

# CAT360 TERMS & CONDITIONS

## MASTER SOFTWARE AS A SERVICE (SAAS) AGREEMENT

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These current consolidated CAT360 Master SaaS Terms were published on 1 February 2026

## 1 Definitions and interpretation

- 1.1 The definitions and rules of interpretation set out in the schedule shall apply to this Agreement.
- 1.2 In this Agreement:
  - 1.2.1 each Proposal entered into by the Customer shall form a separate agreement, incorporating these Master SaaS Terms, the Subscribed Service Specific Terms for the respective Subscribed Services and the Policies (Agreement);
  - 1.2.2 in the event of any conflict in respect of the provisions of this Agreement and/or the documents referred to in it the following order of priority shall prevail (in descending order of priority):
    - (a) the Proposal ;
    - (b) the Subscribed Service Specific Terms;
    - (c) the Policies;
    - (d) the Master SaaS Terms; and
    - (e) the Documentation; and
  - 1.2.3 subject to the order of priority between documents in clause 1.2.2, later versions of documents shall prevail over earlier ones if there is any conflict or inconsistency between them.
- 1.3 Any obligation of the Supplier under this Agreement to comply or ensure compliance by any person or the Services with any law shall be limited to compliance only with laws within the Subscribed Territory as generally applicable to businesses and to providers of software as a service solutions. Such obligations shall not be construed to create any obligation on the Supplier (or anyone acting on its behalf) or any part of the Services to comply with any laws or regulations which apply solely to specific commercial or other activities (such as insurance, legal advice or banking or other professional services) or which apply solely to a specific commercial or non commercial sector (or part thereof) (such as the public, legal, accountancy, actuarial, insurance, banking or financial service sectors).

- 1.4 Any Consultancy Services provided by the Supplier shall be governed by the Supplier's Consultancy Services Terms and Conditions, available at [Barbourne Brook - Terms and Conditions \(V2\)](#) (as updated from time to time), and, where applicable, a statement of work, order form or other written specification and fees agreed between the parties.

Unless expressly stated otherwise in writing, the Consultancy Services do not form part of the Services under this Agreement and are not subject to the terms of this Agreement, save that any provisions expressly stated to apply to Consultancy Services shall continue to apply.

## 2 Rights of use

- 2.1 Upon Order Acceptance and subject to the terms of this Agreement, the Supplier grants the Customer a non-exclusive, non-transferable, personal right to:

2.1.1 use each Subscribed Service during Service Hours; and

2.1.2 use the Documentation as strictly necessary for its use by Authorised Users of the Subscribed Services,

within the relevant Subscribed Territory during the Subscribed Service Period for the Permitted Purpose.

- 2.2 The Customer acknowledges that use of the Subscribed Services is at all times subject to the Customer's compliance with this Agreement (including all minimum system requirements).

- 2.3 The Customer acknowledges that the Services do not include:

2.3.1 any services, systems or equipment required to access the internet and/or transmit data (and all associated costs and expenses incurred by the Customer in this regard in connection with use of the Services are the responsibility of the Customer);

2.3.2 data back up or disaster recovery facilities (and the Customer shall ensure it at all times maintains backups of all Customer Data according to its requirements); or

2.3.3 legal, accounting or other professional or regulated services and that, except as expressly stated in this Agreement, no assurance is given

that the Services will comply with or satisfy any legal or regulatory obligation of any person.

### **3 Authorised Users**

- 3.1 The Customer shall ensure that only Authorised Users use the Subscribed Services and that such use is at all times in accordance with this Agreement.
- 3.2 The Customer shall keep a list of all Authorised Users and shall notify the Supplier within 5 Business Days if any updates to any list of Authorised Users are made.
- 3.3 The Customer shall ensure that the number of Authorised Users for each Subscribed Service do not exceed the number of Purchased Authorised User Accounts for the relevant Subscribed Service at any time. The Customer is entitled to remove any individual as an Authorised User and replace them with another individual in accordance with the terms of this Agreement, but Authorised User accounts cannot be shared or used by more than one individual at the same time.
- 3.4 Without prejudice to any other right or remedy of the Supplier, in the event the Customer is in breach of clause 3.3, the Customer shall be liable to pay for the number of Authorised Users above the number of Purchased Authorised User Accounts for that Subscribed Service for the relevant period during which usage was exceeded in accordance with the Supplier's Standard Pricing Terms.
- 3.5 The Customer shall:
  - 3.5.1 be liable for the acts and omissions of the Authorised Users and the Authorised Affiliates as if they were its own;
  - 3.5.2 only provide Authorised Users with access to the Services via the access method provided by the Supplier and shall not provide access to (or permit access by) anyone other than an Authorised User; and
  - 3.5.3 procure that each Authorised User (and each Authorised Affiliate) is aware of, and complies with, the obligations and restrictions imposed on the Customer under this Agreement, including all obligations and restrictions relating to the Supplier's Confidential Information.

- 3.6 The Customer warrants and represents that it, and all Authorised Users and all others acting on its or their behalf (including systems administrators), shall keep confidential and not share with any third party their password or access details for any Subscribed Service.
- 3.7 The Customer shall (and shall ensure all Authorised Affiliates and Authorised Users shall) at all times comply with the Acceptable Use Policy and all other provisions of this Agreement.
- 3.8 The Customer shall comply (and shall ensure all Authorised Affiliates and Authorised Users comply) with all applicable laws, rules, and regulations governing export that apply to the Services, the Customer Data and the Documentation (or any part), and shall not export or re-export, directly or indirectly, separately or as a part of a system, the Services, the Customer Data or the Documentation (or any part) to, or access or use the Services, the Customer Data or the Documentation (or any part) in, any country or territory for which an export licence or other approval is required under the laws of *the* United Kingdom, the United States, the European Union or any of its member states, without first obtaining such licence or other approval. Without prejudice to the Supplier's obligations under the Data Protection Policy, the Customer shall be solely responsible for ensuring its access, importation and use of the Services, the Customer Data and Documentation in or into any part of the Subscribed Territory or elsewhere complies with all export and other laws.
- 3.9 Clauses 3.5 to 3.8 (inclusive) shall survive termination or expiry of our Agreement.

#### **4 Indemnity**

- 4.1 The Customer shall indemnify, keep indemnified and hold harmless the Supplier from and against any losses, liabilities, damages, costs (including reasonable legal and other professional fees) and expenses suffered or incurred by the Supplier (or any of its Affiliates) arising out of or in connection with:
- 4.1.1 any breach by the Customer of clauses 3.6 and 3.8 (Authorised Users), clause 14 (Confidential Information) or clause 16 (Ethical Standards);
- 4.1.2 any Data Protection Losses arising from the Customer's breach of Data Protection Legislation or its obligations under this Agreement; and

- 4.1.3 any claim that the Supplier's receipt, use or exploitation of any materials, information or content provided by or on behalf of the Customer in accordance with this Agreement infringes the intellectual property rights of any third party.
- 4.2 The Supplier shall indemnify, keep indemnified and hold harmless the Customer from and against any losses, liabilities, damages, costs (including reasonable legal and other professional fees) and expenses suffered or incurred by the Customer arising out of or in connection with:
  - 4.2.1 any breach by the Supplier of clause 14 (Confidential Information) or clause 16 (Ethical Standards);
  - 4.2.2 any Data Protection Losses arising from the Supplier's breach of Data Protection Legislation or its obligations under this Agreement; and
  - 4.2.3 any claim that the Services, or the Customer's receipt and use of the Services in accordance with this Agreement, infringe the intellectual property rights of any third party.
- 4.3 The indemnities in this clause 4 shall apply only to the extent that the relevant loss arises directly from the matters set out in clauses 4.1 or 4.2 (as applicable).
- 4.4 This clause 4 shall survive termination or expiry of this Agreement.

