ii) complying with all applicable data protection legislation.
- 10 The Supplier will:
  - 10.1 process the personal data only to the extent necessary for the purpose of providing Team Sharing and in accordance with the Customer's written instructions set out in this clause (except where we are required by law to

process the personal data other than in accordance with the Customer's instructions, in which case, the Supplier will inform the Customer of the relevant legal requirement prior to such processing, unless the law prohibits the provision of such information on important grounds of public interest);

- 10.2 implement appropriate technical and organisational measures in accordance with the data protection legislation to ensure a level of security appropriate to the risks that are presented by such processing;
- 10.3 ensure that any employees or other persons authorised to process the personal data are subject to appropriate obligations of confidentiality;
- 10.4 notify the Customer, as soon as reasonably practicable, about any request or complaint received from a data subject (without responding to that request, unless authorised to do so by the Customer) and at the Customer's cost, assist the Customer by technical and organisational measures, insofar as possible, for the fulfilment of the Customer's obligations in respect of such requests and complaints;
- 10.5 at the Customer's request and cost, and taking into account the nature of the processing and the information available to the Supplier, use reasonable endeavours to, assist the Customer with the Customer's compliance with the Customer's obligations under Articles 32 to 36 of the UK GDPR (where applicable);
- 10.6 where the Supplier transfers any personal data outside of the UK, ensure any such transfer meets the relevant requirements under Articles 44 - 50 of the UK GDPR. Save for any hosting providers the Supplier uses to provide Team Sharing, the Supplier won't share with any personal data with third parties outside the UK;
- 10.7 at the Customer's request and cost, make available all information necessary to demonstrate the Supplier's compliance with this Schedule 3 and on reasonable advance notice in writing otherwise permit, and contribute to, audits carried out by the Customer (or the Customer's authorised representative) with respect to the personal data, save that the Customer shall (or shall ensure the Customer's authorised representatives shall):
  - sign a non-disclosure agreement in terms acceptable to the Supplier prior to undertaking such audit;
  - be accompanied by a Supplier employee at all times whilst on site during the audit;
  - use reasonable endeavours to ensure that the conduct of any such audit does not unreasonably disrupt the Supplier's normal business operations; and
  - comply with the Supplier's relevant IT and security policies whilst carrying out any such audit; and
- 10.8 on termination or expiry of this Agreement, the Customer may remove any and all copies of resources containing personal data from the Software, otherwise such copies will be deleted by the Supplier (unless the Supplier is required to keep or store a copy of any personal data by law) in accordance with clause 6.6 of this Agreement.

- 11 The Supplier's current third party sub-processors are listed in the Supplier's Privacy Policy. The Supplier will provide the Customer with notification of any new sub-processors the Supplier intends to use. If the Customer objects to the use of a new



sub-processor, the Customer may terminate this Agreement on 30 days' written notice to the Supplier.

- 12 Any data protection terms used in this Schedule 3 or clause 10 of this Agreement and not defined in this Agreement shall have the meaning given in the UK GDPR.