## **5 Support**

- 5.1 Support Services shall be available to the Customer for each Subscribed Service, for the duration of the respective Subscribed Service Period, to the extent and in the manner specified in the relevant Subscription Service Specific Terms and Proposal.
- 5.2 The Supplier shall use reasonable endeavours to notify the Customer in advance of scheduled maintenance but the Customer acknowledges that it may receive no advance notification for downtime caused by Force Majeure or for other emergency maintenance.

## **6 Changes to services and terms**

- 6.1 The Supplier may at its absolute discretion make, and notify the Customer of, updated versions of the documents referred to in clause 1.2.2 or other

documents referred to in any part of this Agreement (excluding in each case the Proposal) from time to time by notifying the Customer of such update by e-mail (together with a copy of the update or a link to a copy of the update) or by any other reasonable means which the Supplier *elects* (**Update Notification**).

- 6.2 The document(s) subject to such an Update Notification shall replace the preceding version of the same document(s) for the purposes of this Agreement from the date 20 Business Days after the Update Notification of such revised document(s) (the **Update**) (or at such later date as the Supplier may specify).
- 6.3 Subject to the provisions of this clause 6.3, the Supplier shall be entitled to modify the features and functionality of the Services. Without restriction, such changes may include changing the volume of data which may be used, stored or transmitted in connection with the Services, altering data retention periods, or restricting access to application programming interfaces. Such changes must be introduced by an Update and any such modification shall not materially adversely affect the use of the relevant Subscribed Service(s) by the Supplier's customers generally.
- 6.4 In the event that any Update has a material adverse impact on the Customer, the Customer may by notice elect to terminate this Agreement with immediate effect in respect of all impacted Subscribed Services provided it gives written notice to the Supplier within 1 month of the Update taking effect. In the event of such termination, the Customer shall receive a refund of any pre-paid Fees in respect of such terminated Services in respect of any period following such termination.
- 6.5 For the purposes of this clause, "materially adversely affect" shall mean any change, modification, or update that significantly impairs or diminishes the ability of the Customer to use the relevant Subscribed Service(s) in a manner consistent with the intended purpose and functionality as reasonably anticipated at the time of entering into this Agreement. This includes, but is not limited to, substantial reductions in service performance, accessibility, or usability, or the introduction of restrictions that fundamentally alter the agreed scope of the Services. Minor inconveniences or changes that do not substantially impact the overall use or value of the Services shall not be deemed to materially adversely affect the Customer.

6.6 In exercising its rights under this clause 6, the Supplier shall comply with its related obligations under the Data Protection Policy.

## 7 Fees

7.1 The Fees and any other charges (including expenses) expressly agreed between the parties in writing shall be paid by the Customer at the rates and in the manner described in the Pricing Terms.

7.2 The Supplier shall invoice the Customer:

7.2.1 For Subscription Fees, the invoicing frequency (either annually in advance or monthly) shall be as detailed in the Proposal:

- (a) if invoiced annually in advance, payment shall be due within 30 days of the date of the invoice and in advance of the next Subscription Term; or
- (b) if invoiced monthly, payment shall be made by direct debit on the due date specified in the invoice.

Notwithstanding the above, the initial payment for any Fees shall be due on the commencement of the Services or must be made in full before the Supplier is obligated to provide the Services.

7.2.2 For all other Fees, the Supplier shall invoice the Customer and all such invoices shall be paid within thirty days of the date on the invoice.

7.3 The Fees are exclusive of VAT which shall be payable by the Customer in addition at the rate and in the manner prescribed by law.

7.4 Fees payable to the Supplier under this Agreement shall be paid by bank transfer into the Supplier's designated bank account unless payment is made by direct debit, as applicable. The Supplier shall notify the Customer in writing of the relevant payment details in accordance with this Agreement, either in the Proposal or otherwise.

7.5 The Supplier shall have the right to charge interest on overdue invoices at the rate of 8% per year above the base rate of the Bank of England, calculated from the date when payment of the invoice becomes due for payment up to and including the date of actual payment whether before or after judgment.

- 7.6 The Supplier shall be entitled to increase the Fees for any and all Services at any time by providing the Customer with no less than 60 days' prior written notice of such increase. The Supplier may increase the Fees to reflect developments or enhancements to the Services that materially improve their functionality, performance, or scope.
- 7.7 Upon receiving notice of a fee increase, the Customer shall have the option to:
- 7.7.1 continue using the original version of the Services without accepting the enhancements or developments, in which case the Fees shall remain unchanged for the remainder of the term of this Agreement;  
or
- 7.7.2 accept the fee increase and utilise the enhanced or developed version of the Services.
- 7.8 If the Customer does not accept the fee increase and elects to terminate the Agreement, the Customer shall provide written notice to the Supplier within 1 month of being notified of the increase. In such event, the Customer shall be entitled to a refund of any pre-paid Fees in respect of the terminated Services for any period following the termination date.
- 7.9 To the extent this Agreement terminates or expires (other than due to termination by the Customer under clauses 6.4, 7.8 or 22.3), the Customer shall not be entitled to any refund or discount of Fees paid for any parts of any month during which the Services cease to be provided.

## **8 Warranties**

- 8.1 Subject to the remainder of this clause 8, the Supplier warrants that:
- 8.1.1 each Subscribed Service shall operate materially in accordance with its Description when used in accordance with this Agreement under normal use and normal circumstances during the relevant Subscribed Service Period; and
- 8.1.2 it shall provide each of the Services with reasonable care and skill.
- 8.2 The Customer acknowledges that clause 8.1 does not apply to Free or Trial Services or to Support Services provided in connection with the same. Without prejudice to the Supplier's obligations under this Agreement in

respect of Protected Data, Free or Trial Services and Support Services provided in connection with the same are provided 'as is' and without warranty to the maximum extent permitted by law.

- 8.3 The Services may be subject to delays, interruptions, errors or other problems resulting from use of the internet or public electronic communications networks used by the parties or third parties. The Customer acknowledges that such risks are inherent in cloud services and that the Supplier shall have no liability for any such delays, interruptions, errors or other problems.
- 8.4 If there is a breach of any warranty in clause 8.1, the Supplier shall at its option: (i) use reasonable endeavours to rectify the issue with the impacted Services within a reasonable time; or (ii) refund the Fees for the impacted Services which were otherwise payable for the period during which the Supplier was in breach of any such warranty (provided such period is at least 7 consecutive days). To the maximum extent permitted by law, this clause 8.4 sets out the Customer's sole and exclusive remedy (however arising, whether in contract, negligence or otherwise) for any breach of any of the warranties in clause 8.1.
- 8.5 The warranties in clause 8.1 are subject to the limitations set out in clause 19 and shall not apply to the extent that any problem with the Services arises as a result of:
- 8.5.1 incorrect access or use of the Services by the Customer, any Authorised Affiliate or any Authorised User;
  - 8.5.2 access to or use of any of the Services by the Customer or any Authorised User other than for the purposes for which it is intended;
  - 8.5.3 use of any Services with other software or services or on equipment with which it is incompatible (unless the Supplier recommended or required the use of that other software or service or equipment in the Description and/or User Manual);
  - 8.5.4 any modification of Services (other than that undertaken by the Supplier or at its direction);
  - 8.5.5 failure to install any Update or Upgrade recommended by the Supplier;

- 8.5.6 Force Majeure; or
  - 8.5.7 any breach of this Agreement by, or negligence or other unlawful act or omission of the Customer (or by any Authorised Affiliate or Authorised User).
- 8.6 The Supplier may make Non-Supplier Materials available for the Customer's use in connection with the Services. The Customer agrees that:
- 8.6.1 the Supplier has no responsibility for the use or consequences of use of any Non-Supplier Materials;
  - 8.6.2 the Customer's use of any Non-Supplier Materials shall be governed by the applicable terms between the Customer and the owner or licensor of the relevant Non-Supplier Materials;
  - 8.6.3 the Customer is solely responsible for any Non-Supplier Materials used in connection with the Services and for compliance with all applicable third party terms which may govern the use of such Non-Supplier Materials; and
  - 8.6.4 the continued availability, compatibility with the Services and performance of the Non-Supplier Materials is outside the control of the Supplier and the Supplier has no responsibility for any unavailability of, or degradation in, the Services to the extent resulting from the availability, incompatibility or performance of any of the Non-Supplier Materials.
- 8.7 The Customer acknowledges and agrees that no liability or obligation is accepted by the Supplier (howsoever arising whether under contract, tort, in negligence or otherwise):
- 8.7.1 that the Subscribed Services shall meet the Customer's individual needs, whether or not such needs have been communicated to the Supplier;
  - 8.7.2 that the operation of the Subscribed Services shall not be subject to minor errors or defects; or
  - 8.7.3 that the Subscribed Services shall be compatible with any other software or service or with any hardware or equipment except to the extent expressly referred to as compatible in the Description.

8.8 Other than as expressly and specifically set out in this clause 8, and subject to clause 20.7, all warranties, conditions, terms, undertakings or obligations whether express or implied by statute, common law or otherwise (including in each case any implied conditions, warranties or terms relating to quality, fitness for any particular purpose, reasonable care and skill or ability to achieve a particular result) are excluded to the extent permitted by law.

## 9 **Customer's responsibilities**

9.1 The Customer shall be responsible for the following:

9.1.1 ensuring that no changes, alterations, or modifications are made to HMRC reports between the time they are downloaded by the Customer and provided to the Supplier. The Customer shall provide such reports to the Supplier in their original, unaltered form;

9.1.2 ensuring that all data, information, and materials provided to the Supplier are accurate, complete, and of suitable quality for the purposes of the Services. The Customer shall take reasonable steps to verify the accuracy and integrity of such data prior to submission;

9.1.3 cooperating with the Supplier in good faith and providing all necessary assistance, information, and access required for the Supplier to perform its obligations under this Agreement;

9.1.4 ensuring that it has the right to provide the relevant data, information, and materials to the Supplier for the purposes of the Services; and

9.1.5 promptly notifying the Supplier of any errors, inaccuracies, or issues in the data or reports provided that may impact the performance of the Services.

9.2 Failure to comply with the responsibilities outlined in this clause 9 may result in delays, additional costs, or limitations in the Supplier's ability to provide the Services, for which the Supplier shall not be held liable.

## 10 **Intellectual property**

10.1 All Intellectual Property Rights in and to the Services (including in all Applications, Documentation, the User Manual and all Supplier Provided Materials) belong to and shall remain vested in the Supplier or the relevant

third party owner. To the extent that the Customer, any of its Affiliates or any person acting on its or their behalf acquires any Intellectual Property Rights in the Applications, Documentation, the User Manual, Supplier Provided Materials or any other part of the Services, the Customer shall assign or procure the assignment of such Intellectual Property Rights with full title guarantee (including by way of present assignment of future Intellectual Property Rights) to the Supplier or such third party as the Supplier may elect.

- 10.2 The Customer and Authorised Users may be able to store or transmit Customer Data using one or more Subscribed Service and the Subscribed Services may interact with Customer Systems. The Customer hereby grants a royalty-free, non-transferable, non-exclusive licence for the Supplier (and each of its direct and indirect sub-contractors) to use, copy and otherwise utilise the Customer Data and Customer Systems to the extent reasonably necessary to perform or provide the Services or to exercise or perform the Supplier's rights, remedies and obligations under this Agreement.
- 10.3 To the extent Non-Supplier Materials are made available to, or used by or on behalf of the Customer, any Authorised Affiliate or any Authorised User in connection with the use or provision of any Subscribed Service, such use of Non-Supplier Materials (including all licence terms) shall be exclusively governed by applicable third party terms notified or made available by the Supplier or the third party and not by this Agreement. The Supplier grants no Intellectual Property Rights or other rights in connection with any Non-Supplier Materials.
- 10.4 The Supplier may use any feedback and suggestions for improvement relating to the Services provided by the Customer, the Authorised Affiliates or any Authorised User without charge or limitation (**Feedback**). The Customer hereby assigns all Intellectual Property Rights in the Feedback with full title guarantee (including by way of present assignment of future Intellectual Property Rights) to the Supplier at the time such Feedback is first provided to the Supplier.
- 10.5 The Customer hereby waives (and shall ensure all relevant third parties have waived) all rights to be identified as the author of any work, to object to derogatory treatment of that work and all other moral rights in the Intellectual Property Rights assigned to the Supplier under this Agreement.

- 10.6 The Customer shall (and, as required, shall procure that its Affiliates and Authorised Users shall), execute such documents and perform such acts, as may reasonably be required to give effect to the assignment pursuant to this clause 10.
- 10.7 Except for the rights expressly granted in this Agreement, the Customer, any Authorised User, any Customer Affiliate and their direct and indirect sub-contractors or other related third parties, shall not acquire in any way any title, rights of ownership, or Intellectual Property Rights of whatever nature in the Services (or any part, including the Applications, Documentation, or Supplier Provided Materials) and no Intellectual Property Rights of either party are transferred or licensed as a result of our Agreement.
- 10.8 Except to the extent expressly permitted by sections 50A to 50C of the Copyright, Designs and Patents Act 1988 or any other applicable law which cannot be excluded by agreement, the Customer shall not (and shall ensure that its Affiliates, Authorised Users and any third party acting on its behalf shall not), directly or indirectly:
- 10.8.1 copy, reproduce, duplicate, modify, adapt, translate, frame, mirror or create derivative works from the Services, Applications, User Manual, Documentation or any Supplier Provided Materials;
  - 10.8.2 reverse engineer, decompile, disassemble or otherwise attempt to derive the source code, object code, underlying ideas, algorithms, structure or organisation of the Services or any part of them;
  - 10.8.3 access or use the Services, Applications or Supplier Provided Materials for the purpose of developing, providing or supporting a product or service that competes with the Services;
  - 10.8.4 remove, obscure or alter any proprietary notices, branding, copyright notices or other indications of ownership included in or on the Services or Supplier Provided Materials;
  - 10.8.5 circumvent, disable or otherwise interfere with any technical safeguards, access controls or security features of the Services; or
  - 10.8.6 permit any third party to do any of the foregoing.

10.9 For the avoidance of doubt, any information obtained by the Customer through any act permitted under sections 50A to 50C of the Copyright, Designs and Patents Act 1988 shall be treated as the Supplier's Confidential Information and shall not be disclosed or used except to the minimum extent strictly necessary to achieve interoperability in accordance with those sections.

10.10 This clause 10 shall survive the termination or expiry of this Agreement.

## 11 **Defence against infringement claims**

11.1 Subject to clauses 11.2 and 11.4, the Supplier shall:

11.1.1 defend at its own expense any claim brought against the Customer by any third party alleging that the Customer's use of the Services infringes any copyright, database right or registered trade mark, registered design right or registered patent in the United Kingdom (an **IP Claim**); and

11.1.2 pay, subject to clause 11.2, all costs and damages awarded against the Customer by a court of competent jurisdiction in final judgment (or agreed in settlement by the Supplier) of an IP Claim.

11.1.3 promptly (and in any event within 5 Business Days) notifies the Supplier upon becoming aware of any actual or threatened IP Claim and provides full written particulars;

11.1.4 makes no comment or admission and takes no action that may adversely affect the Supplier's ability to defend or settle the IP Claim;

11.1.5 provides all assistance reasonably required by the Supplier subject to the Supplier paying the Customer's reasonable costs; and

11.1.6 gives the Supplier sole authority to defend or settle the IP Claim as the Supplier considers appropriate.

11.2 The provisions of clause 19 shall apply to any payment of costs and damages awarded or agreed in settlement or final judgment of an IP Claim under clause 11.1.

11.3 In the event of any IP Claim, the Supplier may elect to terminate this Agreement immediately by written notice and promptly refund the Customer

on a pro-rata basis any unused proportion of Fees paid in advance. This clause 11.3 is without prejudice to the Customer's rights and remedies under clause 11.1.

11.4 The Supplier shall have no liability or obligation under this clause 11 in respect of (and shall not be obliged to defend) any IP Claim which arises in whole or in part from:

11.4.1 any modification of the Services (or any part) without the Supplier's express written approval;

11.4.2 any Non-Supplier Materials;

11.4.3 any Customer Data;

11.4.4 any Free or Trial Services (or any Support Services provided in connection with them);

11.4.5 any Open Source Software;

11.4.6 any breach of this Agreement by, or negligence or unlawful act of the Customer;

11.4.7 installation or use of the Services (or any part) otherwise than in accordance with this Agreement and the User Manual; or

11.4.8 installation or use of the Services (or any part) in combination with any software, hardware or data that has not been supplied or expressly authorised by the Supplier.

11.5 Subject to clause 19.7, the provisions of this clause 11 set out the Customer's sole and exclusive remedy (howsoever arising, including in contract, tort, negligence or otherwise) for any IP Claim or any other actual or alleged infringement of any Intellectual Property Rights.

## **12 Customer Systems and Customer Data**

12.1 Customer Data shall at all times remain the property of the Customer or its licensors.

12.2 Except to the extent the Supplier has direct obligations under data protection laws, the Customer acknowledges that the Supplier has no control over any Customer Data hosted as part of the provision of the Services and may not

actively monitor or have access to the content of the Customer Data. The Customer shall ensure (and is exclusively responsible for) the accuracy, quality, integrity and legality of the Customer Data and that its use (including use in connection with the Service) complies with all applicable laws and Intellectual Property Rights.

- 12.3 If the Supplier becomes aware of any allegation that any Customer Data may not comply with the Acceptable Use Policy or any other part of this Agreement, the Supplier shall have the right to permanently delete or otherwise remove or suspend access to any Customer Data which is suspected of being in breach of any of the foregoing from the Services and/or disclose Customer Data to law enforcement authorities (in each case without the need to consult the Customer). Where reasonably practicable and lawful, the Supplier shall notify the Customer before taking such action.
- 12.4 Except as otherwise expressly agreed in this Agreement, the Supplier shall not be obliged to provide the Customer with any assistance extracting, transferring or recovering any data whether during or after the Service Period. The Customer acknowledges and agrees that it is responsible for maintaining safe backups and copies of any Customer Data, including as necessary to ensure the continuation of the Customer's and Authorised Affiliates' businesses. The Customer shall, without limitation, ensure that it backs up (or procures the back up of) all Customer Data regularly (in accordance with its, its Authorised Affiliates and its Authorised User's needs) and extracts it from each Subscribed Service prior to the termination or expiry of this Agreement or the cessation or suspension of any of the Services.
- 12.5 The Supplier routinely undertakes regular backups of the Subscribed Services (which may include Customer Data) for its own business continuity purposes. The Customer acknowledges that such steps do not in any way make the Supplier responsible for ensuring the Customer Data does not become inaccessible, damaged or corrupted. To the maximum extent permitted by applicable law, the Supplier shall not be responsible (under any legal theory, including in negligence) for any loss of availability of, or corruption or damage to, any Customer Data.
- 12.6 Unless otherwise set out in the Proposal, the Subscribed Service Specific Terms or subsequently agreed by the parties in writing, the Customer hereby instructs that the Supplier shall within 60 days of the earlier of the end of the

provision of the Services (or any part) relating to the processing of the Customer Data securely dispose of such Customer Data processed in relation to the Services (or any part) which have ended (and all existing copies of it) except to the extent that any applicable laws of the United Kingdom (or a part of the United Kingdom) requires the Supplier to store such Customer Data. The Supplier shall have no liability (howsoever arising, including in negligence) for any deletion or destruction of any such Customer Data undertaken in accordance with this Agreement.

### 13 Confidentiality and security of Customer Data

13.1 The Supplier shall maintain the confidentiality of the Customer Data in accordance with the provisions of clause 14 and shall not without the prior written consent of the Customer or in accordance with this Agreement, disclose or copy the Customer Data other than as reasonably necessary for the performance of the Services or in accordance with its express rights and obligations under this Agreement.

13.2 The Supplier shall implement technical and organisational security measures in accordance with the Information Security Policy.

### 14 Confidential Information

14.1 Each party, **(the Receiving Party)** shall:

14.1.1 keep confidential any information that is confidential in nature concerning the other party and/or its Affiliates (including (to the extent confidential) any details of its business, affairs, customers, clients, suppliers, plans or strategy) which is provided or made available by the other party to the Receiving Party under or in connection with this Agreement (**Confidential Information**);

14.1.2 not use, or disclose to any person, the other party's Confidential Information, except as permitted by clause 14; and

14.1.3 the Customer acknowledges and agrees that all information relating to the Supplier's Pricing Terms, Proposal, User Manual, the Description, the Applications, the Documentation, Supplier Provided Materials and any other technical, functional, operational or commercial specifications or data relating to each Subscribed Service shall constitute the Supplier's Confidential Information,

- 14.2 The Receiving Party may:
- 14.2.1 subject to clause 14.3, disclose any Confidential Information to any of its employees, officers, representatives, subcontractors or advisers **(Representatives)** who need to know the relevant Confidential Information for the purposes of the performance of any obligations under this Agreement, provided that the Receiving Party must ensure that each of its Representatives to whom Confidential Information is disclosed is aware of its confidential nature and agrees to comply with this clause 14.2.1 as if it were the Receiving Party
  - 14.2.2 disclose any Confidential Information as may be required by law, any court, any governmental, regulatory or supervisory authority (including any securities exchange) or any other authority of competent jurisdiction to be disclosed;
  - 14.2.3 subject to clause 14.3, use Confidential Information only to the extent reasonably necessary to perform its obligations under this Agreement; and
  - 14.2.4 where the Confidential Information includes the Proposal, use such Proposal solely for the purposes of evaluating, entering into and performing this Agreement and for no other purpose.
- 14.3 To the extent that any Confidential Information is personal data and without restriction, such Confidential Information may be disclosed or used only to the extent that such disclosure or use does not conflict with the Data Protection Policy.
- 14.4 Each party recognises that any breach or threatened breach of this clause may cause irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages, the parties agree that the non-defaulting party may be entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages
- 14.5 The obligations under this clause and clause 13 above shall survive the variation, expiry or termination of this Agreement for a period of three years thereafter.

- 14.6 The Receiving Party shall give notice to the other party of any unauthorised use, disclosure, theft or loss of its Confidential Information immediately upon becoming aware of the same.
- 14.7 The provisions of this clause 14 shall not apply to information which:
- 14.7.1 is or comes into the public domain through no fault of the other party, its officers, employees, agents or contractors;
  - 14.7.2 is lawfully received by the Receiving Party from a third party free of any obligation of confidence at the time of its disclosure;
  - 14.7.3 is independently developed by the Receiving Party, without access to or use of the other party's Confidential Information; or
  - 14.7.4 is required by law, by court or governmental or regulatory order to be disclosed provided that the Customer, where possible, notifies the Supplier at the earliest opportunity before making any disclosure.

## 15 **Monitoring compliance**

- 15.1 During the Service Period and for seven years thereafter, the Customer shall maintain full and accurate records relating to Authorised Users', the Customer's and Authorised Affiliates' use of the Services under this Agreement.
- 15.2 The Customer shall allow and procure for the Supplier (and any representatives of the Supplier) access to its premises and the premises of Authorised Affiliates to:
- 15.2.1 inspect use of the Services; and
  - 15.2.2 audit (and take copies of) the relevant records of the Customer and the Authorised Affiliates relating to the Services,
- in each case to the extent reasonably necessary (and legally permitted in the circumstances) to verify that the Customer is in compliance with its obligations under this Agreement.
- 15.3 Unless otherwise agreed in writing, the inspection and audit referred to in clause 15.2 shall be undertaken:
- 15.3.1 during the Customer's normal business hours on Business Days;

- 15.3.2 subject to the provision by the Supplier of a minimum of five Business Days' notice;
- 15.3.3 not more than twice in any calendar year; and
- 15.3.4 at the reasonable cost of the Supplier, unless the audit reveals a material breach of this Agreement by the Customer.
- 15.4 At the Supplier's request from time to time, the Customer shall promptly (and in any event within two Business Days of such request) provide the Supplier with copies of the records referred to in clause 15.1.
- 15.5 The Supplier may monitor, collect, store and use information on the use and performance of the Services (including Customer Data) to detect threats or errors to the Services and/or Supplier's operations and for the purposes of the further development and improvement of the Supplier's services, provided that such activities at all times comply with the Privacy Policy and Data Protection Policy.
- 15.6 This clause 15 shall survive termination or expiry of our Agreement for a period of 12 months.

## 16 **Ethical Standards**

### 16.1 **Anti-Bribery and Corruption**

- 16.1.1 Each party shall comply with all applicable laws relating to anti-bribery and anti-corruption, including the Bribery Act 2010.
- 16.1.2 The Customer shall not, and shall ensure that its Authorised Users do not, engage in any activity, practice or conduct which would constitute an offence under such legislation in connection with this Agreement.

### 16.2 **Prevention of Tax Evasion**

- 16.2.1 Each party shall comply with all applicable laws relating to the prevention of tax evasion, including the Criminal Finances Act 2017.
- 16.2.2 The Customer shall not engage in, facilitate or assist any tax evasion or the facilitation of tax evasion in connection with this Agreement or its use of the Services.

### **16.3 Fraud**

16.3.1 The Customer shall not engage in any fraudulent, deceptive or misleading conduct in connection with this Agreement or the use of the Services, and shall ensure that its Authorised Users do not do so.

### **16.4 Modern Slavery and Human Trafficking**

16.4.1 Each party shall comply with all applicable laws relating to modern slavery and human trafficking, including the Modern Slavery Act 2015.

16.4.2 The Customer warrants that it has not been convicted of, and is not the subject of, any investigation or enforcement action in relation to modern slavery or human trafficking.

## **17 Compliance with Supplier Policies**

17.1.1 The Customer shall comply, and shall ensure that its Authorised Users comply, with the Supplier's policies applicable to the Services, as updated from time to time, including:

- (a) the Anti-Bribery Policy;
- (b) the Modern Slavery Policy; and
- (c) any other policies expressly referenced in this Agreement.

17.2 Any breach of this clause 17 shall be deemed a material breach for the purposes of the Supplier's rights to suspend or terminate the Services under this Agreement.

## **18 Relief**

To the maximum extent permitted by law, the Supplier shall not be liable (under any legal theory, including negligence) for any breach, delay or default in the performance of this Agreement to the extent the same (or the circumstances giving rise to the same) arises or was contributed to by any Relief Event.

## **19 Limitation of liability**

19.1 The extent of the Supplier's liability under or in connection with this Agreement (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation or under any indemnity) shall be as set out in this clause 19.

- 19.2 Subject to clauses 19.2, 19.4 and 19.7, the Supplier's total aggregate liability in respect of each individual Subscribed Service (and all Support Services provided in connection with the same) (howsoever arising under or in connection with this Agreement) shall not exceed the greater of:
- 19.2.1 an amount equal to the Subscription Fees for the relevant Subscribed Service paid to the Supplier by the Customer in the 12-month period immediately preceding the first incident giving rise to any claim under this Agreement; or
  - 19.2.2 an amount equal to 12 times the Subscription Fees for the relevant Subscribed Service due or paid to the Supplier for the first month of the relevant Subscribed Service Period.
- 19.3 Subject to clauses 19.4 and 19.7, the Supplier's total aggregate liability in respect of each individual Free or Trial Service (and all Support Services provided in connection with the same) (howsoever arising under or in connection with this Agreement) shall not exceed £1,000
- 19.4 Subject to clause 19.7, the Supplier's total aggregate liability howsoever arising under or in connection with this Agreement shall not exceed the greater of:
- 19.4.1 an amount equal to the Fees for all Services paid to the Supplier in the 12-month period immediately preceding the first incident giving rise to any claim under this Agreement; or
  - 19.4.2 an amount equal to 12 times the Fees due or paid to the Supplier for the Services provided in the first month of the Service Period,  
  
save where expressly stated otherwise in clause 19.7.
- 19.5 Subject to clause 19.7, the Supplier shall not be liable for consequential, indirect or special losses.
- 19.6 Subject to clause 19.7, the Supplier shall not be liable for any of the following (whether direct or indirect):
- 19.6.1 loss of profit;
  - 19.6.2 destruction, loss of use or corruption of data;

- 19.6.3 loss or corruption of software or systems;
  - 19.6.4 loss or damage to equipment;
  - 19.6.5 loss of use;
  - 19.6.6 loss of production;
  - 19.6.7 loss of contract;
  - 19.6.8 loss of commercial opportunity;
  - 19.6.9 loss of savings, discount or rebate (whether actual or anticipated);  
and/or
  - 19.6.10 harm to reputation or loss of goodwill; and
  - 19.6.11 wasted expenditure.
- 19.7 Notwithstanding any other provision of this Agreement, the Supplier's liability shall not be limited in any way in respect of the following:
- 19.7.1 death or personal injury caused by negligence;
  - 19.7.2 fraud or fraudulent misrepresentation;
  - 19.7.3 any other losses which cannot be excluded or limited by applicable law, but only to the minimum extent required by such applicable law;
  - 19.7.4 breach of clause 14 (Confidential Information), but only to the extent that such breach arises directly from the acts or omissions of the Supplier (including its employees and sub-contractors acting within the scope of their engagement) and only up to the applicable level of the Supplier's professional indemnity and/or cyber liability insurance in force at the time of the relevant breach; or
  - 19.7.5 breach of clause 16 (Ethical Standards), to the extent that such breach cannot be excluded or limited by applicable law, and only to the minimum extent required by such applicable law.

For the avoidance of doubt, the Supplier shall not be liable under clause 19.7.4 to the extent that any breach of clause 14 arises from the Customer's

systems, personnel, Authorised Users, or failure to comply with this Agreement.

19.8 This clause 19 shall survive the termination or expiry of this Agreement.

## 20 **Suspension**

20.1 The Supplier may suspend access to the Services (or any part) to all or some of the Authorised Users if:

20.1.1 the Supplier reasonably suspects that there has been any misuse of the Services or material breach of this Agreement;

20.1.2 the Customer fails to pay any sums due to the Supplier by the due date for payment;

20.1.3 the Customer breaches any of its obligations under clause 9 (Customer Responsibilities); or

20.1.4 required by law, by court or governmental or regulatory order.

20.2 Where the reason for the suspension is suspected misuse of the Services or material breach of this Agreement, without prejudice to its rights under clause 22, the Supplier will take steps to investigate the issue and within 30 Business Days notify the Customer in writing of the outcome of the investigation, and either restore the Services or exercise the Supplier's right to terminate this Agreement in accordance with clause 22.

20.3 In relation to suspensions under clause 20.1.2, access to the Services will be restored promptly after the Supplier receives payment in full and cleared funds.

20.4 Fees shall remain payable during any period of suspension notwithstanding that the Customer, Authorised Affiliates or some or all of the Authorised Users may not have access to the Services, however in cases where the investigation carried out pursuant to clause 20.2 determines that the Customer was not at fault, the Customer shall be entitled to a refund of any Fees paid in advance in respect of the period of suspension.

## 21 Renewals

### 21.1 Renewal models

Unless the Proposal specifies that there shall be no automatic renewal and subject to clauses 21.2 and 21.3, on expiry of the Subscribed Service Period specified in the Proposal for each Subscribed Service:

21.1.1 **Annual renewal** – the Subscribed Service shall automatically renew for a further period of twelve months on the first renewal date and on each subsequent anniversary of that date (each a **Renewal Date**); or

21.1.2 **Monthly rolling renewal** – where expressly stated in the Proposal, the Subscribed Service shall continue on a monthly rolling basis following expiry of the initial Subscribed Service Period.

This clause 21 shall not apply to Free or Trial Services, which shall not renew unless expressly stated otherwise in the Proposal.

### 21.2 Termination of annual renewals

Where a Subscribed Service renews on an annual basis pursuant to clause 21.1.1 either party may prevent renewal at the next Renewal Date by giving the other party at 45 days' written notice prior to that Renewal Date.

If such notice is not given in accordance with this clause, the Subscribed Service shall automatically renew in accordance with clause 21.1.1.

### 21.3 Termination of monthly rolling services

Where a Subscribed Service operates on a monthly rolling basis pursuant to clause 21.1.2, either party may terminate that Subscribed Service by giving not less than one month's written notice, with termination taking effect at the end of the relevant notice period.

## 22 Term and termination

22.1 This Agreement shall come into force on Order Acceptance and, unless terminated earlier in accordance with its terms, shall continue for the duration of the Service Period after which it shall automatically expire.

- 22.2 The Supplier may terminate this Agreement or the provision of any of the Subscribed Services for convenience on not less than 30 days' prior written notice to the Customer
- 22.3 Either party may terminate this Agreement immediately at any time by giving notice in writing to the other party if:
  - 22.3.1 the other party commits a material breach of this Agreement and such breach is not remediable;
  - 22.3.2 the other party commits a material breach of this Agreement which is not remedied within 20 Business Days of receiving written notice of such breach; or
  - 22.3.3 the other party has failed to pay any amount due under this Agreement on the due date and such amount remains unpaid within 20 Business Days after the other party has received notification that the payment is overdue.
- 22.4 The Supplier may terminate or suspend the provision of Free or Trial Services (and all related Support Services) at any time with or without notice.
- 22.5 Any breach by the Customer of the Acceptable Use Policy or of clauses 3.8 or 16, shall be deemed a material breach of this Agreement which is not remediable.

## **23 Consequences of termination**

- 23.1 On termination or expiry of this Agreement (for any reason), the rights granted by the Supplier under this Agreement shall immediately terminate and the Customer shall (and shall procure that each Authorised User and Authorised Affiliate shall):
  - 23.1.1 immediately stop using the Services; and
  - 23.1.2 destroy and delete or, if requested by the Supplier, return any copies of the Documentation in its possession or control (or in the possession or control of any person acting on behalf of any of them).
- 23.2 Termination or expiry of this Agreement shall not affect any accrued rights and liabilities of either party at any time up to the date of termination or

expiry and shall not affect any provision of this Agreement that is expressly or by implication intended to continue beyond termination.

## 24 Entire agreement

- 24.1 This Agreement and any documents entered into pursuant to it constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them in respect of its subject matter, whether in writing or oral.
- 24.2 Each party acknowledges that it has not entered into this Agreement or any documents entered into pursuant to it in reliance on, and, subject to clause 25.3 shall have no remedies in respect of, any representation or warranty that is not expressly set out in our Agreement. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this Agreement.
- 24.3 Nothing in this Agreement shall limit or exclude any liability for fraud or fraudulent misrepresentation.

## 25 Notices

- 25.1 Any notice or other communication given by a party under our Agreement shall be:
- 25.1.1 in writing and in English;
  - 25.1.2 signed by, or on behalf of, the party giving it (except for notices sent by email); and
  - 25.1.3 sent to the relevant party at the address set out in clause 26.3.
- 25.2 Notices may be given, and are deemed received:
- 25.2.1 by hand: on receipt of a signature at the time of delivery;
  - 25.2.2 by Royal Mail Recorded Signed *For* post: at 9.00 am on the *second* Business Day after posting;
  - 25.2.3 by Royal Mail International Tracked & Signed or Royal Mail International Signed post: at 9.00 am on the fourth Business Day after posting; and

25.2.4 by email: notice at the time of transmission if sent to the correct email address and no error message or out-of-office reply is received by the sender.

25.3 Notices and other communications shall be sent to:

in the case of those to the Supplier, to Barbourne Brook Limited, for the attention of **The Directors, Hop Merchants, 21 Sansome Street, Worcester WR1 1UH**

**Email: directors@barbournebrook.co.uk; and**

**and copied to creditcontrol@barbournebrook.co.uk**

25.3.1 in the case of those to the Customer, to any email or physical address or contact details notified on the Proposal (as updated from time to time pursuant to clause 25.4).

25.4 Any change to the contact details of a party as set out in clause 25.3 shall be notified to the other party in accordance with clause 25.1 and shall be effective:

25.4.1 on the date specified in the notice as being the date of such change;  
or

25.4.2 if no date is so specified, five Business Days after the notice is deemed to be received.

25.5 This clause does not apply to notices given in legal proceedings or arbitration.

## 26 **Variation**

26.1 No variation of this Agreement shall be valid or effective unless it is:

26.1.1 an Update made in accordance with this Agreement; or

26.1.2 made in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.

## 27 **Assignment and subcontracting**

27.1 Except as expressly provided in this Agreement, the Supplier may at any time assign, sub-contract, sub-licence (including by multi-tier), transfer, mortgage,

charge, declare a trust of or deal in any other manner with any or all of its rights or obligations under this Agreement without the Customer's consent.

27.2 Except as expressly permitted by this Agreement, the Customer shall not assign, transfer, sub-contract, sub-licence, mortgage, charge, declare a trust of or deal in any other manner with any or all of its rights or obligations under this Agreement (including the licence rights granted), in whole or in part, without the Supplier's prior written consent.

## 28 **Set off**

Each party shall pay all sums that it owes to the other party under this Agreement without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

## 29 **No partnership or agency**

The parties are independent and are not partners or principal and agent and this Agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. Neither party shall have, nor shall represent that it has, any authority to make any commitments on the other party's behalf.

## 30 **Severance**

30.1 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.

30.2 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

## 31 **Waiver**

31.1 No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of

that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

31.2 No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.

31.3 A waiver of any term, provision, condition or breach of this Agreement shall only be effective if given in writing and signed by the waiving party, and then only in the instance and for the purpose for which it is given.

## 32 **Costs and expenses**

Each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of this Agreement (and any documents referred to in it).

## 33 **Third party rights**

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions.

## 34 **Authority**

Each party represents and warrants to the other that it has the right, power and authority to enter into this Agreement and grant to the other the rights (if any) contemplated in this Agreement and to perform its obligations under this Agreement.

## 35 **Governing law**

This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

## 36 **Jurisdiction**

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

THE SCHEDULE  
DEFINITIONS AND INTERPRETATION

1 In our Agreement:

<b>Affiliate</b>	means, in respect of any entity, any entity that directly or indirectly controls, is controlled by or is under common control with that entity within the meaning set out in section 1124 of the Corporation Tax Act 2010;
<b>Applications</b>	means the software or applications used by or on behalf of the Supplier to provide the Subscribed Services;
<b>Authorised Affiliates</b>	means, in respect of the relevant Subscribed Service, the Affiliates of the Customer (if any) identified in the Proposal as Authorised Affiliates in respect of that Subscribed Service;
<b>Authorised Users</b>	means, in respect of the relevant Subscribed Service, the named users authorised by the Customer to use that Subscribed Service in accordance with the terms of this Agreement;
<b>Business Day</b>	means a day other than a Saturday, Sunday or bank or public holiday in England;
<b>Consultancy Services</b>	means the professional services provided by the Supplier to the Customer under this Agreement, which may include, but are not limited to, advice, guidance, training, implementation support, system configuration, and other related services as agreed between the parties in writing. The scope, nature, and duration of the Consultancy Services shall be as specified

	in the applicable Proposal.
<b>Customer</b>	has the meaning given in the relevant Proposal;
<b>Customer Data</b>	means all data (in any form) that is provided to the Supplier or uploaded or hosted on any part of any Subscribed Service by the Customer or by any Authorised User (but excluding Feedback as defined in clause 10.4);
<b>Customer Systems</b>	means all software and systems owned or licensed by a third party to the Customer, the Customer's Affiliates, any of its or their direct or indirect sub-contractors, or any Authorised User used in connection with the provision or receipt of the Services
<b>Data Protection Losses</b>	has the meaning given to that term in the Data Protection Policy;
<b>Documentation</b>	means: <ul style="list-style-type: none"> <li>(a) the description of the relevant Subscribed Service (as Updated from time to time), which as at Order Acceptance is the latest version detailed in the Proposal (the <b>Description</b>);</li> <li>(b) in respect of each Subscribed Service, the relevant instructions as to how to use that part of the Services made available by the Supplier via the Supplier's secure portal (as Updated from time to time) (the <b>User Manual</b>);</li> </ul>

<b>Fees</b>	means the Subscription Fees together with any other amounts payable to the Supplier under this Agreement;
<b>Force Majeure</b>	means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under this Agreement (provided that an inability to pay is not Force Majeure), including any matters relating to transfer of data over public communications networks and any delays or problems associated with any such networks or with the internet;
<b>Free or Trial Service</b>	means any Subscribed Service identified as being provided on a trial basis or provided without charge (for the duration of the period during which it is provided on such basis);
<b>Intellectual Property Rights</b>	<p>means any and all copyright, rights in inventions, patents, know-how, trade secrets, trade marks and trade names, service marks, design rights, rights in get-up, database rights and rights in data, semiconductor chip topography rights, utility models, domain names and all similar rights and, in each case:</p> <ul style="list-style-type: none"> <li>(a) whether registered or not;</li> <li>(b) including any applications to protect or register such rights;</li> <li>(c) including all renewals and extensions of such rights or applications;</li> <li>(d) whether vested, contingent or</li> </ul>

future; and

(e) wherever existing;

**Master SaaS Terms**

means the terms set out in the clauses and other provisions of this document (including the schedule), as Updated from time to time;

**Materials**

means all services, data, information, content, Intellectual Property Rights, websites, software and other materials provided by or on behalf of the Supplier in connection with the Services, but excluding all Customer Data;

**Non-Supplier Materials**

means Materials provided, controlled or owned by or on behalf of a third party the use of which is subject to a separate agreement or licence between the Customer and the relevant third party (including such Non-Supplier Materials which may be linked to, interact with or used by the Services) and all other Materials expressly identified as Non-Supplier Materials in this Agreement;

**Order Acceptance**

means the date on which the Customer accepts the relevant Proposal in accordance with this Agreement;

**Permitted Downtime**

means:

- (a) scheduled maintenance [which the Supplier shall use reasonable endeavours to undertake from [2am] to [6am] (UK time);]
- (b) emergency maintenance; or
- (c) downtime caused in whole or part

by Force Majeure.

**Permitted Purpose**

means use solely for the Customer's internal business operations and, in respect of each Subscribed Services, also for the internal business operations of the Authorised Affiliates identified in respect of that Subscribed Service in the Proposal, in each case in accordance with the applicable Documentation and this Agreement. Permitted Purpose expressly excludes any of the following to the maximum extent permitted by law:

- (a) copying, reproducing, publishing, distributing, redistributing, broadcasting, transmitting, modifying, adapting, editing, abstracting, storing, archiving, displaying publicly or to third parties, selling, licensing, leasing, renting, assigning, transferring, disclosing (in each case whether or not for charge) or in any way commercially exploiting any part of any Subscribed Service or Documentation;
- (b) permitting any use of any Subscribed Service or Documentation in any manner by any third party (including permitting use in connection with any timesharing or service bureau, outsourced or similar service to third parties or making any Subscribed Service or Documentation (or any part) available to any third party or allowing or permitting a third

party to do any of the foregoing (other than to the Authorised Affiliates for the Permitted Purpose));

- (c) combining, merging or otherwise permitting any Subscribed Service (or any part of it or any Application) to become incorporated in any other program or service, or arranging or creating derivative works based on it (in whole or in part); or
- (d) attempting to reverse engineer, observe, study or test the functioning of or decompile the Applications or the Services (or any part),

except as expressly permitted under our Agreement;

## **Policies**

means each of the following:

- (a) the Supplier's policy on acceptable use of the Services (as Updated from time to time), which as at Order Acceptance, is the latest version available at [the Acceptable Use Policy](#);
- (b) the Supplier's privacy policy in relation to the Services (as Updated from time to time), which as at Order Acceptance is the latest version available at [the Privacy Policy](#);
- (c) the Supplier's data protection policy in relation to the Services

(as Updated from time to time), which as at the Order Acceptance is the latest version available at [the Data Protection Policy](#); and

- (d) the Supplier's information security policy in relation to the Services (as Updated from time to time), which as at the Order Acceptance is the latest version available at [the Information Security Policy](#);

**Pricing Terms**

means the details of pricing and fees in respect of each part of the Services, as initially provided under the Proposal and updated from time to time in accordance with clause 7.6 or, in respect of any part of the Services for which prices are not expressly agreed, on the Supplier's Standard Pricing Terms;

**Proposal**

means the electronic form (including its schedules, annexes and appendices (if any)) ordering the Subscribed Services entered into by or on behalf of the Customer and Supplier, incorporating these Master SaaS Terms and this Agreement (and as varied by the parties by agreement in writing from time to time);

**Protected Data**

has the meaning given in the Data Protection Policy;

**Purchased Authorised User Accounts**

means, in respect of each Subscribed Service, the number of Authorised Users who may use that Subscribed Service as set out in the Proposal;

**Relief Event**

means any:

- (a) breach of this Agreement by the Customer;
- (b) negligence of the Customer or any Authorised Affiliate or Authorised User;
- (c) other unlawful acts or omissions of the Customer or any Authorised Affiliate or Authorised User; or
- (d) Force Majeure;

<b>Renewal Date</b>	has the meaning given in clause 21.1.1;
<b>Service Hours</b>	means 24 hours a day, seven days a week excluding Permitted Downtime;
<b>Service Period</b>	means the period beginning on Order Acceptance and ending with the last of the Subscribed Service Periods;
<b>Services</b>	means the Subscribed Services and the Support Services;
<b>Subscribed Service Period</b>	means (subject to clauses 21 and 22) in respect of each Subscribed Service, the duration during which such services are to be provided as initially set out in the Proposal and as varied in accordance with this Agreement;
<b>Subscribed Service Specific Terms</b>	means, in respect of each Subscribed Service, the specific additional or amended terms relevant to that Subscribed Service (as Updated from time to time) which are detailed in the Proposal;
<b>Subscribed Services</b>	means each cloud service to which the Customer has subscribed as set out in the Proposal (and <b>Subscribed Service</b> shall

refer to each respective service separately);

**Subscribed Territory**

means, in respect of the relevant Subscribed Service, the territories identified in the Proposal except to the extent it is illegal (including as a result of any embargo) under the laws of *the* United States, any member of the European Union or the United Kingdom (as binding on any person) for the Subscribed Service to be provided to or received within such territories from time to time;

**Subscription Fee**

means, in respect of each Subscribed Service, the fees payable by the Customer in consideration of that Subscribed Service as set out in the Pricing Terms;

**Supplier**

means Barbourne Brooke Limited, a company registered in England and Wales with number 09169729 and registered office at Hop Merchants, 21 Sansome Street, Worcester WR1 1UH;

**Supplier Provided Materials**

means all of the Materials provided or made available by or on behalf of the Supplier, but excluding all Customer Data and all Non-Supplier Materials;

**Supplier's Confidential Information**

means all information (whether in oral, written or electronic form) relating to the Supplier's business which may reasonably be considered to be confidential in nature including (to the extent confidential) information relating to the Supplier's technology, know-how, Intellectual Property Rights, assets, finances, strategy, products and customers, together with

any information expressly identified as Confidential Information in clause 14.1.3;

**Supplier's Standard Pricing Terms**

means the Supplier's standard pricing terms for each part of the Services as set out in the Proposal (if applicable), as amended by the Supplier from time to time in accordance with this Agreement;

**Support Services**

means, in respect of the relevant Subscribed Service, the support services (if any) provided by the Supplier to the Customer as described in the Subscribed Service Specific Terms;

**Update**

has the meaning given in clause 6.2, and **Updated** shall be construed accordingly;

**Update Notification**

has the meaning given in clause 6.1; and

**VAT**

means United Kingdom value added tax, any other tax imposed in substitution for it and any equivalent or similar tax imposed outside the United Kingdom.

- 2 In our Agreement, unless otherwise stated:
- 2.1 the table of contents, background section and the clause, paragraph, schedule or other headings in our Agreement are included for convenience only and shall have no effect on interpretation;
  - 2.2 the Supplier and the Customer are together the **parties** and each a **party**, and a reference to a party includes that party's successors and permitted assigns;
  - 2.3 words in the singular include the plural and vice versa;
  - 2.4 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
  - 2.5 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (including email);

- 2.6 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time and a reference to legislation includes all subordinate legislation made from time to time under that legislation; and
- 2.7 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.